

February 10, 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 Submissions on Scope**

Pursuant to Procedural Order #1 in this matter GEC provides the following comments on the draft issues list and the two additional potential topics noted by the Board.

Comments on the 10 enumerated issues in the Draft Issues List:

GEC submits that all the topics listed in the draft list are relevant and appropriate. Below, we offer additional comments specific to issues 1, 3, 5, and 6:

1. Is the proposed Project needed? Considerations may include but are not limited to natural gas demand, reliability of service, security, flexibility and diversity of natural gas supply, and operational risk as well as the OEB's statutory objectives.

As we noted in our January 28th response to Enbridge's letter of January 24th, Enbridge's case for a need for the project is based in part on forecasts of demand which must be assessed for reasonableness in the context of federal and provincial government policies on future gas utilization, including climate change related goals. Accordingly, consistency of those demand forecasts with such policies is clearly relevant and material to this case. GEC submits that the inclusion of 'natural gas demand' in the draft issue is adequate and necessary to cover that topic.

3. What are the alternatives to the proposed Project that would not involve building a new pipeline? Are any of these alternatives preferable to the proposed Project?

Enbridge purports to have considered (and rejected) DSM as a workable alternative. Clearly the proponent thereby acknowledges that this matter is relevant. GEC will want

to test the company's conclusions and we submit that the inclusion of draft issue 3 is therefore both relevant and appropriate.

We do note that in its January 24th letter Enbridge suggested that GEC was seeking a consideration of "the appropriate level of investment in energy efficiency or Demand Side Management ("DSM")". To reiterate, GEC is not suggesting that this proceeding should 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).

5. Are the costs of the Project and rate impacts to customers reasonable and acceptable?

GEC submits that this issue should be reworded as:

5. Are the costs **and risks** of the Project and rate impacts to customers reasonable and acceptable?

Risks are a critical consideration. For example, in an era of climate crisis it may be appropriate for the Board to consider whether an investment in gas infrastructure with a 30 or 40 year payback increases the risk of stranded assets as the economy is weaned off GHG emitting fuel forms.

6. Does the Project's environmental assessment meet the OEB Environmental Guidelines for Hydrocarbon Pipelines?

GEC notes that the Board in its *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* states:

"The OEB must be satisfied that the application is in the public interest before it will authorize the development of the facilities. In arriving at its decision, the OEB generally considers a number of factors including the need for the project, its economic feasibility and the environmental impacts as described in these Guidelines. ***Environmental impacts are broadly defined to include impacts on all components of the environment.*** (emphasis added)

In section 4.3.9, concerning Air Emissions and Noise, the Guidelines include:

"Air emissions and their environmental impacts should be compared to all local, provincial and federal regulations, ***policies*** and guidelines." (emphasis added)

Thus, any increase in greenhouse gas emissions attributable to the project would appear to be a relevant consideration for the Board as would the policy context which includes government policies on GHG emissions.

Accordingly, we presume that there should be no dispute as to whether the environmental impacts of the proposal are to be considered in this proceeding. However the issue as worded simply asks whether the guidelines have been

addressed, not whether the environmental impacts are acceptable. Accordingly, GEC submits that the issue should be reworded to read as follows:

6. Does the Project's environmental assessment meet the OEB Environmental Guidelines for Hydrocarbon Pipelines ***and are the expected environmental impacts acceptable in the context of government policy goals and given the other costs and benefits, and available alternatives?***

Comments on the two potential added issues:

The Board has requested comment on the following matters:

Whether the scope of the Leave to Construct proceeding should include:

- i. impacts related to the methods of upstream natural gas extraction (such as hydraulic fracturing) for natural gas that will be transported through the pipeline
- ii. impacts related to the ultimate downstream consumption of the natural gas transported through the pipeline.

As we have noted above, the Board's *Environmental Guidelines* indicates that "Environmental impacts are broadly defined to include impacts on all components of the environment."

Unfortunately the impact of pollutants on the natural environment and the health and well-being of Ontarians is not contained by borders. This is especially true for greenhouse gasses. That is not to suggest that the Board in any sense is charged with regulating emissions or the utilization of polluting substances outside Ontario. But just as the Board should not turn a blind eye to a utility proposing to rely on cheaper supplies produced abroad with slave labour, the Board should be cognizant of any significant *inadequately regulated* environmental impacts that choices in Ontario precipitate even though the emission may emanate from abroad, and this is particularly so when those impacts don't respect provincial borders. Climate change does not respect provincial borders.

Accordingly, in regard to both of these issues GEC submits that there is a public interest in avoiding projects or activities in Ontario that will significantly increase GHG emissions in another jurisdiction where the other jurisdiction has not committed to a cap on its emissions consistent with internationally supported goals and policy choices subscribed to by Ontario and Canada (as is certainly the case for the U.S.). In several court decisions it has been found that the Board has been granted a wide public interest jurisdiction in regard to its regulation of gas rates and infrastructure.¹ *A fortiori*, this must be applicable in the case where there is no other regulator overseeing the

¹ See for e.g.: *Union Gas Ltd. v. Township of Dawn Tecumseh Gas Storage Ltd. v. Township of Dawn*, 1977 CanLII 1042 (ON SC): "The Legislature intended to vest in the Ontario Energy Board the widest powers to control the supply and distribution of natural gas to the people of Ontario "in the public interest" and this must be classified as special legislation."

proposed project. Thus, while the Board must have regard to the objectives listed in the Act, in the exercise of its regulatory function in pursuit of those objectives it cannot ignore broader public interests.

The matter of downstream impacts comes more into focus if it is demonstrated during the proceeding that if Ontario's and Canada's climate change goals are respected there is no domestic need for this pipe (as GEC may argue based on the evidence). If so, to what extent is it appropriate for Ontarians to incur cost, risk, and local environmental impacts to lower the price of gas in New England?

Accordingly, GEC submits that certain aspects of these topics are relevant to the Board's considerations but that the topics could be refined to focus the hearing better. GEC suggests the following rewordings:

- i. To what extent will the project increase GHG emissions in jurisdictions that have not committed to emission constraints commensurate with international goals that Canada has endorsed or with Ontario policy goals?
- ii. To what extent are there costs, risks or environmental impacts that affect Ontario due to the expected utilization of the proposed facilities to transport gas to customers outside Ontario?

Attached please find a copy of correspondence from The Atmospheric Fund in support of these submissions.

All of which is respectfully submitted,

Sincerely,

A handwritten signature in black ink, appearing to read "David Poch". The signature is written in a cursive style with a large, stylized initial "D".

David Poch

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 Green Energy Coalition'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 Green Energy Coalition 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 issue of whether the potential expected environmental impacts, and risks, are acceptable in the context of government policy goals in comparison to other existing alternatives. This consideration – and the other considerations raised by Green Energy Coalition – 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 Green Energy Coalition'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.