

January 28, 2020

Ontario Energy Board
2300 Yonge St., 27th Floor
Toronto, ON
M4P 1E4

Attn: Christine E. Long, Registrar and Board Secretary

By electronic filing and e-mail

Dear Ms Long:

**Re: EB-2019-0159 Enbridge Gas Inc. 2021 Dawn Parkway Expansion
GEC response to Enbridge letter of January 24th, 2020**

On behalf of the GEC we offer the following response to Enbridge's letter to the Board dated January 24th.

We wish to thank Board Staff for alerting us to this matter as intervenors were not copied with the Enbridge correspondence. Part of Enbridge's letter requests what amounts to a ruling on the scope of the proceeding. GEC submits that it is inappropriate for Enbridge to seek a ruling on hearing scope without notice to all parties and that the Board should not engage in such a determination without a proper procedure that ensures fairness to all parties.

Notwithstanding our concern about the procedural appropriateness of the company's request, if the Board does consider that request for a direction on the scope of interventions at this juncture we offer the following comments:

Enbridge's comments on hearing scope:

Enbridge lists the following matters as not within the scope of a Section 90 application:

- asserting that the Project involves increased import and export of fracking gas;
- compliance with government policy related to climate change;

- the appropriate level of investment in energy efficiency or Demand Side Management (“DSM”); and
- the appropriateness of serving foreign markets.

The governing test under Section 90 of the *OEB Act* is ‘the public interest’.

96 (1) If, after considering an application under section 90, 91 or 92 the Board is of the opinion that the construction, expansion or reinforcement of the proposed work is in the public interest, it shall make an order granting leave to carry out the work. 1998, c. 15, Sched. B, s. 96.

GEC submits that all of the topics the company objects to are clearly relevant to a consideration of the public interest. We offer the following comments in response to Enbridge’s specific points:

Re: compliance with government policy related to climate change

Enbridge itself offers evidence of load growth in support of a need for the project so it cannot reasonably suggest that the pipeline expansion will not enable more gas utilization with associated GHG emissions.

The GHG impact of any increased reliance on gas, particularly fracked gas with its associated methane leakage issues, is directly related to compliance with government policy on climate change targets for the natural gas sector (whether the gas is imported from the U.S. or from western Canada). Surely Enbridge cannot contend that consistency of the project, and of the forecasts that underlie it, with stated federal and provincial government policy and international commitments is an irrelevant consideration for the Board when considering the public interest.

At the very least, Enbridge’s case for a need for the project is based on forecasts of demand which must be assessed in the context of government policy on future gas utilization. Accordingly, consistency of those forecasts with such policy is clearly relevant and material to this case.

Re: the appropriate level of investment in energy efficiency or Demand Side Management (“DSM”)

GEC is not suggesting that this proceeding determine what the DSM budget should be. Rather, we wish to test whether DSM has been adequately considered as an alternative and whether it is a reasonable and preferable alternative – both matters squarely within the Board’s jurisdiction and within the scope of Enbridge’s application which includes a consideration of alternatives (whether in the context of a generic approach to IRP or project-specific).

Consideration of the DSM alternative is also clearly relevant to the question of compliance with government policy on conservation and climate change, and to the question of cost and therefore, to the public interest.

Re: asserting that the Project involves increased import and export of fracking gas; and, the appropriateness of serving foreign markets

We note that Enbridge, in its letter, now states:

“As set out in its Application at Exhibit A, Tab 6, p. 15, “The proposed expansion of the Dawn Parkway System is not dependent upon any upstream pipeline projects that connect to the Dawn Hub.” Accordingly, it is incorrect to assert that incremental import or export of “fracking gas” is a natural consequence of the Project.”

We are frankly puzzled by this statement given that Enbridge’s evidence specifically refers to export market demand in support of the project:

“a desire by U.S. Northeast customers to increase access to the liquid market, diverse natural gas supplies and strategic storage facilities at the Dawn Hub (ex-franchise customer demand), is driving the need to construct incremental facilities on the Dawn Parkway System (the proposed Project)”¹

The extent to which the proposal is intended to serve foreign markets is directly relevant to the question of cost and risk allocation and to the appropriate burden to place on Ontario gas consumers. It is also relevant to the need for the project assuming that the ‘public’ in ‘public interest’ is taken to be the Ontario public.

Whether the project will foster increased or maintained use of high GHG impact fracked gas and the consistency of that with the policy context is a matter for evidence and should not be determined based simply on the assertion of the proponent.

Enbridge’s proposal to sever the IRP issue and expedite the process

Enbridge asks the Board to provide its decision in this application by April 30th and to deal with its generic IRP process approval request in a separate proceeding if necessary to meet that target date.

GEC submits that the adequacy of the company’s approach to consideration of alternatives including DSM in the particulars of this case is relevant whether or not the application seeks approval for a generic IRP framework.

¹ Exhibit A, Tab 6, Page 1 of 20

Further, we do not believe it is realistic or appropriate for Enbridge to expect the Board to deal with its application by April 30th, whether the hearing includes a broader consideration of IRP or not. The Board has repeatedly made clear that it expects the company to incorporate an effective review of alternatives in its facilities planning. As early as January 2014 in its EB-2012-0451 Decision on the GTA pipeline application the Board indicated that pending a broader review of IRP:

“...the Board expects applicants to provide a more rigorous examination of demand side alternatives, including rate options, in all gas leave to construct applications.”²

A basic ingredient of any meaningful consideration of alternatives is a planning horizon that allows for consideration and potential implementation of alternatives and a proper review thereof. Enbridge itself notes the Board’s prior directions in this regard:

“Enbridge Gas has included its IRP Proposal with this Application for three reasons:

i) To be responsive to the direction received from the OEB: (a) in recent leave to construct application decisions where the OEB directed Enbridge Gas to provide sufficient and timely evidence of how traditional Demand Side Management (“DSM”) has been considered as an alternative at the preliminary stage of project development;³ and (b) in the OEB’s Report of the Board on the DSM Mid-Term Review where the OEB stated that it expects the natural gas utilities to develop more rigorous, robust and comprehensive procedures to ensure conservation and energy efficiency opportunities can be reasonably considered as alternatives to future capital projects⁴.”

The request for expedited approval in the present application would preclude any meaningful consideration of DSM (or DSM coupled with alternative interim supply alternatives) and effectively ignores the Board’s previous directions in regard to the consideration of alternatives. We ask the Board to ensure that the timeline for its review of the application be adequate for a full and fair consideration of alternatives whether the generic IRP proposal is considered in this proceeding or not.

Enbridge’s request that the Board limit intervenor participatory rights

Referring to the four topics discussed above and the participation of GEC, Environmental Defence and Pollution Probe, Enbridge calls on the Board to “direct these intervenors to limit their submissions, interrogatories and questions (and evidence, if applicable) to relevant issues, excluding the issues set out above.”

² EB-2012-0451, Decision and Order, January 30, 2014, p. 47

³ EB-2018-0097, Decision and Order, January 3, 2019, p. 6.

⁴ EB-2017-0127/0128, Report of the Board: Mid-Term Review of the Demand Side Management (DSM) Framework for Natural Gas Distributors (2015-2020), November 29, 2018, pp. 6, 20-21.

GEC submits that this amounts to a preemptive attempt to scope the proceeding without notice to all parties and without due process. Further, for the reasons outlined above, GEC submits that the substance of the request is ill-founded. In our submission, this request coupled with Enbridge's late application, its request for a written rather than oral hearing, and its request for an unreasonably fast decision, all display an attempt to circumvent meaningful, transparent, and public regulation by the Board.

Enbridge has also asked the Board to "direct GEC, ED and PP to coordinate their submissions, interrogatories and questions (and evidence, if applicable) such that these are presented in an efficient manner."

GEC is a long-standing participant before the Board in regard to gas regulation generally and in regard to DSM in particular. GEC is aware of the Board's concern for regulatory efficiency. We have already been coordinating to reduce duplication of effort and that discussion has included both Environmental Defence and Pollution Probe, amongst others.⁵

Environmental groups should be treated similarly to consumer groups and supply entities appearing before the Board, all of whom are expected to coordinate and avoid duplication. GEC submits that it is inappropriate to single out environmental groups simply because they are in opposition to the application. Indeed, to ensure a thorough review the Board should be particularly cautious about curtailing the participation of parties adverse to any application.

That said, we will certainly be working to avoid duplication of cross-examinations and any evidence that may be offered.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

David Poch

Cc: all parties

⁵ We do note that while Pollution Probe advocates for energy efficiency it does list Enbridge and other gas industry members as 'partners' and funders, which limits the ability of GEC to fully integrate its hearing effort with Pollution Probe. Partners listed on Pollution Probe's webpage include Enbridge, Suncor and Shell. Funders listed for the publication '*What Does the Future Hold for Natural Gas?*' are Enbridge, ATCO, Canadian Gas Association, FortisBC and SaskEnergy