



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

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# **DECISION AND ORDER ON COST AWARDS**

## **EB-2023-0261**

### **ENBRIGE GAS INC.**

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

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

**Michael Janigan**  
Commissioner

**David Sword**  
Commissioner

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**July 22, 2024**

## OVERVIEW

Enbridge Gas Inc. (Enbridge Gas) has applied to the Ontario Energy Board (OEB) under sections 90 and 97 of the Ontario Energy Board Act, 1998, S.O. 1998, c.15, (Schedule B), for an order granting leave to construct approximately 12 kilometres of natural gas pipeline and associated facilities in the Community of Neustadt within the Municipality of West Grey. The proposed natural gas pipeline consists of approximately 4.8 kilometres of nominal pipe size (NPS) 2-inch polyethylene (PE) distribution pipeline and approximately 7.6 kilometres of NPS 6-inch PE distribution pipeline, consisting of approximately 6.7 km of supply lateral and 0.9 km of reinforcement pipeline. The proposed pipeline would supply natural gas to approximately 230 customers in the community of Neustadt who currently do not have access to natural gas service.

The OEB granted Environmental Defence and Pollution Probe intervenor status and cost award eligibility.

On May 23, 2024, the OEB issued its Decision and Order in which it set out the process for cost claims.

The OEB received cost claims from Environmental Defence and Pollution Probe. Enbridge Gas filed objections to the cost claims. Environmental Defence and Pollution Probe filed responses to Enbridge Gas's objections.

In its objection, Enbridge Gas submitted that both Pollution Probe and Environmental Defence engaged in detailed exploration of issues that are not material to the proceeding. In its response, Environmental Defence argued that its exploration of issues in the current proceeding was focused on challenging Enbridge Gas's customer connection and revenue forecasts that included questions about the availability of alternatives. In its response to Enbridge Gas's objection, Pollution Probe argued that its exploration of issues in the current proceeding was aligned with similar past proceedings in which the same OEB approved issues list was used.

In its objection, Enbridge Gas submitted that the interrogatories of both intervenors were replicated from, or very similar to, their interrogatories for previous Natural Gas Expansion Program project proceedings. In its response, Environmental Defence submitted that it cannot rely on responses to interrogatories in previous proceedings and therefore must ask the same questions in each proceeding. In its response, Pollution Probe submitted that it is appropriate to reference existing evidence on the record of other similar proceedings.

In its objection, Enbridge Gas noted that Pollution Probe's total cost claim of \$11,653.13 is primarily driven by discovery and is over three times the amount of Environmental

Defence's total cost claim of \$3,864.04. Enbridge Gas submitted that Pollution Probe's claim for discovery should be reduced by 65%. In its response, Pollution Probe submitted that there were many differences between the areas for focus, analysis and approach between it and Environmental Defence in this proceeding, and that it is inappropriate to compare the two claims.

In its objection, Enbridge Gas submitted that Environmental Defence's approach to the current proceeding is part of a pattern of repeated attempts by Environmental Defence to introduce evidence related to non-natural gas alternatives within NGEP project proceedings, resulting in inefficiency in the regulatory process. However, Enbridge Gas did not object to Environmental Defence's cost claim, as a result of it being reduced relative to its claims in previous NGEP project proceedings. In its response, Environmental Defence disagreed that it reduced its current cost claim relative to previous NGEP project proceedings; rather it claimed the hours it expended on this particular application. Environmental Defence also submitted that Enbridge Gas made similar objections relating to scope when it opposed Environmental Defence's costs in a separate proceeding, but that the OEB rejected Enbridge Gas's submissions and awarded Environmental Defence's requested costs.<sup>1</sup>

## 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 will allow Environmental Defence's cost claim as submitted.

With respect to the cost claim of \$11,653.13 by Pollution Probe, the OEB notes that there is no requirement that intervenors do not exceed the time claimed in the cost claim of another intervenor advancing a request for a like result. However, there is an expectation that the time spent and compensated for reviewing and advancing submissions in previous similar proceedings will contribute to efficiency and diminish intervenor workload in subsequent similar proceedings. After reviewing the application record and Pollution Probe's past participation in such similar proceedings (as Enbridge Gas noted in its objection, many of Pollution Probe's interrogatories in the current proceeding were replicated from, or very similar to, those in previous Natural Gas Expansion Plan proceedings), the OEB finds that a 50% reduction in the time claimed by Pollution Probe is reasonable. Accordingly, the OEB approves a cost award of \$5,826.56 to Pollution Probe.

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<sup>1</sup> EB-2023-0313 (Motion to Review and Vary OEB Decisions in EB-2022-0156/EB-2022- 0248/EB-2022-0249)

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. 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:

- Environmental Defence \$3,864.04
- Pollution Probe \$5,826.56

**DATED** at Toronto July 22, 2024

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar