

Elson Advocacy

February 11, 2025

BY RESS

Ms. Nancy Marconi

Registrar

Ontario Energy Board

2300 Yonge Street, Suite 2700, P.O. Box 2319

Toronto, Ontario M4P 1E4

Dear Ms. Marconi:

**Re: Enbridge – Approval to Construct Gas Works in Tay Valley Township
EB-2024-0342**

I am writing on behalf of Environmental Defence to request that it be granted intervenor status in this proceeding despite this request being submitted after the deadline set out in the notice for this proceeding. This is warranted because Environmental Defence only learned of this proceeding today, it moved expeditiously to submit this request, it will abide by the timelines set out in *Procedural Order #1*, and the timing of this request will cause no prejudice to any parties.

Environmental Defence only learned of this proceeding today. Furthermore, it also only learned of Tay Valley Township's opposition to this s. 8 application today. Environmental Defence would have no way of knowing the importance of this proceeding without that information. Once we learned this information, Environmental Defence moved quickly to file an immediate intervention request.

The timing of this intervention request will not cause prejudice to any parties. If granted intervenor status, Environmental Defence would abide by the timelines set out in *Procedural Order #1*. The timing of this intervention request will not cause any delay in this proceeding.

An intervention request with all of the required details has been submitted through the OEB's online form. A copy is attached. In light of the above and the attached, we respectfully request that intervenor status be granted.

Yours truly,



Kent Elson

cc: Parties in the above proceeding

Intervention Form: EB-2024-0342 - Environmental Defence

1 message

Ontario Energy Board <webmaster@oeb.ca>

Tue, Feb 11, 2025 at 7:01 PM

To: registrar@oeb.ca

Cc: kent@elsonadvocacy.ca

Intervention Form

Case Number:

EB-2024-0342

Intervenor Name:

Environmental Defence

Mandate and Objectives:

Refer to the Frequent Intervenor Form below.

Membership of the Intervenor and Constituency Represented:

Refer to the Frequent Intervenor Form below.

Programs or Activities Carried Out by the Intervenor:

Refer to the Frequent Intervenor Form below.

Governance Structure:

Refer to the Frequent Intervenor Form below.

Representatives:

Refer to the Frequent Intervenor Form below. Refer to the Frequent Intervenor Form below.

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Other Contacts:

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Frequent Intervenor Form:

<https://www.rds.oeb.ca/CMWebDrawer/Record/871588/File/document>

OEB Proceedings:

Environmental Defence has been granted intervenor status in the following proceedings for the last 12 months:

EB-2022-0200/EB-2024-0111 - Enbridge Gas Rebasing – Phases 1 & 2

EB-2023-0195 - Toronto Hydro 2025-2020 Rates

EB-2023-0197 - Hydro One - K4 Reconductoring

EB-2023-0201 - Eganville Community Expansion

EB-2023-0261 - Neustadt Community Expansion

EB-2023-0336 - OPG Market Renewal Program

EB-2024-0004 IESO 2024/25 Fees

EB-2024-0067 - EGI 5-Year Gas Plan

EB-2024-0141 - Overlea Station Relocation

Environmental Defence was denied intervenor status in one proceeding in the last 24 months (EB-2024-0193 - Enbridge DSM DVA).

Issues:

Tay Valley Township has opposed the approvals sought by Enbridge. The municipality's recent letter to the OEB states as follows: "Tay Valley Council has consistently opposed expansion of the gas grid in the Township. Expansion of the Enbridge franchise area to all of Tay Valley would not be in accord with that position." This opposition relates to the energy transition and the municipality's Climate Action Plan. Environmental Defence has a strong interest and expertise in relation to these issues.

Environmental Defence wishes to explore and address the question of what factors should be considered in applications under s. 8 of the Municipal Franchises Agreement. Applications under s. 8 are almost always unopposed and granted by the OEB without detailed reasons. As a result, the OEB in this case will need to consider exactly what test to apply. Section 8 states that "no person shall construct any works to supply, (a) natural gas in any municipality ... without the approval of the Ontario Energy Board, and such approval shall not be given unless public convenience and necessity appear to require that such approval be given." Environmental Defence seeks to address what factors are relevant to that inquiry.

In addition, Environmental Defence also wishes to explore the following issues:

- (1) Whether approval to construct gas works is required by public convenience and necessity;
- (2) How municipal opposition should be considered when assessing public convenience and necessity;
- (3) Whether the existence of less expensive alternatives to methane gas mean that public convenience and necessity do not "require" that approval be given within the meaning of those terms in s. 8;
- (4) Whether factors relating to the energy transition, including the financial risks associated with gas infrastructure spending, mean that approval is not required by public convenience and necessity; and
- (5) Other issues that may become apparent after reviewing interrogatory responses from Enbridge.

As noted above, municipal opposition to s. 8 approvals is rare. However, this may become more frequent due to the energy transition and municipal efforts to decarbonize. This proceeding could set an important precedent. We believe Environmental Defence's knowledge and perspectives relating to the energy transition can contribute to the OEBs consideration of these issues.

Policy Interests:

Environmental Defence's interest in this proceeding is in promoting both the public interest in environmental protection and the interests of consumers whose energy bills can be reduced through measures that lower both costs and environmental impacts, such as measure that lower financial risks to ratepayers associated with continued spending on gas expansion infrastructure investments.

Hearings:

Environmental Defence asks for an opportunity to make submissions on whether an oral hearing will be held following receipt of interrogatory responses in this matter.

Evidence:

Environmental Defence seeks to file evidence on the question of whether the test for granting approval to construct gas works as set out in the Municipal Franchises Act has been met, namely whether "public convenience and necessity appear to require that such approval be given." This would include evidence relevant to whether the approval is in the public interest and in ratepayers' interests in light of the financial risks and climate risks arising from the approval.

In an effort to be as efficient as possible, Environmental Defence proposes to file evidence that it submitted in the Enbridge rebasing case in this proceeding, including expert testimony addressing the risks associated with gas expansion approvals. This would come at no cost (subject to Enbridge seeking, and the OEB approving, and opportunity to ask interrogatories on this evidence in addition to those already asked in the rebasing case). This would also have no impact on the hearing timeline as the evidence has already been prepared. Although Environmental Defence could prepare new evidence, we believe the submission of pre-existing evidence would be more efficient.

Very little information is contained in the application. Environmental Defence therefore requests the opportunity to finalize a request for leave to file evidence following the receipt of interrogatory responses.

Coordination with Other Intervenors:

Environmental Defence will seek to coordinate with Tay Valley Township.

Cost Awards:

Environmental Defence is eligible for a cost award primarily under s. 3.03(b) of the Practice Direction as it primarily represents an interest or policy perspective relevant to the Board's mandate and to the proceeding for which cost award eligibility is sought, namely environmental and climate protection. In addition, with respect to s. 3.03(a) of the practice direction, Environmental Defence also represents the interests of consumers whose energy bills can be reduced through measures that lower both costs and environmental impacts.

Language Preference:

We intend to participate in English.