



Ontario
Energy
Board | Commission
de l'énergie
de l'Ontario

BY EMAIL

August 23, 2022

To: All Parties in EB-2022-0086

**Re: Federation of Rental-housing Providers of Ontario request for evidence and
Enbridge Gas Inc.'s request for formal settlement negotiation
Enbridge Gas Inc. Dawn to Corunna Replacement Project
Ontario Energy Board File Number: EB-2022-0086**

This letter responds to (a) the Federation of Rental-housing Providers of Ontario's (FRPO) request for a report to be filed in relation to technical conference undertaking JT1.5 and (b) Enbridge Gas Inc.'s (Enbridge Gas) request that the OEB make provision for a formal settlement negotiation between it and the Canadian Association of Energy and Pipeline Landowner Associations and its subcommittee the Dawn Corunna Landowner Committee (CAEPLA-DCLC).

FRPO Request for Report – Undertaking JT1.5

The OEB will not require Enbridge Gas to produce any further documents in response to technical conference undertaking JT1.5, given Enbridge Gas's assertion that the evidence it has produced to date reflects the entirety of the documentation that informed its decision makers with regard to the proposed Project.

On July 27, 2022, the first day of the technical conference, Enbridge Gas accepted undertaking JT1.5. This undertaking was to file the study, technical reports and summary model outputs that assessed the Project alternatives described in Exhibit C, Tab 1, Schedule 1 of Enbridge Gas's pre-filed evidence. In its undertaking response, Enbridge Gas stated that the presentation to its Board of Directors set out in its response to undertaking JT2.6 Attachment 1 is the report referred to in undertaking JT1.5.

In a letter dated August 15, 2022, FRPO submitted that while the presentation filed as part of JT2.6 provided some summary results, it was not a study or technical report that assessed alternatives to the Project.

In a letter dated August 17, 2022, Enbridge Gas submitted that throughout the course of this proceeding it has produced various technical and engineering reports and studies that contributed to or affirmed its decision to proceed with the proposed Project. Enbridge Gas submitted that it has also provided supplemental evidence in its responses to interrogatories, undertakings and questions posed by FRPO and other intervenors during the technical conference. In its letter, Enbridge Gas provided a table summarizing the documents it said reflects the entirety of the documentation that informed Enbridge Gas decision makers with regard to the proposed Project. Given this, there appears to be no basis on which to require further production from Enbridge Gas.

In a letter dated August 18, 2022, FRPO submitted that “a prudent utility would have generate[d] a document which demonstrated a diligent assessment of the technical merits and cost implications of the alternatives to secure official signing off of the project by the management hierarchy.”

In a letter dated August 22, 2022, Enbridge Gas reiterated that it has produced the entirety of the documentation that informed Enbridge Gas decision makers about the proposed Project.

As is always the case, Enbridge Gas bears the burden of proof to demonstrate that its application should be approved.

Enbridge Gas Request for Formal Settlement Negotiation

The OEB will not order a formal settlement negotiation between Enbridge Gas and CAEPLA-DCLC.

In its intervenor evidence, CAEPLA-DCLC stated that it advocates for the use of a Letter of Understanding (LOU) between landowners and pipeline companies to set out commitments made to landowners regarding construction methodology, remediation of affected properties, and various compensation items. For landowners whose properties will be affected by a proposed project, the LOU would provide the details about how construction will be undertaken and what protections will be in place for agricultural lands and operations. For Enbridge Gas’s Dawn to Corunna Replacement Project, CAEPLA-DCLC advocates for the use of a specific form of LOU that has been developed over a number of years through negotiations between the former Union Gas Limited and landowner groups in southwestern Ontario and through associated OEB Leave to Construct decisions.

In its reply evidence, Enbridge Gas provided a summary of what it believes to be CAEPLA-DCLC’s fundamental outstanding issues and referred to the evidence in the current proceeding in which the issues have been discussed. Enbridge Gas also indicated that negotiations between it and CAEPLA-DCLC have stalled but that

Enbridge Gas is eager to continue discussions with CAEPLA-DCLC to resolve all outstanding matters. Enbridge Gas submitted that it is in the best interest of all parties to resume negotiations immediately and to reach agreement on the outstanding matters outside of, and in parallel with, the current OEB hearing to avoid causing procedural delay that might impact the timing of a Decision and Order or the commencement of Project construction. Enbridge Gas requested that the OEB order and make provision for formal settlement negotiations to occur between it and CAEPLA-DCLC.

In a letter dated August 18, 2022, CAEPLA-DCLC indicated that negotiations have been progressing and submitted that an order for formal settlement negotiations is not required. CAEPLA-DCLC requested that, if the OEB does order formal settlement negotiations, the deadlines for written submissions in this proceeding be pushed back to accommodate that process and to accommodate the fall harvest schedules of CAEPLA-DCLC members.

In a letter dated August 22, 2022, Enbridge Gas submitted that, given that there is about one month before CAEPLA-DCLC is scheduled to file its written submissions, there is nothing prohibiting negotiations and settlement between CAEPLA-DCLC and Enbridge Gas from occurring in conjunction with the currently scheduled and prescribed procedural steps.

The OEB agrees with CAEPLA-DCLC that an order for formal settlement negotiations is not required. Negotiations appear to be progressing, and both parties have an interest in reaching agreement as soon as possible. The OEB notes that, to avoid delay in issuing its Decision and Order in this proceeding, a joint letter from the parties must be filed no later than the due date for Enbridge Gas's Argument-in-Chief that advises whether any outstanding issues have been settled and describes any agreement. The joint letter should also describe any outstanding issues that have not been settled, if applicable. Any outstanding issues may be addressed by the parties in their written submissions as currently provided for in Procedural Order No. 4.

Please direct any questions relating to this letter to the Case Manager, Ritchie Murray, at 416-544-5182 or ritchie.murray@oeb.ca.

Yours truly,

Nancy Marconi
Registrar