

# Enbridge Feedback on the Proposed Regulations Under the Ontario Energy Board Act, 1998 to Support Building Homes and Transit Faster

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## *About Enbridge Gas Inc.*

*Enbridge Gas is Canada's largest natural gas storage, transmission and distribution company based in Ontario, with more than 175 years of service to customers. The distribution business provides safe, affordable, reliable energy to about 3.9 million homes, businesses and industries and is supporting the transition to a clean energy future through net-zero emissions targets and investments in innovative low-carbon energy solutions. With the recently announced acquisition of three gas utilities serving customers in five US states, Enbridge will own and operate the largest gas utility franchise in North America. The storage and transmission business offers a variety of storage and transportation services to customers at the Dawn Hub, the largest integrated underground storage facility in Canada and one of the largest in North America. Enbridge Gas is owned by Enbridge Inc., a Canadian-based leader in energy transportation and distribution.*

Learn more at [enbridgegas.com](https://enbridgegas.com).

## Introduction

Enbridge Gas Inc. (Enbridge) commends the Government of Ontario (Government) for proposing regulations that would set out circumstances where the Ontario Energy Board (OEB) would be required to exempt a person from the requirement to obtain leave to construct (LTC) for new small natural gas pipeline projects, if Bill 165 – the *Keeping Energy Costs Down Act, 2024* – is passed, to build transit and housing faster. Enbridge also appreciates the opportunity to submit feedback on the proposed amendments.

## Executive Summary

Enbridge strongly supports the Government's efforts to streamline the OEB requirements for LTC on small natural gas pipeline projects, particularly enabling a streamlined exemption application route for projects between \$2 million to \$10 million while maintaining Indigenous consultation and environmental review standards, which is a crucial step to help achieve the Government's objectives of accelerating the construction of 1.5 million homes and addressing affordability challenges in Ontario.

Additionally, the proposed regulations will facilitate economic development in Ontario. Many companies seeking to locate in Ontario, drawn here by the Government's *Driving Prosperity Strategy* and the Government's goals to create jobs and opportunities, require significant amounts of all forms of energy. Providing an exemption application option will help get energy infrastructure built faster – many of these companies require immediate or short-term access to significant quantities of energy. Timely energy access is often the deciding factor between whether thousands of jobs stay in Ontario or go to another jurisdiction.

While generally supportive of the proposed regulations, Enbridge recommends expanding the availability of the LTC exemption application to encompass all eligible pipeline projects costing between \$2 million and \$10 million, *regardless of whether other LTC criteria are met*, to more effectively reduce regulatory burdens and associated costs. These adjustments are expected to have wide-ranging benefits, supporting customers, transit initiatives, community expansions, and housing projects, while maintaining Indigenous consultation and environmental review standards.

Considering Enbridge's recommendation along with the proposed regulations will expedite infrastructure development, ensuring timely and cost-effective critical project execution, including transit expansions and housing developments, which aligns with Ontario's economic growth objectives.

### Recommendations:

- *LTC exemption application option should be made available to all pipeline projects costing between \$2 million and \$10 million that would otherwise require LTC, regardless of whether the other s. 90(1) LTC criteria are triggered.*

Below is Enbridge's more specific feedback on the proposed regulations.

## Streamlined LTC Exemption Application

Enbridge commends the Government and supports the proposed regulations to enabling a streamlined LTC exemption application option for projects costing between \$2 million to \$10

million while maintaining the current robust requirements and expectations for Indigenous consultation and environmental review. These proposed regulations would go a long way in meeting the Government's objectives of building 1.5 million homes faster and addressing affordability challenges Ontarians are facing.

The \$2 million cost threshold prescribed in s. 3 of O. Reg. 328/03, for exempting hydrocarbon line projects (including natural gas pipelines) from the requirement to obtain LTC from the OEB under s. 90 of the *Ontario Energy Board Act, 1998* (Act) is outdated and causes the LTC requirement to apply more broadly and frequently than intended when the threshold was established 20 years ago. This is because, due to increased regulatory and cost pressures, as well as inflation, a significant portion of natural gas pipeline capital projects now cost more than \$2 million, thereby triggering the need for LTC on even small projects and rendering the cost amount prescribed under s. 90 of the Act the predominantly triggered LTC threshold.

The high number of small, low cost/low impact pipeline projects subject to the requirement for LTC increases the regulatory burden for the OEB and project proponents, causes delays for customers and communities, and increases costs for pipeline projects. The impacts of delay and increased costs flow through to customers/ratepayers and initiatives that require service from the planned pipelines, including community natural gas expansion projects, housing development projects, and customer connections. Other important infrastructure projects (such as priority transit) and provision of ongoing safe and reliable gas services to existing customers are also negatively impacted by increasingly onerous regulatory requirements.

## Expanding the LTC Exemption Application Option

The regulatory posting states that "New pipeline projects that exceed any of the other thresholds requiring LTC (i.e., those related to pipeline length, diameter, or pressure) as set out in subsection 90(1) of the Act would not be exempt and would continue to require LTC". Enbridge does not believe this limitation is necessary and recommends that the LTC exemption application option be made available to all pipeline projects costing between \$2 million and \$10 million that would otherwise require LTC, *regardless* of whether the other s. 90(1) LTC criteria are triggered.

In practice, while the majority of pipeline projects between \$2 million and \$10 million are not likely to meet the other LTC triggers, from time to time there could be projects in this cost range (potentially including certain community expansion projects in the NGEF portfolio) that would not benefit from the exemption application option if the above-noted limitation is adopted. Since this regulatory proposal is backstopped by maintaining strong processes around Indigenous consultation and environmental review, the above noted limitation may unnecessarily lessen the practical value of the proposed regulation and the full potential of red-tape reduction benefits that the Government is seeking to achieve.

## Benefits of Enabling LTC Exemption Applications

The proposed regulations will mitigate the impacts of delay/increased cost for pipeline projects and, in turn, for customers and initiatives that require service from the planned pipelines (including transit projects, community natural gas expansion projects, housing development

projects, and customer connections). In Enbridge's experience, and based on the OEB's performance standards, LTC proceedings for projects in the \$2 million to \$10 million range typically take approximately 5-7 months depending on complexity, which is in addition to the time needed by proponents to undertake Indigenous consultation, environmental assessments, and reporting and to prepare their application to the OEB. Moreover, for projects in this cost range, Enbridge estimates the cost of preparing and having an LTC application heard to be approximately \$50,000 to \$200,000 and higher once fulltime employee (FTE) hours are included, which ultimately forms part of the cost that is passed on to customers.

Together with the proposal to streamline the LTC process for pipeline relocation or reconstruction projects<sup>1</sup>, the proposed regulations would support the timely and cost-effective completion of priority infrastructure projects in Ontario, including transit projects under the *Building Transit Faster Act, 2020*, housing commitments under the *More Homes Built Faster Act, 2022*, for which Ontario is seeking to have construction commence by 2025, expanded access to natural gas under the *Access to Natural Gas Act, 2018*, and customer connections to support Ontario's growing population and facilitate economic growth in other sectors, such as residential home building, greenhouses, EV battery manufacturing, and so on.

The upper end of the cost range (\$10 million) is consistent with the Government's own proposal in 2021. In Enbridge's review, this is a reasonable upper end because it would facilitate greater alignment with the other exemptions under s. 90(1) and it brings Ontario more in line with other Canadian jurisdictions. For example, in British Columbia, FortisBC (electricity) and FortisBC Energy (natural gas) have LTC cost thresholds of \$15 million and \$20 million, respectively.

In conjunction with the relocation/reconstruction-related proposal, these changes also bring the exemptions for pipeline LTC more in line with those available for electricity projects. While for electricity lines there is no cost-based threshold, there is a range of available exemptions which ensures that LTC is only required from the OEB for significant electricity line projects with potential cost impacts for ratepayers. For example, LTC is not required for (a) any electricity lines with a voltage of 50 kV or less (i.e., all distribution lines), (b) any electricity lines or expansions with voltages greater than 50 kV (i.e., transmission lines) but which are 2 kilometres or less in length, or (c) as a result of amendments to O. Reg. 161/99 that took effect in October 2022, any line where the cost is to be paid exclusively by one or more customers. Notably, while the electricity lines that directly serve most customers (i.e., electricity distribution lines, which are 50 kV or less) are exempt from the need for LTC, gas pipelines that directly serve customers (i.e., gas distribution lines, as distinct from gas transmission lines) are not necessarily exempt from the need for LTC. While the proposed regulations will not address those fundamental differences, it will help ensure that – consistent with electricity projects - LTC for hydrocarbon lines is only required for significant projects.

Additionally, the proposed regulations maintain the existing requirements for Indigenous consultation and environmental review in respect of projects that are currently subject to those requirements. Importantly, the proposed regulations do not deprive the opportunities for Indigenous communities to be consulted or for communities to be informed and involved in the environmental review process as they currently would be able to.

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<sup>1</sup> [Proposed Amendments to the Ontario Energy Board Act, 1998 and associated regulations to modernize leave-to-construct approvals for pipeline relocation or reconstruction projects to build transit and housing faster. | Environmental Registry of Ontario](#)



## Conclusion

Enbridge appreciates the opportunity to provide feedback on the proposed changes. While generally supportive of the proposed regulations, Enbridge recommends expanding the LTC exemption to encompass all pipeline projects costing between \$2 million and \$10 million, *regardless* of other LTC criteria, to more effectively reduce regulatory burdens and associated costs.

If you have any questions or require additional information, please do not hesitate to contact Islam Elsayed, Senior Advisor, Government Affairs ([islam.elsayed@enbridge.com](mailto:islam.elsayed@enbridge.com)).