



EB-2024-0186 and EB-2024-0197

**Federation of Rental-Housing Providers of Ontario
And Environmental Defence**

**Motions for Review of Ontario Energy Board Decisions in
EB-2022-0111/EB-2023-0200/EB-2023-0201/EB-2023-0261**

**NOTICE OF HEARING AND PROCEDURAL ORDER NO. 1
July 22, 2024**

This Notice of Hearing and Procedural Order pertains to a group of four decisions of the Ontario Energy Board (OEB) granting Enbridge Gas Inc. (Enbridge Gas) leave to construct natural gas pipelines related to community expansion projects. The OEB refers to these as the Bobcaygeon, Neustadt, Eganville and Sandford community expansion projects, although the specific areas to be served by those projects are described in greater detail in each of the applications and decisions.¹

On May 27, 2024, the Federation of Rental-housing Providers of Ontario (FRPO) filed a Notice of Motion with the OEB to review a portion of the OEB's final decision granting Enbridge Gas's application for leave to construct approximately 36 kilometres of natural gas pipeline in the City of Kawartha Lakes (including Bobcaygeon) and Township of Cavan-Monaghan (Enbridge Gas's Bobcaygeon community expansion project). Specifically, the FRPO motion relates to the OEB's granting of leave to construct a reinforcement line (Reinforcement Pipeline) consisting of 8 kilometres of NPS 6-inch extra high pressure steel distribution pipeline that forms part of the Bobcaygeon project. The OEB assigned file number EB-2024-0186 to the motion.

The FRPO Notice of Motion requests:

- 1) A review and variance of the portion of the Bobcaygeon decision dated May 14, 2024 approving the Reinforcement Pipeline.

¹ Bobcaygeon Community Expansion Project, (EB-2022-0111) Decision issued May 14, 2024; Neustadt Community Expansion Project, (EB-2023-0261) Decision issued May 23, 2024; Eganville Community Expansion Project, (EB-2023-0201) Decision issued May 30, 2024; Sandford Community Expansion Project, (EB-2023-0200) Decision issued July 4, 2024

- 2) An order that the motion raises issues material enough to warrant a review of the decision on the merits thus satisfying the “threshold test” in Rule 43.01 of the OEB’s *Rules of Practice and Procedure* (Rules) in relation to approving the Reinforcement Pipeline.
- 3) In the alternative to 1), that a stay be invoked on the portion of the decision relating to the Reinforcement Pipeline, allowing time for a technical conference and other procedural steps the OEB believes are warranted to make a fully informed decision on the need for and timing of the Reinforcement Pipeline.

On June 3, 2024, Environmental Defence filed a Notice of Motion to review the OEB’s decisions on evidence and further discovery (Decisions on Intervenor Evidence) on the four Enbridge Gas community expansion applications and the OEB’s final decisions (Final Decisions) on three of the applications.² Environmental Defence’s Notice of Motion included a reference to the Sandford community expansion application, on which a final decision was pending at the time the motion was filed, noting that it would file an updated Notice of Motion to reflect the outcome of that application. The OEB assigned file number EB-2024-0197 to the motion. The OEB issued its final decision on the Sandford Community Expansion Application on July 4, 2024, and as the OEB anticipates that Environmental Defence will amend its Notice of Motion to include the final decision in the Sandford proceeding, the OEB is including the Sandford decision in its references to the Final Decisions, below).

The Environmental Defence Notice of Motion requests an order:

- 1) cancelling the Final Decisions;
- 2) cancelling the Decisions on Intervenor Evidence;
- 3) varying or cancelling the decisions on evidence and further discovery;
- 4) that the evidence proposed by Environmental Defence and Elizabeth Carswell³ is admissible;
- 5) that the proposed evidence is eligible for cost recovery subject to the normal criteria and review of intervenor cost claims;

² Bobcaygeon, Neustadt and Eganville Community Expansion Projects

³ With regard to item 4 above, the OEB notes that Ms. Carswell is a party to only the Sandford proceeding.

- 6) that a technical conference shall be held in these proceedings;
- 7) remitting these proceedings back to a panel of the OEB for determination regarding the next steps; and
- 8) granting any such further relief as requested by the moving party and that the OEB deems just.

The OEB has determined that it will combine the hearing of the FRPO and Environmental Defence motions, pursuant to section 21(5) of the *Ontario Energy Board Act, 1998*. The OEB will also allow Environmental Defence an opportunity to amend its Notice of Motion to reflect the issuance of the final decision in the Sandford proceeding.

Hearing on Threshold Question and Merits

Under Rule 43 of the OEB's Rules, the OEB may determine, with or without a hearing, a threshold question of whether a motion raises relevant issues material enough to warrant a review of the decision or order on the merits.

The OEB has determined that it will hear arguments, in writing, on both the threshold question and the merits at the same time.

Intervenors and Cost Awards

This Notice of Hearing and Procedural Order No. 1 will be sent to Enbridge Gas and all other parties to the EB-2022-0111 (Bobcaygeon), EB-2023-0200 (Sandford) EB-2023-0201 (Eganville) EB-2023-0261 (Neustadt) and proceedings. Intervenors in those proceedings are approved as intervenors in these motions. Intervenors that were determined to be eligible for costs in those proceedings are also eligible for costs in the motions.

Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Enbridge Gas will be liable for any approved intervenor costs.

Written Submissions

Parties are invited to make written submissions on both the threshold issue and the merits of the motions. A schedule for submissions is set out below. FRPO and Environmental Defence will have the opportunity to file written submissions on their respective motions first, followed by any parties supporting their motion(s). OEB staff

and any parties opposing the motion(s) will then be permitted to file responding submissions, and FRPO and Environmental Defence will then have an opportunity to file reply submissions.

While the OEB has combined the hearing of these motions in the interest of regulatory efficiency, the underlying proceedings have not been consolidated. The OEB is mentioning this because the parties to the four proceedings are not identical. Environmental Defence and Pollution Probe are approved intervenors in all of the proceedings; FRPO is an approved intervenor in only the Bobcaygeon proceeding; and Elizabeth Carswell is an approved intervenor in only the Sandford proceeding. Parties are expected to confine their written submissions to those proceedings in which they are intervenors.

For consistency, the OEB requests that submissions use the same terms defined in this Notice of Hearing, namely the Decisions on Intervenor Evidence and Final Decisions.

Without limiting the scope of submissions, the OEB is particularly interested in submissions on the following matters:

1. The OEB's role and responsibilities regarding procedural fairness, particularly the balance between the right to be heard and the ability of a tribunal to control its own process and to conduct an efficient proceeding.
2. As the OEB chose not to consider the review motions until after the Final Decisions were issued, how the Final Decisions might have been different if Environmental Defence had been permitted to file its proposed evidence.
3. The extent to which there are material differences between the circumstances and issues that were before the OEB in the EB-2023-0313 Environmental Defence review motion proceeding and those before the OEB in connection with the Environmental Defence review motion in this proceeding.
4. In respect of the Bobcaygeon proceeding, was the record sufficient for the OEB to decide the need for the Reinforcement Pipeline and how might the final decision have been different had the OEB granted FRPO's request for a technical conference?
5. In respect of the FRPO request for a stay of that portion of the Bobcaygeon decision related to the Reinforcement Pipeline:

- a. the basis for the stay request and an explanation of the process for the technical conference and other procedural steps proposed by FRPO, given that FRPO has requested that the portion of the Bobcaygeon decision on the Reinforcement Pipeline be stayed, but not cancelled; and
- b. further, as Enbridge Gas has advised that construction of the Bobcaygeon project will commence on July 25, 2024, the implications of a stay related to the Reinforcement Pipeline for the balance of the Bobcaygeon community expansion project.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. If Environmental Defence wishes to update its Notice of Motion to include the OEB's final decision on the Sandford Community Expansion Application, it shall file an amended Notice of Motion with the OEB and serve it on all other parties by **July 29, 2024**.
2. If FRPO and/or Environmental Defence wish(es) to make a written submission in addition to its respective Notice of Motion, they shall file their submission(s) with the OEB and serve it/them on all other parties by **July 31, 2024**.
3. If any party wishes to make a written submission in support of one or both motions, they shall file their submission(s) with the OEB and serve it/them on all other parties by **August 7, 2024**.
4. Any written submission by Enbridge Gas, any party opposing one or both motions, and OEB staff shall be filed with the OEB and served on FRPO, Environmental Defence and all other parties by **August 21, 2024**.
5. Any reply submission(s) by FRPO and/or Environmental Defence shall be filed with the OEB and served on all other parties by **September 4, 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 numbers **EB-2024-0186** and **EB-2024-0197** 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 [Filing Systems 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 at the address below 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, Judith Fernandes, at Judith.Fernandes@oeb.ca and OEB Counsel, James Sidlofsky, at James.Sidlofsky@oeb.ca.

Email: registrar@oeb.ca

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

DATED at Toronto, **July 22, 2024**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar