



Enbridge Gas Inc.

**Application for leave to applied to construct natural gas
pipelines in the City of Ottawa**

**DECISION ON PROPOSED INTERVENOR EVIDENCE
AND PROCEDURAL ORDER NO. 2**

October 1, 2024

Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB) on June 17, 2024, under sections 90 and 97 of the *Ontario Energy Board Act, 1998* (OEB Act), for an order granting leave to construct approximately 17.6 kilometers of natural gas pipeline and associated facilities along St. Laurent Boulevard, Sandridge Road and Tremblay Road in the City of Ottawa. According to Enbridge Gas, the proposed natural gas pipeline will address significant consequences to safety and operational reliability on the St. Laurent Pipeline System.¹

In their respective intervention requests, City of Ottawa, Environmental Defence, Industrial Gas Users Association (IGUA), Pollution Probe, and School Energy Coalition (SEC) stated that they may file intervenor evidence in this proceeding and requested to reserve the right to file such evidence.

In Procedural Order No. 1, the OEB ordered that any intervenor wishing to file evidence in this proceeding shall file a letter with the OEB by August 28, 2024 describing the nature of the evidence, whether an expert will be retained, whether the expert evidence will be commissioned jointly with other intervenors, and the time and cost needed to prepare and file the evidence. The OEB further ordered that any party wishing to comment on the relevance of any proposed intervenor evidence shall file its submissions with the OEB and serve them on all parties by September 4, 2024.

Environmental Defence and Pollution Probe filed timely intervenor evidence proposals. IGUA informed the OEB that it would not file intervenor evidence. By September 4, 2024, Enbridge Gas, Energy Probe, and Community Association for Environmental

¹ In 2021, Enbridge Gas applied for and was denied OEB approval to construct a similar project. The complete record of that proceeding may be found on the OEB's website under case number EB-2020-0293.

Sustainability Ottawa (CAFES Ottawa) filed comments on the proposals by Environmental Defence and Pollution Probe.

Submissions on Proposed Intervenor Evidence

Environmental Defence Proposal and Comments by Enbridge Gas

Environmental Defence proposed to file evidence on the methodologies that Enbridge Gas has used to compare project alternatives to the St. Laurent Replacement facilities. The scope of the evidence, as described by Environmental Defence, would cover its methodology to compare the cost-effectiveness of repairing the pipe versus replacing the pipe and consideration of Integrated Resource Planning Alternatives (IRPAs). Environmental Defence noted that its evidence would include how Enbridge Gas has accounted for energy transition scenarios and the issue of stranded assets.

The evidence would be prepared by Chris Neme of the Energy Futures Group (EFG). Environmental Defence stated that the evidence could not be prepared earlier than the last week of January 2025 due to Mr. Neme's schedule. Environmental Defence indicated that if the OEB decides that the regulatory schedule cannot accommodate this evidence, Environmental Defence would accept that decision as an exercise of the OEB's discretion and not a breach of procedural fairness.

On September 4, 2024, Enbridge Gas commented that Environmental Defence's evidence should be filed by October 25, 2024. Enbridge Gas stated that Environmental Defence's proposed date would "cause many months of delay and unnecessarily prolong these proceedings". Enbridge Gas also emphasized that "this, in turn, would cause execution risk and harm the timely completion of the project. Resourcing the project during summer months would be challenging, and with this delay the permitting and stakeholder plan would need to be re-evaluated. Most importantly, Enbridge Gas is concerned with the increased health, safety and reliability risks associated with such a delay."

On September 10, 2024, Environmental Defence responded that filing evidence in October 2024 was not possible and that if the OEB does not approve the filing of evidence in January 2025, it be done in a way that does not prejudice Environmental Defence's ability to propose evidence examining Enbridge Gas's new methodologies in a future leave to construct proceeding.

Pollution Probe Proposal and Comments by Enbridge Gas

Pollution Probe proposed expert evidence that would focus on the current and future energy needs in the Ottawa area and area served by the current St. Laurent system.

Pollution Probe stated that the evidence is relevant to the need for the project and the project alternatives.

The expert evidence proposed by Pollution Probe would be prepared by Sustainable Solutions Group (SSG), led by Yuill Herbert and Mike Fletcher. Pollution Probe noted that the preparation of the evidence would take four weeks from the date of filing interrogatory responses by Enbridge Gas on September 27, 2024. That would result in filing on October 25, 2024.

Enbridge Gas submitted that the scope of the evidence is not sufficiently specific and is too broad. Enbridge Gas requested further clarification from Pollution Probe on the scope of the evidence and the expert capacity of Mr. Herbert and Mr. Fletcher to prepare expert evidence. Enbridge Gas submitted that if the OEB allows Pollution Probe evidence, the filing be by October 25, 2024; the evidence filing be without prejudice to Enbridge Gas's right to subsequently object to the appropriateness of the evidence; and that the OEB provide for interrogatories on that evidence and the opportunity for Enbridge Gas to file responding evidence.

Comments by CAFES Ottawa

CAFES Ottawa submitted that the OEB should allow both Environmental Defence evidence and Pollution Probe evidence.

Comments by Energy Probe

Energy Probe commented that the expert consultants proposed to prepare intervenor evidence for Environmental Defence and Pollution Probe are not appropriately qualified and do not meet the requirements for expert evidence. Energy Probe's position was that both the Environmental Defence and Pollution Probe evidence as proposed should be denied.

Findings

Environmental Defence's Proposed Evidence

The OEB denies Environmental Defence's evidence proposal.

Environmental Defence's proposed date for filing its evidence, at the end of January 2025, is problematic. Typically, intervenors are provided one month to file evidence after interrogatory responses are filed, whereas Environmental Defence proposed four months. Environmental Defence's proposed filing date would delay the hearing schedule by several months. With the filing of such evidence likely to be followed by a discovery process, and the potential for Enbridge Gas to file reply evidence with a

subsequent discovery process on the reply evidence, the three-month delay to accommodate Environmental Defence would mean that the record in this proceeding may not close until well into the spring of 2025. As noted above, Enbridge Gas stated that such a delay could add execution risk to the project as resourcing the project in the summer months would be challenging. Regarding Environmental Defence's suggestion in its August 28, 2024 letter that there is "no imminent risk" that Enbridge Gas's proposed project in-service date of December 2026 would be delayed as a result of Environmental Defence's proposed date for its evidence, the OEB finds the reasons provided by Enbridge Gas regarding the impact of the delay on the project schedule to be persuasive.

Evidence of the kind proposed by Environmental Defence may be useful. The consideration of alternatives, including Integrated Resource Planning, by Enbridge Gas to support its application is within the scope of issue 2.2 of the OEB's [Standard Issues List](#). Expert evidence regarding the methodologies used by Enbridge Gas to identify and evaluate alternatives may be relevant. Given Environmental Defence's letter of September 10, 2024, it appears that filing evidence by the end of October 2024 is not possible. As noted above, Environmental Defence advised that if the OEB decides that the regulatory schedule cannot accommodate this evidence, Environmental Defence would accept that decision as an exercise of the OEB's discretion and not a breach of procedural fairness. The OEB has discretion as to how it conducts its proceedings, and the OEB is exercising that discretion here.

The OEB's *Rules of Practice and Procedure* (Rules) provide that "These Rules shall be liberally construed in the public interest to secure the most just, expeditious, and efficient determination on the merits of every proceeding before the OEB."² The OEB finds that the delay proposed by Environmental Defence does not assist in the expeditious and efficient determination of this application; and the OEB is satisfied in this case that the discovery process in respect of the Enbridge Gas evidence – which will include a technical conference, as discussed below – will allow for appropriate testing of the evidence, including with regard to Enbridge Gas's methodologies and consideration of alternatives. The OEB makes no findings here on Environmental Defence's ability to propose similar evidence in a future leave to construct proceeding.

Pollution Probe's Proposed Evidence

The OEB denies Pollution Probe's request to file evidence. The OEB is not convinced that the nature of the proposed evidence is within the scope of this proceeding and the

² Rule 2.01

OEB is not clear about the capacity in which Mr. Herbert and Mr. Fletcher could be qualified as experts.

There is insufficient information regarding the nature of the proposed evidence. Pollution Probe indicates that SSG would file evidence regarding “the current and future energy needs in the Ottawa area and area served by the current St. Laurent system and proposed project”. Broad “energy needs” are not necessarily within the scope of the proceeding. Further, Pollution Probe has failed to indicate the specific issues to be addressed by the proposed evidence.

As Enbridge Gas indicated, the City of Ottawa is an approved intervenor in this proceeding. Pollution Probe has not provided source(s) of factual data from the Ottawa area that SSG would utilize as the basis for its proposed evidence.

Technical Conference

In their respective requests for intervenor status, Environmental Defence, Pollution Probe, and the Federation of Rental-housing Providers of Ontario (FRPO) requested that the OEB make provision for a technical conference to clarify any interrogatory responses and to address any follow-up questions. The OEB will convene a transcribed technical conference for parties to ask clarification questions related to interrogatory responses filed by Enbridge Gas. Parties will be required to indicate in advance the topics they intend to address, and time needed at the technical conference. Parties are reminded that they are expected to work cooperatively to ensure the time reserved for the technical conference allows for all parties to ask questions without duplication. The technical conference will be held virtually. Details and instructions regarding participation will be circulated in advance of the technical conference.

Type of Hearing

In their respective requests for intervenor status, Environmental Defence, FRPO, IGUA, Pollution Probe, and SEC submitted that the OEB should make its determination on the type of hearing after the interrogatory process. Enbridge Gas requested a written hearing process. The OEB will make its determination on the type of hearing after the technical conference undertaking responses are filed.

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

IT IS THEREFORE ORDERED THAT:

1. Parties intending to participate in the technical conference are required to notify Enbridge Gas, and copy all parties, of the topic areas for questioning by **October 16, 2024**.
2. A virtual, transcribed technical conference will be convened on **October 30, 2024** beginning at 9:30 a.m. and extend to **October 31, 2024** if necessary. Further information on how to connect to the proceeding will be communicated to parties closer to the date.
3. Enbridge Gas shall file with the OEB complete written responses to all undertakings from the technical conference and serve them on all intervenors by **November 14, 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 number, **EB-2024-0200** 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 [File documents online 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 and be received by the 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, Zora Crnojacki at zora.crnojacki@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, **October 1, 2024**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar