



**Adam Stiers**  
Manager, Regulatory Applications  
Leave to Construct  
Regulatory Affairs

tel (519) 436-4558  
[astiers@enbridge.com](mailto:astiers@enbridge.com)  
[EGIRegulatoryProceedings@enbridge.com](mailto:EGIRegulatoryProceedings@enbridge.com)

**Enbridge Gas Inc.**  
50 Keil Drive North,  
Chatham, ON N7M 5M1  
Canada

August 29, 2022

**VIA EMAIL and RESS**

Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

Dear Nancy Marconi:

**Re: Enbridge Gas Inc. (“Enbridge Gas” or the “Company”)  
Ontario Energy Board (“OEB”) File: EB-2022-0086  
Dawn to Corunna Replacement Project  
Interrogatory Responses (Pollution Probe and OEB Staff)**

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In accordance with the OEB’s procedural order No. 4, enclosed please find Enbridge Gas responses to interrogatories asked by Pollution Probe and OEB Staff.

Please contact the undersigned if you have any questions.

Yours truly,

(Original Digitally Signed)

Adam Stiers  
Manager, Regulatory Applications – Leave to Construct

c.c. Charles Keizer (Torys)  
Ritchie Murray (OEB Staff)  
Intervenors (EB-2022-0086)

ENBRIDGE GAS INC.

Answer to Interrogatory from  
Pollution Probe (“PP”)

INTERROGATORY

Question:

Please provide an updated proposed schedule for the project including completion of MOU (or equivalent) with all landowners, completion of all permits and approvals, proposed OEB approval, construction, commissioning and site restoration.

Response

An updated Project schedule, based on best available information at this time, is set out at Attachment 1 to this response.



ENBRIDGE GAS INC.

Answer to Interrogatory from  
Pollution Probe (“PP”)

INTERROGATORY

Question:

- a) Please provide the current version of the MOU (or equivalent) Enbridge is using to negotiate with impacted landowners.
- b) Please identify where the document requested above varies from the LOU proposed by CAEPLA-DCLC.
- c) What would be the impact (environmental, socio-economic and cost) if Enbridge adopted the wording in the LOU instead of its current proposal.

Response

- a) Please see Attachment 1 to the Reply Evidence (Exhibit L, Tab 1, Schedule 1) filed on August 17, 2022, for the latest version of the LOU presented by Enbridge Gas to CAEPLA-DCLC.

b) – c)

As noted in the response to part a), Enbridge Gas has provided the proposed form of LOU at Attachment 1 to the Company’s Reply Evidence (Exhibit L, Tab 1, Schedule 1) filed on August 17, 2022. CAEPLA-DCLC provided its proposed form of LOU as Attachment 1 to its Evidence filed August 12, 2022. As these documents are available on the record in this proceeding, Pollution Probe can compare the documents as necessary.

There are 2 material differences between Enbridge Gas’s proposed LOU and the LOU provided by CAEPLA:

- i. Term Limits for certain obligations;<sup>1</sup> and

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<sup>1</sup> In CAEPLA’s proposed LOU, under the Drainage Tiling section, the term that the Company would be responsible for maintaining the integrity and performance of drainage tile is defined as “forever”. Under

ii. Performance Obligations.<sup>2</sup>

Further, as noted in Enbridge Gas's Responding Evidence filed August 17, 2022 at Exhibit L, Tab 1, Schedule 1, pages 2-3, Enbridge Gas understands there to be approximately six fundamental outstanding issues from CAEPLA-DCLC. The issues and references to Enbridge Gas's stated position on each matter are as follows:

- Topsoil stripping and stockpiling on previously disturbed vs. undisturbed areas – Exhibit I.CAEPLA-DCLC.6, Exhibit I.CAEPLA-DCLC.7 and associated undertakings
- Drainage Tile – Exhibit I.CAEPLA-DCLC.5
- Soil and crop productivity testing - Exhibit I.CAEPLA-DCLC.2 k)
- Integrity Dig Agreement – Exhibit I.CAEPLA-DCLC.15 b)
- Independent construction monitor – Exhibit I.CAEPLA-DCLC.14
- Wet soil shutdown - Exhibit I.CAEPLA-DCLC.7

Discussions regarding these differences and outstanding issues with CAEPLA-DCLC are scheduled for September 9<sup>th</sup>, 2022.<sup>3</sup> Accordingly, Enbridge Gas is currently not aware of any material environmental, socio-economic, or cost impacts that could result from adopting the wording suggested by CAEPLA-DCLC.

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Enbridge Gas's proposed LOU, the term of the responsibility for the drainage tile is aligned with the term set out in the landowner agreements provided at Exhibit G, Tab 1, Schedule 1, Attachment 3.

<sup>2</sup> For example, in CAEPLA's proposed LOU the Integrity Dig Agreement is included within the LOU as opposed to Enbridge Gas's proposal to execute a separate agreement for Integrity Digs.

<sup>3</sup> See CAEPLA-DCLC's correspondence filed on August 24, 2022.

ENBRIDGE GAS INC.

Answer to Interrogatory from  
Pollution Probe (“PP”)

INTERROGATORY

Reference:

Enbridge’s Reply Evidence indicated that there are currently no meaningful negotiations being held to advance an agreement with landowners and that Enbridge supports negotiations on outstanding matters “outside of the formal OEB hearing for Leave to Construct (“LTC”) the proposed Project”

Question:

- a) Please explain how negotiations would occur outside of the formal hearing process and still be able to meet the timeline currently set for OEB review of this application.
- b) If landowner agreements are not in place prior to an OEB decision in this proceeding, please clarify what direction Enbridge will need from the OEB to proceed.

Response

a) & b)

As noted in the OEB’s August 23, 2022 letter, negotiations appear to be progressing, and both parties have an interest in reaching agreement as soon as possible. The OEB noted that, to avoid delay in issuing its Decision and Order in this proceeding, a joint letter from the parties must be filed describing the status of the outstanding issues (including whether settlement has been reached or not, and if so the nature of settlement).<sup>1</sup> The OEB also indicated that any outstanding issues may be addressed by

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<sup>1</sup> On August 24, 2022, CAEPLA-DCLC filed a letter with the OEB indicating that prior to the issuance of the OEB’s letter which required that the joint letter be filed by September 6, 2022, a negotiation meeting between Enbridge Gas and CAEPLA-DCLC representatives was scheduled for September 9, 2022 based on the availability of the parties involved. Therefore, it is not anticipated that information on the settlement of issues would be available before the week of September 12, 2022. The OEB subsequently extended the deadline for the joint letter from Enbridge Gas and CAEPLA-DCLC to September 15, 2022, via letter on August 26, 2022.

the parties in their written submissions, presumably for disposition by the OEB at the time of its Decision.

Please see the response at Exhibit I.PP.EGIReply.4, for Enbridge Gas's position regarding the timing of completion of landowner agreements relative to receipt of a Decision and Order of the OEB granting leave to construct the Project.

ENBRIDGE GAS INC.

Answer to Interrogatory from  
Pollution Probe (“PP”)

INTERROGATORY

Question:

One option is for the OEB to place this proceeding in abeyance until Enbridge is able to successfully complete agreements with all landowners. Would Enbridge support this approach and if not, please explain why not.

Response

Enbridge Gas does not support this approach or consider it to be a prudent or efficient option. It is not a requirement that all landowners complete agreements prior to the OEB issuing an order granting leave to construct. The Standard Leave to Construct Conditions of Approval, which are attached to the OEB’s Natural Gas Facilities Handbook at Appendix D provides that as a condition of approval the applicant shall obtain all necessary agreements and rights to construct, operate and maintain the project and, therefore, contemplates the ability to secure agreements with landowners following a Decision and Order of the OEB granting leave to construct natural gas facilities.



ENBRIDGE GAS INC.

Answer to Interrogatory from  
Pollution Probe (“PP”)

INTERROGATORY

Question:

When Enbridge proposes pipelines that cross private lands, it is understandable that land owners may seek agreements, conditions and/or mitigation approaches that vary from what Enbridge is proposing. In Enbridge’s opinion, what factors should the OEB consider to balance the interests of Enbridge with the interests of land owners in these cases?

Response

As stated in Exhibit G, the forms of agreements filed by Enbridge Gas in this proceeding are the same as versions previously approved by the OEB in past leave to construct proceedings and applications under section 97 of the OEB Act.

As stated in the OEB Natural Gas Facilities Handbook:<sup>1</sup>

An applicant must provide this form of agreement to the landowner’s attention, and it is expected that this form of agreement will be the initial starting point for a negotiation between the applicant and the landowner.

Accordingly, Enbridge Gas acknowledges that upon presentation of these agreements to a landowner, discussions and variation could arise.

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<sup>1</sup> OEB Natural Gas Facilities Handbook, EB-2022-0081, March 31, 2022, P. 29.

ENBRIDGE GAS INC.

Answer to Interrogatory from  
Pollution Probe (“PP”)

INTERROGATORY

Question:

There are many circumstances where legacy Enbridge and Union Gas agreements and/or manuals, protocols and approaches still differ. Similarly, OEB decisions have varied by project based on the information put forward in each proceeding and case specific details. Enbridge appears to indicate that an OEB decision in one proceeding (e.g. form of agreement from the Greenstone LTC) supersedes all former similar OEB decisions.

- a) Does Enbridge believe that all elements of the most recent Leave to Construct OEB Decision set the requirements for this proceeding? Please explain.
- b) Prior to the time when Enbridge has mitigated differences in approach (perhaps 2024 rebasing?), how should Enbridge reconcile differences between the legacy Enbridge and Union Gas approach in applications such as this one?

Response

- a) & b)  
Enbridge Gas respectfully declines to respond to this question as it is a point of general argument and is not an inquiry as to the facts forming part of Enbridge Gas's evidence.

ENBRIDGE GAS INC.

Answer to Interrogatory from  
OEB Staff ("STAFF")

INTERROGATORY

Reference:

Exhibit L, Tab 1, Schedule 1, Page 4

Preamble:

Enbridge Gas noted that CAEPLA-DCLC takes issue with the forms of agreements proposed by Enbridge Gas in the current application because, in CAEPLA-DCLC's words, "...Enbridge has replaced the term "gross negligence" in the indemnity clause with "negligence", seeking to reduce the indemnity protection afforded to landowners."

Question:

- a) What is the difference between negligence and gross negligence?
- b) Is Enbridge Gas aware of any instances in which the difference between negligence and gross negligence made a difference in the indemnity afforded a landowner? If so, please briefly describe the circumstances of each instance.

Response

- a) Negligence means the failure to exercise the degree of care that a reasonably prudent person would have used under similar circumstances.

Gross negligence involves a higher level of misconduct than ordinary negligence and requires proof of something more than the lack of ordinary care, in particular: a marked departure from the ordinary standard of care.

- b) No, Enbridge Gas is not aware of any specific instances in which the difference between negligence and gross negligence made a difference in the indemnity afforded to landowners for past projects. Despite the difference in terminology proposed, Enbridge Gas expects that its approach to operating its facilities, maintaining relationships with and compensating landowners for any damages will

remain substantially similar. Please also see the response at Exhibit I.CAEPLA-DCLC.17 a) & b).