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February 21, 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

Counsel for Enbridge in their February 20th letter has filed lengthy reply submissions in support of the company's positions on the scope of issues in this matter. As part of that reply, Enbridge has argued that if intervenors are asking that forecast risks associated with climate change policy or with capacity turn backs be issues those intervenors are obliged to support their submissions at this stage with evidence of those risks. We wish to respond briefly to that assertion as it raises a procedural element.

In regard to climate change policy risks, the Board is entitled to take judicial notice of Canada's international commitments and the Ontario government's policy commitments[1]. Enbridge does not deny the risks flowing from those policies, it merely submits that the outcome is speculative. We might ask what forecast of the outcome from a risk isn't speculative? In essence the company suggests that intervenors must file evidence quantifying such risk to assert that the risks are real and an appropriate issue. In our submission it is not appropriate to impose a requirement on intervenors to provide further evidence of the detailed implications of those policy commitments in what is a preliminary procedure to settle the issues list. Such evidence and detailed analysis would only be appropriate in a hearing on the issue. The Board's procedural order asked for written submissions, it did not ask for, or allow for, the filing of evidence. If the Board accepts Enbridge's argument that such evidence is required at this stage, then we would submit that the Board must allow a process for potential intervenors to first obtain a ruling on status, to obtain a ruling on cost eligibility, and to be given an opportunity to prepare and file evidence.

[1] And see Environmental Defence's correspondence in response to EGI's reply where several evidence references are provided and the test in *Horton v. Joyce* is distinguished.

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In regard to risks such as potential turn back, ironically, Enbridge cites ICF evidence addressing the very issue to refute such assertions. We cannot see how such risks can be of sufficient concern that Enbridge's experts felt the need to comment on them but that they are somehow not relevant for the hearing. We submit that where an applicant has filed evidence addressing an issue that is *prima facie* sufficient to demonstrate that the there is indeed a live issue before the Board. To ask intervenors to debate and provide evidence in response at this stage would, in our submission, impose an unmanageable burden on intervenors and would amount to procedural unfairness.

All of which is respectfully submitted,

Sincerely,

David Poch