



**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**

**PROCEDURAL ORDER NO. 2  
August 22, 2024**

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 Inc.'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).<sup>1</sup> 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.

On June 3, 2024, Environmental Defence filed a Notice of Motion to review the OEB's decisions on evidence and further discovery in four Enbridge Gas community expansion proceedings<sup>2</sup> (including the Bobcaygeon project in its entirety) and the OEB's final decisions on three of the applications.<sup>3</sup> On July 29, 2024, Environmental Defence amended its Notice of Motion to include the final decision in the fourth proceeding<sup>4</sup>. The OEB assigned file number EB-2024-0197 to the motion. The OEB's final decisions on the four projects are referred to collectively as the Final Decisions.

In the Notice of Hearing and Procedural Order No.1, issued on July 22, 2024, the OEB determined that it would combine the hearing of the FRPO and Environmental Defence motions. The OEB also set out a timeline for written submissions on both the threshold question and the merits at the same time. In accordance with the deadlines set out by the OEB, Environmental Defence and FRPO filed submissions in addition to their

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<sup>1</sup> Bobcaygeon Community Expansion Project (EB-2022-0111)

<sup>2</sup> Bobcaygeon Community Expansion Project (EB-2022-0111); Neustadt Community Expansion Project (EB-2023-0261); Eganville Community Expansion Project (EB-2023-0201); Sandford Community Expansion Project (EB-2023-0200)

<sup>3</sup> Bobcaygeon, Neustadt and Eganville Community Expansion Projects

<sup>4</sup> Sandford Community Expansion Project

respective motions and Environmental Defence, Pollution Probe and Ms. Carswell filed submissions supporting the motion(s).

### **Request for Stay of Bobcaygeon Reinforcement Pipeline and Sandford Project**

In the alternative to its request to review and vary the final decision on the Bobcaygeon project with respect to the Reinforcement Pipeline, FRPO requested “that a stay be invoked on that portion of the decision to allow time for a Technical Conference and other procedural steps that the OEB requires to make a fully informed decision on the Reinforcement pipeline.”

The alternative relief requested by FRPO was the only reference to a stay in the review motions filed by FRPO and Environmental Defence. By August 14, 2024, there were only two remaining steps in the process set out in Procedural Order No.1 – written submissions on the motion(s) by Enbridge Gas, parties opposed and OEB staff were due by August 21, 2024; and any reply submission by FRPO and/or Environmental Defence was due by September 4, 2024. As mentioned above, Environmental Defence had previously updated its Notice of Motion to include the OEB’s final decision on the Sandford project. FRPO and Environmental Defence had filed additional submissions in support of their motions; and the OEB had received submissions from parties in support of one or both motions.

Late in the evening of August 14, 2024, Environmental Defence submitted a [letter](#) requesting that the OEB issue a stay of the final decision on the Bobcaygeon project with respect to the Reinforcement Pipeline. Environmental Defence sought the stay further to both the FRPO review motion and its own. It stated that a stay is warranted because there is no urgency from a safety or reliability perspective and there is no way to “un-build” the Reinforcement Pipeline if the OEB decides it is not needed. Further grounds for the stay request are set out in Environmental Defence’s August 14, 2024 letter.

On August 15, 2024, Ms. Carswell filed a [letter](#) “to request a stay of the decision approving the Sandford gas expansion project until Environmental Defence’s review and appeal has been completed, which includes an objection to the OEB’s decision to disallow my survey evidence in the Sandford case.”<sup>5</sup> Ms. Carswell noted that most of the arguments in Environmental Defence’s August 14 stay request apply to the Sandford project as well. Ms. Carswell also cited other concerns related to the

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<sup>5</sup> Environmental Defence has appealed the Final Decisions to the Divisional Court: *Environmental Defence Canada Inc. (Applicant) and Ontario Energy Board and Enbridge Gas Inc. (Respondents)*, Divisional Court File No. DC-24-00000361-0000. That appeal has been placed in abeyance pending the OEB’s decision on Environmental Defence’s motion to review.

construction of the Sandford project and comments related to her own community and her own request to file survey evidence.

### **Revised Procedural Schedule**

Parties were advised on Friday, August 16, 2024 that the OEB was suspending the remaining two deadlines in the proceeding and that a Procedural Order would be forthcoming.

The OEB is making provision for written submissions on the stay requests by FRPO, Environmental Defence and Ms. Carswell. A revised procedural schedule is set out below. FRPO, Environmental Defence and Ms. Carswell will have an opportunity to file written submissions on their respective stay requests, followed by any parties supporting the stay request(s). OEB staff and any parties opposing the motions(s) and/or stay request(s) will then be permitted to file responding submissions; and FRPO and Environmental Defence will then have an opportunity to file reply submissions on their respective motion and/or stay request. The OEB will also allow Ms. Carswell to file a reply submission, but that reply submission is to be limited to her stay request in respect of the Sandford project. Ms. Carswell is not a moving party and has already filed a submission in support of the Environmental Defence review motion.

The OEB has a number of comments with respect to the Environmental Defence and Carswell stay requests. First, with regard to the Environmental Defence request, the OEB's *Rules of Practice and Procedure* (Rules) provide that a stay pending the determination of a motion to review shall, if sought, be included in the motion to review.<sup>6</sup> Environmental Defence made no request for a stay of any portion of the OEB's Final Decisions until over two months after it filed its Notice of Motion, and almost one month after Enbridge Gas filed its July 15, 2024 notice of its intention to begin construction of the Bobcaygeon project. In this case, the OEB is prepared to consider the Environmental Defence stay request in respect of the Bobcaygeon Reinforcement Pipeline because FRPO had included a reference to a stay in its own Notice of Motion.

Second, with regard to the Carswell stay request, the OEB notes that Ms. Carswell has not filed a motion to review the OEB's decision in respect of the Sandford project – in effect, Ms. Carswell's stay request is a stand-alone request that relies on the fact that Environmental Defence has filed a review motion in respect of the Sandford decision. The OEB's Rules do not contemplate a stand-alone stay request in proceedings that are the subject of a review motion. Nevertheless, given that there is a motion to review the Sandford decision currently in progress and that Ms. Carswell is an unrepresented

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<sup>6</sup> OEB *Rules of Practice and Procedure*, Rule 42.01(b).

intervenor, the OEB will, in keeping with Rule 2.01, consider Ms. Carswell's request for a stay of the Sandford decision pending the determination of Environmental Defence's motion to review.

As noted above, Environmental Defence sought the stay further to both the FRPO review motion and its own. The OEB understands the FRPO and Environmental Defence stay requests to be requests to stay the implementation of that part of the Bobcaygeon decision relating to the Reinforcement Pipeline pending the determination of the motions, as contemplated by Rule 42.01(b). Notwithstanding Ms. Carswell's mention of the Environmental Defence appeal, the OEB is only considering the stay requests for the period pending the determination of the FRPO and Environmental Defence motions at this time. The OEB also notes that Ms. Carswell has not appealed the Sandford decision, nor is she a party to the Environmental Defence appeal. The OEB makes no determination at this time as to Ms. Carswell's standing to request a stay pending the outcome of Environmental Defence's appeal.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. Any written submissions by FRPO, Environmental Defence and Ms. Carswell in support of their respective stay requests shall be filed with the OEB and served on all other parties by **August 29, 2024**.
2. If any party wishes to make a written submission in support of another party's stay request, they shall file their submission with the OEB and serve it on all other parties by **September 5, 2024**.
3. Any written submission by Enbridge Gas on the motions and stay requests, by any party opposing any motion or stay request, and by OEB staff on the motions and stay requests shall be filed with the OEB and served on all other parties by **September 12, 2024**.
4. Any reply submission(s) by FRPO, Environmental Defence and/or Ms. Carswell shall be filed with the OEB and served on all other parties by **September 19, 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](mailto: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](mailto:Judith.Fernandes@oeb.ca) and OEB Counsel, James Sidlofsky, at [James.Sidlofsky@oeb.ca](mailto:James.Sidlofsky@oeb.ca).

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)  
Tel: 1-877-632-2727 (Toll free)

**DATED** at Toronto, **August 22, 2024**

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar