

November 25, 2020

Ontario Energy Board
2300 Yonge St., 27th Floor
Toronto, ON
M4P 1E4

Attn: Christine E. Long, Registrar

By electronic filing and e-mail

Dear Ms Long:

Re: EB-2019-0159 GEC Submission on Final Costs

Attached please find GEC's submissions on final costs in compliance with procedural order 8 in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

David Poch
CC: all parties

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Schedule B, and in particular, sections 90 (1) and 97 thereof;

AND IN THE MATTER OF an Application by Enbridge Gas Inc. for an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the City of Hamilton;

AND IN THE MATTER OF an Application by Enbridge Gas Inc. for an Order or Orders approving the proposed form of Pipeline Easement and form of Temporary Land Use Agreement.

GEC Submission on Final Costs

Pursuant to Procedural Order No. 8 GEC offers the following submissions in support of its request for an award of outstanding costs in this matter.

The Board seeks submissions from the three intervenors that seek costs beyond the \$30,000 limit of interim costs previously awarded.

GEC understands that the Board is properly concerned about controlling regulatory costs and ensuring that ratepayers obtain value from such expenditures, but we submit that the Board must also be no less concerned about maintaining access to its process for bona fide intervenors which is valuable both to inform the Board's determinations and to ensure public transparency and accountability of the regulated monopoly on an ongoing basis.

In the current situation, where the applicant has elected to withdraw its application before the Board has had an opportunity to evaluate the contribution of intervenors, the above-noted objectives must necessarily be pursued with a sub-optimal level of data. There can be no suggestion that intervenors precipitated this situation. In our submission, faced with that difficulty the Board should proceed with a presumption that cost claims are reasonable absent information to the contrary. To proceed otherwise risks unfairness and a chill on future public participation.

The Board has in effect made such a presumption for intervenor claims that were under the \$30,000 limit for interim costs. Unfairness is possible in this situation if a similar assumption is not made for larger claims due to interventions that involved experts because there is no reason to assume that intervenors who sought costs less than the interim award limit were any more or less diligent at cost control or would have provided greater or lesser value to the

process. Further, the Board will face a similar problem in evaluating the reasonableness of the utility's regulatory costs. There is no rationale for a dramatic disparity between the granularity of the review of intervenor costs compared to the review of the immensely greater utility legal and other regulatory costs.

We do not mean to suggest that costs be awarded absent concern for their reasonableness. And the Board's focus on larger claims is understandable as a matter of regulatory efficiency and concern for ratepayer impacts. However, we respectfully submit that the inevitable constraint on the ability of intervenors to demonstrate value in these circumstances should not result in a default toward cost award reductions.

We note that GEC has provided detailed dockets to the Board and to the company. The company has had an opportunity to review those dockets and has not challenged them. The Board's earlier review of the majority of our claim (i.e. \$30,000 of the approximately 35,000 claimed in total) appears not to have raised concerns.

GEC's intervention was a broad one, at the outset addressing both the specific project and the generic IRP proposal initially included in the application. The Green Energy Coalition in this case included both provincially active environmental groups and the Hamilton 350 organization concerned with local impacts. GEC retained two experts to address the issues of gas forecasts and demand reducing alternatives. These experts, Mr. Chris Neme of Energy Futures Group and Mr. Paul Chernick of Resource Insight Inc., are highly experienced and well regarded expert witnesses who have appeared before numerous regulatory tribunals in many jurisdictions including before this Board (see CVs previously filed).

Apart from the detailed dockets already provided we can offer a further indication of the effort of GEC's counsel and experts by noting the submission of 62 (often multi-part) interrogatories.

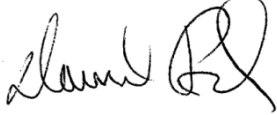
More informative, in our submission, is the fact that GEC's claim of \$34,988 (inclusive of HST), being less than \$5000 above the threshold, is quite reasonable when compared to the claims of other intervenors given that GEC was in the process of developing expert evidence relying on two expert groups.

GEC's experts account for \$22,720 of the claim. The balance of \$12,268 is attributable to the time of counsel. An indication of the reasonableness of our claim is that counsel time is in the same range as several other regular intervenors (such as IGUA, SEC and EPRF – see schedule 1, attached) that were not burdened with retaining, assisting, and overseeing expert evidence. Moreover, as Schedule 2 (attached) indicates, docket entries for counsel time relating to expert involvement amount to 13.15 of the 32.9 hour claim for counsel (\$4903 of the \$12,268 counsel related costs). Thus, at least \$27,623 (\$22,720 for experts plus at least \$4903 for expert related counsel time) of the total GEC claim is attributable to matters pertaining to expert evidence. The balance of \$7364 is well within the range of costs sought and awarded to parties whose claims were within the interim cost limit and who were not bringing expert evidence forward.

With respect to costs incurred addressing conditions of withdrawal, GEC's counsel spent only one hour on the matter and therefore GEC will not seek an award for that cost in light of the administrative effort it would entail.

Accordingly, GEC respectfully requests an award for the balance of its costs in this matter.

All of which is respectfully submitted this 25th day of November, 2020

A handwritten signature in black ink, appearing to read "David Poch", with a stylized flourish at the end.

David Poch

On behalf of GEC

Cc: all parties, Z. Crnojacki, M. Millar

Schedule 1 – Costs Claimed by Intervenors

Association of Power Producers of Ontario \$ 5,032.91
Building Owners and Managers Association \$8,691.48
Canadian Manufacturers and Exporters \$ 3,227.28
Consumers Council of Canada \$ 5,966.40
Energy Probe Research Foundation \$ 9,670.20
Environmental Defence \$ 20,721.94
Federation of Rental-housing Providers of Ontario \$59,365.68
Green Energy Coalition \$34,988.41
Industrial Gas Users Association \$11,930.88
London Property Management Association \$2,722.17
Low Income Energy Network \$692.23
Pollution Probe \$41,429.19
School Energy Coalition \$12,480.85
Vulnerable Energy Consumers Coalition \$5,230.78

Schedule 2 – GEC Counsel Docket with Expert-related Hours Identified

Time Docket for David Poch: EB-2019-0159 Dawn Parkway Expansion (Kirkwall to Hamilton)					
		IRs	Issues Conf.	Oral Hrg.	Expert Related
Date	Description of work	Prep	Prep	Prep	
2019					
Nov 24	initial review of filing and meet Hamilton 350 reps			3	
26	t/c Shepherd, Gibbons			0.5	
Jan 8	further review of application, review correspondence and notice, correspond clients, and file intervention.			1.75	
23	t/c Elson re witnesses etc.			0.3	0.3
27	t/c TC counsel and case mngr. re TC position and evidence. Report to client and experts. Review EGI objection to scope of participation, confer other parties and draft initial response.		2.5		
28	revise draft letter		0.75		
29	correspond Shepherd re coordination and witnesses			0.1	0.1
31	review draft issues list, confer client, review guidelines etc., draft submissions, confer other parties		3		
Feb 1	correspond client		0.2		
7	review correspondence, research re 'public interest', finalize comments		0.75		
10	review evid and correspondence, research potential witnesses			1.2	1.2
11	review correspondence, discuss case with Chernick, and correspond client			0.6	0.6
13	review evid., correspond OEB re schedule to include experts			0.4	0.4
20	review WGI reply and respond on procedural issue		0.5		
21	review ED reply and finalize GEC reply		0.2		
25	review draft ED Irs.	1.2			
Mar 2	correspond clients and other parties re coordinated efforts			0.15	0.15
6	review P.O. 1 and correspond experts re Irs and other parties re witnessing			0.15	0.15
9	t/c Chernick, Shepherd, Neme, prep			2.25	2.25

10	Prep	1.5		1.25	
11	review correspondence and write OEB re evidence, and correspond re: IRs	0.15		0.3	0.3
12	review correspondence with other parties re gas supply expert			0.1	0.1
17	correspond re witness coordination			0.2	0.2
18	T/c Chernick re: FRPO coordination etc.. Conference call Quinn, Elston. Correspond Chernick re evidence coordination. Draft response to Zora re same.			2	2
19	Correspond experts re topics. confer Elston re response to Zora and submit			0.25	
20	draft evidence plan			0.75	0.75
23	confer CN and correspond			0.15	0.15
24	review LPMA Irs and correspond CN and PC re same. Initial scan 5 year supply plan review evid.	0.3		0.5	0.5
25	confer re: IRS, draft evidence questions, need for IR extension, and submit request	0.5		0.5	0.5
27	edit Irs and confer re same, submit	1.75			1.75
Apr 2	confer re Irs and evidence deadline	0.2			0.2
3	review added Irs, edit and confer	1.2			1.2
23	Review correspondence, and respond			0.2	0.2
30	correspond client re: consultation issue			0.1	
May 4	review corresp., confer experts and advise clients			0.15	0.15
5	confer ED, SEC, FRPO, VECC, PP, Neme, clients re requesting conditions for adjournment and correspond Board			1.25	
14	review EGD reply re adjournment			0.1	
	TOTALS 32.9 Hours	6.8	7.9	18.2	
	Total Expert related				13.15