




Hamilton

INFORMATION UPDATE

TO:	Mayor and Members City Council
DATE:	May 11, 2020
SUBJECT:	Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension (Wards 13 and 15)
WARD(S) AFFECTED:	Wards 13 and 15
SUBMITTED BY:	Tony Sergi Senior Director, Growth Management Planning and Economic Development Department
SIGNATURE:	

The purpose of this Information Update is to advise Council of the receipt of a new Procedural Order from the Ontario Energy Board regarding the Leave to Construct Application for the Enbridge Gas Inc. Dawn to Parkway Extension, and to share with Council the response to the Order that has been provided by staff.

Report PED20053(a) approved by Council on April 29, 2020 confirmed Hamilton as an Intervenor in the OEB proceedings, and delegated authority to staff to file interrogatories and respond to any interrogatories in accordance with the deadlines of Procedural Order #4 of the Ontario Energy Board, for file EB-2019-0159 in respect of the Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension.

Of note, these deadlines were extended per OEB Procedural Order #5 dated April 27, 2020.

OEB Procedural Order #6 – May 7, 2020:

Subsequently, on May 4, 2020 Enbridge Gas requested that the OEB temporarily adjourn the proceeding due to uncertainties resulting from the COVID-19 pandemic impacts on the Project. Enbridge Gas did not file responses to any of the interrogatories. In response, the OEB issued Procedural Order #6 dated May 7, 2020 (attached as Appendix "A") requesting submissions on the terms of the adjournment as suggested by Enbridge Gas; and, in particular, the completion of interrogatories responses by Enbridge Gas.

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

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Per Page 2 of this Order, the OEB has advised that:

- "1. Parties that have not provided submissions to date on the conditions of the adjournment, and in particular, the completion of interrogatories responses by Enbridge Gas, and wish to do so, may file a submission with the OEB and copy all parties by **May 11, 2020.**"

Enbridge Gas Inc. is proposing as a condition of the adjournment, to report to the OEB as soon as reasonably possible and within six months of the date of the adjournment as to whether it has sufficient clarity to proceed with the application as filed, including responses to the interrogatories already asked and any further interrogatories arising from any updated evidence.

Staff are of the opinion that there is no concern with the request for a six month adjournment. However, given the time that has elapsed since submission of Interrogatories, that as a condition of adjournment, staff are of the opinion that Enbridge Gas Inc. should be required to report to the OEB within one month of the date of adjournment on their response to the interrogatories, as opposed to the requested six months.

Therefore, staff have indicated to the OEB that the City agrees with the adjournment by the OEB subject to the condition that:

"That as a condition of adjournment, and in particular, the completion of interrogatories responses by Enbridge Gas, report to the OEB within one (1) month of the date of the adjournment as to whether it has sufficient clarity to proceed with the application as filed, including responses to the interrogatories already asked and any further interrogatories arising from any updated evidence."

Accordingly, per the above noted deadline, staff have requested this condition through response to Procedural Order #6 on May 11, 2020, (Attached as Appendix "B" to this Information Report), as well as providing formal responses to the items identified in the Previous Orders pertaining to evidence and interrogatories.

Should you have any questions or concerns pertaining to the above, please do not hesitate to contact Alvin Chan at 905-546-2424 Ext 2978 or alvin.chan@hamilton.ca.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Ontario Energy Board Procedural Order #6 – May 7, 2020.

Appendix "B" – City Response to Ontario Energy Board Procedural Order #6

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AC/GP/sd

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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**

PROCEDURAL ORDER NO. 6

May 7, 2020

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) for leave to construct approximately 10.2 kilometres of 48-inch diameter natural gas transmission pipeline and associated facilities in the City of Hamilton (Project). Enbridge Gas also applied for approval of the forms of easement agreements related to the construction of the Project.

The proceeding is currently in a written discovery phase. As set out in the procedural schedule, Enbridge Gas was required to respond to interrogatories on the record by May 4, 2020.

On May 4, 2020 Enbridge Gas requested that the OEB temporarily adjourn the proceeding due to uncertainties resulting from the COVID-19 pandemic impacts on the Project. Enbridge Gas did not file responses to any of the interrogatories.

As a condition of the adjournment, Enbridge Gas proposed to report to the OEB as soon as reasonably possible and certainly within six months of the date of the adjournment as to whether it has sufficient clarity to proceed with the application as filed, including responses to the interrogatories already asked and any further interrogatories arising from any updated evidence. In the interim, Enbridge Gas stated that it is continuing to work with First Nations and affected stakeholders including the City of Hamilton, landowners and permitting agencies to advance the Project.

Regarding the cost incurred to date by intervenors eligible for an award of cost, Enbridge Gas recognized that the OEB may provide for interim cost awards process as part of any adjournment.

Ontario Energy Board

EB-2019-0159
Enbridge Gas Inc.

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 Board Counsel, Michael Millar at Michael.Millar@oeb.ca.

ADDRESS

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2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary
Email: boardsec@oeb.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, **May 7, 2020**

ONTARIO ENERGY BOARD

Original signed by

Christine E. Long
Registrar and Board Secretary



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Growth Management Division
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May 11, 2020

SENT BY EMAIL

Christine Long, Secretary
Ontario Energy Board,
P.O. Box 2319, 27th Floor
2300 Yonge Street,
Toronto, Ontario
M4P 1E4

Dear Ms. Long:

**Re: City of Hamilton Response for EB-2019-0159 – Dawn Parkway Expansion
Project Procedural Orders #3 to #6, inclusive.**

In response to Procedural Order No. 6 dated May 7, 2020, and given Enbridge Gas statement to continue to work with First Nations and affected stakeholders including the City of Hamilton, landowners and permitting agencies to advance the Project, the City of Hamilton ("Hamilton") submits the following:

(1) City of Hamilton Requested Condition of Adjournment

"That as a condition of adjournment, and in particular, the completion of interrogatories responses by Enbridge Gas, report to the OEB within one (1) month of the date of the adjournment as to whether it has sufficient clarity to proceed with the application as filed, including responses to the interrogatories already asked and any further interrogatories arising from any updated evidence."

Furthermore, although not required at this time, in response to the Procedural Order No. 3 dated April 2, 2020; Procedural Order No. 4 dated April 7, 2020; and, Procedural Order No. 5; dated April 28, 2020 particularly the four items of the Order, the City submits the following:

(1) Enbridge Gas Inc. written responses to Interrogatories

To date, no responses have been served; however, the City of Hamilton acknowledges the deadlines; and any future deadlines, of this Procedural Order(s); and, will therefore review and comment on the written responses of Enbridge Gas Inc., accordingly.

(2) Intervenor, Submission of Evidence

The City Hamilton has no evidence to submit in response to this part of the Procedural Order(s).

**Subject: City of Hamilton Response for EB-2019-0159 – Dawn Parkway
Expansion Project Procedural Orders #3 to #6, inclusive Page 2 of 2**

(3) Written Interrogatories in response to Filed Evidence

The City of Hamilton acknowledges the deadline; and any future deadlines, of this part of the Procedural Order(s) for written interrogatories in response to filed evidence; and, will file responses with the OEB and copy all parties accordingly, if required.

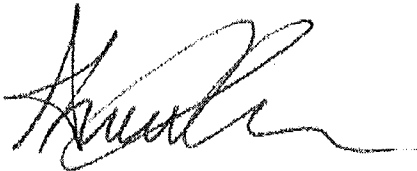
It is not anticipated that any interrogatories will be filed with the City of Hamilton given that the City does not intend on filing any evidence per Item 2, noted above.

(4) Responses to Written Interrogatories in response to Filed Evidence

The City Hamilton acknowledges the deadline; and, any future deadlines, of this part of the Procedural Order(s) for written responses to interrogatories on the evidence filed; and, will file responses with the OEB accordingly.

Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,



For Guy Paparella
Special Projects Manager,
Growth Management Division,
Planning and Economic Development Department
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cc All intervenors registered with the OEB for File EB-2019-0159
Larry Tansley, City Solicitor, Corporate Services
Alvin Chan, Manager, Legislative Approvals/Staging of Development
Steve Robichaud, Director of Planning and Chief Planner
Tony Sergi, Senior Director, Growth Management
Jason Thorne, General Manager, Planning and Economic Development