



Enbridge Gas Inc.

**Application for leave to construct natural gas pipeline
and associated facilities in the Tyendinaga Mohawk
Territory and the Township of Tyendinaga, Hastings
County.**

PROCEDURAL ORDER NO. 1

March 14, 2023

Enbridge Gas Inc. (Enbridge Gas) has filed an application with the Ontario Energy Board (OEB) under sections 90 and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), for an order granting leave to construct approximately 17.3 kilometres of natural gas pipeline and associated facilities in the Tyendinaga Mohawk Territory and the Township of Tyendinaga, Hastings County. The proposed natural gas pipeline consists of approximately 2.8 kilometres of Nominal Pipe Size (NPS) 4-inch polyethylene (PE) distribution pipeline, and approximately 14.5 kilometres of NPS 2-inch PE distribution pipeline. According to Enbridge Gas the project is needed to supply natural gas to approximately 151 customers in the community of Mohawks of the Bay of Quinte and approximately 28 customers in the community of Shannonville in the Township of Tyendinaga. Enbridge Gas has also applied to the OEB for approval of the form of land-use agreements it offers to landowners for the routing and construction of the project.

A Notice of Hearing was issued on February 9, 2023. Each of Environmental Defence, Federation of Rental-housing Providers (FRPO), Mohawks of the Bay of Quinte First Nation (MBQ) and Pollution Probe (Pollution Probe) applied for intervenor status and cost eligibility.

Environmental Defence, FRPO, MBQ and Pollution Probe are approved as intervenors. The list of parties in this proceeding is attached as Schedule A to this Procedural Order. Environmental Defence, FRPO, MBQ and Pollution Probe are eligible to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#).

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party unless a compelling reason is provided when cost claims are filed.

Enbridge Gas filed a letter dated February 28, 2023, informing the OEB that it does not object to any of the intervention and cost eligibility requests. In its letter, Enbridge Gas also responded to the requests by Environmental Defence for a technical conference and to file intervenor evidence.

Request for Confidentiality

Enbridge Gas has requested confidential treatment for personal information in the Environmental Report (Exhibit F/Tab 1/Schedule 1/Attachment 1) and in the Landowner List (Exhibit G/Tab 1/Schedule 1/Attachment 3). The OEB will review this request in accordance with the process set out in Part 10 of the OEB's [Practice Direction on Confidential Filings](#) (Practice Direction). Per section 10.1.2 of the Practice Direction, OEB staff will review the information and further steps if any, will be determined by the OEB.

Filing of Intervenor Evidence

In its letter of intervention, Environmental Defence stated that it wished to file evidence in this proceeding and offered to file a letter providing more information on the nature of the evidence and expected costs. In its letter dated February 28, 2023, Enbridge Gas stated that “[s]ince no details are provided regarding the nature of the proposed evidence, Enbridge Gas is not able to comment on its relevance at this time. However, the Company reserves its rights to challenge the proposed evidence on that basis once clarity is provided.” On March 9, 2023, Environmental Defence filed a letter describing the nature of the evidence and cost.

Given that Environmental Defence has proactively provided the necessary information in respect of the evidence it wishes to file and the associated cost, the OEB is making provision for other intervenors, who wish to file evidence to provide more information on the nature of the evidence and estimated cost. The OEB is also making provision for all parties to file written submissions on the relevance of the evidence proposed by any intervenor.

If FRPO, MQB and Pollution Probe wish to file evidence in this proceeding they shall each file a letter with the OEB describing the nature of the evidence, whether an expert will be retained, whether the expert evidence will be commissioned jointly with other intervenors, and the time needed to prepare and file the evidence. In addition, as cost eligible intervenors, they must provide the estimated cost of preparing the evidence. The

estimated cost should include an explanation of any assumptions regarding the purpose and scope of the participation of an expert in the proceeding and should include an estimate of any incremental time that will be spent by the intervenor's counsel or any other consultant(s) in relation to the expert evidence. If a party wishes to file a submission on the relevance of the evidence proposed by any intervenor, they shall file their written submissions with the OEB by the date noted in this procedural order. After reviewing this material, the OEB will make its determination on the requests to file evidence and whether and to what extent any costs associated with the participation of any expert(s) or the preparation of any expert report(s) will be eligible for cost recovery.

Technical Conference

Environmental Defence requested that the OEB make provision for a technical conference or for parties to comment on the need for a technical conference following the receipt of interrogatory responses. Environmental Defence stated that a technical conference would provide a more complete factual picture for the OEB's consideration. FRPO also expressed the potential need for a technical conference. Enbridge Gas submitted that the OEB should make its determination after the responses to interrogatories had been filed, and to do otherwise would be premature.

The OEB will make its determination on the request for a technical conference after the responses to interrogatories have been filed.

Interrogatories

At this time, provision is being made for written interrogatories. In preparing their interrogatories, parties should refer to the OEB's [standard Issues List](#) for natural gas leave to construct applications. Parties should not engage in detailed exploration of items that do not appear to be material. In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Parties should consult sections 26 and 27 of the OEB's [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

Further procedural orders may be issued by the OEB.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. If FRPO, MQB and Pollution Probe, wish to file evidence in this proceeding, they shall inform the OEB by letter of their plans to file evidence and provide the information that is described earlier in this procedural order by **March 21, 2023**.
2. Any party wishing to file a submission on the relevance of the evidence proposed by any intervenor, shall file its written submission with the OEB by **March 28, 2023**.
3. OEB staff and intervenors shall request any relevant information and documentation from Enbridge Gas that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by, **April 4, 2023**.
4. Enbridge Gas shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by, **April 21, 2023**.

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](#).

Please quote file number, **EB-2022-0248** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please 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. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar and be received by end of business, 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 and OEB Counsel, Michael Millar at Michael.Millar@oeb.ca.

Email: registrar@oeb.ca

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

DATED at Toronto, **March 14, 2023**

ONTARIO ENERGY BOARD

By delegation, before: Nancy Marconi

Nancy Marconi
Registrar

SCHEDULE A
PROCEDURAL ORDER NO. 1
ENBRIDGE GAS INC.
EB-2022-0248
APPLICANT & LIST OF INTERVENORS

**Enbridge Gas Inc.
EB-2022-0248**

APPLICANT & LIST OF INTERVENORS

March 14, 2023

APPLICANT

Rep. and Address for Service

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INTERVENORS

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Enbridge Gas Inc.

EB-2022-0248

APPLICANT & LIST OF INTERVENORS

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March 14, 2023

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**Federation of Rental-housing
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Enbridge Gas Inc.

EB-2022-0248

APPLICANT & LIST OF INTERVENORS

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March 14, 2023

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