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November 9, 2020

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

Dear Ms. Long,

**RE: EB-2020-0136 Enbridge NPS 20 Replacement LTC  
Argument Submission of Energy Probe**

Attached is the argument submission of Energy Probe Research Foundation (Energy Probe) in the EB-2020-0136 proceeding, the application by Enbridge Gas Inc. to the Ontario Energy Board for a Leave to Construct order for the replacement of its NPS 20 pipeline from Cherry Street to Bathurst Street in the City of Toronto.

Respectfully submitted on behalf of Energy Probe by its consultant.

Tom Ladanyi  
TL Energy Regulatory Consultants Inc.

cc. Patricia Adams (Energy Probe Research Foundation)  
Joel Denomy (Enbridge Gas Inc.)  
Azalyn Manzano (OEB Staff)  
David Stevens (Aird & Berlis LLP)

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**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c. 15 (Sched. B), as amended (the “OEB Act”);

**AND IN THE MATTER OF** an application by Enbridge Gas  
Inc. under section 90 of the OEB Act for an order or orders  
granting leave to construct natural gas distribution pipelines  
and ancillary facilities in the City of Toronto.

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**Enbridge Gas Inc. Leave to Construct Application for the Replacement of its NPS 20  
Pipeline from Cherry Street to Bathurst Street in the City of Toronto**

**Energy Probe Argument Submission**

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**November 9, 2020**

## **Executive Summary**

To obtain Leave to Construct order under Section 90 of the OEB Act, an applicant needs to demonstrate to the OEB the purpose, the need, and the timing for the project and that its cost estimate and route selection are appropriate. Based on the record in this proceeding, Energy Probe has concluded that Enbridge Gas has adequately demonstrated the purpose and the need for this project, and that the process followed by Enbridge Gas for the selection of the preferred alternative route is appropriate. However, Energy Probe submits that Enbridge Gas has not adequately justified the timing of this project or its construction cost estimate.

It is likely that there could be substantial savings for ratepayers if the project is delayed by two years so that it takes place after rebasing and after implementation of new IRP rules. Energy Probe submits that it would make sense to delay the project. The OEB should turn down the application and invite Enbridge to apply after IRP and re-basing. However, if the OEB should decide to approve the project it should only approve the 4.3 km of NPS 20 and not the 230 m lateral which does not require LTC approval. The OEB should also reduce the cost of the project by reducing excessive indirect overheads and contingency.

## **The Application**

Enbridge Gas filed an application seeking a Leave to Construct approval for 4.3 km of NPS 20 pipeline along Lakeshore Boulevard, and a 230 m lateral on Parliament Street<sup>1</sup>. Energy Probe submits that LTC approval is only needed for the 4.3 km of NPS 20. The lateral is too short to require LTC approval. Enbridge is free to build it at any time.

## **The Purpose of the Project**

The existing NPS 20 pipeline provides essential gas service to many Enbridge Gas customers. The proposed replacement pipeline would continue to provide the same service to the same customers and to some prospective future customers. The project is not a load growth, nor a

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<sup>1</sup> Exhibit A, Tab 2, Schedule 1, Page 2, Updated 2020-08-27

system expansion project and Enbridge Gas is not proposing to justify it on that basis. Energy Probe believes that the purpose of the project is adequately justified.

### **The Need for the Project**

The project is needed to replace the existing NPS 20 pipeline that has been in service since 1954. The existing pipeline has safely operated since that time, but Enbridge claims due to its age, deteriorating condition, and five compression couplings<sup>2</sup>, it needs to be replaced with a new NPS 20 pipe. Enbridge has filed extensive evidence and responded to interrogatories in support of its claim. Energy Probe has reviewed the evidence and responses to interrogatories<sup>3</sup> and agrees that old NPS 20 pipeline needs to be replaced at some point in the future and that compression couplings need to be replaced with welded joints. Considering the relatively small number of compression couplings on the line they do not pose a large risk that needs to be addressed immediately. The questions that Enbridge has failed to adequately answer is why this segment of the KOL needs to be replaced now and why NPS20 pipe is the right size.

Enbridge has not explained why a section of this length is the right length instead of a shorter section. The In-Line-Inspection (ILI) was performed on a short section of the line near Cherry Street. Enbridge has not conducted any other ILI of any section of the Cherry to Bathurst in the past 20 years<sup>4</sup>. Enbridge has not provided objective evidence that the condition of the NPS20 closer to Bathurst Street is as bad and that it needs to be replaced now.

In its Argument in Chief and a response to interrogatories Enbridge indicated that NPS16 replacement pipe could meet its current gas needs. NPS20 is only required for growth and to provide redundant capacity if there is a failure of other Enbridge lines.<sup>5</sup> Energy Probe believes that more analysis is needed to confirm that NPS20 is the optimum size for replacement pipe. It is possible that the upcoming IRP decision could put in place rules that would confirm that.

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<sup>2</sup> EP-13

<sup>3</sup> EP-2, EP-3

<sup>4</sup> ED-1 b

<sup>5</sup> AIC Page 13; ED-5; FRPO-5

## The Timing

Enbridge Gas claims that the existing NPS 20 pipeline has to be replaced now. It bases that claim on the number and frequency of excavations needed to inspect and repair the line which it calls “integrity digs”. According to Enbridge these integrity digs place a great burden on Enbridge Gas because of their frequency and location. Energy Probe agrees that excavations in the proximity to the Gardiner Expressway footings are difficult, however only a short section of the existing NP20 is located there. Based on the data gathered through the completed ILIs, Enbridge Gas forecasts that around 72 integrity digs would have to be conducted on the inspected sections of the Cherry to Bathurst segment in the next 40 years<sup>6</sup>. The frequency of integrity digs is less than two per year, which does not seem to be a great burden to a company the size of Enbridge Gas. If the project is delayed by two years, as Energy Probe suggests elsewhere in this submission, it is likely that less than four integrity digs would be required.

It is possible that Enbridge wants to avoid integrity digs because the costs of most integrity digs are treated as Operation & Maintenance for accounting purposes and are a shareholder cost under the Custom Incentive Regulation rate setting method in effect in the EGD Rate Zone. A replacement pipeline would be treated as a Capital expenditure funded by ratepayers if the OEB approves Incremental Capital Module (ICM) funding for it in the 2022 rate proceeding.

According to the evidence in this case Enbridge Gas is planning to replace 7,000 km of gas distribution lines due to integrity concerns<sup>7</sup>. The costs of these replacements will result in increases in rates that could place a large burden on ratepayers. The evidence in this case does not show if the management of Enbridge Gas is considering the rate impact of its planned replacements on rates. By spreading out the replacements over a longer period of years the annual rate impact can be reduced.

There is no urgent need for this project. It can be delayed to after rebasing. At rebasing EGI will have to present its new cost structure that reflects amalgamation of corporate departments and

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<sup>6</sup> Ex. B, Tab 1, Sch. 1, page 7; EP-8

<sup>7</sup> EP-3, Att. 4, Page 3

staff cuts. The overhead allocation will certainly be lower than \$24.2 million even if the same size pipe is used. Delaying the project for two years could save ratepayers as much as half of \$24.2 million or \$12.1 million.

It is also possible that new rules adopted by the OEB as a result of the EB-2020-0091 IRP proceeding may result in a lower diameter replacement pipe with associated savings.

### **The Cost of the Project**

The cost of the project is \$133.0 million. This total includes \$24.8 million contingency and \$24.2 million of indirect overhead costs<sup>8</sup>. Therefore, costs that are neither labour nor materials nor outside services total \$49.0 million or 36.8% % of the total cost. No doubt Enbridge Gas will find reasons in its Reply Argument why these this large percentage of total costs for contingency and overhead is appropriate for the EGD Rate Zone. They seem excessive in comparison with capital project cost estimates for the Union Rate Zones projects. and the projects of electricity distributors. Enbridge will likely claim that NPS20 replacement project has higher risks than any electricity distributors' projects. This may be true to some extent, but it does not justify the large difference in contingency percentages.

Enbridge Gas is applying the same contingency to the cost of all labour and materials. It is common construction industry practice to apply a lower contingency to materials than to labour. For example, construction delays due to wet weather would impact labour costs but would not impact the cost of replacement pipe. Pipe material costs the same whether it rains or not. However wet weather may slow down pipeline installation, particularly if the excavated locations fill with water or snow, requiring more labour hours. Enbridge previously used a range of contingency percentages from 10% to 30% in the EGD Rate Zone<sup>9</sup>. It has not provided a risk analysis that would explain why the contingency percentage should be 30% for this project. Energy Probe submits that the contingency for labour should be reduced to 20% and the contingency for materials to 10%.

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<sup>8</sup> ED-9; Ex. D, Tab 1, Sch. 1, Page 5

<sup>9</sup> PP-13

Enbridge is also applying the contingency to \$5.2 million of Outside Services.<sup>10</sup> These include \$3.7 million of costs for Site Inspection, Monitoring and Testing, likely including the contracts with Dillion, Golder, Pipetel Technologies, Jana, and InvoDane Engineering. These contractors completed their work prior to the filing of the application and their costs are historical costs. There is no uncertainty about them. The Outside Services also include \$1.3 million for Design, Drafting and Engineering. This work was also completed prior to filing. There is no justification for applying a contingency to any of these costs. There may be other components of Outside Services that are not complete such as Flagging which is estimated at \$112.5 thousand. Since there was no Technical Conference or Oral Hearing in this proceeding it is not possible to determine exactly what part of Outside Services remains to be done. Energy Probe submits that the at least 50% of contingency on Outside Services should be removed because many of the costs are historical costs with no uncertainty.

Enbridge Gas has allocated \$24.2 million of Indirect Overhead costs to this project<sup>11</sup>. The allocation is not supported by an estimate of the actual costs of services provided to the project by corporate departments. It is simply a percentage HR Burden and the Departmental Labour Charge (DLC) applied to all project costs based on legacy EGD financial data prior to its last rebasing. Enbridge Gas is a different company than EGD was prior to its last rebasing. Many departments were combined after the merger of Enbridge Gas Distribution and Union Gas and there were staff reductions. Ratepayers should not have to pay for a DLC derived from the cost of employees that are no longer employed by Enbridge Gas. It is likely that Enbridge will argue in its Reply Argument that Indirect Overhead can not be changed until re-basing. In that case, it would make sense for the project to be delayed for two years so that so that lower Indirect Overheads can be allocated to the project based on the productivity savings that Enbridge Gas has achieved since the merger.

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<sup>10</sup> EP-23

<sup>11</sup> EP-25

Enbridge Gas will be seeking ICM funding from ratepayers for this project in its 2022 rates application. If the costs of the project are overstated by excessive contingency estimate and the allocation of excessive overheads, ratepayers will be required to pay excessive rates.

### **The Selection of the Preferred Alternative Route**

Based on the evidence in the case, Energy Probe believes that the process Enbridge Gas followed in the selection of the preferred alternative route was appropriate. It is disappointing that the City of Toronto neglected to provide comments in the route selection process. Energy Probe is satisfied that Enbridge provided the City of Toronto ample opportunities to comment. Energy Probe believes that the Preferred Alternative Route selected by Enbridge Gas is the best route for the project.

### **The Conditions of Approval**

Energy Probe agrees with the conditions of approval proposed by Board Staff. The change proposed by Enbridge in the Argument in Chief is not necessary.

### **Regulatory Process**

The regulatory process in this proceeding did not allow the usual steps for discovery and testing of evidence or provide for settlement. There was no Technical Conference, Settlement Conference, or Oral Hearing. There was a Written Hearing, which did not allow for discovery and testing of evidence as an Oral Hearing does. This is particularly troubling as this case deals with a \$133 million expenditure supported by a large amount of highly technical evidence. Considering the shortened regulatory process, it would have been appropriate and prudent for OEB Staff to hire a technical expert to review the applicant's evidence as has happened in many cases in the past. Energy Probe is concerned that the OEB may be proceeding to a decision without adequate examination of evidence.



## **Conclusion**

Energy Probe has concluded that Enbridge Gas has adequately demonstrated the purpose and the need for this project, and that the process followed by Enbridge Gas for the selection of the preferred alternative route is appropriate. Energy Probe believes that Enbridge Gas has not adequately justified the timing of this project and that the construction cost estimate is overstated because of excessive contingency and indirect overhead allocation.

There is no urgent need for the project. If it is delayed for two years to take place after re-basing, it is likely that substantial savings could be realized due to lower indirect overheads that would result from productivity savings Enbridge Gas has achieved since amalgamation. It is also possible that savings could result if new rules stemming from the IRP are put in place. Energy Probe submits that the OEB should turn down the project and invite Enbridge Gas to reapply after re-basing and IRP. However, if the OEB should decide to approve the project it should only approve the 4.3 km of NPS 20 and not the 230 m lateral which does not require LTC approval. The OEB should also reduce the cost of the project by reducing overheads and contingency.

Respectfully submitted on behalf of Energy Probe by its consultant,

Tom Ladanyi

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