

July 27, 2023

**RESS & EMAIL**

Ontario Energy Board  
2300 Yonge Street, Suite 2700  
Toronto, ON M4P 1E4

Attention: Nancy Marconi, Registrar

Dear Ms. Marconi:

**Re: Enbridge Gas Inc. - Panhandle Early Access Application (EB-2022-0285) -  
Form of Hearing**

We are legal counsel to Enbridge Gas Inc. (“EGI”), applicant in the above referenced proceeding. The following is in response to the letter filed on July 24, 2023, by counsel on behalf of Courey Corporation and Middle Road Farms Limited (the “Courey Companies”), requesting that the application be considered by means of an oral hearing. For the reasons that follow, it is EGI’s view that the request does not support the need for an oral hearing, but that the OEB may wish to revisit the question of whether an oral hearing is needed upon completion of the discovery phase of the proceeding.

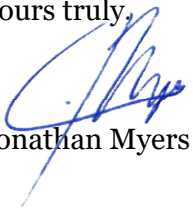
EGI filed its application, pursuant to section 98(2) of the *Ontario Energy Board Act, 1998* (the “Act”), on June 16, 2023 (the “Application”). The Application is for an order authorizing entry onto certain properties to complete surveys and examinations that are necessary for fixing the site of the hydrocarbon line that it has proposed to construct in its application for leave to construct the Project, which is currently before the OEB (EB-2022-0157). EGI requested that the Application be heard in writing. The Courey Companies have requested intervenor status and that the OEB consider the Application through an oral hearing. EGI does not take issue with the request for intervenor status.

The Courey Companies raise two arguments in support of the need for an oral hearing. First, they argue that because the pipeline route in the leave to construct proceeding has not been approved by the OEB, granting early access by approving the Application would be premature and would cause potentially unnecessary disruption to the properties should the pipeline route not ultimately include these properties. In EGI’s view, this argument does not go to the question of the appropriate form of hearing. Moreover, the argument is flawed because the express purpose of s. 98(2) of the Act is to provide for access to properties by a person whose leave to construct application is before the OEB to enable studies to be completed to finalize the site of the facilities that are the subject of the leave to construct application. Once leave to construct is granted, the proponent would be authorized to access the properties on which its facilities are to be located pursuant to s. 98(1) of the Act, at which point authorization under s. 98(2) would no longer be needed.

Second, the Courey Companies argue that questions regarding disruption to the properties will depend on evidence from EGI, and the Courey Companies need an opportunity to make requests to EGI. In EGI's view, this argument does not support the need for an oral hearing. The Application includes detailed evidence regarding the nature and extent of EGI's planned early access activities on the properties. A written proceeding will provide an opportunity for the Courey Companies and the OEB to test that evidence through written interrogatories, including regarding EGI's proposed approaches to minimizing and mitigating disruption on the properties. Moreover, a written proceeding will provide the Courey Companies with an opportunity to make written submissions on the Application, including with respect to EGI's proposed conditions of approval.

Based on the foregoing, EGI reiterates its request that the OEB proceed by way of a written hearing. Upon completion of the discovery phase of the proceeding, if the OEB considers it appropriate to do so, it may at that point revisit the question of the form of hearing subject to further submissions from the parties.

Yours truly,



Jonathan Myers

cc: Haris Ginis, EGI  
Charles Keizer, Torys LLP