



Ontario  
Energy  
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de l'énergie  
de l'Ontario

**EB-2019-0159**

**Enbridge Gas Inc.**

**Application to construct natural gas pipeline and associated  
facilities in the City of Hamilton  
and  
Request for review of Integrated Resource Plan (IRP) Proposal**

**PROCEDURAL ORDER NO. 1**

**January 30, 2020**

On November 1, 2019 Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) pursuant to section 90(1) and 97 of the *Ontario Energy Board Act 1998, S.O. 1998, c.15 (Schedule B)* (OEB Act) (Leave to Construct Application) which includes the following:

- Leave to construct approximately 10.2 kilometers of 48 inch diameter natural gas transmission pipeline and associated facilities from the Kirkwall Valve Site to the Hamilton Valve Site in the City of Hamilton (Project).
- Approval of the forms of easement agreements related to the construction of the Project.

Enbridge Gas also included in the application an Integrated Resource Planning (IRP) Proposal and requested that the OEB determine it to be reasonable and appropriate.

The OEB issued a Notice of Application on January 6, 2020 (Notice). The Notice was published and served as directed by the OEB.

In this Procedural Order the OEB:

1. Determines that the IRP Proposal, as it relates to future Enbridge projects, will be reviewed separately at a later date to be determined by the OEB.
2. Sets the process to determine the scope of the hearing for the Leave to Construct Application.

### **Integrated Resource Planning (IRP) Proposal- Will be Reviewed Separately**

As part of its application and evidence, Enbridge Gas included an IRP Proposal and requested that the OEB determine that it is reasonable and appropriate as it relates to future Enbridge Gas projects. Enbridge Gas requested that, if the OEB cannot make a determination related to the IRP Proposal by April 30, 2020, the OEB review the IRP Proposal separately as a distinct stand-alone application from the Leave to Construct application to ensure that the Project meets the in-service date of November 1, 2021.

Enbridge Gas said that it filed the IRP Proposal in recognition of OEB direction in recent decisions on Leave to Construct applications and in the OEB's Report on the DSM Mid-Term Review, which required that Enbridge Gas demonstrate consideration of conservation and energy efficiency alternatives to infrastructure investments. The Proposal consists of an IRP framework to guide Enbridge Gas's assessment of future IRP applications relative to other facility and non-facility LTC alternatives.

The OEB is of the view that the IRP Proposal raises issues of broad applicability that are best dealt with outside of the context of a project-specific Leave to Construct proceeding. The OEB expects to provide further direction on the next steps regarding consideration of Enbridge Gas's IRP Proposal in the near future. The OEB has determined that Enbridge Gas's IRP Proposal should be heard separate and apart from the current Leave to Construct application proceeding.

### **Intervenor Requests and Letters of Comment – Issues and Concerns Raised**

The OEB received a number of requests for intervenor status which would, if granted, allow for active participation in all phases of the OEB's public review of the application. Parties asking for intervenor status submitted variously that their interests in participating in the proceeding relate to the need for the Project, cost and impacts of costs on ratepayers, security of gas supply, market based alternatives, conservation alternatives, transportation capacity, environmental and ecological impact of the Project, impacts on cultural heritage, impacts on municipal infrastructure, emergency response protocols, and impacts of the Project related to greenhouse gas (GHG) emissions and climate change. A number of intervenors stated that their intervention interest is in relation to the OEB's review of the IRP Proposal.

The OEB received numerous comments from individual citizens and citizens groups and organizations. Most of the comments voiced environmental concerns and opposition to constructing the Project. Many also requested an oral hearing. The environmental concerns generally related to two issues: (i) concerns with local site-specific impacts of the proposed pipeline on the ecologically sensitive wetlands and lands in the rural area within

the boundaries of the City of Hamilton, and (ii) broader concerns related to GHG emissions and climate change, related to both the upstream source of the natural gas that will be transported through the pipeline (some of which will be sourced from the Appalachian region of the United States, where hydraulic fracturing is common), and the downstream emissions that will result when the natural gas is ultimately consumed.

The OEB recognizes that there is significant interest in this proceeding. However, some of the issues identified by parties, in particular those in relation to the upstream and downstream impacts of natural gas extraction and consumption, are not commonly raised by parties or considered by the OEB in leave to construct proceedings. The OEB wishes to facilitate a meaningful and productive review of this application for Leave to Construct, but it is required to stay within the bounds of its statutory authority under the *Ontario Energy Board Act, 1998*. For these reasons, the OEB is seeking comments on the Issues List that will set the scope of this proceeding.

#### **Determining the Scope of the Proceeding – Leave to Construct Application**

As the first procedural step, the OEB will set out a process to determine the scope of the issues it will hear in the proceeding on Enbridge Gas’s Leave to Construct application.

Ordinarily the OEB does not prepare an Issues List for a leave to construct application. The test established in section 96 of the OEB Act is whether the project is in the “public interest”, and typically the OEB has considered more or less the same broad scope of issues in every case. Given the clear interest in this case in issues that have not typically been reviewed in the OEB’s leave to construct hearings – in particular issues related to the upstream sourcing of the natural gas and the downstream use of natural gas – the OEB has determined that it would be appropriate to determine whether these issues are in scope for the proceeding at the outset. The OEB has prepared a draft Issues List (Draft Issues List) which is attached to this Procedural Order. Enbridge Gas, OEB staff, parties that submitted a request for intervenor status, and parties that filed letters of comment will be given an opportunity to file written submissions on the Draft Issues List.

In addition, the OEB would like to receive submissions on the extent to which it should consider a) impacts related to the methods of upstream natural gas extraction (such as hydraulic fracturing) for natural gas that will be transported through the pipeline, and b) impacts related to the ultimate downstream consumption of the natural gas transported through the pipeline.

After considering these comments, the OEB will render a decision on the Issues List to define the scope of the Leave to Construct proceeding.

**Decision on Intervenor Status and Cost Eligibility will be Made after the Scope is Determined**

The OEB will decide on intervenor requests and cost award eligibility requests after issuing a decision on the Issues List. Any party granted cost award eligibility will have an opportunity to include time spent on providing comments of the Draft Issues List.

**Oral versus Written Hearing**

A number of parties requested an oral hearing. The OEB will make this determination after issuing a decision on the Issues List. The OEB will schedule next procedural steps after it sets the scope of the proceeding.

It is necessary to make provision for the following matters related to this proceeding. The OEB may issue further procedural orders from time to time.

**IT IS THEREFORE ORDERED THAT:**

1. Enbridge Gas, parties that filed intervenor requests and parties that filed comments may file with the OEB by **February 10, 2020** written submissions on the following:
  - a. The Draft Issues List attached to Appendix A to this Procedural Order.
  - b. Whether the scope of the Leave to Construct proceeding should include:
    - i. impacts related to the methods of upstream natural gas extraction (such as hydraulic fracturing) for natural gas that will be transported through the pipeline
    - ii. impacts related to the ultimate downstream consumption of the natural gas transported through the pipeline.



Ontario Energy Board

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Enbridge Gas Inc.

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All materials filed with the OEB must quote the file number, **EB-2019-0159**, be made in a searchable/unrestricted PDF format and sent electronically through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and email address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <https://www.oeb.ca/industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have computer access are required to file seven paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 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](mailto:Zora.Crnojacki@oeb.ca) and Board Counsel, Michael Millar at [Michael.Millar@oeb.ca](mailto:Michael.Millar@oeb.ca).

### **ADDRESS**

Ontario Energy Board  
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Attention: Board Secretary

E-mail: [boardsec@oeb.ca](mailto:boardsec@oeb.ca)  
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Fax: 416-440-7656

**DATED** at Toronto, January 30, 2020

**ONTARIO ENERGY BOARD**

*Original signed by*

Christine E. Long  
Board Secretary

**Appendix A**

**Procedural Order No. 1**

**Enbridge Gas Inc.**

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**Draft Issues List-Section 90 OEB Act, Leave to Construct Application**

**January 30, 2020**

**Enbridge Gas Inc.**  
**EB-2019-0159**  
**Draft Issues List-Section 90 OEB Act**  
**Leave to Construct Application**

1. Is the proposed Project needed? Considerations may include but are not limited to natural gas demand, reliability of service, security, flexibility and diversity of natural gas supply, and operational risk as well as the OEB's statutory objectives.
2. What are the alternatives to the proposed Project that would also involve building a new pipeline? Are any of these alternatives preferable to the proposed Project?
3. What are the alternatives to the proposed Project that would not involve building a new pipeline? Are any of these alternatives preferable to the proposed Project?
4. Do the Project's economics meet the OEB's economic tests as outlined in the Filing Guidelines on the Economic Tests for Transmission Pipeline Applications, dated February 21, 2013?
5. Are the costs of the Project and rate impacts to customers reasonable and acceptable?
6. Does the Project's environmental assessment meet the OEB Environmental Guidelines for Hydrocarbon Pipelines?
7. Are the forms of landowner agreements filed pursuant to the application under section 97 of the OEB Act appropriate? Are there any outstanding landowner matters for the proposed Project's routing and construction? For greater clarity, landowners include parties from whom permits, crossing agreements and other approvals are required.
8. Is the proposed Project designed in accordance with current technical and safety requirements?
9. Has there been adequate consultation with affected Indigenous communities?
10. If the Board approves the proposed Project, what conditions, if any, are appropriate?