



Ontario  
Energy  
Board | Commission  
de l'énergie  
de l'Ontario

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# **DECISION AND ORDER ON COST AWARDS**

**EB-2022-0111**

## **ENBRIDGE GAS INC.**

**Application for Leave to Construct Bobcaygeon Community Expansion Project**

**BEFORE:** **Robert Dodds**  
Presiding Commissioner

**Michael Janigan**  
Commissioner

**David Sword**  
Commissioner

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**July 15, 2024**

## OVERVIEW

Enbridge Gas Inc. filed an application with the Ontario Energy Board (OEB) on May 3, 2022, for an order granting leave to construct natural gas pipelines and ancillary facilities in the City of Kawartha Lakes (including Bobcaygeon) and Township of Cavan-Monaghan to supply natural gas to new customers. Enbridge Gas Inc. (Enbridge Gas) also applied for approval of the forms of temporary land-use agreements and easement agreements it offers to landowners affected by the routing or location of the project.

On July 5, 2022, Enbridge Gas requested an adjournment to allow for proper updates on certain aspects of the application. The OEB placed the application in abeyance until Enbridge Gas filed an updated application on June 14, 2023. The OEB issued an updated Notice of Hearing on July 5, 2023. Environmental Defence, the Federation of Rental-housing Providers of Ontario (FRPO) and Pollution Probe were granted intervenor status and cost award eligibility in the proceeding.

On May 14, 2024, the OEB issued its Decision and Order in which it set out, among other things, the cost award process.

The OEB received cost claims from Environmental Defence, FRPO and Pollution Probe.

### Cost Claim Objections

In its letter of May 28, 2024, Enbridge Gas notes that it has no concerns with FRPO's cost claim. Upon review of Environmental Defence's cost claim, Enbridge Gas recommends a 79% reduction in the area of discovery from \$5,566.38 to \$1,168.94. The proposed reduction reflects:

- 50% reduction for partial replication of and reliance on its interrogatories from previous natural gas expansion projects
- 29% reduction for interrogatories consisting of detailed exploration of issues that are not material to the proceeding

For Pollution Probe's cost claim, Enbridge Gas recommends an 18% reduction in the area of discovery from \$10,814.11 to \$8,867.57. Enbridge Gas submits that Pollution Probe's interrogatories consisted of detailed exploration of issues that were not material to the proceeding.

Enbridge Gas also submits that out of the 188 interrogatories Environmental Defence filed, 29% were related to non-natural gas alternatives and electric heat pumps. With respect to Pollution Probe, out of the 79 interrogatories filed, 18% were in relation to non-natural gas alternatives and electric heat pumps.

Enbridge Gas also refers to certain statements made by the OEB in other natural gas expansion cases on matters of non-natural gas alternatives and submits that both Environmental Defence's and Pollution Probe's explorations of information related to heat pumps are out of scope based on similar leave to construct proceedings<sup>1</sup>.

### **Responses to Cost Claim Objections**

Environmental Defence filed its reply to Enbridge Gas's objection on May 31, 2024, stating that its costs are reasonable and when compared to other intervenor costs, its claim is approximately 40% lower than the overall average. Environmental Defence also submits that although the interrogatories filed in the current proceeding may seem similar or replicated from other natural gas expansion cases, it must rely on the answers that Enbridge Gas provides in this proceeding and not on Enbridge Gas's responses in previous natural gas expansion cases. Environmental Defence states that its interrogatories were focused on customer connection and revenue forecasts, including the availability of cost-effective alternatives that may prevent customers from connecting to natural gas. Environmental Defence argues that this is directly relevant to the risk that existing customers will be responsible in bearing the revenue shortfalls over the 40 year horizon. Environmental Defence further submits that a large portion of its costs are claimed under read and research application and evidence, a sub-category in discovery.

The OEB received Pollution Probe's response to Enbridge Gas's objection to its cost claim on June 3, 2024. In its letter, Pollution Probe states that it participated responsibly and that the interrogatories submitted to Enbridge Gas are directly or indirectly related to project need and consumer options for non-gas alternatives; issues which are identified on the Issues List. Pollution Probe submits that any opinions related to proceeding scope and the OEB approved Issues List would have been more appropriately raised early in the proceeding. Pollution Probe goes on to submit that these issues have been included as in the scope of similar recent expansion project leave to construct proceedings that used the same Issues List. It is therefore unclear to Pollution Probe why Enbridge Gas thinks the Issues List should be interpreted differently in this proceeding compared to other recent proceedings which used the same issues list. Similarly, Pollution Probe submits that Enbridge Gas made no mention of its concerns during the discovery phase of the proceeding, and that it would be punitive and unfair to retroactively reduce its cost claim after the fact when nothing was identified at any point during the proceeding that would merit such action. Pollution Probe further submits that it was the only intervenor who focused on environmental impacts, issue 4 of the OEB's Issues List. Pollution Probe also submits that its involvement in reviewing the Environmental Report resulted in producing an efficient list

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<sup>1</sup> Enbridge Gas letter, May 28, 2024, p. 3

that Enbridge Gas will address in the Environmental Protection Plan prior to construction.

## Findings

The OEB has reviewed the claims filed to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*.

The OEB considered Enbridge Gas's objections in arriving at its decision and acknowledges the value the OEB places on applicants taking the time and effort to prepare their objections which are an integral, and important, part of the adjudicative process. There is no requirement that intervening parties supporting the same result of an application bill the same amount. However, while Pollution Probe participated in accordance with its objectives identified in its request for intervenor status, its time spent significantly exceeded Environmental Defence's more comprehensive participation. The OEB hereby reduces the hours claimed by Pollution Probe by 33%, from 36.25 to 24.29, which reduces the resulting cost award from the requested \$13,517.64 to \$9,057.76.

## THE ONTARIO ENERGY BOARD ORDERS THAT:

Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge Gas shall immediately pay the following amounts to the intervenors for their costs:

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|-------------------------|-------------|
| • Environmental Defence | \$7,934.86  |
| • FRPO                  | \$12,119.25 |
| • Pollution Probe       | \$9,057.76  |

**DATED** at Toronto July 15, 2024

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar