



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

DECISION AND ORDER ON COST AWARDS

EB-2023-0200

ENBRIDGE GAS INC.

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

BEFORE: **Robert Dodds**
Presiding Commissioner

Michael Janigan
Commissioner

David Sword
Commissioner

September 4, 2024

OVERVIEW

Enbridge Gas Inc. filed an application with the Ontario Energy Board (OEB) dated August 16, 2024, for an order granting leave to construct natural gas pipelines and ancillary facilities in the community of Sandford, located in the Township of Uxbridge to supply natural gas to approximately 183 forecasted customers. Enbridge Gas Inc. (Enbridge Gas) also applied for approval of the forms of temporary land-use and easement agreements it offers to landowners affected by the routing or location of the project.

The OEB approved intervenor status for Elizabeth Carswell, Environmental Defence, and Pollution Probe. Cost eligibility in this proceeding was granted to Environmental Defence and Pollution Probe.

On July 4, 2024, the OEB issued its Decision and Order in which it set out, among other matters, the cost award process.

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

Cost Claim Objections

In its letter of July 18, 2024, Enbridge Gas made numerous comments regarding the Environmental Defence cost claim. Enbridge Gas submitted that Environmental Defence did not make reasonable efforts to ensure its participation was focused on relevant and material issues while also repeatedly introducing evidence related to non-natural gas alternatives in natural gas expansion proceedings, resulting in inefficiency in the regulatory process. Enbridge Gas also referred to its objection to Environmental Defence's cost claim in the Bobcaygeon community expansion leave to construct proceeding¹ on the basis that Environmental Defence's approach to discovery involved detailed exploration of issues that are not material to the proceeding and many of Environmental Defence's interrogatories were replicated from, or very similar to, its interrogatories in previous-Natural Gas Expansion Program proceedings. Enbridge Gas submitted that, although Environmental Defence took a similar approach for the Sandford proceeding as with the Bobcaygeon proceeding, Environmental Defence submitted a lower total cost claim of \$4,666.34 for the Sandford Project proceeding. As a result, Enbridge Gas did not object to Environmental Defence's cost claim for the Sandford proceeding.

¹ EB-2022-0111

In reviewing Pollution Probe's cost claim, Enbridge Gas recommends a 75% reduction in the area of discovery from \$12,958.29 to \$2,563.69. The proposed reduction reflects:

- 50% reduction for partial replication of and reliance on its interrogatories from previous natural gas expansion proceedings
- 25% reduction for interrogatories consisting of detailed exploration of issues that are not material to the proceeding

Enbridge Gas submits Pollution Probe's cost claim is nearly three times the amount compared to Environmental Defence despite its pursuit of similar issues to those of Environmental Defence, and with limited focus on other topics, including topics directly pertaining to Pollution Probe's stated policy interests related to environmental and socio-economic impacts. Enbridge Gas further submits Pollution Probe's interrogatories were either replicated or very similar to interrogatories submitted in previous natural gas expansion proceedings and consisted of detailed exploration of issues that were not material to the proceeding.

Enbridge Gas also recommended that the OEB consider intervenor cost claims in the context of all Phase 2 natural gas expansion projects in place of separate proceedings for the following reasons:

- Natural gas expansion projects are similar in nature
- Environmental Defence's and Pollution Probe's repeated pursuit of opposition to natural gas expansion and promotion of non-gas alternatives
- The OEB's findings that interests with respect to broader climate change issues and non-natural gas alternatives extend beyond the scope of natural gas expansion proceedings
- Phase 2 communities have been identified by provincial policy and the OEB to receive natural gas service, and up to 17 additional natural gas expansion are yet to undergo the OEB's leave to construct process.

Responses to Cost Claim Objections

Pollution Probe filed its response to Enbridge Gas's cost claim objection on July 19, 2024. In its letter, Pollution Probe disagrees with Enbridge Gas's objections and states the time and related costs are reasonable and responsible. Pollution Probe notes that Enbridge Gas made no mention of any concerns raised on the scope or duplication in the current or any previous proceeding. Pollution Probe's submits its cost claim (in this and other proceedings) makes up a small fraction of the project costs and its

participation provided economic benefits to ratepayers by documenting the risks associated with the project. Pollution Probe submitted that it was the only intervenor who focused on environmental and socio-economic impacts. Pollution Probe's involvement in reviewing the Environmental Report, which tripled the amount of evidence in this proceeding, resulted in producing an efficient list that Enbridge Gas will address in the Environmental Protection Plan prior to construction.

Pollution Probe notes that if the OEB and stakeholders were made aware in advance of how many similar applications would be filed over the past year, it would make sense to combine the applications to create a more efficient process. Pollution Probe recommends that the OEB combine all remaining natural gas expansion applications into a single proceeding to avoid issues Enbridge Gas identified in previous natural gas expansion cases.

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 of \$4,666.34 as submitted.

With respect to the cost claim of \$12,958.28 by Pollution Probe, the OEB finds that the claim is excessive. 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 Program 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 \$6,479.14 to Pollution Probe.

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:

- | | |
|-------------------------|------------|
| • Environmental Defence | \$4,666.34 |
| • Pollution Probe | \$6,479.14 |

DATED at Toronto September 4, 2024

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar