



**Enbridge Gas Inc.**

**Application to change its natural gas rates and other  
charges beginning January 1, 2024**

**PROCEDURAL ORDER NO. 6  
June 23, 2023**

Enbridge Gas Inc. filed an application with the Ontario Energy Board under section 36 of the *Ontario Energy Board Act, 1998* seeking approval for changes to the rates that it charges for natural gas distribution, transportation and storage, beginning January 1, 2024. Enbridge Gas has also applied for approval of an incentive rate-making mechanism for the years 2025 to 2028.

A settlement conference was held from May 29, 2023 to June 9, 2023. OEB staff filed a letter on June 9, 2023, advising that a partial settlement in principle had been reached and the parties were working to finalize a settlement proposal to be filed with the OEB.

On June 12, 2023, the OEB issued a letter requiring Enbridge Gas to provide a description of the topics that have been settled in principle. The OEB also set June 28, 2023 as the deadline for the filing of the settlement proposal and stated that it expects that the hearing will commence on July 10, 2023, with further details to follow in a procedural order.

On June 13, 2023, Enbridge Gas responded to the OEB's letter and provided a list of the issues, based on the approved Issues List, that had been settled in principle.

This procedural order provides directions on the hearing and other procedural matters.

**Settlement Proposal and OEB Staff Submission on Settlement Proposal**

The OEB confirms that the settlement proposal shall be filed no later than **June 28, 2023**. OEB staff's submission on the settlement proposal shall be filed no later than **July 5, 2023**.

The OEB expects to provide its findings on the settlement proposal prior to, or at the outset of, the hearing.

## Capital Update

On June 16, 2023, Enbridge Gas filed an update to its evidence with respect to the capital budget for 2023 and 2024.

The Consumers Council of Canada (CCC), the Canadian Manufacturers & Exporters (CME), Environmental Defence, Pollution Probe and the School Energy Coalition (SEC) filed letters stating that Enbridge Gas did not make all the necessary updates to the pre-filed evidence, interrogatory responses and undertaking responses to reflect the capital update filed on June 16, 2023. These parties stated that this has resulted in much of the capital related evidence on the record being out of date and inaccurate. These parties recognized that the filing of all the evidence relevant to the capital update would be a substantial undertaking. However, these parties noted that in the absence of a comprehensive update, intervenors would be disadvantaged.

CCC, CME and SEC requested that Enbridge Gas be required to file an update to the evidentiary record as it relates to the 2023 and 2024 capital budget as soon as possible to ensure a fair hearing. Pollution Probe requested that Enbridge Gas file an update to the evidentiary record by June 30, 2023.

Environmental Defence submitted that without a further update to the evidence to reflect the capital update, Enbridge Gas cannot justify its capital spending. Environmental Defence stated that it is prepared to proceed to a hearing on July 10, 2023, in the absence of an update, but would object to Enbridge Gas providing further details to justify the changes to the capital budget in undertaking responses as the undertaking responses would be provided too late to be tested by parties.

Environmental Defence submitted that, alternatively, the OEB should require Enbridge Gas to update all the relevant pre-filed evidence, interrogatory responses and undertaking responses in advance of the oral hearing commencing. However, this may require a delay to the hearing, potentially until September due to the likelihood that many parties have planned their holiday schedules around a July hearing in this proceeding. Environmental Defence further requested an opportunity for supplementary interrogatories on the updated evidence.

Enbridge Gas stated that it has been reviewing its evidence, as well as answers to interrogatories and undertakings, in order to identify which items need to be updated to reflect the capital update filed on June 16, 2023. Enbridge Gas determined that it will be able to complete updates to the main impacted portions of its evidence and the main associated interrogatory and undertaking responses by July 6, 2023.

The OEB finds that Enbridge Gas has provided a significant update to some of its evidence and to ensure an efficient and fair process, it is necessary for Enbridge Gas to update the remainder of the record to reflect the impact of that update. Enbridge Gas has provided a constructive path forward. The OEB directs Enbridge Gas to complete its catalogue of what needs to be updated and provide this to intervenors as soon as possible. The OEB encourages intervenors to identify those aspects of the record they would like to have updated on a priority basis and asks Enbridge Gas to meet those requests as quickly as possible. In light of Enbridge Gas's proposed target date to complete the updates (July 6, 2023), the OEB has decided to commence the oral hearing on July 13, 2023. This would allow Enbridge to complete the updates and allow all parties more time to prepare for the hearing.

### Hearing

The OEB will hold a hybrid hearing (in-person and virtual) on the unsettled issues, with the exception of certain issues that will be heard in writing only. The hybrid hearing will commence **July 13, 2023** and end **August 3, 2023**. A total of 14 hearing days have been scheduled. With the exception of July 13-14, 2023, the hearing will be held Monday to Thursday of each following week. If necessary, the hearing will continue from **August 8 – 11, 2023**.

The following four issues will proceed directly to written submissions, and should not be canvassed in the hybrid hearing:

- Issue 10: Other revenue implications associated with property disposition
- Issue 34: Is the proposed regulatory treatment of the Natural Gas Vehicle Program appropriate?
- Issue 37: Is it appropriate to have an earnings sharing mechanism for 2024?
- Issue 40: Should the OEB grant Enbridge Gas's request for a partial exemption for 2024 from the Call Answering Service Level, Time to Reschedule a Missed Appointment and Meter Reading Performance Measurement targets set out in GDAR?

On June 16, 2023, the Industrial Gas Users Association (IGUA), filed a letter with the OEB requesting an in person oral hearing, submitting that:

A "hybrid" process, which allows those distant from the OEB's premises and who may have a relatively minor role in the oral proceeding to participate virtually, would be appropriate and efficient, and should be manageable.

IGUA stated that CCC, Energy Probe, Federation of Rental-housing Providers of Ontario, and SEC supported this request. Enbridge Gas stated that it is in the process of preparing for the oral hearing under the assumption that the OEB would be continuing its post-COVID approach to holding hearings virtually. Enbridge Gas stated that while it is not opposed to the concept of in-person oral hearings, it will be somewhat challenging in this case to make the change in approach. Enbridge Gas noted that in the event the OEB does direct an in-person hearing for Phase 1, there will be several Enbridge Gas witnesses (primarily third-party experts) who would need to attend virtually.

The OEB finds that a hybrid hearing will be the most effective approach for this proceeding.

The hearing will be held in the OEB's hearing room at 2300 Yonge Street, 25<sup>th</sup> floor. Parties will also be able to participate virtually; further information in that regard will be communicated to parties closer to the hearing start date.

The OEB provides the following directions with respect to the hybrid hearing.

Enbridge Gas shall make every effort to have its own staff witnesses available in person at the oral hearing. Given the expected size of some of Enbridge Gas's witness panels, the OEB is of the view that having these panels available in person will facilitate a more efficient process. The OEB recognizes that Enbridge may choose to have consultant witnesses attend virtually as part of those witness panels.

Intervenors can choose if they would like to attend, and cross-examine, in person or virtually.

The OEB also expects that some days of the oral hearing will be held virtually only. These virtual days are expected to be held when the expert witnesses of Enbridge Gas, OEB staff and intervenors are scheduled to testify on issues related to energy transition, cost of capital, and depreciation. The OEB recognizes that some of these witnesses may prefer to attend the hearing virtually. In that instance, the OEB prefers an all virtual hearing rather than a hybrid hearing. The OEB expects that the issues of energy transition, cost of capital and depreciation will be heard in blocks whereby all witnesses will testify one after the other for each of those subject areas.

In addition, the OEB requests that, at the outset of the oral hearing, each party provide an opening statement no longer than five minutes to outline their position on Enbridge Gas's application.

The OEB also asks that Enbridge Gas begin their case with a witness panel to provide a summary of the current version of the Guidehouse report. Parties and OEB staff will then have an opportunity for cross-examination on Guidehouse report issues.

The OEB also asks that Enbridge ensure that energy transition witnesses are available on subsequent witness panels so that energy transition matters arising from the evidence provided by those panels can be addressed as they arise.

The approved issues list continues to define the scope of the proceeding. To assist the parties with their preparation for the oral hearing, and without seeking to limit relevant questioning in other areas, the OEB has identified the following as matters of particular interest:

- The risks that have been identified in relation to the energy transition, including the risk that assets may be stranded, and the regulatory options to mitigate those risks in relation to system access and system renewal investments
- Whether Enbridge Gas's application of the revenue horizon parameter established in E.B.O. 188 continues to be appropriate in light of energy transition
- Regulatory options for managing revenue related to site restoration costs

The OEB expects parties to work directly with OEB staff to develop an effective hearing schedule that aligns with the OEB's directions above. Due to the large number of parties and the amount of evidence already on the record, the OEB also expects parties to coordinate efforts and be mindful of the amount of hearing time available. OEB staff will contact the parties directly to begin the process of preparing a hearing schedule.

The OEB notes that masks are not mandatory at the OEB's offices, however it is a mask-friendly environment. Please stay home if you are sick or have symptoms of illness, even if they are mild. If you are not well, please join the hearing virtually.

### **Undertaking Responses**

The OEB requests that Enbridge Gas respond to any undertakings as early as possible while the hearing is ongoing. All responses to undertakings from the oral hearing shall be filed with the OEB and sent to all other parties no later than **August 14, 2023**.

### **Submissions**

The OEB is also scheduling final written submissions at this time, including submissions on those issues that will be heard in writing only (i.e., Issues 10, 34, 37 and 40). Enbridge Gas's argument-in-chief shall be filed no later than **August 17, 2023**. The

argument-in-chief should clearly describe what the OEB is being asked to approve in Phase 1 of the current proceeding.

Submissions from OEB staff shall be filed no later than **September 7**, from intervenors no later than **September 14, 2023** and Enbridge Gas's reply argument shall be filed no later than **September 28, 2023**.

### **Interim Costs**

On June 16, 2023, an intervenor in this proceeding, the Industrial Gas Users Association (IGUA), filed a letter with the OEB requesting an interim award of costs for cost-eligible intervenors. IGUA stated that it has been authorized to convey support for this request from other intervenors, namely, Consumers Council of Canada, Federation of Rental-housing Providers of Ontario, and School Energy Coalition. Enbridge Gas responded that it does not oppose interim costs being considered by the OEB.

In most proceedings, cost claims would be filed with the OEB at the conclusion of the proceeding. In the current case, considering the length of this proceeding and the costs incurred by some intervenors, the OEB will permit cost eligible intervenors to file interim cost claims up to June 28, 2023, which is the deadline for filing the settlement proposal.

The interim cost claims are to be filed by **July 12, 2023**, in accordance with the OEB's [Practice Direction on Cost Awards](#). The OEB does not intend to conduct a detailed review of the claims at this time, and does not require responding submissions from Enbridge Gas. OEB staff will review the accuracy of the calculations in the claims, and the OEB will determine the amount to be awarded on an interim basis.

The OEB will conduct a complete review of all cost claims at the conclusion of the proceeding pursuant to the OEB's Practice Direction on Cost Awards. An intervenor claiming costs will be required to submit a cost claim for the entire proceeding, with any amount received as an interim award applied as a credit against the total claimed. Enbridge Gas will have an opportunity to file objections at that time, and intervenors whose claims were subject to objections will have an opportunity to reply. The OEB will then determine an intervenor's entitlement to a cost award, including any amount received as an interim award, and interim awards of costs may be subject to adjustment at that time.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

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**THE ONTARIO ENERGY BOARD ORDERS THAT:****Settlement Proposal**

1. Enbridge Gas shall file the settlement proposal, and send a copy to all intervenors, by **June 28, 2023**. In addition to outlining the terms of any settlement, the settlement proposal should contain a list of any unsettled issues.
2. Any submission from OEB staff on the settlement proposal shall be filed with the OEB and sent to all parties by **July 5, 2023**.

**Capital Update**

3. Enbridge Gas shall file the relevant updates to the evidence, as discussed in this procedural order, by **July 6, 2023**.

**Hybrid Hearing**

4. The OEB will convene a hybrid hearing in the OEB's hearing room at 2300 Yonge Street, 25th floor, Toronto, starting at 9:30 a.m. from **July 13, 2023 to August 3, 2023**. The hearing will be held from Monday to Thursday of each week (except for July 14, 2023). If necessary, the oral hearing will continue from **August 8, 2023 to August 11, 2023**. For parties that wish to participate virtually, further information on how to participate virtually will be communicated to parties closer to the date.
5. Responses to undertakings from the oral hearing shall be filed with the OEB and sent to all other parties by **August 14, 2023**.

**Written Argument**

6. Enbridge Gas shall file its argument-in-chief with the OEB and send it to all parties by **August 17, 2023**.
7. OEB staff shall file its written arguments with the OEB and send them to all parties by **September 7, 2023**.
8. Intervenors shall file any written arguments with the OEB and send them to all parties by **September 14, 2023**.
9. Enbridge Gas shall file its reply argument with the OEB and send it to all parties by **September 28, 2023**.

## Cost Awards

10. Cost-eligible intervenors may file their interim cost claims for costs incurred up to and including June 28, 2023 by **July 12, 2023**. A copy of each claim must be filed with the OEB and forwarded to Enbridge Gas.

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-2022-0200** 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](mailto: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 at the address below 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, Khalil Viraney at [Khalil.Viraney@oeb.ca](mailto:Khalil.Viraney@oeb.ca) and OEB Counsel, Michael Millar at [Michael.Millar@oeb.ca](mailto:Michael.Millar@oeb.ca) and Ian Richler at [Ian.Richler@oeb.ca](mailto:Ian.Richler@oeb.ca).



Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

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

**DATED** at Toronto, **June 23, 2023**

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar