



**Enbridge Gas Inc.**

**Motion to Review and Vary the December 21, 2023 Decision and Order  
in EB-2022-0200**

**ORDER FOR A PARTIAL STAY  
February 12, 2024**

**Background**

On January 29, 2024, Enbridge Gas Inc. (Enbridge Gas) filed a Notice of Motion to review and vary certain aspects of the December 21, 2023 Decision and Order in respect of Phase 1 of its application for rates for January 1, 2024.

As the first step in dealing with the motion, and before taking any steps in relation to the other relief requested by Enbridge Gas in the Notice of Motion, the Ontario Energy Board (OEB) will address Enbridge Gas's request to stay portions of the Decision and Order.

In the Notice of Motion, Enbridge Gas asks for:

- "A stay of the Decision in relation to the Customer Revenue Horizon Issue while this Motion is being determined, including any related issues to be dealt with in Phases 2 and 3 of the EB-2022-0200 proceeding," and
- "A stay of the Decision in relation to some or all of the Review Issues while the OEB conducts any rehearing of those issues, including any related issues to be dealt with in Phases 2 and 3 of the EB-2022-0200 proceeding."

Enbridge Gas explains:

While the Decision and this Motion relate to Phase 1 issues, certain determinations made by the OEB in its Decision will have material impacts on Enbridge Gas and stakeholders in respect of the issues remaining to be resolved in subsequent phases of the proceeding. These impacts are therefore relevant for the purposes of this Motion and require the issuance of a stay in respect of aspects of the Decision, including the Customer Revenue Horizon Issue.

The same day Enbridge Gas filed its Notice of Motion, it asked for a four-day extension of the deadline for filing a draft rate order set out in the Decision and Order, to February 16, 2024. That request was granted.<sup>1</sup>

Enbridge Gas has also appealed the Decision and Order to the Divisional Court, and has asked for an order that the appeal be held in abeyance pending the disposition of its motion to review and vary.

### **Stay of Decision and Order in relation to Customer Revenue Horizon Issue**

Under Rule 40.06 of the OEB's *Rules of Practice and Procedure*, the OEB may, upon request, "order that the implementation of the order or decision be delayed, on conditions as it considers appropriate."

As noted in the Notice of Motion, the Minister of Energy issued a statement the day after the Decision and Order was issued, explaining that legislation would be introduced to overturn the OEB's findings in respect of the customer revenue horizon: "I will use all of my authorities as Minister to pause the Ontario Energy Board's decision. At the earliest opportunity, our government will introduce legislation that, if passed, would reverse it, so that we protect future homebuyers and keep shovels in the ground."<sup>2</sup>

The Decision and Order requires Enbridge Gas to apply a zero-year revenue horizon for small volume customers (excluding projects under the current phase of the Natural Gas Expansion Program), starting on January 1, 2025, but defers implementation matters to Phase 2 of the proceeding. It would be inefficient to spend time on these matters when they could soon become moot. A temporary stay of the Decision and Order in relation to the Customer Revenue Horizon Issue (as defined in the Notice of Motion) is therefore appropriate in the circumstances.

Accordingly, the Decision and Order, insofar as it pertains to the Customer Revenue Horizon Issue, is stayed until April 30, 2024. The OEB will monitor any legislative developments and may extend the stay if circumstances warrant. The OEB expects to provide further directions in due course.

To be clear, this stay does not affect the Phase 1 draft rate order process, which relates to rates for 2024, as the change to the revenue horizon would only come into effect in 2025.

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<sup>1</sup> EB-2022-0200, Procedural Order No. 7, January 30, 2024.

<sup>2</sup> The Minister's statement can be found here: <https://news.ontario.ca/en/statement/1004010/ontario-government-standing-up-for-families-and-businesses>,

## Directions on Stay Request in relation to the Other Review Issues

The OEB requires further information on Enbridge Gas's second stay request, that is, the request for a stay of "some or all of the Review Issues" other than the Customer Revenue Horizon Issue.

It is not clear to the OEB exactly what Enbridge Gas seeks to stay in respect of those other Review Issues (as defined in the Notice of Motion), nor whether Enbridge Gas wants the stay to be granted now or only in the event a review panel orders a "rehearing" of the issues by another panel.

In its cover letter accompanying the Notice of Motion, Enbridge Gas offered to elaborate: "Enbridge Gas notes that its Notice of Motion requests an order or orders staying portions of the December 21, 2023 Decision and Order. Further details and explanation will be provided in submissions on the Motion, or earlier if necessary."

The OEB directs Enbridge Gas to provide a detailed explanation of its request for a stay of the Decision and Order in respect of the Review Issues other than the Customer Revenue Horizon Issue.

Next steps in relation to the stay request will be determined after that explanation has been received.

This Order is being served on all parties to the EB-2022-0200 proceeding.

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The Decision and Order, insofar as it pertains to the Customer Revenue Horizon Issue, is stayed until **April 30, 2024**.
2. Enbridge Gas shall file a detailed explanation of its request for a stay of the Decision and Order in respect of the Review Issues (other than the Customer Revenue Horizon Issue) with the OEB, and copy all parties to the EB-2022-0200 proceeding, by **February 20, 2024**.

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-2024-0078** 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 [Filing Systems 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

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, 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, **February 12, 2024**

**ONTARIO ENERGY BOARD**

Lynne Anderson  
Chief Commissioner