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DECISION AND ORDER ON COST AWARDS

EB-2025-0065

ENBRIDGE GAS INC.

Application to review five-year gas supply plan

BEFORE: **Anthony Zlahtic**
 Presiding Commissioner

Damien A. Côté
 Commissioner

David Sword
 Commissioner

July 20, 2026 (revised July 22, 2026)

OVERVIEW

Enbridge Gas Inc. (Enbridge Gas) filed a five-year gas supply plan with the Ontario Energy Board (OEB) on May 1, 2025. The five-year gas supply plan covers the period of November 1, 2025 to October 31, 2030. The application also included Enbridge Gas's annual gas supply plan update for the 2024/2025 gas year.

The OEB granted Building Owners and Managers Association Toronto, Canadian Manufacturers & Exporters, Consumers Council of Canada, Energy Probe, Environmental Defence, Federation of Rental-housing providers of Ontario (FRPO), Ginoogaming First Nation, Industrial Gas Users Association, Minogi Corp. Pollution Probe, School Energy Coalition, Vulnerable Energy Consumer Coalition intervenor status and cost award eligibility.

On May 21, 2026, the OEB issued its Decision and Order in which it set out the process for cost claims.

On June 11, 2026, Enbridge Gas filed an objection to the FRPO's cost claim. FRPO filed a response to the objection on June 18, 2026.

Cost Claim Objection

Enbridge Gas submitted that FRPO's claim of approximately 133 hours is significantly higher relative to other intervenors, whose claims ranged from about 22 to 40 hours. Enbridge Gas acknowledged FRPO's interest and expertise in gas supply matters, but argued that the time and cost for FRPO's work, specifically on discovery and written argument, is unreasonable.

Enbridge Gas argued that FRPO's claimed 69.5 hours for discovery is excessive and disproportionately high, noting that the next highest claim for this category was 25 hours from CCC.

Enbridge Gas also argued that the 37 hours FRPO claimed under written argument was excessive and disproportionately high, noting that the next highest claim for this category was 13 hours from GFN. Enbridge Gas noted that a significant portion of FRPO's argument advanced a proposal regarding fixed-price gas purchases that was introduced for the first time in argument without supporting evidence or prior testing.

Enbridge Gas submitted that, while FRPO made a meaningful contribution to the proceeding, a reduction to its cost claim would better reflect a reasonable level of participation.

Response to Cost Claim Objection

FRPO submitted that its cost claim is reasonable, proportionate, and fully aligned with the OEB's established cost-award principles. FRPO noted that the hours it claimed reflect specialized mandate, the technical complexity of the issues, and the OEB's repeated direction that intervenors collaborate to enhance efficiency.

FRPO argued that comparisons to the hours claimed by other intervenors is not an appropriate basis for reducing its claim and noted that the OEB's cost award framework does not require uniformity of hours among intervenors.

FRPO submitted that this proceeding raised several technically complex matters that fell within FRPO's specialized mandate and that the FRPO's interrogatories and technical conference participated addressed matters that no other intervenor examined with comparable depth or technical scrutiny.

With respect to its written argument, Enbridge Gas's view that FRPO should have filed evidence is not a basis for reducing cost awards as the OEB routinely receives policy proposals in argument. FRPO argued that the OEB's decision not to adopt particular proposals advanced in its argument does not render the time spent unreasonable, and that its submissions nevertheless contributed to the OEB's understanding of the issues. FRPO further submitted that Enbridge Gas's decision to file a detailed reply argument is not relevant to the assessment of FRPO's costs and that if Enbridge Gas required additional time to respond, it reflects the substantive nature of the issues raised by FRPO, rather than any excess of FRPO's part.

DECISION

Uncontested Cost Claims

The OEB received cost claims from those intervenors listed below and notes that no objections were raised in response from Enbridge Gas, the applicant.

- Building Owners and Managers Association
- Consumers Council of Canada
- Canadian Manufacturers & Exporters
- Energy Probe
- Environmental Defence
- Ginoogaming First Nation
- Industrial Gas Users Association
- Pollution Probe
- School Energy Coalition

- Minogi Corporation
- Vulnerable Energy Consumers Coalition

Findings

The OEB has reviewed and considered the cost claims from the above-noted intervenors and has no concerns. These cost claims are approved as submitted.

Contested Cost Claim

Findings

Having reviewed the FRPO cost claim against the enumerated considerations outlined in the OEB's *Practice Direction on Cost Awards* (Practice Direction), the OEB awards 90.5 hours of costs to FRPO (instead of the requested 133 hours) for the reasons which follow.

The value or merit of FRPO's substantive contributions to this proceeding is not at issue. Rather the issue is whether those contributions were delivered with the level of efficiency expected of intervenors and in a manner consistent with the considerations set out in the Practice Direction. That said, there is a separate concern regarding FRPO's cost claim in relation to its fixed-price proposals that is discussed further at a later point in this decision.

Section 5.01 of the Practice Direction informs what considerations the OEB takes into account when determining the amount of a cost award. These considerations include the following:

- (a) participated responsibly in the process;
- (b) contributed to a better understanding by the Board of one or more of the issues in the process; complied with the Board's orders, rules, codes, guidelines, filing requirements and Rule 22.07 of the Board's Rules of Practice and Procedure with respect to frequent intervenors, and any directions of the Board;
- (c) made reasonable efforts to combine its intervention with that of one or more similarly interested parties, and to co-operate with all other parties;

(d) made reasonable efforts to ensure that its participation in the process, including its evidence, interrogatories and cross-examination, was not unduly repetitive and was focused on relevant and material issues;

(e) engaged in any conduct that tended to lengthen the process unnecessarily; or

(f) engaged in any conduct which the Board considers inappropriate or irresponsible.

The approved FRPO cost award of 90.5 hours remains more than double that of the next-highest intervenor. FRPO initially claimed 133 hours, while other intervenors claimed between 22 and 40 hours. Although uniformity in cost claims is neither expected nor required, a disparity of this magnitude warrants careful scrutiny. In this case, the OEB is not persuaded that FRPO has provided sufficient justification for its claim.

A review of the individual components of FRPO's claim further supports the reduction to 90.5 hours. The analysis below outlines the rationale for the adjustments made.

FRPO's Subject Matter Expertise

In respect of the early discovery phase, FRPO suggests that it accumulated relatively more time relative to other intervenors due in part to its subject matter expertise and mandate:

These issues fall squarely within FRPO's specialized mandate. FRPO's interrogatories and technical conference participation addressed matters that no other intervenor examined with comparable depth or technical scrutiny.¹

The OEB considers that subject-matter expertise and familiarity are assets that should enable a party to navigate the evidentiary record more efficiently, not less.

Specifically, FRPO claimed a cumulative 36 hours for the procedural steps preceding the technical conference.² By comparison, other intervenors claimed, on average, just over 14 hours for the same activities. The OEB finds it difficult to reconcile FRPO's

¹ FRPO reply, Page 3 of 5.

² This includes the following activities: Read and Research Application (10.5 hours claimed; reduced to 6.0 hours; average of other intervenors is 4.62 hours); Preparation of Interrogatories (17.5 hours claimed; reduced to 8.0 hours; average of other intervenors is 5.85 hours); Review Interrogatory Responses (8.0 hours claimed; reduced to 3.0 hours; average of other intervenors is 1.88 hours).

claim for significantly more time than other intervenors in an area in which it possesses recognized subject-matter expertise. Moreover, compared to other intervenors, the relative value added by FRPO's submissions in this proceeding is not commensurate with the level of effort reflected in its cost claim.

Given FRPO's experience in gas supply matters, the OEB finds that a more efficient approach to reviewing the evidence and participating in discovery could reasonably have been expected. Accordingly, the OEB awards 17 hours for the procedural steps preceding the technical conference, rather than the 36 hours claimed.

FRPO's Coordination Contribution

FRPO submits that it played a facilitative or coordinating role that may have reduced the burden on other intervenors during this proceeding. No other party has provided any evidence validating the FRPO claim in respect of its coordinator role. That said, the OEB recognizes that parties also didn't have an opportunity in the cost awards process to take account of FRPO's claim. However, even if additional information had been provided, it would be difficult to assess the extent to which FRPO's contributions reduced work that other intervenors would otherwise have undertaken.

Collaboration is expected of all parties under section 5.10(c) of the Practice Direction. The OEB notes that no other intervenor referred to the role FRPO claimed to have played in this proceeding in reducing their cost claim. Nor has any party confirmed that a formal collaborative arrangement existed that enabled FRPO to reduce the burden on other intervenors. Moreover, this was not a proceeding in which the OEB conducted an intervenor collaboration pilot or otherwise established expectations beyond those set out in the Practice Direction.

Notwithstanding the above, the OEB is prepared to give FRPO the benefit of the doubt to a limited extent. In its submission, FRPO provided an example of the support it offered to other intervenors during the issues-definition phase of the proceeding. The OEB accepts that such efforts are consistent with the collaborative expectations set out in section 5.10(c) of the Practice Direction. Similarly, the OEB is prepared to extend the benefit of the doubt with respect to FRPO's contribution to the technical conference. Accordingly, the OEB awards the full 46 hours claimed by FRPO for these activities.

FRPO's Adherence to Procedure

A panel is responsible for ensuring the sufficiency of the hearing record and making procedural decisions that promote the efficient conduct of the proceeding. At the same time, parties are entitled to bring process-related motions when they consider it appropriate and have grounds to do so. When a panel chooses to omit certain procedural steps in a proceeding, it will ordinarily do so deliberately and on an informed basis, balancing adjudicative efficiency, procedural fairness, and evidentiary sufficiency. Such procedural decisions are not an invitation for parties to seek alternative avenues to introduce submissions they were otherwise unable to make. Rather, they reflect the panel's determination regarding the sufficiency of the evidentiary record.

In this case, the OEB agrees with Enbridge Gas that the argument phase of the hearing was not the appropriate forum in which to introduce new, substantive, and untested policy proposals. A substantial portion of FRPO's argument focused on a proposal that Enbridge Gas procure a greater share of its winter supply through fixed-price contracts. The OEB agrees with Enbridge Gas that this proposal lacked sufficient evidentiary support. As noted in the Decision and Order on the Gas Supply Plan, the proposal was not sufficiently developed or tested and did not adequately address the associated risks or cost impacts.

The OEB finds that introducing a detailed, untested proposal at the argument stage exceeded the expected scope and intention of the written submission portion of the proceeding and resulted in unnecessary effort, both in FRPO's presentation of the proposal and in the responses required from Enbridge Gas. This conduct was inconsistent, in whole or in part, with considerations (a), (d), and (e) of section 5.01 of the Practice Direction. The OEB further notes that consistent with prior decisions, it does not give weight to proposals that are not supported by evidence and discovery.³ Given FRPO's experience and familiarity with OEB proceedings, it ought reasonably to have been aware of the evidentiary requirements for advancing such a proposal.

For these reasons, the OEB awards FRPO 13.5 hours for the preparation of written submissions, rather than the 37 hours it claimed. The average hours claimed across all parties was 9.56 hours. FRPO's was reduced from a claim of 37 hours to 13.5 hours to reflect an allocation closer to the average. The average hours claimed omitted the production of a proposal.

³ EB-2022-0013, Alectra Utilities Corporation, p. 9.

FRPO's Other Claims

The OEB awards FRPO's claim of 13 hours and 1 hour, respectively claimed for the "Preparation of Motion Material" and for the "Review Procedural Documents".

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge Gas shall immediately pay the following amounts to the intervenors for their costs:

• Building Owners & Managers Association	\$ 11,257.35
• Canadian Manufacturers & Exporters	\$ 7,261.62
• Consumer Council of Canada	\$13,695.62
• Energy Probe Research Foundation	\$11,358.78
• Environmental Defence	\$9,123.18
• Federation of Rental-housing Providers of Ontario	\$37,165.15
• Ginoogaming First Nation	\$11,096.90
• Industrial Gas Users Association	\$8,965.32
• Minogi Corp.	\$9,321.05
• Pollution Probe	\$13,285.71
• School Energy Coalition	\$11,880.94
• Vulnerable Energy Consumers Coalition	\$8,582.32

DATED at Toronto July 20, 2026 (revised July 22, 2026)

ONTARIO ENERGY BOARD

Ritchie Murray
Registrar