

# Elson Advocacy

February 2, 2024

**Ms. Nancy Marconi**

Registrar

Ontario Energy Board

2300 Yonge Street, 27th Floor

Toronto, Ontario M4P 1E4

Dear Ms. Marconi:

**Re: Review Motion re Enbridge Gas Inc. 2024 to 2028 Rates Application  
Review Motion File No. EB-2024-0078  
Rates Case File No. EB-2022-0200**

I am writing on behalf of Environmental Defence regarding the above review motion filed by Enbridge.

Enbridge's Notice of Motion seeks leave to file fresh evidence in this review motion. In particular, it states that it intends to file "additional evidence on this Motion, which will include new evidence related to developments after arguments were filed in EB-2022-0220, to be delivered in accordance with the OEB's directions." If Enbridge is granted leave to file fresh evidence, Environmental Defence requests an opportunity to ask interrogatories on that evidence and to submit brief responding evidence, which can be completed on a very tight timeline, as detailed below.

Although we cannot be certain what evidence Enbridge seeks to file, it is highly likely that the OEB would benefit from responding evidence. We note, for instance, that Enbridge has already cited and excerpted new evidence in directly in its Notice of Motion that calls out for a response. For instance, Enbridge makes reference to a comment on the report of the Ontario Government's Electrification and Energy Transition Panel.<sup>1</sup> But, contrary to Enbridge's suggestion, the actual conclusions of that report align and support the OEB's decision of December 21, 2023. For instance, the report states:

[E]merging evidence shows that it is unlikely the natural gas system can be fully decarbonized and continue to deliver cost-effective building heat. The development of regulatory frameworks and the evolution of natural gas infrastructure will need to align with the province's overarching clean energy economy commitment and protect customers as the role of natural gas changes in the province. A failure to align these regulatory frameworks with government's overarching policy commitments could result in significant cost hazards for customers or threats to overarching government policy commitments and an effective, orderly and well-aligned transition to a clean energy economy.

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<sup>1</sup> Enbridge Notice of Motion, p. 6, para. 15(iv).

...

The speed at which customers would change their heating source is uncertain and dependent on a large number of individual factors, such as equipment age and personal preferences and values, as well as system-level and policy factors, such as cost development, availability of equipment and qualified technicians, and supportive policies and incentives. Nonetheless, this could lead to many customers disconnecting from the natural gas system absent any personal motivation to lower their carbon footprint. As a result, there is a real risk of stranding assets in home heating and the gas distribution grid over the medium to long-term, with significant risk to customers, investors and public finances. As more customers exit the natural gas grid to adopt electric heating, those customers who are least able to afford to electrify could be forced to pay higher and higher proportions of the network cost to keep the system running safely.

...

In either case, it is in the interest of the province, for the purpose of customer protection, to ensure that the regulatory mechanisms for the governance of the natural gas grid are aligned with a range of plausible outcomes, notably those that pose the greatest risks to customers.<sup>2</sup>

The Electrification and Energy Transition Panel report supports the December 21, 2023 decision and the reductions in rate-based capital spending flowing from it. The panel noted that the speed of fuel switching is uncertain, but that regulatory mechanisms must be aligned with the outcomes that “pose the greatest risks to customers.” That is exactly what the OEB panel did. However, that is a question for argument. For present purposes, if Enbridge is going to rely on recent commentary on the Electrification and Energy Transition Panel report as it did in its Notice of Motion, parties should be able, for instance, to rely on the panel report itself.

Similarly, Enbridge refers to new evidence in its Notice of Motion in the form of a press release issued at 9:30 am on the day following the release of the OEB’s decision.<sup>3</sup> The timing of the press release shows that there was a coordinated effort to lobby the government to pass legislation to annul portions of this decision. If Enbridge is going to rely on this press release as evidence that the decision was contrary to government policy, the parties should be able to ask interrogatories and submit evidence on Enbridge’s role in fomenting this opposition and allegations that Enbridge has been doing so using false information.

Although now is not the time to establish these allegations, we should note that they have a basis in evidence. Enbridge is sending a highly misleading letter to municipalities trying to get them to lobby the Minister of Energy to pass legislation to annul portions of the OEB’s decision (see attached). For instance, this Enbridge letter says that the OEB decision “sets a deliberate course to eliminate natural gas from Ontario’s energy mix”, when the opposite is true. The decision aims to reduce the risk of stranded assets in order to maintain the affordability of gas as an important part of Ontario’s energy mix. This is necessary to ensure that the gas system is viable and affordable in any number of possible future scenarios that the energy transition might take us in.

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<sup>2</sup> Electrification and Energy Transition Panel, *Ontario’s Clean Energy Opportunity* ([link](#)).

<sup>3</sup> Enbridge Notice of Motion, p. 6, para. 21.

It is very difficult to say what responses will be needed without seeing Enbridge's proposed new evidence. However, even the excerpts of new evidence included directly in Enbridge's Notice of Motion show that the OEB would benefit from evidence in response to what evidence Enbridge files (if is it granted leave to file evidence).

With respect to timing, in the event that leave is granted, we would only require three days to prepare interrogatories on any new evidence submitted by Enbridge and would anticipate being able to provide any responding evidence on the same date that Enbridge provides interrogatory responses.

Thank you for considering this request.

Yours truly,

A handwritten signature in blue ink, appearing to read 'K. Elson', written in a cursive style.

Kent Elson

Encl: Letter from Enbridge to municipalities

CC: Parties to the above proceeding

January 24, 2024

Your Worship and Members of Council,

I am writing to inform you of our concerns with the [Ontario Energy Board's \(OEB\) decision on Phase 1 of the Enbridge Gas 2024 rebasing application](#), issued on December 21, 2023. The disappointing decision puts future access to natural gas in doubt and sets a deliberate course to eliminate natural gas from Ontario's energy mix. This decision is about the millions of Ontarians who rely on natural gas to keep their homes warm, and the many businesses throughout Ontario who depend on natural gas for day-to-day operation.

Our 2024 rate rebasing application was designed to provide our customers with safe and reliable natural gas at a reasonable cost, in addition to measured steps to help Ontario advance a practical transition to a sustainable energy future. Natural gas plays a critical role in Ontario's energy evolution mix while supporting the reliability of Ontario's electricity system. Natural gas meets 30 percent of Ontario's energy needs, which can not be easily or quickly replaced.

**We are taking action to secure the future of natural gas in your communities. We are filing a motion in late January to review evidence with the OEB and seeking a judicial review of this decision.**

Without natural gas, communities across Ontario will feel the impacts of this decision in their everyday lives – the stakes are high.

- **Energy Affordability:** Those looking to connect to natural gas will be required to pay an upfront fee, which creates a significant financial barrier to all forms of residential and commercial development. This resulting fee adds thousands of dollars to individual consumers' cost to obtain or expand gas service.
- **Economic Growth:** This decision will put economic developments in your community at risk. The decision limits the ability of future expansion projects to support regional investment to meet the ever-growing energy needs in your community and communities across Ontario. That includes greenhouses, grain dryers, industrial parks, and any new businesses or housing developments seeking access to natural gas.
- **Energy Access:** Preserving customer choice is critical. Constraining access to natural gas through a reduction in capital will significantly limit the future development of essential energy infrastructure vital to moving manufacturing, agriculture, and the consumer goods industry in Ontario.
- **Energy Security:** On an annual basis, natural gas delivers twice the energy to Ontario than electricity, and five times the maximum peak capacity of Ontario's electricity grid at a quarter of the cost. Even in the worst weather conditions, our reliable natural gas system delivers.

**As local leaders across the province, your voice matters, and we encourage you to take action.**

Reach out to your MPP to share your support for the government's [quick action](#) and write the OEB about the consequences of reduced access to the natural gas grid to support economic development, housing growth, energy reliability. Use your voice to acknowledge the need for natural gas and infrastructure in Ontario today and into the future while we take a measured step towards energy transition.

We ask that you reach out to your municipal advisor or find us at [municipalaffairs@enbridge.com](mailto:municipalaffairs@enbridge.com) to get started.

Sincerely,



Michele Harradence  
President  
Enbridge Gas Inc.