



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. 2
January 8, 2024**

Application

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 OEB commenced and proceeded with the review of the Early Access Application until August 29, 2023 when it was placed in abeyance upon Enbridge Gas's request. On December 8, 2023 Enbridge Gas requested that the proceeding be restarted.

Proceeding from June 16, 2023 to August 29, 2023

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 application under section 90 of the OEB Act filed by Enbridge Gas (Leave to Construct Application).¹ The proposed project consists of a 19 km long, 36 inch diameter pipeline and associated facilities needed to reinforce the Panhandle System (Panhandle Project).

Enbridge Gas proposes to start construction of the Panhandle Project in the first quarter of 2024 to achieve an in-service date of November 2024. The properties subject to the Early Access Application are at the terminal point of the Panhandle Project at the Richardson Sideroad where Enbridge Gas proposed to construct a tie-in station to connect to the existing Panhandle System.

Enbridge Gas noted that it obtained agreements for early access to land with the

¹ EB-2022-0157

landowners of all the properties along the Panhandle Project with the exception of the three properties subject to the Early Access Application.

The OEB issued a Notice of Hearing for the Early Access Application on July 7, 2023.

Courey Corporation and Middle Road Farms Limited (Courey Companies), landowners directly affected by this application, were granted intervenor status and cost award eligibility. There are no other intervenors in the proceeding.

Courey Companies Request for Oral Hearing

Corey Companies requested, on July 24, 2023, that the OEB proceed by way of oral hearing. Corey Companies stated that it "...require[s] the opportunity to make their own specific requests of Enbridge Gas Inc. as to the details not otherwise disclosed in writing as to what will be involved in the early access activity."

Enbridge Gas, in a letter dated July 27, 2023, objected to the Courey Companies 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.

Procedural Order No.1

On August 15, 2023, the OEB issued Procedural Order No. 1 which set out the dates for written discovery by interrogatories and for OEB staff and the intervenor to additionally comment on the request for an oral hearing and for Enbridge Gas to respond.

On August 25, 2023, Enbridge Gas, by way of a letter to the OEB, requested that the proceeding be placed in abeyance. Enbridge Gas explained that the access to the properties subject to the Early Access Application was no longer needed by October 1, 2023. On August 29, 2023, the OEB placed the proceeding in abeyance and the dates for procedural steps set out in the Procedural Order No. 1 were cancelled.

Restarting the Proceeding

On December 8, 2023, Enbridge Gas requested that the Early Access Application be taken out of abeyance and that the proceeding be restarted. Enbridge Gas filed an updated Early Access Application with the only change being the date it requested the decision be rendered by the OEB. The requested decision date is March 29, 2024.

The proceeding is taken out of abeyance as of the date of this procedural order.

Oral Hearing vs Written Hearing

In Procedural Order No. 1, the OEB indicated that it would determine the request for an oral hearing following the written discovery process. Now that the application is no longer in abeyance, the OEB is establishing a new schedule for the written discovery process, along with an opportunity to make submissions on the request for an oral hearing.

Next Steps

This procedural order sets the schedule for written discovery through interrogatories and for written submissions on the request for an oral hearing.

In the written interrogatories, the Courey Companies 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 the Courey Companies made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Parties should consult Rules 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 the Courey Companies 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 **January 15, 2024**.
2. Enbridge Gas shall file with the OEB complete written responses to all interrogatories and serve them on the Courey Companies by **January 26, 2024**.
3. Any written submissions from Enbridge Gas and OEB staff on the request for an oral hearing shall be filed with the OEB and served on all parties by **February 2, 2024**.
4. Any written reply submission from the Courey Companies on their request for an oral hearing shall be filed with the OEB and served on the Courey Companies by **February 9, 2024**.

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.Crnjacki@oeb.ca and OEB Counsel, Lawren Murray at Lawren.Murray@oeb.ca

Email: registrar@oeb.ca

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

DATED at Toronto, January 8, 2024

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar