



Enbridge Gas Inc.

**Application for leave to construct natural gas pipelines
in the communities of Lanark and Balderson and
surrounding areas in the Township of Lanark Highlands
and Township of Drummond/North Elmsley**

PROCEDURAL ORDER NO. 3

May 1, 2026

Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB) on November 27, 2025 under sections 90 and 97 of the *Ontario Energy Board Act, 1998*, for an order granting leave to construct approximately 14.7 kilometres of natural gas pipelines and associated facilities in the communities of Lanark, Balderson and the surrounding areas in the Township of Lanark Highlands and in the Township of Drummond/North Elmsley (Project).

The Project was identified by the Government of Ontario on June 9, 2021, as one of 28 projects across 43 communities selected for funding in the second phase of its Natural Gas Expansion Program. The Project will provide approximately 286 residential customers with access to natural gas. Enbridge Gas has also applied to the OEB for approval of the form of land-use agreements and easement agreements it offers to landowners for the routing and construction of the Project.

Confidentiality Request

Enbridge Gas's application includes a request for confidential treatment with respect to portions of its evidence in accordance with the OEB's [*Practice Direction on Confidential Filings*](#) (Practice Direction).

On February 25, 2026, OEB staff filed a submission on Enbridge Gas's confidentiality request.¹ OEB staff agreed with the requests for confidential treatment on the basis of personal information for the following proposed redactions:

- Exhibit F-1-1, attachment 1, Appendix A.2, page 7
- Exhibit F-1-1, attachment 1, Appendix A.6, pages 5 –7
- Exhibit G-1-1, attachment 3, page 2

¹ OEB staff Submission, February 25, 2026

OEB staff did not agree that the information at Exhibit H-1-1, Attachment 7, line-item attachments 1.8, 3.42 and 6.6 fall within the presumptively confidential categories under Appendix B of the OEB's Practice Direction.

Enbridge Gas's Reply Submission

In its reply submission, Enbridge Gas disagreed with OEB staff's submission and clarified that the redacted information found at Exhibit H-1-1, Attachment 7, would fall under the "Billing rates of a third party" category of information and therefore should be considered presumptively confidential under Appendix B of the Practice Direction.² Enbridge Gas noted that the OEB's decision in a recent proceeding reached the same conclusion regarding similar information filed³.

Enbridge Gas also submitted that the disclosure of the information at Exhibit H-1-1 will give rise to the types of harms contemplated in Appendix A of the Practice Direction. Enbridge Gas explained that the information pertains to "negotiated, case-specific budget amounts associated with Indigenous engagement activities that are inherently contextual and are specific to the needs, capacity and preferences of each Indigenous community, as well as the scale, scope and timing of the particular project".⁴

Enbridge Gas stated that the amounts could be used as a benchmark in future discussions and could affect the negotiation dynamic by "anchoring expectations to a publicly available 'going rate' that does not account for the unique circumstances of each community/project".⁵ For this reason, Enbridge Gas submitted that public disclosure of the information would be "detrimental" within the meaning of the Practice Direction.

Findings

The OEB approves the requests for confidential treatment for the following proposed redactions:

- Exhibit F-1-1, attachment 1, Appendix A.2, page 7
- Exhibit F-1-1, attachment 1, Appendix A.6, pages 5 –7
- Exhibit G-1-1, attachment 3, page 2

The OEB finds that the redacted information listed above is personal information and should receive confidential treatment. In accordance with Rule 9A.02 of the OEB's [Rules of Practice and Procedure](#), neither the confidential, un-redacted version of the

² Enbridge Gas Reply Submission, March 4, 2026

³ EB-2025-0307

⁴ Enbridge Gas Reply Submission, March 4, 2026, page 1

⁵ Enbridge Gas Reply Submission, March 4, 2026, page 2

document nor the personal information contained in it will be provided to any other party, including a person from whom the OEB has accepted a Declaration and Undertaking under the Practice Direction.

In addition, the OEB approves the requests for confidential treatment of the information at Exhibit H1-1-1, Attachment 7, line-item attachments 1.8, 3.42 and 6.6.

The OEB finds that the information identified as estimated budget amounts for Capacity Funding for the Alderville First Nation, Mississaugas of Scucog Island First Nation and Algonquin of Pikwanagan First Nation to support Community Information Sessions and other expenses constitutes “billing rates of a third party” under Appendix B of the Practice Direction. Specifically, the OEB finds that the contract between Enbridge Gas and the named First Nations covering the rental and catering aspects of Community Information Sessions constitutes a third-party billing rate.

The OEB also finds that there is potential harm associated with the disclosure of the information, consistent with Appendix A of the Practice Direction, which identifies “the potential harm that could result from disclosure of the information...” as a relevant consideration.

The OEB accepts the rationale provided by Enbridge Gas with respect to Exhibit H1-1-1, Attachment 7, line-item attachments 1.8, 3.42 and 6.6 in its letter dated March 4, 2026. Therefore, the OEB finds that this information shall remain confidential. The redacted information shall only be provided to individuals that have signed and filed the OEB’s form of Declaration and Undertaking.

Intervenor Evidence

In its letter dated March 1, 2026, Climate Network Lanark (CNL) requested leave to file evidence related to an updated survey for the likely number of customer connections for the Project.⁶ CNL proposes to retain a public research firm to critique the survey completed by Enbridge Gas and conduct an updated survey. CNL argued that survey evidence is critical to project economics which is the most important issue in the proceeding and that an updated survey is required because Enbridge Gas’s survey was completed almost three years ago. CNL estimated the cost to prepare this survey evidence to be between \$14,000 and \$18,000 plus \$1,500 in incremental counsel time.

CNL also requested leave to file affidavit evidence relating to local consumer impacts, that would include:

⁶ Climate Network Lanark Evidence Proposal Letter, March 1, 2026

- Local views on the proposed project, including views in the impacted municipalities that have not indicated support for the project;
- Enbridge marketing to potential local customers, and whether it has been fair and accurate; and
- Factors that may have a potential impact on the number of connections.

CNL estimated incremental counsel costs between \$2,000 and \$4,500 in respect of its proposed local consumer affidavit evidence.

On March 4, 2026, OEB staff filed a submission on CNL's evidentiary request.⁷ OEB staff submitted that a new survey from CNL is not required for CNL to critique Enbridge Gas's survey. OEB staff also submitted that commissioning a new survey would cause unnecessary delays and entail substantial costs that are not commensurate with the probative value of a new survey.

On March 9, 2026, Enbridge Gas filed a letter objecting to CNL's evidentiary requests.⁸ Enbridge Gas submitted that CNL's evidence proposal should be denied in its entirety because it would be "irrelevant, duplicative or unhelpful to the OEB's decision in the proceeding".⁹ Enbridge Gas further argued that CNL's request to file updated survey evidence is no different from the evidence proposals from Environmental Defence in previous community expansion cases that were denied by the OEB. Enbridge Gas noted that in the decisions for those community expansion cases, the OEB stated that evidence of this nature was not required to inform its decision and that the Ontario Divisional Court upheld the OEB's view.¹⁰

On March 9, 2026, Pollution Probe filed a letter in support of CNL's evidence request, and submitted that reducing risks and uncertainty through the CNL evidence proposal would help provide the evidentiary basis required for the OEB to consider the reasonableness and accuracy of the forecasted attachments and related revenues.¹¹ Pollution Probe submitted that the assumptions applied to this project will have ratepayer impacts over the next 40 years and perhaps longer if the project is not economic. Pollution Probe further submitted that the customer forecast and related 40-year revenue estimate is one of the largest uncertainties related to this Project and also has the highest risk impact on ratepayers.

⁷ OEB Staff Submission on Intervenor Evidence, March 4, 2026

⁸ Enbridge Gas Response Letter, March 9, 2026

⁹ Enbridge Gas Response Letter, March 9, 2026, page 1

¹⁰ Enbridge Gas Response Letter, March 9, 2026, page 1; *Environmental Defence Canada Inc. v Ontario Energy Board*, 2026 ONSC 1002

¹¹ Pollution Probe Response Letter, March 9, 2026

On March 20, 2026, CNL filed a letter in response to the submissions of the parties regarding its evidence request. CNL reiterated its position that its proposed survey evidence is important in determining whether the Project meets the relevant economic test.¹² CNL acknowledged that the OEB has disallowed similar evidence proposed by Environmental Defence in the past but is still proposing the evidence because it believes that the evidence is both central to the issues in this case and to the important local interests that CNL represents.

Findings

The OEB denies the request by CNL to file the proposed survey and affidavit evidence.

The Project was identified by the Government of Ontario on June 9, 2021, as one of 28 projects across 43 communities selected for funding in the second phase of its Natural Gas Expansion Program (NGEP). According to Enbridge Gas, “[l]etters of support were provided by the Township of Drummond/North Elmsley and the Township of Lanark Highlands in 2020 to support Enbridge Gas’s proposal for natural gas expansion within their respective communities as part of Phase 2 of the NGEP process”.¹³ Enbridge Gas also provided a letter of support dated November 18, 2025, from the County of Lanark.¹⁴ The OEB notes that the municipalities did not intervene in this proceeding, and did not file letters of comment. This proceeding is not about redoing the selection process, but is instead about determining whether the selected project is in the public interest such that leave to construct should be granted.

CNL correctly notes that survey evidence was recently disallowed by the OEB when proposed by Environmental Defence in previous NGEP proceedings – those evidentiary decisions were recently upheld by the Divisional Court.¹⁵ However, CNL asserts that “there are important differences in this case. Most importantly, for the previous proceedings, it was held that Environmental Defence did not have a sufficient local connection as necessary for fairness to require an opportunity to submit survey evidence. In this case, CNL is entirely local and has important local interests at stake”.¹⁶

It appears to the OEB, however, that even if CNL has more of a local connection than Environmental Defence may have had in the previous proceedings, the purpose of the

¹² Climate Network Lanarak Response Letter, March 20, 2026

¹³ [EB-2019-0255, Schedule 6L-5](#), referred to in Exhibit B, Tab 1, Schedule 1, pp.2 and 3, para. 6 of the current application.

¹⁴ Exhibit B, Tab 1, Schedule 1, Attachment 2

¹⁵ See [Environmental Defence Canada Inc. v Ontario Energy Board, 2026 ONSC 1002](#) in which the Divisional Court considered the OEB’s Decisions in: EB-2022-0111, EB-2023-0261, EB-2023-0200, and EB-2023-0201, for example. On March 10, 2026, Environmental Defence filed a Notice of Motion for Leave to Appeal the Divisional Court’s decision to the Ontario Court of Appeal.

¹⁶ CNL Letter, March 1, 2026

survey evidence is the same – to question the connection and revenue forecasts underlying the Project. According to CNL:

Survey evidence is critical to the most important issue in this proceeding – whether the project meets the relevant economic test by achieving a profitability index of 1. That is dependant on the revenue forecast, which is dependant on the customer attachment forecast, which is dependant on the survey evidence.¹⁷

The OEB is not bound in the current proceeding by the decisions on intervenor evidence in previous NGEP-related leave to construct proceedings. However, the OEB finds that the proposed survey evidence would be of limited value to the OEB's decision in this proceeding. This finding is compounded by the fact that the admission of CNL's proposed evidence is likely to extend the regulatory process and inhibit regulatory efficiency. As noted by the Divisional Court, "The OEB has the discretion to balance fairness and efficiency" and "it is proper for it to consider regulatory efficiency, including by way of the fact that ratepayers ultimately fund the costs associated with the OEB's processes".¹⁸

Enbridge Gas has filed survey evidence in support of the inclusion of this Project in the NGEP. It was completed almost three years ago, but it was the basis for the Ontario Government's Phase 2 selection of this Project. Enbridge Gas has also prepared connection and revenue forecasts. The Project is expected to be financially viable based on a combination of forecasted revenues, NGEP funding, and a subsidy from all rate regulated natural gas customers. There is a risk (which Enbridge Gas acknowledges) that the connection and revenue forecasts will not be realized. A survey that may confirm that possibility – a possibility that is already known and acknowledged by the OEB – will not be of assistance to the OEB in rendering its decision in this proceeding.

With regard to how that risk may be borne, the OEB has found in previous NGEP cases¹⁹ that:

...in approving these applications, it must ensure that the interests of all Enbridge Gas's customers are also protected, and that one pillar of that protection is the implementation of a rate stability period

¹⁷ *Ibid.*, at p.2

¹⁸ [Environmental Defence Canada Inc. v Ontario Energy Board, 2026 ONSC 1002](#), at para. 67.

¹⁹ For example, see [EB-2023-0261: Decision on Intervenor Evidence, Consolidation of Natural Gas Expansion Program-related Proceedings, Technical Conference and Procedural Order No. 2](#) (Application for leave to construct natural gas pipeline and associated facilities in the Community of Neustadt within the Municipality of West Grey), p.10

(RSP) for the first 10 years. During the RSP, Enbridge Gas is responsible for any shortfall in revenues to meet its revenue requirement. The OEB stated that this provides some insulation against possible underachievement of its customer-sign up estimates or projected natural gas consumption. The OEB also stated that in the first rebasing following the expiration of the RSP, it will review the actual project costs and revenues and determine what amount should be recognized in rates.

The OEB explicitly stated that:

...all options will be available to the OEB ... with respect to the appropriate rate treatment of potential capital cost overruns and/or lower than forecast customer attachments/volumes (and associated revenues). Enbridge Gas is not guaranteed total cost recovery if actual capital costs and revenues result in an actual PI [profitability index] below 1.0.²⁰

The OEB also recognized the contribution that all Enbridge Gas customers were making to subsidize the expansion of natural gas service to the communities funded through the NGEF:

There is a reasonable expectation that such customers will not be called upon to provide a further subsidy to compensate for post-RSP revenue shortfalls. As previously stated, the OEB's Decision in this proceeding is in keeping with the existing legislation and the OEB's own policies and decisions for implementation.

Later in the same decision, the OEB found:

Given the unusual imposition of a project subsidy from all rate regulated natural gas customers, and the significant inability of these projects to attain a PI [profitability index] of 1 required to justify their undertaking in the absence of a subsidy, the OEB must assume that any potential shortfalls in the take-up and continuance of natural gas service have been carefully considered by Enbridge Gas in accordance with its responsibilities as a public utility invested with a franchise.

²⁰ *Ibid.*, at p. 10, citing to Final Decisions and Orders in EB-2022-0156, EB-2022-0248, and EB-2022-0249 at p. 20-21.

...the OEB stated in the Final Decisions that there is no guarantee of total cost recovery in the event of a shortfall of revenue in the first rebasing following the expiration of the RSP and that there is a reasonable expectation that Enbridge Gas customers will not be called upon to provide a further subsidy to compensate for post-RSP revenue shortfalls.

The OEB reaches a similar finding in the current case. During the ten-year Rate Stability Period (RSP), a requirement of the NGEP, Enbridge Gas is responsible for any shortfall in revenues needed to meet its revenue requirement. This RSP provides insulation against possible risks if actual customer connections and revenues are less than forecast connection and revenue estimates. Beyond the RSP period, there is no guarantee that Enbridge Gas will be permitted to recover any post-RSP revenue shortfalls. Enbridge Gas is not guaranteed total cost recovery if actual capital costs and revenues result in an actual PI below 1.0. As the OEB has held in other similar proceedings, there is a reasonable expectation that Enbridge Gas customers will not be called upon to provide a further subsidy to compensate for post-RSP revenue shortfalls.

Beyond the proposed survey evidence, CNL seeks to file affidavit evidence as described above. With respect to local views on the project and factors that may have a potential impact on connections, the OEB is already aware that there are risks that connection and revenue forecasts will not be met. It is clear from the survey evidence filed with the application and from Enbridge Gas's response to the CNL evidence request "that only a portion of residents (71 percent) are likely to connect to natural gas."²¹ There are a number of factors influencing the connection forecast. These factors are relevant and have been identified in the evidence.

CNL's affidavit evidence proposal fails to indicate how it would be unique or identify new factors for the OEB's consideration. The OEB invited Letters of Comment and its hearing process allows for submissions from intervenors. As noted above, there are possible risks to Enbridge Gas's forecasts. There is also the possibility that connection and/or revenue forecasts will be exceeded. The OEB will consider both those possibilities in this proceeding.

CNL's proposed evidence would also address Enbridge's marketing materials. CNL acknowledged that Enbridge Gas's marketing materials are at issue in the Enbridge Rebasing Phase 3 proceeding (Phase 3). In Phase 3, the OEB made provision for the filing of evidence regarding the fairness and accuracy of Enbridge Gas's marketing materials in Procedural Order #5.²² The OEB finds it would be duplicative to hear

²¹ Enbridge Gas letter in response to CNL evidence request, March 9, 2026, at p. 2

²² EB-2025-0064, Procedural Order No. 5, April 21, 2026

evidence in this proceeding, as the scope of the issue in Phase 3 applies to Enbridge Gas's marketing materials beyond those potentially circulated within the subject area of this proceeding.

Finally, the OEB finds that it is procedurally efficient and appropriate to proceed without evidence filed by CNL. The filing of evidence would result in unnecessary procedural delays and entail substantial costs that are not commensurate with the probative value of the evidence. The OEB notes that CNL had the opportunity to test Enbridge Gas's evidence through written interrogatories and that provision is being made for CNL to have its arguments heard by the OEB through the filing of written submissions in this proceeding.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Any written submissions from OEB staff and intervenors, shall be filed with the OEB and served on all parties by, May 21, 2026.
2. Any written reply submissions from Enbridge Gas shall be filed with the OEB and served on intervenors by, June 10, 2026.

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-2025-0306**) 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, Natalya Plummer at Natalya.Plummer@oeb.ca and Board Counsel, Tobias Hobbins at Tobias.Hobbins@OEB.ca.

Email: registrar@oeb.ca

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

DATED at Toronto, **May 1, 2026**

ONTARIO ENERGY BOARD

Ritchie Murray
Registrar