

Elson Advocacy

August 28, 2020

BY EMAIL AND RESS

Ms. Christine Long

Board Secretary

Ontario Energy Board

2300 Yonge Street, Suite 2700, P.O. Box 2319

Toronto, Ontario M4P 1E4

Dear Ms. Long:

**Re: EB-2020-0160 – Enbridge Gas Inc.
Windsor Pipeline Replacement Project Section 101 Application**

I am writing in response to Board Staff's request for input on whether to hold a technical conference, a settlement conference, and/or an oral hearing.

Environmental Defence strongly believes a technical conference should be held. We believe this is necessary in relation to the issues noted in our motion, but not only for those reasons. In addition, we note that the appropriate factors to consider in s. 101 applications are not entirely clear as Enbridge has never sought approvals under s. 101 for a pipeline project.¹ It would therefore be best if the Board has a robust evidentiary record available when it examines those questions. A technical conference would aid in that.

Enbridge argues in its correspondence dated August 25, 2020 that this matter should proceed directly to written submissions as soon as possible. However, its letter simply re-argues and relies on positions that remain in contention. For example, Enbridge argues that no evidence is needed on the abandonment issue because, it says, Enbridge is not required to remove the pipeline under CSA standards or its franchise agreement. In essence, Enbridge is saying no further evidence is needed because it is correct in its understanding about the relevant factors in s. 101 applications and how those factors apply to this case. However, that is still very much in contention. We disagree that the CSA standards and franchise agreement are the only potentially relevant considerations. Indeed, the first task of the Board will be to decide what kind of considerations are relevant under s. 101 applications, and then apply them. Additional evidence and clarity would assist in that task.

We have no position on whether a settlement conference should be held.

Environmental Defence believes an oral hearing is necessary if there is no technical conference or if Enbridge refuses to answer relevant questions during the technical conference. Again, this is Enbridge's first pipeline application under s. 101. That is important for two reasons. First, the

¹ Exhibit I.PP.1 (e).

Board's decision will inevitably set a precedent for future applications. Second, it is not clear what factors the Board should take into account when determining whether the relief sought by Enbridge is in the "public interest." This adds a layer of complexity.

If a productive technical conference is held, an oral hearing would be less critical. However, an oral hearing in this situation could nevertheless assist the Board in fully canvassing the appropriate issues.

Yours truly,

A handwritten signature in blue ink, appearing to read 'K. Elson', with a stylized, cursive script.

Kent Elson

cc: Parties in the above proceeding