

Elson Advocacy

February 10, 2020

BY COURIER (2 COPIES) AND RESS

Ms. Christine Long

Board Secretary

Ontario Energy Board

2300 Yonge Street, Suite 2700, P.O. Box 2319

Toronto, Ontario M4P 1E4

Dear Ms. Long:

Re: EB-2019-0159 – Enbridge Gas Inc. – Kirkwall-Hamilton Pipeline Project

We are writing on behalf of Environmental Defence to provide comments on the draft issues list. Although we suggest a number of potential revisions below, Environmental Defence believes the draft issues list adequately captures the issues it intends to raise in this proceeding.

Need and Alternatives

Environmental Defence's intervention will focus almost entirely on the questions of need, cost-effectiveness, and alternatives. Those questions are already included in the issues list.

Alternatives Involving Deferral or Wait-and-See Approaches

Environmental Defence intends to raise potential alternatives that Enbridge has not considered, including deferral and a wait-and-see approach. It is not clear whether these alternatives fit under issue 2 or 3. Environmental Defence believes the project should be rejected outright in lieu of alternatives. However, short of outright rejection, Environmental Defence believes the pipeline should at least be deferred based on a wait-and-see approach.

There are always financial risks associated with infrastructure projects. However, those risks are higher today than they were in the past for fossil fuel infrastructure. Climate change is causing accelerating changes in energy use patterns. Regulation and market forces are increasing the attractiveness of alternatives to fossil fuels. In five years, natural gas may not be the preferred option for some customers. In ten years, that is even more likely to be the case. It is even more so in 20 years or longer. That is concerning for new pipelines as they are long-term investments.

For example, increased carbon pricing could cause consumers to convert to efficient electric heat pumps instead of natural gas furnaces.¹ This could also happen as the result of any number of

¹ Canada's Ecofiscal Commission, Bridging the Gap: Real Options for Meeting Canada's 2030 GHG Target, November 2019 (LINK).

other factors, such as subsidies for low-carbon alternatives, increased economies of scale for low-carbon alternatives, technological advancements, increased accounting of fugitive emissions associated with natural gas fracking and transmission, and so on.

The financial risks associated with continued investments in fossil fuels are widely acknowledged by financial leaders. For example, Mark Carney recently warned that global warming could render the assets of many financial companies worthless because they have been too slow to cut investment in fossil fuels.²

If natural gas use could decline in the near future, it seems unwise to invest \$200 million in fossil fuel infrastructure. If approval for the project is not denied, in the very least we believe it should be deferred until the impact of market forces and government regulation relating to climate change is better known. The cost associated with deferral, if any, is surely worth avoiding an investment in infrastructure that quickly becomes redundant.

It is not clear how this kind of wait-and-see alternative fits in the issues list. Issues two and three divide the alternatives into those that would and would not involve building a pipeline. A wait-and-see approach may or may not ultimately involve building a pipeline. Although an amendment to the issues list may not be strictly necessary, to provide clarity, we recommend that issue three be revised to cover alternatives that “would not involve building a new pipeline or would defer the decision into the future.”

Subsidy to U.S. Utilities

Environmental Defence recommends adding the following issue:

Are contracts to transmit more gas to the U.S. a valid need to justify the project?

Enbridge states that this project is needed in part to satisfy contracts to transmit more gas to the United States.³ Although those contracts may be relevant to a risk analysis and financial costs/benefit analysis, they do not appear to be relevant to need. It is hard to explain why Ontario consumers need to pay for a pipeline to export more gas. It also is unclear whether increased exports of gas are a valid objective for the Board to consider as a driver for a project funded by Ontario ratepayers.

Environmental Defence also recommends adding the following related issue, either separately or combined with the above issue:

Should Ontario gas ratepayers subsidize the transmission of gas to the U.S.?

There are two kinds of potential subsidies at issue. First, the project has a profitability index that is far less than one (0.35).⁴ Its revenues will be less than its costs. As a result, the rates of

² Financial Post, *Global warming could render the assets of many financial companies worthless, Mark Carney warns*, December 30, 2019, ([LINK](#)).

³ EB-2019-0159, Exhibit A, Tab 6, p. 5-7.

⁴ EB-2019-0159, Exhibit A, Tab 8, p. 3.

existing Ontario ratepayers must be raised by approximately \$120 million to pay for this project.⁵ To the extent that the project is justified on the need to satisfy export contracts, those contracts are being subsidized by Ontario gas consumers.

Second, under Enbridge's proposal, Ontario gas consumers will be liable for financial risks, such as the risk of lower revenue from lower-than-forecast gas demand and/or turn-back by U.S. utilities. Bearing financial risk is a form of financial subsidy.

Enbridge's evidence confirms "there is some risk of capacity turn-back from U.S. Northeast utilities and other smaller shippers."⁶ It also notes that U.S. regulators have been "denying pipeline expansion projects" and that this is expected to continue "indefinitely."⁷ If U.S. regulators are denying pipeline applications, why should Ontario consumers opt to build capacity and incur financial risks on behalf of U.S. customers?

If the Board determines that this project would involve a subsidy that is not in the interest of Ontarians, this could be a factor weighing against approval. It could also be relevant to a condition requiring that U.S. customers be charged rates sufficient to eliminate any subsidy.

Environmental Defence requests (a) that the above two issues be added or (b) confirmation that they are already included under other issues. For example, these issues could be considered to be a subset of issue 4 regarding the filing guidelines. The guidelines require an analysis of all "public interest factors," which presumably includes an assessment of whether exports are an appropriate driver.

Jurisdiction

Environmental Defence proposes adding the following issue:

What jurisdiction does the Ontario Energy Board and/or the Canadian Energy Regulator have over the proposed project in light of the out-of-province impacts and aspects?

This project appears to have significant out-of-province impacts. For example:

1. One potential alternative could involve, at least for the interim, seeking gas supply from Western Canada via the TransCanada Mainline. This has a number of federal implications. For example, the project would secure gas produced in the United States in lieu of gas produced in Canada.
2. Securing supply from the United States in lieu of supply from the TransCanada Mainline also raises federal issues because the Mainline is federally regulated by the Canadian Environmental Regulator (see map below). Taking supply away from the Mainline may have implications for issues under CER jurisdiction, such as potential impacts on gas transmission rates on the Mainline arising from the foregone revenue

⁵ *Ibid.*

⁶ EB-2019-0159, Exhibit A, Tab 5, Attachment 1, p. 36.

⁷ EB-2019-0159, Exhibit A, Tab 5, Attachment 1, p. 36.

on the Mainline. Increased transmission rates on the Mainline would impact customers in Ontario and in other provinces.

3. Enbridge justifies the project based on a purported need to satisfy new contracts to export more gas to the United States.⁸ This purported justification is clearly extra-provincial.



Securing gas supply from the United States instead of the TransCanada Mainline may increase costs for customers outside of Ontario as the costs for the Mainline would be borne to a greater degree by out-of-province customers. This is potentially a national issue under the jurisdiction of the CER. A national focus may significantly impact a cost-benefit analysis. An analysis based on

⁸ EB-2019-0159, Exhibit A, Tab 6, p. 5-7.

a national focus may determine that greater utilization of existing infrastructure (i.e. the TransCanada Mainline) is best for consumers as a whole (at least in the interim until demand can be reduced through increased efficiency). The Board's guidelines speak of an "assessment of the impacts on Ontario consumers."⁹ Perhaps the CER has exclusive or concurrent jurisdiction with respect to the project in light of the potential impact on consumers outside of Ontario.

We also note that the *Filing Guidelines on the Economic Tests for Transmission Pipeline Applications*, state that: "transmission pipelines are defined as any planned or proposed pipeline project that would provide transportation services to move natural gas on behalf of other shippers within Ontario."¹⁰ The current project is being justified based in part on a purported need to move natural gas outside Ontario and to import gas from different sources outside Ontario.

Environmental Defence is not yet taking a position on this jurisdictional issue. However, we believe this issue should be considered.

Upstream Gas Extraction Methods

Environmental Defence will not be pursuing the issue of gas extraction methods in detail in this proceeding. Environmental Defence believes other issues will be much more determinative, such as whether the project is needed and whether it is cost-effective. However, to answer the Board's question, we believe it would be incorrect to say that gas extraction methods are an irrelevant consideration outside of the scope of the Board's jurisdiction to assess whether the project is in the "public interest."

Environmental Defence believes upstream gas extraction impacts are already implicitly included in the issues list. For example, upstream gas extraction methods may be one of many factors relevant to a comparison of alternatives (issues 2 and 3). Fracked gas from the United States may have a significantly higher carbon footprint compared to alternatives that would secure gas from Western Canada. The higher carbon footprint is negative in its own right and could also raise financial risks associated with future government regulation of carbon emissions and/or fracking. For example, if fugitive emissions from hydraulic fracturing are appropriately priced into the cost U.S. gas in the future, this would negatively impact the project economics. It is not reasonable to assume that this externality will remain unpriced forever. This is an important financial consideration relevant to the economics of the project.

The higher carbon footprint from U.S. gas also makes a DSM alternative comparatively more attractive as DSM has no carbon footprint. As an alternative, DSM helps to mitigate risks relating to climate change. If those risks are higher because the gas to be imported has a higher footprint, the benefits of DSM increase.

⁹ EB-2012-0092, *Filing Guidelines on the Economic Tests for Transmission Pipeline Applications*, February 21, 2013, p. 3.

¹⁰ EB-2012-0092, *Filing Guidelines on the Economic Tests for Transmission Pipeline Applications*, February 21, 2013, p. 1.

Ultimate Downstream Consumption

The ultimate downstream consumption is relevant in a number of ways. First, it is relevant for the Board to consider whether the project is purportedly driven by forecast consumption in Ontario versus consumption in the United States. For further details see page 1 of this letter. It is very different to cause Ontario ratepayers to incur a \$120 million rate increase for gas they will consume versus gas that will be exported elsewhere.

Second, consumption will result in carbon emissions. Those emissions are relevant to a comparison of alternatives in numerous ways. Carbon emissions have a cost and could be subject to higher prices in the future. Similarly, a DSM alternative avoids carbon risks associated with investments in fossil fuel infrastructure (see comments above by Mark Carney).

We note that the scope as defined by the issues list currently includes energy efficiency and government policies, including the government's greenhouse gas policies. This is clear from the issues list ruling in the previous Dawn-Parkway system expansion case (EB-2013-0074/0043/0451). In that case, Environmental Defence wished to raise whether the project was consistent with Ontario's greenhouse gas reduction policies.¹¹ The Board modified the issues list to confirm that this was within scope by adding reference to the Board's statutory objectives.¹² The draft issues list for this proceeding includes the same wording.¹³ The Board also explicitly held in EB-2013-0074/0043/0451 that energy efficiency and government policy are relevant:

In this way, the Board confirms that all of its statutory objectives, including that related to energy efficiency, energy conservation and government policy, are appropriate considerations in these proceedings.

The Board also confirms that considerations of energy efficiency and energy conservation are appropriately included in an examination of alternatives...¹⁴

Therefore, we do not believe a change to the issues list is required.

I have attached correspondence from the regional climate agency for the Greater Toronto Hamilton Area, The Atmospheric Fund, indicating its support of the above. Please do not hesitate to contact me if anything further is required.

Yours truly,



Kent Elson

¹¹ EB-2013-0074/0043/0451, *Transcript*, Issues/Process Day Volume, April 30, 2013, p. 44, Ins. 19-23.

¹² EB-2013-0074/0043/0451, *Transcript*, Issues/Process Day Volume, April 30, 2013, p. 45, Ins. 1-13.

¹³ See Issue 1.

¹⁴ EB-2013-0074/0043/0451, *Transcript*, Issues/Process Day Volume, April 30, 2013, p. 45, Ins. 6-13.

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

February 10, 2020

**Re: EB-2019-0159 2021 Dawn Parkway Expansion Project & IRP Proposal
Letter of Support for Environmental Defence's Response to Enbridge Letter of Comment**

Dear Ms. Long:

TAF supports the recommendations and positions espoused in the Letter of Comment dated February 10, 2020, submitted by Environmental Defence regarding the scope of the Proceeding – Leave to Construct Application.

As the regional climate agency for the Greater Toronto Hamilton Area, TAF is strongly in favour of including the consideration of deferral and a wait-and-see approach alternatives that may offer more favourable environmental and financial outcomes over the long-term. This consideration – and the other considerations raised by Environmental Defence – must be taken into account in order to protect ratepayer interests and ensure energy transmission infrastructure decisions are rationally aligned with provincial policy goals, including greenhouse gas reduction targets.


Please refer to Environmental Defence's Letter of Comment for a detailed rationale for the inclusion of these issues.

Thank you for your consideration in reviewing TAF's comments.

Sincerely yours,



Bryan Purcell
VP Policy & Programs, The Atmospheric Fund



The Atmospheric Fund (TAF) is a regional climate agency that invests in low-carbon solutions for the Greater Toronto and Hamilton Area (GTHA) and helps scale them up for broad implementation. Please note that the views expressed in this submission do not necessarily represent those of the City of Toronto or other GTHA stakeholders. We are experienced leaders and collaborate with stakeholders in the private, public and non-profit sectors who have ideas and opportunities for reducing carbon emissions. Supported by endowment funds, we advance the most promising concepts by investing, providing grants, influencing policies and running programs. We're particularly interested in ideas that offer benefits in addition to carbon reduction such as improving people's health, creating local jobs, boosting urban resiliency, and contributing to a fair society.