

Elson Advocacy

July 16, 2025

Ritchie Murray
Acting Registrar
Ontario Energy Board
2300 Yonge Street, 27th floor
P.O. Box 2319
Toronto, Ontario M4P 1E4

Dear Mr. Murray

**Re: EB-2025-0073 – Enbridge Gas Inc. (EGI) Mississauga Reinforcement Project
Leave to Construct**

I am writing to respond to Enbridge's letter of July 14, 2025, objecting to the intervention of Environmental Defence in this proceeding. Contrary to Enbridge's submissions, Environmental Defence should be granted intervenor status because it has a substantial interest in the proceeding. Also, the late filing of the request is not grounds to disallow participation by Environmental Defence as it was due to inadvertence (filing under the wrong docket number) and will cause no prejudice.

Environmental Defence has a Substantial Interest

Contrary to Enbridge's arguments, Environmental Defence has a substantial interest in this proceeding. Environmental Defence represents the public interest in environmental protection and the interests of ratepayers who seek both clean and affordable energy. Those ratepayer and policy interests are directly implicated in this proceeding.

Relevance to public interest in climate protection

The construction of these new fossil fuel pipelines is obviously relevant to the public interest in climate protection. Very simply, new fossil fuel pipelines are long-lived assets that facilitate the combustion of the fossil fuels that cause climate change. Although Enbridge argues that the proposed pipelines will reduce carbon emissions by displacing more harmful fossil fuels, this argument in support of the pipelines has not been tested.

It is also valid to explore whether the pipelines are "future proofed" in terms of potential conversion to 100% hydrogen.

Furthermore, the project economics are relevant to the public interest in climate protection because they determine whether there will be a cross-subsidy from the existing customer base in

favour of the construction of fossil fuel infrastructure. This kind of subsidy has important climate implications.

These climate impacts extend beyond Mississauga due to the non-local nature of climate change. However, Environmental Defence also has a significant number of supporters in Mississauga, who are particularly interested in climate impacts originating from that municipality, and has connections with local environmental groups.

Relevance to ratepayer interests in clean and affordable energy

Enbridge argues that Environmental Defence does not represent ratepayers. However, Environmental Defence represents ratepayers that want clean and affordable energy, including thousands of Environmental Defence supporters. Those ratepayers are particularly concerned with gas distribution rates being used to cross-subsidize expansions of fossil fuel infrastructure, particularly where that is done without regard to potential conversion to 100% hydrogen for industrial uses.

Ratepayers have several interrelated reasons for opposing the cross-subsidization of new fossil fuel pipelines. As noted above, cross-subsidization supports the construction of fossil fuel infrastructure and therefore the combustion of fossil fuels. This is particularly concerning for customers seeking a clean and affordable energy system. But the unfairness and cost implications are also concerning from a purely economic interest. This is particularly so in light of the risks of fossil fuel investments in the midst of the energy transition.

Consistency with past cases

For over a decade, Environmental Defence has focused on issues at the Ontario Energy Board where the environmental and economic interests are aligned. Environmental Defence has been granted intervenor status and actively participated in many cases regarding leave to construct. For example, Environmental Defence played a significant role in the Panhandle Reinforcement Project. Its evidence and arguments were relied on by a number of parties and were partially accepted by the OEB.¹ Denying intervenor status in the Mississauga case would be inconsistent with many past leave to construct cases where Environmental Defence has been granted intervenor status.

Issues should be decided on the evidence

Enbridge contests Environmental Defence's intervention using substantive arguments that cannot and should not be determined at this stage. For example, Enbridge argues that IRP screening has been carried out appropriately and that it need not consider future-proofing the pipeline with respect to 100% hydrogen. It is inappropriate for decisions on those matters to be made at this preliminary stage without the benefit of evidence or argument. These are not valid arguments to make against intervention by one party.

¹ EB-2022-0157, Decision and Order, May 14, 2024, p. 70-71.

Environmental Defence has not developed a position on any of the issues in this proceeding. Its intervention application simply states as follows:

“Environmental Defence intends to explore the following issues:

- Whether the project economics are consistent with OEB guidelines, including testing of the figures underlying the project economics;
- Whether the pipeline sizing and project timing is appropriate;
- Whether the project is consistent with Enbridge's plans relating to hydrogen, including the potential use with 100% hydrogen; and
- Whether IRP screening has been carried out appropriately.”

Environmental Defence is not asking that the OEB make any decisions on those points at this stage. It is merely asking for the opportunity to responsibly explore them through this proceeding.

Ministerial direction

Enbridge argues that the Minister’s Letter of Direction supports denying intervenor status. The opposite is true. The Minister’s office supported the OEB’s plan and report on interventions, which recognises the importance of intervenors. For example, the OEB’s September 27, 2024 Report to the Minister on Intervenors and Regulatory Efficiency stated as follows:

The OEB is an adjudicative tribunal founded on a quasi-judicial adversarial model. Therefore, external participation in OEB adjudicative proceedings, including those by regular intervenors, is an important part of how the OEB hears applications and makes its decisions. While OEB staff represent and advocate in the broad public interest, persons with a “substantial interest” in an application are also entitled to participate.²

Furthermore, the Minister’s letter specifically noted the importance of issues that are aligned with Environmental Defence's clean energy interests, stating as follows:

Electrification and the transition to cleaner energy sources requires strong, proactive thought leadership from the OEB, in consultation with the sector. As we build new homes, attract new investments and electrify industry and transportation, the OEB is going to play a crucial role in advancing the government’s policies, including ensuring every family and business have access to clean, affordable and reliable energy (emphasis added).³

Lateness was inadvertent and will cause no prejudice

Enbridge argues that the intervention request should be denied because it was late. This is not warranted and would be inconsistent with OEB practice and the lack of prejudice. The intervention request was filed late in this proceeding due to inadvertence. Due to

² Ontario Energy Board, Report Back to the Ministry – Intervenors and Regulatory Efficiency, September 27, 2024 ([Link](#)), p. 2.

³ Minister Stephen Lecce, Letter to the Chair of the OEB, December 19, 2024 ([Link](#)), p. 2.

miscommunication between my colleague and I, the Environmental Defence intervention request was filed in the wrong docket (in the proceeding for the Mississauga CPCN). When we discovered the issue, we immediately notified Enbridge and took steps to remedy it, but in the rush to do so my colleague uploaded the incorrect file. We apologise for this. However, this inadvertence does not warrant disallowing the Environmental Defence intervention request.

Disallowing this late intervention request would be inconsistent with OEB practice of allowing such requests where they would not cause prejudice or undue delay. That test is certainly met here. Indeed, the Industrial Gas Users Association makes a similar point in its letter to the OEB:

We note that no Procedural Order has yet been issued in this matter and so the granting of IGUA's late intervention request should not delay the progress of this proceeding or otherwise prejudice any party or inconvenience the OEB.

The late intervention requests of both Environmental Defence and IGUA should be approved for that same reason.

Conclusion

For the reasons outlined above, we ask that Environmental Defence be granted intervenor status.

Yours truly,



Kent Elson