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

April 16, 2020

**Re: EB-2019-0188 North Bay Community Expansion Project
Pollution Probe Submission**

Dear Ms. Long:

Please find enclosed Pollution Probe's Submission regarding the above noted proceeding.

Respectfully submitted on behalf of Pollution Probe.

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cc: Asha Patel, Enbridge (email via EGIRegulatoryProceedings@enbridge.com)
Tania Persad, Senior Legal Counsel, Enbridge Regulatory (via email)
Interested Parties (via email)
Richard Carlson, Pollution Probe (via email)

ONTARIO ENERGY BOARD

North Bay Community Expansion Project

POLLUTION PROBE SUBMISSION

April 16, 2020

Submitted by: Michael Brophy
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Background

Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB or Board) for approval to construct approximately 27 kilometres of natural gas pipelines and associated facilities to serve a portion of the City of North Bay. Enbridge Gas is also seeking approval pursuant to section 36 of the OEB Act, to charge a System Expansion Surcharge of \$0.23 per cubic metre (m³) for a term of 40 years, to all new customers taking natural gas distribution service from the proposed pipeline, and to any future extensions of the pipeline.

The OEB issued Procedural Order No. 1 on December 11, 2019 and Pollution Probe was granted Intervenor status in the proceeding. Board Staff, Environmental Defence and Pollution Probe submitted Interrogatories to Enbridge Gas prior to the March 12, 2020 deadline and Enbridge Gas provided its Interrogatory responses on March 27, 2020. Enbridge Gas filed its Argument in Chief on April 6, 2020 and filed updated interrogatory responses on April 14, 2020.

This following is the written submission from Pollution Probe in relation to this proceeding.

Overview

Pollution Probe works with consumers, communities, policy makers and is an active supporter of community energy planning that provides prudent cost-effective energy options to communities in Ontario. Pollution Probe has supported access to natural gas when it reduces consumer energy costs, greenhouse gas emissions and aligns with Provincial policy and local community energy planning.

Enbridge Gas's request for OEB project approval to serve the community of North Bay is supported by a \$8.7 million grant under the Province of Ontario program to expand access to natural gas to communities. Based on Enbridge's request, consumers in North Bay that attach to this project will also pay approximately \$2.54 million of incremental contribution to the project over 40 years in the form of a System Expansion Surcharge (SES). The requirement for such large Ratepayer subsidies/grants indicate that this project is stretching the limits of natural gas system expansion to the point where other energy options such as heat pumps may be more cost effective. Enbridge also requested OEB approval to expand the SES beyond this project to all consumers that attach to any future project in the project area.

At the core of Provincial policy direction to expand natural gas distribution is the intent to provide clean cost-effective energy options to all Ontarians and to ensure that funds are spent in a prudent cost-effective manner. The North Bay project is more expensive than other typical community expansion projects and has a much lower than normal attachment forecast over the life of the assets, resulting in a low PI without the grant and SES. In EB-2019-0255, Pollution Probe suggested that the most cost-effective way to leverage Provincial grant funding and reduce the need for a customer surcharge would be to rank all potential community expansion projects using benefit-cost metrics. That approach would provide natural gas to the most Ontarians for the lowest cost and promote more cost-effective options (e.g. heat pumps) for areas where the costs far exceeded the benefits for expanding natural gas. This proposed project ranks low on a cost-benefits basis to Ontarians due to the high costs (Provincial grant + SES) and its low customer attachment forecast.

This application is focused on the project as defined by the application and not the most efficient portfolio approach. Therefore, Pollution Probe has focused its comments below within the scope of this proceeding. Pollution Probe has identified several opportunities to reduce impacts related to the project and reduce the costs to Ratepayers, while aligning with Provincial policy and OEB requirements.

In Pollution Probe's view, prudent expansion of natural gas within the City of North Bay must include:

- Taking all reasonable planning and outreach efforts to spend Ratepayer funds efficiently (i.e. maximize density of new homes and businesses per dollar spent).
- Identification of a clear boundary between the assets included in the project for OEB approval and all other future assets which are not specifically defined in the application.
- Minimizing additional consumer costs such as the System Expansion Surcharge (SES), to the extent possible.
- Compliance with the OEB's Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario to effectively identify and mitigate environmental and socio-economic impacts during planning, construction and operation of the proposed project.
- Applying all reasonable programs and tools to reduce costs (i.e. gas bills) to consumers including promotion and education of DSM opportunities while consumers are making fuel switching decision (i.e. during project planning and implementation).
- Aligning infrastructure planning with Provincial policy, including the goal to achieve all cost-effective DSM and reduce greenhouse gas emissions in alignment with Ontario's Environment Plan.

Project Costs and Feasibility

Enbridge indicates that “the total estimated 10-year costs for the Project is approximately \$10.1 million. This cost includes all pipeline and station costs of \$8.1 million and an estimated cost of services of \$2.0 million for the first 10 years of the Project. The government funding of \$8.7 million will offset the year one cost for a net capital investment by Enbridge Gas of \$1.4 million over the 10 years”¹. Enbridge is also requesting that the Board approve a System Expansion Surcharge (SES) of \$0.23/m³ for the Proposed Project Area for all customers that attach. Based on the evidence filed², Enbridge will collect a approximately \$2.54 million in SES revenue over the 40 year period.

This project includes a very low attachment rate (approximately 33%) which impacts several aspects of the project including the System Expansion Surcharge (SES) that Enbridge has requested. In its response to Board Staff IR#1, Enbridge indicates that it has oversized portions of this project to enable additional customer growth not included in its evidence or project economic feasibility (i.e. PI). An application requires inclusion of all relevant information to match proposed facility cost estimates to the proposed assets and demands assumptions. It is not normal practice to request approval for excess capital expenditures not supported by specific evidence in the application. Enbridge could have provided relevant evidence if it believed that there was a sound basis for the excess capital investment. However, the approvals sought from the Board

¹ EB-2019-0188 Exhibit B, Tab 1, Schedule 4

² Total SES Revenue from EB-2019-0188 Exhibit B Tab 2 Schedule 6

can only be based on the evidence put forward in this proceeding and there was no evidence put forward to support approval of excess capital at this time. Any excess capital costs in this project go directly on the bills of customers in the form of the SES revenue requirement. A reduction of 3.5 kilometers of 4 inch pipeline to 2 inch to serve the needs outlined in Enbridge's evidence result in a decrease in project costs to \$9.5 million, or a reduction of just over 5%. Those updated project costs assume that the contractor rates per metre would remain the same. It is likely that contractor costs and schedule will also decrease for smaller diameter pipe resulting in a cost savings greater than 5%. Ratepayers could benefit from these reduced costs in the form of a reduction of \$600,000 to the SES amount collected (reduce the rate of the SES or the term to less than 40 years). Pollution Probe also recommends that the Board apply the SES mechanism recently approved in EB-2019-0187 (Saugeen Community Expansion Project) for consistency and fairness to Ratepayers under the new Provincial expansion grant program. This would also cap the total SES revenue, project costs and indicate that any project overages are not recoverable from Ratepayers unless otherwise approved by the Board. This will protect Ratepayers, reduce costs and provide consistency under the Provincial policy to expand natural gas distribution. Should the Board decide not to apply SES conditions consistent with EB-2019-0187 which provide the best manner to protect Ratepayers, Pollution Probe would support applying the additional conditions included by Board Staff in Exhibit I.STAFF.11 (Board Staff IR#11).

Scope of Project and Approvals Sought

Enbridge's application indicates that capital spending for the Leave to Construct project request will occur over the next 10 years³. This differs from the construction schedule showing an in-service date of November 2021⁴. It is likely that the schedule put forward could be delayed due to COVID-19 impacts that are forecasted to persist in 2020. Pollution Probe understands that all facilities detailed in the evidence (i.e. 27 kilometres of small diameter pipeline with a total cost of \$10.1 million) make up the project and are subject to OEB approval. Enbridge confirmed that understanding in its argument that was filed April 6, 2020. In response to Pollution Probe Interrogatory #2 Enbridge indicated that "the target in-service date of fall 2020 refers to the main pipeline and relies upon the LTC approval, as well as all other permits being received". Enbridge also indicates that it "proposes to spend approximately \$1.45 million of capital from year 2 through year 10"⁵. It is unclear to Pollution Probe based on this discrepancy if Enbridge intended to exclude a portion of the \$10.1 million from its request or if all project infrastructure and costs to 2030 (or 2060+ for purposes of the requested SES) are included in the application. This is particularly important to ensure clarity on how those expenditures will be treated from an OEB approval, customer billing and regulatory accounting perspective (e.g. revenues/costs included in the feasibility, revenues/costs included in the SES, in-service date(s), amounts and timing for rate base, etc.), and how OEB Conditions of Approval would be treated should the Board approve the project. Pollution Probe suggests that Enbridge provide clarity in regard to these issues in its

³ EB-2019-0188 Exhibit B, Tab 2, Schedule 5b

⁴ EB-2019-0188 Exhibit B, Tab 2, Schedule 10

⁵ EB-2019-0188 Exhibit I.PP.7 (Response to Pollution Probe IR#7)

Reply Argument. Additionally, Enbridge proposes to apply the SES on any future projects (beyond those included in this application) in the project area without any further notification or approvals. Pollution Probe believes that the review and any approval by the Board should only apply to the project elements explicitly included in the application and should not extend to all potential future expansion.

Pollution Probe does not support collection of an SES amount in excess of that needed to bring the project to a PI = 1.0. Now that Union and EGD have merged and are expanding natural gas distribution under the new Provincial policy and grant mechanism, it makes sense to apply the same SES approval recently granted to Enbridge in EB-2019-0187 (Saugeen Community Expansion Project) to this project. This will cap the SES amount recoverable for the project and reduce energy costs for consumers if project costs are reduced (i.e. a lower SES amount is required to meet the 1.0 PI threshold). Requiring Enbridge to suspend the SES once the project has met a PI=1.0 (and to a maximum of 40 years) is responsive to consumer needs and in alignment with the Provincial policy intent to reduce Ontarians energy costs.

Leave to Construct approval is typically granted with an expiry period 12 months following a Board decision. As outlined in Board Staff IR #10, there are also typical requirements including a post-construction report due within 15 months of the in-service date. It is unclear to Pollution Probe how Enbridge would be able to meet any OEB requirements if the project is proposed to continue for a period of ten years (or potentially more if delayed). It would be impractical to assess environmental and socio-economic impacts due to the project and complete a post-construction report a decade after the project commences.

Community Outreach and DSM

New community expansion provides one of the most cost-effective opportunities to achieve energy efficiency and Enbridge indicates that all DSM programs will be available to new customers. Although Enbridge acknowledges the benefits of its DSM programs to reduce costs to new customers, it did not include any DSM educational information in its community outreach or survey materials. This is a lost opportunity to provide valuable information at a critical decision point for consumers.

The proposed ten-year attachment rate for this project is very low (i.e. 33%) and the low rate has impacted project financials and costs to Ratepayers (via the project grant and SES). Inclusion of targeted DSM program materials in all information and outreach to the community could have significantly increased community engagement and attachment rates. Pollution Probe recommends that targeted DSM materials be shared with the community if the OEB approves the project. Enbridge Gas indicated that it “plans to hold additional public information sessions in 2020 at which time informational materials explaining existing DSM programming available to Enbridge Gas customers will be made available to attendees”⁶. Providing DSM information after a potential

⁶ EB-2019-0188 Exhibit I.PP.4 (Response to Pollution Probe IR#4)

customer has selected a contractor, equipment and submitted their service application is too late⁷ and Pollution Probe suggests that this should be done earlier in the process.

Not including these considerations during project planning and implementation results in higher costs to consumers than is necessary. It also does not consider the Province's Environment Plan which directly aligns with the OEB's policy directive to pursue all cost-effective DSM. This is particularly relevant to this project since consumers will need to hire contractors and change equipment as part of the fuel switching process. Enbridge's DSM programs can save the projected 134 new customers over 2.2 million cubic meters of natural gas usage⁸ based on average saving estimates. Energy costs are more top of mind now than ever given the COVID-19 impacts to consumers. A dedicated and specific effort for this community would yield higher than average DSM results. In Pollution Probe's view it is not prudent to plan and execute a new community expansion project without maximising all DSM programs.

Environmental and Scio-Economic Impacts

Enbridge completed an internal Environmental Protection Plan (EPP) and filed this with its application. The report raised some confusion and concern since the EPP does not appear to conform with the OEB's filing requirements for a Leave to Construct, more specifically the requirements outlined in the OEB's Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 2016 (Environmental Guidelines). Enbridge indicated that an EPP meets the "intent" of the Environmental Guidelines (rather than following all requirements outlined in the Guidelines⁹) and was used consistent with past practice related to smaller construction projects. To reduce confusion Enbridge committed to complete an Environmental Report (ER) for all future applications¹⁰. The requirements in the Environmental Guidelines apply to all Leave to Construct applications and there is significant variation in what Enbridge has filed in Leave to Construct applications to assess environmental and socio-economic impacts. Although smaller diameter projects may have less impacts, this is not always the case. Routes like this one through environmentally sensitive areas, near fish habitat or other ecological systems, and areas of high impact (e.g. blasting of rock) can have significant environmental and socio-economic impacts.

In response to interrogatories Enbridge filed several supplemental studies including an assessment of some of the natural heritage features in a report conducted by Stantec entitled 'Natural Gas Community Expansion Project, Natural Heritage Study: North Bay' and Hydrogeological Study and Spill Plan. The Natural Heritage Study included a desktop review of the pipeline route and outlined several environmentally sensitive features along the proposed pipeline route including wetlands, wildlife habitat and species of conservation concern. It is unclear why these important studies and

⁷ EB-2019-0188 Exhibit I.PP.3 (Response to Pollution Probe IR#3b)

⁸ EB-2019-0188 Exhibit I.PP.13 (Response to Pollution Probe IR#13)

⁹ EB-2019-0188 Exhibit I.PP.5 (Response to Board Staff IR#5)

¹⁰ EB-2019-0188 Exhibit I.STAFF.7 (Response to Board Staff IR#7)

additional information provided as a result of interrogatories was not filed in the original application or included in an Environmental Report. An assessment of the impact on those significant features and related mitigation plans are a fundamental requirement in the OEB's Environmental Guidelines.

It appears that the EPP does not comply with the Environmental Guidelines, even with the inclusion of the supplemental reports filed in response to interrogatories. Additionally, the EPP and supplemental Stantec report identify several significant issues where mitigation plans and approvals are still outstanding. For example, neither report addresses impacts and detailed mitigation plans for high impact activities such as rock excavation and blasting which will significantly impact residents and habitat along the route. The Stantec report also indicates that permits for tree cutting will be determined prior to construction. The Surficial Geology Map provided by Stantec¹¹ indicate bedrock along the majority of the pipeline route including at the location of several watercourse crossings. For blasting near fish habitat and if directional drill of watercourses is not possible due to rock, permits would be required from Fisheries and Oceans Canada. In its letter dated May 30, 2018 the Ministry of Environment, Conservation and Parks (MECP)¹² specifically requests the need for more specific mitigation plans related to blasting. If approved in its current state, variations from the proposed construction approach and schedule will be needed and likely result in variations to the OEB approval during construction.

It is also a concern that responses from most permitting agencies and members of the Ontario Pipeline Coordination Committee (OPCC) are still outstanding. If the Board approves the project without the details from those agencies, Enbridge will still need to follow-up with those agencies to determine required mitigation and acquire appropriate approvals and permits. As noted above, it also appears that there are several permits missing from the list¹³ provided by Enbridge and that the missing permits have not yet been applied for. If permits are delayed or withheld it would impact the ability to meet the project schedule filed with the Board.

Enbridge indicates that project costs for this project are higher than other similar projects due to features along the proposed pipeline¹⁴. One of the reasons Enbridge provided for higher costs is the increased presence of rock along the route. MECP explicitly flagged groundwater and wells as a significant concern for this pipeline route and the potential for blasting heightens the impact from construction. Even small diameter pipelines that require blasting can have a large impact on building foundations, well and wildlife along the route. This would require additional studies and potentially permitting in advance of construction.

Enbridge Gas indicated that it will adhere to the recommended mitigation measures in the EPP and Stantec Report during construction. The Stantec report indicates that route

¹¹ EB-2019-0188, Exhibit I.PP.12, Attachment 1, Page 8 of 35 (Response to Pollution Probe IR#12)

¹² EB-2019-0188, Exhibit I.PP.12, Attachment 1, Page 18 of 35 (Response to Pollution Probe IR#12)

¹³ EB-2019-0188 Exhibit I.PP.2 (Response to Pollution Probe IR#2)

¹⁴ EB-2019-0188 Exhibit I.STAFF.3 (Response to Board Staff IR#3)

specific mitigation plans are still outstanding and will need to be completed prior to construction. Any approval should be contingent on completing all outstanding studies and mitigation plans. Enbridge should also follow all recommended mitigation recommendations, including those that are yet to be received from OPCC agencies and permitting agencies. Due to the high level of environmental and socio-economic features along the proposed route, it would also be best practice to retain a qualified Environmental Inspector for the duration of construction for this project.

For the reasons stated above Pollution Probe recommends the following edits to the Draft Conditions of Approval circulated by Board Staff. Should the Board approve this project without the ability to review the relevant studies, mitigation plans and permits, ensuring that a qualified independent Environmental Inspector will help mitigate associated risks and impacts.

Draft Condition of Approval #3 - Enbridge Gas shall implement all the recommendations of the Environmental Report filed in the proceeding, all mitigation recommendations made by Stantec in their reports and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review (including all permitting authorities)

Draft Condition of Approval #6 – For the duration of construction Enbridge shall ensure that a qualified independent Environmental Inspector is assigned to the project. Enbridge shall Both during and after construction, Enbridge Gas shall monitor the impacts of construction, and shall file with the OEB one paper copy and one electronic (searchable PDF) version of each of the following reports:

Based on the variability and apparent gaps in relevant environmental and socio-economic material filed in the Leave to Construct proceeding, it is recommended that the OEB consider engaging all relevant stakeholders prior to the next update of the OEB's Environmental Guidelines in an effort to develop additional tools (e.g. checklists, etc.) to mitigate these gaps in the future and/or to provide clarity of direction when a proponent decides not to follow all relevant requirements in the Environmental Guidelines. The Environmental Guidelines are meant to be equivalent to other Environmental Assessment requirements at a Provincial or Federal level and dilution of those guidelines means that serious environmental and socio-economic consequences are left unmitigated. Pollution Probe would welcome an opportunity to work with the OEB and stakeholders to systematically address those issues in order to protect Ontario's communities and environment.