



Enbridge Gas Distribution Inc.

**Application for exemption from leave to construct
natural gas pipeline and associated facilities in the
Town of Amherstburg**

**PROCEDURAL ORDER NO. 1
December 4, 2024**

Enbridge Gas Distribution Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB) on August 9, 2024, under subsection 95(2) of the *Ontario Energy Board Act, 1998* for an order exempting Enbridge Gas from the requirement to obtain leave to construct for natural gas pipelines and facilities in the community of Boblo Island in the Town of Amherstburg. The proposed project consists of 170 metres of Nominal Pipe Size (NPS) 4 polyethylene (PE) natural gas distribution pipeline; approximately 600 metres of NPS 4 steel natural gas distribution pipeline; and approximately 2.3 kilometres of NPS 2 PE natural gas distribution pipeline (Project). The Project is expected to cost \$5.2 million and serve approximately 347 customers in the community.

Enbridge Gas relies on section 3.0.1(1) of O. Reg. 328/03, for its application. This regulation authorizes the OEB to make an order under subsection 95 (2) of the OEB Act that exempts a person from the requirement to obtain leave from the OEB under subsection 90 (1). The exemption is available if:

- a) Leave is required only by virtue of clause 90 (1) (b) of the OEB Act;
- b) The proposed hydrocarbon line is projected to cost more than the amount specified (\$2 million) in section 3 for the purposes of that clause but not more than \$10 million; and
- c) The OEB makes a determination that the Crown's duty to consult, if it applies in respect of the application, has been adequately discharged.

On September 11, 2024, the OEB issued a Notice of Hearing to each of the following Indigenous communities:¹

¹ The Ministry of Energy and Electrification identified six Indigenous communities potentially affected by the proposed project in a Delegation Letter to Enbridge Gas.

- Aamjiwnaang First Nation
- Bkejwanong (Walpole Island First Nation)
- Caldwell First Nation
- Chippewas of Kettle and Stony Point First Nation
- Chippewas of the Thames First Nation
- Oneida Nation of the Thames

The Notice of Hearing provided an opportunity for each of the Indigenous communities to actively participate in the hearing as an intervenor by filing a Notification Letter with the OEB. For Indigenous communities wishing to express their view on the application without engaging as an intervenor, the Notice also made provision for Indigenous communities to file Letters of Comment with the OEB. The Notice of Hearing also provided the Indigenous communities with the option to follow the proceeding as a Monitor, which would result in the delivery via email of all documents issued by the OEB with respect to this proceeding to those applying for such status.

As stated in the Notice of Hearing, the deadline to apply as an intervenor (by Notification Letter) was October 26, 2024.

Notification Letter – Caldwell First Nation

On October 25, 2024, Caldwell First Nation filed a Notification Letter in which it requested intervenor status and sought eligibility for cost awards for participation in the proceeding. Among other things, Caldwell First Nation stated that it intends to address whether the duty to consult has been discharged with respect to the Project, and the environmental, social, and cultural impacts of the Project.

No objection was received from Enbridge Gas.

Caldwell First Nation is approved as an intervenor and is granted eligibility to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#).

The issue the OEB must decide in this proceeding is whether the Crown's duty to consult has been sufficiently discharged with respect to the Project. 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.

The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

Letter of Comment – Chippewas of the Thames First Nation

On October 28, 2024, Chippewas of the Thames First Nation filed a Letter of Comment to notify the OEB of its concern that the Crown's duty to consult has not been adequately discharged in respect of the Project. Rule 23.03 of the OEB's [Rules of Practice and Procedure](#) requires Enbridge Gas to address the issues raised in the Letter of Comment by way of a document filed in the proceeding before the proceeding's record is closed.

To ensure the timely hearing of this application, Enbridge Gas is encouraged to respond to the comments from Chippewas of the Thames First Nation by no later than the filing of interrogatory responses to its evidence.

Interrogatories

At this time, provision is being made for written interrogatories. 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.

Submissions

Provision is also being made for submissions from Caldwell First Nation and OEB staff, as well as a reply submission from Enbridge Gas.

Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. Enbridge Gas shall file with the OEB an updated Indigenous Consultation Report and any correspondence from the Ministry of Energy and Electrification on Enbridge Gas's consultation activities, by **December 18, 2024**.
2. Caldwell First Nation and OEB staff 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, **January 17, 2025**.
3. Enbridge Gas shall file with the OEB complete written responses to all interrogatories and serve them on Caldwell First Nation, by **January 31, 2025**.

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-2024-0249** 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, Lawren Murray at Lawren.Murray@oeb.ca.

Email: registrar@oeb.ca

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

DATED at Toronto, **December 4, 2024**

ONTARIO ENERGY BOARD

By delegation, before: Nancy Marconi

Nancy Marconi
Registrar

SCHEDULE A

LIST OF APPLICANT AND INTERVENORS

ENBRIDGE GAS DISTRIBUTION INC

EB-2024-0249

PROCEDURAL ORDER NO. 1

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Enbridge Gas Inc.
EB-2024-0249

APPLICANT & LIST OF INTERVENORS

December 4, 2024

APPLICANT

Rep. and Contact Information for Service

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INTERVENORS

Rep. and Contact Information for Service

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APPLICANT & LIST OF INTERVENORS

December 4, 2024

Caldwell First Nation

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