



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. 3

February 15, 2024

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 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 proposed 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 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

¹ EB-2022-0157

cost award eligibility. There are no other intervenors in the proceeding.

Courey Companies requested, on July 24, 2023, that the OEB proceed by way of oral hearing. Courey 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.

The OEB 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. The proceeding was resumed on January 8, 2024 with the issuance of Procedural Order No. 2.

Procedural Order No. 2 set out the schedule for the written discovery process, along with an opportunity for parties to make submissions on the Courey Companies request for an oral hearing.

OEB staff filed interrogatories on January 15, 2024. Courey Companies did not file interrogatories. Enbridge Gas responded to OEB staff's interrogatories on January 26, 2024.

On January 30, 2024, OEB staff filed a submission stating that it has reviewed the responses to the interrogatories and does not require further discovery through an oral hearing. On February 1, 2024, Enbridge Gas filed a submission stating that the OEB should continue with a written hearing.

Courey Companies did not take the opportunity to file a written reply to the submissions filed by OEB staff and Enbridge Gas with respect to the need for an oral hearing.

The OEB finds that it is appropriate to proceed with a written hearing. The next steps in the proceeding are written submissions by OEB staff and Courey Companies and a written reply submission by Enbridge Gas.

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. Any written submissions from OEB staff and the Courey Companies shall be filed with the OEB and served on all parties by **February 29, 2024**.
2. Any written reply submission from Enbridge Gas shall be filed with the OEB and served on the Courey Companies by **March 14, 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.Crnojacki@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, **February 15, 2024**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar