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August 5, 2020

Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Toronto ON
M4P 1E4

Dear Ms. Long

**RE: EB-2020-0160 Enbridge Gas Inc. Windsor Pipeline Section 101 Application
Energy Probe Interrogatories to Essex County**

Attached are the interrogatories of Energy Probe Research Foundation (Energy Probe) to Essex County in the EB-2020-0160 proceeding, the application by Enbridge Gas Inc. to the Ontario Energy Board for approval of order or orders under Section 101 of the OEB Act.

Respectfully submitted on behalf of Energy Probe.

Tom Ladanyi
TL Energy Regulatory Consultants Inc.
Consultant representing Energy Probe

cc. Enbridge Gas Inc. (Regulatory Proceedings)
Patricia Adams (Energy Probe)
Scott Stoll (Aird & Berlis)
David Sundin (McTague Law Firm)

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ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15 (Schedule B);

AND IN THE MATTER OF an application by Enbridge Gas
Inc. pursuant to Condition 4 from the Ontario Energy Board's
Decision and Order, and Section 101 of the *Ontario Energy
Board Act, 1998* for authority to construct a work upon, under
or over a highway, utility line or ditch in the County of Essex
for the purposes of a natural gas pipeline in respect of which
the Ontario Energy Board granted leave to construct in EB-
2019-0172 to Enbridge Gas Inc.;

Enbridge Gas Application for Authority to Construct

Energy Probe Research Foundation Interrogatories to Essex County

August 5, 2020

EP-Essex-1

Reference: Essex evidence, Tab 1

Preamble: In the experience of Energy Probe, this is the first Section 101 filed by a gas distributor in Ontario since the creation of the Ontario Energy Board in 1960. Issues regarding permits have always been settled through negotiations between gas distributors and municipalities without involving the OEB. Energy Probe believes that the OEB should appoint a facilitator and institute a settlement process to resolve the issues in this case. To be successful a settlement process requires flexibility from both parties to reach a compromise solution. If there is no settlement the OEB may order a solution that Essex County may not like.

- a) Does Essex County agree with Energy Probe that a settlement process could resolve the issues in this case? Please explain your answer.
- b) If the OEB's decision orders a solution that Essex County does not agree with, does Essex County believe that the OEB would be assuming liability for safety issues regarding this pipeline? Please explain your answer.

EP-Essex-2

Reference: Essex evidence, Tab 2, Exhibit F, page 3

Preamble: "Enbridge hired Stantec Consulting Ltd as a third party to complete this Report."

- a) Was Essex County contacted by Stantec Consulting? If the answer is yes, please list the dates of such contacts and the names and titles of Essex County staff contacted.
- b) If the answer to a) is yes, did Stantec seek comments from Essex County staff on alternative locations and depths of cover along County Road 46? If the answer is yes, please file copies of comments by Essex County staff regarding the location of the pipeline along County Road 46 that were provided to Stantec.

EP-Essex-3

Reference: Essex evidence, Tab 3, page 2

Please file the engagement letter, terms of reference and the statement of work that Essex County sent to Dr. Tape.

EP-Essex-4

Reference.: Essex Tab #, Exhibit C, page 3, Dr. Tape letter dated May 7, 2020, page 2

Preamble: *The Enbridge analysis assumed a modulus of soil reaction of 250psi (1. 724 MP a). Such a value would be consistent for a fine-grained soil with a liquid limit of less than 50. However, such values should be field verified by a qualified Geotechnical Engineer.*

Has a qualified Geotechnical Engineer verified the values mentioned? If the answer is yes, please file a report from the Geotechnical Engineer, If the answer is no please explain why not.

EP-Essex-5

References: Essex evidence, Tab#, Exhibit C, page 4, Dr. Tape letter dated May 7, 2020, page 3

Preamble: *The function of the TAC guidelines is to "assist the various road authorities in establishing and administering uniform criteria for the accommodation of utilities crossing highway (and freeway) rights-of-way" (TAC March 2013 – Underground Utilities Installation). As a member of the Association the County must as a measure of good practice assess, and as appropriate, apply the recommendations and guidelines of this organization.*

- a) Please confirm that “TAC guidelines” document that the Dr. Tape is referring to are guidelines and not standards.
- b) Please confirm that “TAC recommendations” that Dr. Tape is referring in the first paragraph on that page to is the same document as the “TAC guidelines”.
- c) Is there any provincial or federal law or regulation that requires compliance with TAC guidelines by a road authority? Please explain your answer.

EP-Essex-6

References: Essex evidence, Tab#, Exhibit C, page 6, Dr. Tape letter dated May 7, 2020, page 5

Preamble: The referenced document mentions “TAC guidelines” and “TAC standards”.

- a) Are TAC guidelines and TAC standards the same document or two different documents?
- b) Please explain the difference between a ‘guideline’ and a “standard”.
- c) Please confirm that TAC guidelines are not a standard.

EP-Essex-7

Reference: Essex evidence, Tab#, Exhibit C, page 7, Dr. Tape letter dated May 7, 2020, page 6

Preamble: *Based on our review and in the interest of shielding the County from liability while maintaining a consistent application of policy, and in the interest of good engineering and right-of-way management practices, we formal recommend that Enbridge be directed to adhere to the requirements set forth by your office as the Road Authority; as such compliance with the TAC guidelines should occur without further discussion.*

- a) Is Dr. Tape is recommending that the County direct Enbridge to adhere to the requirements set forth by its office as the Road Authority and not to negotiate a compromise solution.
- b) If the answer is yes, please explain why. If the answer is no, please outline the area for negotiation that may take place with the assistance of an OEB appointed facilitator.

EP-Essex-8

Reference: Essex evidence, Tab 3, Exhibit D, page 3, Dr. Tape letter dated May 19, 2020, page 1

Preamble: *Statements made in the Enbridge response specific to there being no risk to the County are arguable statements and cannot be based fully on fact.*

Please file a table that lists specific statements made in the Enbridge response that cannot be based on facts and the specific facts that Dr. Tape is referring to.

EP-Essex-9

Reference: Essex evidence, Tab 3, Exhibit E, page 3, Dr. Tape letter dated May 29, 2020, page 2

Preamble: *The analysis is base based on a geotechnical report. Based on past experience with similar reports, and confirmed by Appendix D, several disclaimers are made as a geotechnical investigation cannot identify all soil conditions, but rather only those that occur right at the test location. We reiterate our concern within areas of disturbed soils due to past works and other disturbances.*

Is Dr. Tape saying that the OEB should not rely on geotechnical reports within areas of disturbed soils such as roads? Please explain your answer.