

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

August 24, 2020

**Re: EB-2020-0160 Windsor Pipeline Replacement Project ("Project") – Section 101 Application
Pollution Probe Submission Related to Environmental Defence's Motion**

Dear Ms. Long:

Pollution Probe is in receipt of Procedural Order No. 3 dated August 19, 2020 for the above-noted proceeding which indicates that parties should file written submissions on the merits of the Environmental Defence (ED) motion with the OEB and serve them on all parties by August 24, 2020. Pollution Probe supports the basis for the ED Motion and recommends that the Board order fulsome answers to the interrogatories in question, plus that the Board set a one day technical conference to clarify any outstanding relevant issues related to the decommissioning of the NPS 10 pipeline. Additional details are outlined below.

In its entire history, Enbridge has never requested that the Board issue an order under Section 101¹ and given the severe impacts related to the approvals sought, this is clearly for good reason. Only the evidence that is filed in this proceeding can be used to form the public record. This is a precedent setting proceeding and Pollution Probe recommends that all efforts be taken to ensure that all relevant information be provided in a transparent manner on the public record in this proceeding.

Enbridge's application includes Section 101 approvals sought in relation to:

- 1) A new NPS 6 Pipeline (subject of the Leave to Construct in EB-2019-0172), and
- 2) Abandonment of the existing NPS 10 Pipeline

Building a new pipeline (requiring Leave to Construct approval and adding it to rate base) is very different from decommissioning an end of life pipeline (which appears to require no OEB approval and essentially removes an asset from rate base) and questions related to either of these are in-scope to this proceeding. In its response to ED IR#1, Enbridge suggests that its pre-filed evidence (Exhibit B, Tab 1, Schedule 4, page 1 to page 3) provide sufficient information on the abandonment costs for the NPS 10 pipeline. That section of the evidence only provides a cost estimate bundled with other costs and does not provide the information requested in the interrogatory. There is no evidence on the record in this proceeding that discretely lays out the costs for the proposed abandonment using the method preferred by Enbridge or the method requested by the County of Essex. Furthermore, Enbridge has not provided any benchmarks to show that its estimates are accurate or realistic. A primary basis outlined by Enbridge for rejecting the County of Essex request is that the decommissioning costs will be higher.

¹ EB-2020-0160 Exhibit I.PP.1(e)

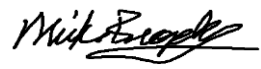
Provision of the information requested in ED IR#1 (a to d) and ED IR#4 (a to e) is necessary to objectively review Enbridge's requested approvals in this application.

It also appears that Enbridge is implicitly looking for Board approval to include abandonment-related costs into rates (either at the time of abandonment or at some other time). Although this approval has not been explicitly requested in the application, it is important to understand the potential impacts and treatment of any such costs as a result of potential approvals in this application².

Additionally, in Enbridge's cover letter dated August 14, 2020 which accompanied interrogatory responses, Enbridge also claims confidentiality in relation to portions of the response to Pollution Probe IR #10. Pollution Probe does not accept confidential treatment for this interrogatory response. Three specific sections of Attachment A of the response were redacted including Section 17: Insurance for the Purchases of Services, Appendix A: Description of Services and Appendix B: Schedule B: Compensation. These types of agreement sections do not require confidential treatment and it is particularly odd that the Description of Services was omitted since it would simply set the scope of the report that has already been filed with the Board. Pollution Probe chose to not bring forward a specific motion related to Enbridge's response to Pollution Probe IR#10 at this time³, but has included comments below which it requests the Board consider.

Similar to the refusal to provide the requested information in ED IR#1 (parts a to d) and ED IR#4 (parts a to e), Enbridge did not follow the Board's prescribed procedure for confidential treatment or provide an adequate or acceptable rationale that would meet the acceptance for confidential treatment. Board requirements, in part, are meant to protect against monopolistic behaviors and ensure fair and transparent review and oversight. The Board's process includes a significant (and justified) bar set on confidential treatment and in this case Pollution Probe recommends that the requested information be included as part of the public record in this proceeding.

Respectfully submitted on behalf of Pollution Probe.



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cc: All Parties (via email)

² It is typically accepted that if the Board approves a specific action by Enbridge that it will also approve the costs related to those actions.

³ A request from Enbridge for confidential treatment requires more than just attaching a redacted version of the Reference Form Services Agreement-Execution Copy, UG Oct 4, 2016.