



Enbridge Gas Inc.

**Application for exemption from leave to construct
natural gas pipeline and associated facilities in the
City of Port Colborne**

**DECISION ON INTERVENOR EVIDENCE AND
PROCEDURAL ORDER NO. 4
March 26, 2026**

Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB) on November 7, 2025, under sections 95(2) of the *Ontario Energy Board Act, 1998*, for an order granting an exemption from the requirement to obtain leave to construct natural gas pipelines to serve an industrial customer in the City of Port Colborne (the Project). The Project involves the construction of approximately 2.65 km of natural gas distribution pipeline and ancillary facilities.

On November 27, 2025, the OEB issued a Notice of Hearing followed by a corrected Notice of Hearing on December 2, 2025, to the following Indigenous communities:

- Haudenosaunee Confederacy Chiefs Council
- Mississaugas of the Credit First Nation
- Six Nations of the Grand River (Six Nations)

The OEB served each potentially impacted community a Notice of Hearing on December 2, 2025. The Notice of Hearing provided each potentially impacted Indigenous community until December 15, 2025, to become an intervenor, comment or ask to follow the hearing as a monitor.

Six Nations requested intervenor status and cost award eligibility in the proceeding. On January 9, 2026, the OEB issued Procedural Order No. 1 which granted intervenor status and cost award eligibility to Six Nations and set out a schedule for interrogatories and parties' submissions.

Procedural Order No. 2, dated January 22, 2026, granted a time extension request from Six Nations and changed the procedural schedule accordingly.

OEB staff and Six Nations filed their interrogatories to Enbridge Gas on February 17, 2026. Enbridge Gas filed the responses to the interrogatories on March 2, 2026.

Six Nations, on March 10, 2026, requested a leave of the OEB to file intervenor evidence. On March 12, 2026, the OEB issued Procedural Order No. 3 suspending the dates for Six Nations and OEB staff submissions and for Enbridge Gas reply submissions, in order to address Six Nations' correspondence.

The OEB will, by way of this decision and procedural order, grant leave for Six Nations to file its requested evidence, address the parties' subsequent submissions, and set out further procedural steps.

Six Nations' Request for Leave to File Evidence

On March 10, 2026, Six Nations sent a letter and an unsworn affidavit with attached exhibits, to the OEB. Six Nations subsequently sent a sworn version of the affidavit with attachments on March 18, 2026. The affidavit was sworn by Peter Graham, Consultation Supervisor of the Six Nations of the Grand River.

In its letter, Six Nations sought leave to file the affidavit with attachments as evidence in the proceeding pursuant to Rule 13.02 of the OEB's [Rules of Practice and Procedure](#). Six Nations stated that the affidavit provides important evidence regarding consultation meetings between Enbridge and Six Nations, and that Six Nations intends to rely on the affidavit in its forthcoming written submissions.

Six Nations further stated that it intends to seek costs in the estimated amount of \$3,200 to compensate it for the time and expense of preparing this evidence.

Enbridge Gas' Correspondence of March 18, 2026

On March 18, 2026, Enbridge Gas sent correspondence to the OEB responding to Six Nations' request to file evidence. Enbridge Gas stated that it had some concerns that Six Nations had not followed the proper process outlined in Rules 13.02 and 13.04 of the OEB's Rules of Practice and Procedure, in that Six Nations appeared to have presumed leave by preparing and filing the affidavit rather than first requesting leave of the OEB. Also, Enbridge Gas stated it was concerned that Six Nations had "asserted relevance rather than addressing the rationale or providing any justification to support the required materiality criteria."

Enbridge Gas stated further, however, that it appreciates and values the input of Indigenous groups and would not object to the admission of Six Nations' affidavit, provided that the OEB take into account the present evidentiary record.

Enbridge Gas went on to provide detailed and specific responses to the content of Six Nations' affidavit. Also, Enbridge Gas asked that the OEB set a procedural schedule for submissions and proposed specific dates.

Six Nations' Correspondence of March 23, 2026

On March 23, 2026, Six Nations submitted a letter to the OEB responding to Enbridge Gas' correspondence of March 18, 2026. In the letter, Six Nations stated that there were no procedural deficiencies in its request for leave to file intervenor evidence. Six Nations stated that it had been clear that it was seeking leave of the Board, and that it had enclosed a copy of the unsworn affidavit, so the OEB could consider the evidence that Six Nations was seeking to admit into the record. Moreover, Six Nations stated that the relevance and materiality of the evidence had been set out in its letter, and that it had been granted leave in another recent unrelated proceeding of the OEB to file a similar affidavit.

Six Nations stated further that the "commentary" in Enbridge Gas' March 18, 2026 correspondence is a mixture of improper reply evidence and argument and should not be accepted into the record of this proceeding as Enbridge Gas had not sought leave of the OEB to introduce the letter as evidence. Also, Six Nations stated that Enbridge Gas had mischaracterized the evidence in Six Nations' affidavit and misrepresented Six Nations' position, providing some examples. Six Nations stated that if Enbridge Gas wishes to introduce evidence to respond to Six Nations' affidavit, it should be required to do so in a sworn affidavit of its own, or alternatively, if Enbridge Gas wishes to make arguments, it can do so in its written submissions.

Six Nations opposed the schedule for written submissions proposed by Enbridge Gas, stating that it was unduly rushed and that Six Nations must be given sufficient time to prepare their submissions. Six Nations requested that the OEB provide a reasonable schedule for written submissions, or alternatively, set a schedule providing for written discovery on the intervenor evidence.

Decision – Intervenor Evidence and Responding Submissions

The OEB grants Six Nations leave to file the proposed evidence. Rule 13.03 of the OEB's Rules of Practice and Procedure provides that in determining whether to grant leave for a party to file evidence under Rule 13.02, the OEB will consider:

- (a) the relevance and materiality of the proposed evidence;
- (b) where the intervenor has requested its costs in connection with the proposed evidence, the quantum of those costs; and
- (c) any other relevant considerations affecting the fairness, efficiency or timeliness of the proceeding or the fulfillment of the OEB's statutory mandate.

In the OEB's view, the affidavit of Peter Graham, with attachments, is arguably relevant and material to the proceeding. The affidavit addresses the communications between Enbridge Gas and Six Nations regarding the Project. It is related to an issue to be decided in this proceeding, namely whether the Crown's duty to consult was adequately discharged with respect to the application.

Six Nations indicated it will seek costs in the estimated amount of \$3,200 in relation to this evidence. While the OEB makes no decision on costs at this time, the OEB does not consider this estimate of quantum of costs to be a concern in relation to considering whether to grant leave for Six Nations to file the evidence in question, given the evidence's arguable relevance and materiality.

Six Nations' cost award eligibility has been confirmed in Procedural Order No. 1. Six Nations may apply for an award of costs, including the cost of preparing the intervenor evidence, under the OEB's [Practice Direction on Cost Awards](#).

While the OEB acknowledges Enbridge Gas' concern that Six Nations prepared the affidavit and requested costs for doing so before the OEB granted leave to file it, in the OEB's view it is nonetheless appropriate to grant leave to file the evidence for the reasons set out above.

Regarding Six Nations' request that the OEB not accept Enbridge's correspondence of March 18, 2026, into the record for this proceeding, the OEB denies this request. The OEB considers Enbridge's correspondence to be submissions, and it will remain on the record.

Further Procedural Steps

In the OEB's view, it is appropriate for Enbridge Gas and OEB staff to have the opportunity to file written interrogatories with respect to this evidence, and for Six Nations to file written responses to any interrogatories. In addition, in this procedural order, the OEB is setting out dates for written submissions by Six Nations and OEB staff, and written reply submissions by Enbridge Gas.

The OEB notes that it intends to hold a written hearing for this matter unless the OEB later determines that an electronic or oral hearing format is required. Any party that thinks that another type of hearing is required can make this request of the OEB with reasons for the request.

The OEB is making provision for the following procedural steps.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Six Nations is granted leave to file its materials of March 10, 2026, and March 18, 2026, including its letter and the Affidavit of Peter Graham with attachments sworn March 18, 2026. These materials are now part of the record for this proceeding.
2. Enbridge Gas and OEB staff shall request any relevant information and documentation from Six Nations that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **April 7, 2026**.
3. Six Nations shall file with the OEB complete written responses to all interrogatories and serve them on Enbridge Gas by **April 22, 2026**.
4. Any written submissions from OEB staff and Six Nations shall be filed with the OEB and served on all parties by **May 4, 2026**.
5. Any written reply submissions from Enbridge Gas shall be filed with the OEB and served on Six Nations by **May 15, 2026**.

Further procedural orders may be issued by the OEB.

Direction for preparing materials

- 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](#).
- Filings should clearly state the filing date and the sender's name, postal address, telephone number and e-mail address.
- Other than for applications or as otherwise required or directed by the OEB, parties are not required to submit a cover letter for materials that are self-evident (e.g., interrogatories, submissions) unless the cover letter includes a request or additional information not included in the materials themselves.
- Parties are strongly encouraged to use bookmarks in their filings to aid in navigation.
- Parties should not append to their evidence entire OEB documents (e.g., decisions, policy documents, guidelines). Rather, parties should provide citations to the documents and a clear and concise summary of the relevant part(s) of the document. Parties are encouraged to use hyperlinks for complete, permanent, and publicly available versions of the documents, when possible.
- Parties should refrain from quoting material from documents unless it is essential to support their interrogatories or arguments.
- Parties are not required to provide a summary of the procedural history of a proceeding but may refer to that history where and to the extent needed for context to orient an issue or discussion.
- Parties must: (a) disclose where generative artificial intelligence was used to generate content included in a filing and (b) confirm that the accuracy of the portion of the filing generated by generative artificial intelligence has been verified by the party or its representative without the assistance of generative artificial intelligence.

How to file documents with the OEB

- Parties are required to quote file number (i.e., **EB-2025-0301**) for all materials filed and submit them in **searchable/unrestricted PDF format** (i.e., no printing or copying restrictions) with a digital signature through the [OEB's online filing portal](#).
- Parties should 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. Parties are encouraged to visit the [File documents online page](#) of the OEB's website for more information. Parties that are eligible for a cost award and that do not currently have an account in the cost claim portal should create an account as soon as their cost award eligibility has been confirmed by the OEB. All parties shall download a copy of their submitted cost claim for the purposes of service on the party(ies) paying cost awards as per the [Practice Direction on Cost Awards](#).
- All communications should be directed to the attention of the Registrar and be received by **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.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **March 26, 2026**

ONTARIO ENERGY BOARD

Ritchie Murray
Acting Registrar