



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

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# DECISION AND ORDER ON COST AWARDS

## EB-2023-0201

### ENBRIDGE GAS INC.

Application for Leave to Construct Eganville Community Expansion Project

**BEFORE:** Robert Dodds  
Presiding Commissioner

Michael Janigan  
Commissioner

David Sword  
Commissioner

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July 29, 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*, for an order granting leave to construct approximately 22 kilometres of natural gas pipeline and associated facilities in the Townships of Admaston/Bromley, North Algona Wilberforce and Bonnechere Valley, in Renfrew County. Enbridge Gas also applied under sections 8, 9(3) and 9(4) of the *Municipal Franchises Act* for approval of new municipal franchise agreements with, and certificates of public convenience and necessity for, the Townships of North Algona Wilberforce and Bonnechere Valley.

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

On May 30, 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 claimed Enbridge Gas made the same arguments in the Neustadt (community expansion) proceeding<sup>1</sup> and Environmental Defence claimed it acted responsibly throughout. In its response to Enbridge Gas's objection, Pollution Probe agreed Enbridge Gas's objection was similar to that which Enbridge Gas submitted in the Neustadt proceeding, and Pollution Probe claimed its time and related costs were reasonable and responsible.

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 (NGEP) project proceedings. In its response, Environmental Defence referred to its response to the cost claim objection in the Neustadt proceeding, in which it submitted that it cannot reply 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.

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<sup>1</sup> [EB-2023-0261](#)

In its objection, Enbridge Gas noted that Pollution Probe's total cost claim of \$11,093.79 is primarily driven by discovery and is over three times the amount of Environmental Defence's total cost claim of \$3,667.42. Enbridge Gas submitted that Pollution Probe's claim for discovery should be reduced by 63%. 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 NGEF 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 NGEF project proceedings. In its response, Environmental Defence disagreed that it reduced its current cost claim relative to previous NGEF project proceedings; rather it claimed the hours it expended on this particular application consistent with its argument in the Neustadt proceeding. 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>2</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 approves the cost claim by Environmental Defence in the amount of \$3,667.42.

The OEB has considered Pollution Probe's cost claim reply letter of July 15, 2024. Pollution Probe participated in accordance with its objectives identified in its request for intervenor status. However, there is an expectation that the time spent for reviewing and advancing submissions in previous similar proceedings will enable efficiency and a reduction in the time claimed in subsequent proceedings. Although there is no requirement that intervenors are not to exceed the time claimed in the cost claim of another intervenor advancing a request for a like result, the OEB is of the opinion that the time spent and claimed by Pollution Probe is excessive. Accordingly, the OEB finds

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<sup>2</sup> EB-2023-0313 (Motion to Review and Vary OEB Decisions in EB-2022-0156/EB-2022- 0248/EB-2022-0249)

that a 50% reduction in the time claimed by Pollution Probe is reasonable and approves a cost award of \$6,292.69 to Pollution Probe.

**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 | \$3,667.42 |
| • Pollution Probe       | \$6,292.69 |

**DATED** at Toronto July 29, 2024

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar