

**From:** [REDACTED]  
**Subject:** Letter of Comment - Enbridge Gas - Federal Carbon Pricing Program  
**Date:** Thursday, March 14, 2019 10:30:55 AM

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**From:** Mikey [REDACTED]  
**Sent:** Wednesday, March 13, 2019 4:23 PM  
**To:** BoardSec <[BoardSec@oeb.ca](mailto:BoardSec@oeb.ca)>  
**Subject:** EB-2018-0205

**My submission re Enbridge follows:**

To address Enbridge's efforts to pass the carbon tax onto households, we must first understand the context under which it is applying to the OEB to permit.

What is the accurate context? Enbridge, as a fossil fuel company, is part of the larger industry narrative that seeks to portray the endless growth of fossil fuels as necessary, that fossil fuel combustion increases should be seen as economic opportunity and progress, and that opposing government interventions is socially responsible and accountable. The industry is well known for its long, heavily funded opposition to regulation and the carbon tax. The industry knew the carbon tax was coming, yet through its lobbyists, consultants and corporate spokespeople, spent outrageous amounts of money to shift the narrative away from accountability and truth.

Now the carbon tax is here. The public have subsidized the fossil fuel industry with countless millions for decades. These subsidies were received and implemented by the industry, explicitly acknowledging this assistance to develop more sustainable practices. Canadians have so heavily subsidized the fossil fuel industry that some call it corporate welfare. The subsidies were supposed to stop, as promised by the Harper government. But they continue.

Did the industry prepare to absorb the carbon tax costs knowing they were soon coming? No. Homeowners have subsidized this inefficient industry while it acts in extravagant, socially irresponsible ways. The managers of fossil fuel companies earn huge, some would say, immoral amounts of compensation. None of this extravagance is tied to efficiencies in reducing the harmful effects of industry activities. Efficiency isn't tied to lowering consumer prices. None of this extravagance is tied to public accountability and transparency. These elite, wealthy managers now seek to pass the costs of this tax onto households making much less income, through the fiat of resource economics and monopoly power. This must be recognized accurately for what it is. It must be challenged - we must recognize how energy politics operates through regulatory agencies like the OEB.

Enbridge is a supporter of, and has members on a variety of organizations, a number of which are/have been vociferous climate change deniers and active obstructers of regulations that will compel the industry to serve public interests. These organizations play the role of ignoring serious pollution effects as well as climate change effects. These organizations oppose the regulating of the industry to address these serious public health consequences. Successfully lobbying for eliminating fuel efficiencies in the U.S., fossil fuel interests are powerful, organized, interconnected, and generously funded. Regulatory agencies that cooperate with this enable its domination, forcing

consumers to fund an ideology that is contrary to the public interest and contrary to efficiency in every sense of the word.

These costs are born by individuals and tax payers. We can't afford them. Remember, almost all of us make under \$100,000/year. Millions of people make much, much less, yet still need to heat their homes. Meanwhile, industry lobbyists push their mantras of endless growth and economic prosperity while obscuring the true nature of the deceptive narratives they spin. Industry endeavours to gouge consumers, as we see in New Brunswick, where Enbridge aggressively worked against opening up the market to competition to lower costs - "During its almost two-decade stay in New Brunswick, the company has tangled with the province, filing an \$800-million lawsuit in 2016 after the province passed legislation allowing competitors into the market to force rates down."

"Enbridge's Ontario customers pay \$2.71 per gigajoule, while New Brunswick customers pay \$11.20."

<https://www.cbc.ca/news/canada/new-brunswick/enbridge-gas-new-brunswick-algonquin-natural-gas-rates-1.4933967>

Homeowners help pay these legal bills sustaining an industry dedicated to stopping the lowering of prices! How can any regulatory body allow such irresponsible and anti-social rhetoric to dominate consumers lives? How can a 'democratic' government create a regulatory body purporting to protect the public interest when this body chooses to make consumers pay to enable this industry's authoritarianism?

This is outrageous. But looking at just a few of the organizations that Enbridge uses to perpetuate this imbalanced corporate power, we see more of the same. Context is crucial to understanding the OEB's role in assessing Enbridge's application.

Canada West Foundation, Canadian Association of Petroleum Producers (CAPP), Canadian Chamber of Commerce, Canadian Energy Pipeline Association (CEPA), the American Petroleum Institute (API), and the Texas Pipeline Association, as well as other industry associations are supported by Enbridge, and even have Enbridge members in top positions. I will only refer to a few instances, yet many, many more examples exist.

<https://www.enbridge.com/Sustainability-Reports/Sustainability-Report/Areas-That-Enable-Continuous-Improvement/External-Affairs/Political-Advocacy-and-Accountability.aspx>

Canada West - "And since Canada is a mature exploration region for conventional oil and gas, **the only significant production growth can be from high-environmental-impact oil sands and fracked oil and gas.**" (My bold) Canada West is also anti supply management, meaning, against government interventions that will ensure we clean up and limit fossil fuels. The industry message - drill baby drill!

Canada West celebrates a court's determination - " that notwithstanding the duty to consult, **governments can still infringe proven Aboriginal title**, provided they meet the established tests for "justification". " (my bold) Indigenous issues therefore continue to remain paramount and unresolved while the fossil fuel industry rests comfortably with the politics/regulation that allow this continued infringement of "proven Aboriginal title". Regulators that support this criminality while claiming to represent the public's interests are very disconnected from many Canadians who want this industry to serve all people and not just those who profit under an inaccurate and dangerous

industry narrative that ensures conflict will continue and remain unresolved. Enbridge must take responsibility for supporting this business-as-usual tradition. Enbridge shares responsibility for creating a national crisis instead of avoiding conflict through a cooperative resource economics that serves democracy and society. Consumers should not be funding the vast legal expenses fossil fuel companies weaponize to extend colonial style resource economics.

"Both Canadian and foreign investors are already going elsewhere. Long seen as reliable and attractive for investment, Canada's reputation as a place to invest in big projects has, in recent years, deteriorated." Translation - government actions to responsibly address climate, pollution and indigenous issues are blocking the kind of economic growth this industry is used to and insists upon having. This narrative must be disempowered. Regulators must acknowledge this and act in the public interest.

<https://cwf.ca/news/commentaries/are-more-pipelines-in-the-public-interest/>

<https://cwf.ca/research/publications/what-now-tmx-and-bill-c-69/>

### **From CAPP - Senate Priority Areas Summary (Bill C-69) – Proposed Amendments November 16, 2018**

Regarding "Factors- Impact Assessment", CAPP challenges the "must" of impact assessments and promotes - "In determining the factors to be set out in the notice of commencement provided pursuant to subsection 18(1) and to be taken into account in the impact assessment of a designated project, whether it is conducted by the Agency or a review panel, the Agency must take into account (CAPP strikes out the words "take into account) consider the following factors....." Notice the industry intent to block the "must" and replace with an unaccountable "consider". "Consider" delivers control to industry instead of placing it under democratic jurisdiction.

Recommendations to the Senate continue as follows. "Project assessments are not the place to debate broader public policy issues. Policy debates have plagued environmental assessments for more than a decade, resulting in delays, increased cost and regulatory uncertainty." *CAPP does not want the energy industry to actually address public policy issues.* CAPP and Enbridge want to remove environmental and climate change requirements from the legislation - "the extent to which the effects of the designated project hinder or contribute to (CAPP strikes out "the extent to which the effects of the designated project hinder or contribute to") the Government of Canada's ability to meet its (CAPP strikes out "ability to meet its") environmental obligations and its commitments in respect of climate change,..." These statements demonstrate the continuing opposition to ensuring climate and environmental concerns are finally addressed. The industry also seeks to maintain control of what constitutes assessment by controlling the meaning of assessment under "relevant assessment" (translation - assessment industry designates as relevant).

This submission to the Senate is full of industry rhetoric that demonstrates it has not learned the important lesson of social responsibility and democratic license. Industry even opposes the inclusion of gender equality, pushing against federal laws and international commitments to protect everyone! Brutal!

<file:///C:/Users/Owner/Downloads/330132.pdf>

CAPP, under its "Air and Climate", and "Greenhouse Gas Emissions" and "Responsible Development" fails to mention nor address the pollution issues caused by combustion of its fuels. While thousands

of Canadians will die this year from pollution, CAPP and Enbridge are promoting its negligent and dangerous policies.

<https://www.capp.ca/responsible-development/air-and-climate/greenhouse-gas-emissions>

This is a socially and economically irresponsible deception, as air pollution is currently estimated to cause over 7,000 premature deaths in Canada each and every year. Such unnecessary deaths, and the industry obfuscation about their role is unacceptable and socially objectionable.

The OEB cannot honor its pledge to protect the public interest while funding this industry demonstrated to be dangerous to public health and deceptive in its language. Enbridge is not a 'good faith' operator.

<https://www.cbc.ca/news/health/air-pollution-results-in-7-700-premature-deaths-in-canada-each-year-report-says-1.4140794>

"Estimates vary, but between 7,500 and 52,000 people in the United States meet early deaths because of small particles resulting from power plant emissions."

"Natural gas consists mainly of methane, a greenhouse gas that has much more powerful heat-trapping properties than carbon dioxide. If current estimates are correct that the leakage rate is around 3 percent, then we calculated that switching all coal plants to average-efficiency natural gas plants would have little effect on the power sector's contribution to climate change." Yet the industry pushes for more natural gas because it is a 'cleaner fuel'. We homeowners, decades back, moved to this heating fuel unaware that we were misled intentionally by industry.

Industry is allowed to orchestrate regulatory decisions making the public fund their power to mislead the public while moving money from those who have much less to those who have much, much more.

<https://theconversation.com/the-other-reason-to-shift-away-from-coal-air-pollution-that-kills-thousands-every-year-78874>

"The study, said HEI president Dan Greenbaum, "leads a growing worldwide consensus—among the WHO, World Bank, International Energy Agency and others—that air pollution poses a major global public health challenge." " The study refers to the State of Global Air 2018: A Special Report on Global Exposure to Air Pollution and Its Disease Burden (HEI is the Health Effects Institute)

<https://www.commondreams.org/news/2018/04/17/new-study-finds-more-95-global-population-exposed-harmful-air-pollution>

<https://www.stateofglobalair.org/sites/default/files/soga-2018-report.pdf>

Having established the context under which to evaluate Enbridge's application we can now examine the OEB and its role in this important decision. Clearly, industry communicates a larger narrative that is against accountability, transparency, regulation, government intervention, and environmental sustainability.

The Ontario Energy Board (OEB) describes itself as "an independent and impartial public agency. We make decisions that serve the public interest. Our goal is to promote a financially viable and efficient energy sector . . . " The OEB created a natural gas monopoly late 2018 by allowing Enbridge and

Union Gas to merge. The monopoly apparently commands about 97% of the gas customers in Ontario!

The OEB has members that make very large salaries, much, much larger than almost all Ontarions. The OEB also has at least one top member who is a career energy industry insider. The OEB is appointed by a political party and is unaccountable to the public. Remember that our elections are first-past-the-post where all votes are not equal, and where a minority of voters create a majority government imposing undemocratic policies on the majority.

In the Supreme Court of Canada decisions Sept. 25, 2015, Justice Rothstein explained the concept of "just and reasonable rates" as follows:

"just and reasonable rates must be those that ensure consumers are paying what the Board expects it to cost to efficiently provide the services they receive, taking account of both operating and capital costs. In that way, consumers may be assured that, overall, they are paying no more than what is necessary for the service they receive...."

"However, as explained later in Justice Rothstein's reasons, the scheme under the Ontario Energy Board Act, 1998 (OEB Act) does not prescribe any methodology for setting "just and reasonable" payment amounts to generators. Incidentally, that is also the case for the "just and reasonable rates" that the OEB is to set for electricity and gas distributors and transmitters."

"Therefore, when setting "just and reasonable rates" (at least under the OEB Act), it is open to the regulator to determine the methods that it uses to evaluate the operating and capital costs that the utility must incur to efficiently provide services to ratepayers. The choice of methods is at the discretion of the regulator. . . . . There is no basis for evaluating the "correctness" of the tribunal's decision."

<https://www.airdberlis.com/insights/blogs/energyinsider/post/ei-item/supreme-court-of-canada-questions-the-presumption-of-prudence>

The Supreme Court then agrees with me, a lowly tax payer, that the OEB is unaccountable and cannot perform the actions that would demonstrate that its choices are in the "public interest" nor ensure an "efficient energy sector". Researching this topic on the OEB website, I was blocked from accessing information pertinent to this application. Given that the OEB has played its role in enabling the energy sector to operate in a way where energy management is compensated in an extremely inefficient and extravagant manner; given that the OEB has, under its regulatory jurisdiction, allowed industry to cause great public health harms while complying with industry interests; given that Ontarions cannot receive the information from the OEB that would allow the public to assess the validity of industry and regulator claims; given that the public has heavily subsidized both Enbridge and the OEB; given that Enbridge and the OEB have created a monopoly, *I shall assert that in order to act in the public interest, the OEB must insist that Enbridge reclaim all the costs of the carbon tax through internal efficiencies.* The OEB cannot pretend this is not within its mandate. The OEB must demonstrate to the public why we should send significantly more money to Enbridge because they invested in opposing regulation and meeting its social and democratic responsibilities?

Bob Dodds, an OEB member and key decision maker, (from an interview for his current OEB position) - "In addition to managing natural gas procurement contracts, one of my engineering firms provided environmental and civil engineering services for many years to a major gas pipeline

company in North America and South America. We were retained by the American Gas Association to produce ....."

Did he divest from the private energy companies he committed to divest from? I couldn't find out the answer to this important question. The OEB website blocked my attempts to gather further relevant information.

Bob Dodds - "If you bring politics into the workplace, you could face a claim of workplace harassment or discrimination, and you want to avoid that. So politics will not enter into any of my duties." Unfortunately, this is inaccurate. **Politics is central to economics.** People committed to endless resource development, like Mr. Dodds, are committed to the traditional resource economics and the politics that repeatedly places an energy giant against the public interest, because the industry refuses to accept its responsibility to operate in an accountable and democratic way. Mr. Dodds will help adjudicate this decision, though there is no evidence he has the experience necessary to bring energy development and delivery into a new century where the energy industry economics *is required* to serve the public interest. The OEB is acting against the public interest by giving a decidedly pro-industry, pro-growth, traditional resource economics individual such vast decision making power at a time where Canada and Ontario are striving to minimize the use and damages from a fossil fuel economy. How is his extravagant salary, which we pay for, in the public interest? How is it efficient? How will the OEB bring forth a decision on this matter which will actually be publicly accountable, accessible and transparent? I don't think the OEB is in a legitimate and democratically authoritative position to be able to deliver upon its mandate.

"Dr. Robert Dodds: Primarily my understanding of business: how to develop resources, how to start a company. Canada overall is a resource-based country. Being able to bring those resources to development, to the benefit of all Canadians, means that you have to understand all the issues involved. A key issue in any business development of a resource is the cost of energy, so I'm quite familiar with that. I have actually operated and managed mines." Perpetuating traditional resource economics enabled by industry-staffed decision regulators are two traditions that must end. The OEB is required to serve the public interest and provide efficient energy to consumers. It is failing to do so, and appears able to hide behind the political apparatus that picks the board.

<https://www.ola.org/en/legislative-business/committees/government-agencies/parliament-42/transcripts/committee-transcript-2018-nov-13>

**Prime Minister Trudeau** said - "We would prefer to work with provinces right across the country, but if they are unwilling to make sure that polluters pay, ....."

<https://www.cbc.ca/news/canada/kitchener-waterloo/carbon-tax-pricing-ontario-federal-1.5043558>

The polluters must be interpreted firstly as the industries that mine the product, create large amounts of pollution, harm public health and use the political levers that allow them to continue to do so while gouging consumers. Homeowners heating their homes, who already turn down their thermostats and put on more clothes, should not be the targets of the Enbridge Gas Inc. carbon tax evasion. Industry used large amounts of public and consumer money to oppose facing liability for its actions. Industry opposes reducing its negative influences. Industry still pretends that its efforts to transform legitimize its narrative of social responsibility while simultaneously creating a public health crisis. In Enbridge's communications, we can see *the absence of air pollution measures and political*

*advocacy that will reduce combustion.* We see industry's communication to the Senate where it repeatedly opposes the government's efforts to bring accountability and democracy to our energy industry. We see industry's uber-wealthy management, opposed to efficiency, lavishly enabled by wealthy, appointed, unaccountable regulators that fail to protect the public interest nor bring any semblance of efficiency to this industry nor its own regulatory functions.

*This is the context of the OEB's decision regarding Enbridge's application.*

**The OEB must insist that Enbridge bear the full costs of the carbon tax and not allow this occasion nor future applications to avoid this responsibility. The OEB must operate in the public interest and demand efficiency from an inefficient, extremely wealthy, publicly unaccountable industry. Having created a monopoly, the OEB must protect customers for a ten year period from any rise in costs.**

From, Michael Tims [REDACTED]

[REDACTED]