



Enbridge Gas Inc.

**Application for approval to get early access to
certain properties along a proposed natural gas
pipeline in the Town of Tilbury, in the
Municipality of Lakeshore**

**PROCEDURAL ORDER NO. 1
August 15, 2023**

On June 16, 2023, Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) under section 98(2) of the *Ontario Energy Board Act, 1998* (OEB Act) seeking approval to get early access to certain privately owned properties for the purposes of conducting environmental and engineering examinations and surveys (Early Access Application).

The properties directly affected by the Early Access Application are within the planned route of a proposed natural gas pipeline that is the subject of a separate application¹ by Enbridge Gas Inc. to the Ontario Energy Board (Leave to Construct Application). The proposed pipeline is a 19 km long, 36 inch diameter pipeline needed to reinforce the Panhandle Pipeline System, as well as other associated facilities. Enbridge Gas proposes to start construction of the Panhandle Project in the first quarter of 2024 to achieve in-service date by November 2024. Enbridge Gas has requested that the OEB proceed by a written hearing.

A Notice of Hearing was issued on July 7, 2023.

Intervention Request by Courey Companies

On July 24, 2023, Courey Corporation and Middle Road Farms Limited (Courey Companies), landowners directly affected by this application, requested intervenor status and cost award eligibility. The intervention request was filed by Stephen E. Yoker, Legal Focus LLP, who informed the OEB that they will represent Courey Companies in the proceeding. On July 27, 2023, Enbridge Gas filed a letter saying it had no objections to the intervention and cost eligibility requests made by Courey Companies.

¹ EB-2022-0157

Courey Companies has been granted intervenor status as it represents the interests of directly affected landowners.

Courey Companies is eligible to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#).

As a cost-eligible intervenor, Courey Companies should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party unless a compelling reason is provided when cost claims are filed.

Intervention Request of Pollution Probe

On July 8, 2023, Pollution Probe applied for intervenor status and cost eligibility. In its Annual Filing of Frequent Intervenor, Pollution Probe identifies itself as “a recognized leader in defining progress through policy development and intervention, research, awareness, education and pressing for practical balanced solutions in a collaborative manner”.

Pollution Probe is a registered intervenor in the Leave to Construct Application proceeding. Pollution Probe states in its intervention request that it represents a consumer and policy interest in this project. Pollution Probe states that the approvals requested in the Early Access Application are related to Leave to Construct Application issues including project need, routing, socio-economic and environmental impacts and the form of landowner agreements. Pollution Probe also states that the approval of the Early Access Application “...will result in negative environmental and socio-economic impacts if not properly considered and mitigated.”

While the Early Access Application is related to the Leave to Construct Application, the scope of the Early Access Application is not expected to cover all of the issues on the issues list for the Leave to Construct Application. The focus of the Early Access Application is expected to be the early access activities proposed by Enbridge Gas on certain privately-owned properties, whether those activities are appropriate for the purpose noted in section 98(2) of the OEB Act and what conditions should be attached to the OEB's order should early access be granted. Issues relating to the need for the Panhandle project and the socio-economic and environmental impacts of that Project will be addressed in the proceeding on the Leave to Construct Application, as will the form of landowner agreements under section 97 of the OEB Act. As an intervenor in the proceeding on the Leave to Construct Application, Pollution Probe will have an opportunity to explore those issues.

Rule 22.02 of the OEB's *Rules of Practice and Procedure* provides that the party applying for status must satisfy the OEB that it has a “substantial interest” in the

proceeding. Given Pollution Probe's mandate and the scope of the current proceeding, the OEB finds that Pollution Probe does not have a substantial interest in this proceeding and its intervention request is denied.

The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

Request for Oral Hearing by Courey Companies

In a letter dated July 24, 2023, Stephen E. Yoker, on behalf of its client Courey Companies, requested that the OEB proceed by way of an oral hearing.

Enbridge Gas, in a letter dated July 27, 2023, objected to the Courey Companies request for an oral hearing. Enbridge Gas stated that the rationale Courey Companies provided did not support its request for an oral hearing. Enbridge Gas suggested that the OEB may, upon completion of the discovery phase, revisit the question of the form of a hearing subject to further submissions from the parties.

The OEB will make its determination on the request for an oral hearing following a written discovery process. OEB staff and intervenors may file comments on the need for an oral hearing in accordance with the schedule set out in this Procedural Order. Enbridge Gas will have the opportunity to respond to those comments.

Request for Confidentiality

Enbridge Gas has requested confidential treatment for personal information in the Landowner List (Exhibit B/Tab 1/Schedule 1/Attachment 2).

The OEB has reviewed Enbridge Gas's request for the redaction of personal information. The OEB finds that the redacted information in the Landowner List (Exhibit B/Tab 1/Schedule 1/Attachment 2) is personal information as defined in the Freedom of Information and Protection of Privacy Act (FIPPA) and the OEB's [Practice Direction on Confidential Filings](#) (Practice Direction). This information, which contains names and contact information of property owners, shall remain redacted and shall not be provided to the intervenors in this proceeding.

Interrogatories

At this time, provision is being made for written interrogatories. Parties should not engage in detailed exploration of items that do not appear to be relevant or material to the OEB's review of the Early Access Application. In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Parties should consult sections 26 and 27 of the OEB's [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. OEB staff and intervenors shall request any relevant information and documentation from Enbridge Gas that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by, **August 29, 2023**.
2. Enbridge Gas shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by, **September 12, 2023**.
3. If OEB staff and intervenors wish to file comments regarding the need for an oral hearing, they shall file those comments with the OEB by **September 14, 2023**.
4. Enbridge Gas may file a response to the comments regarding the need for an oral hearing with the OEB by **September 18, 2023**.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0285** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.

- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Zora Crnojacki at Zora.Crnojacki@oeb.ca and OEB Counsel, Michael Millar at Michael.Millar@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **August 15, 2023**

ONTARIO ENERGY BOARD

By delegation, before: Nancy Marconi

Nancy Marconi
Registrar

Schedule A
Enbridge Gas Inc.
EB-2022-0285
Applicant and List of Intervenors

Enbridge Gas Inc.
EB-2022-0285

APPLICANT & LIST OF INTERVENORS

August 15, 2023

APPLICANT	Rep. and Contact Information for Service
Enbridge Gas Inc.	Stephanie Allman Regulatory Coordinator Enbridge Gas Inc. Tel: 416-753-7805 egiregulatoryproceedings@enbridge.com
INTERVENORS	Rep. and Contact Information for Service
Courey Corporation	Paul Courey Courey Law Professional Corporation Tel: 519-682-1644 mail@coureylaw.com
	Stephen Yoker Legal Focus LLP Tel: 226-674-1120 stephen@legalfocus.ca