

Elson Advocacy

December 11, 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-2020-0198 – Toronto Waterfront Relocation Project

I am writing on behalf of Environmental Defence to request an opportunity to receive submissions from Enbridge on the jurisdictional issue in this matter before making our own submissions on that subject.

In *Procedural Order #1*, the Board invited all of the parties to provide submissions by December 17, 2020 on whether the Board has the jurisdiction to issue an order that would require Waterfront Toronto to bear all or part of the cost of the proposed project. However, Enbridge has not fully articulated why it believes the Board has the jurisdiction to order Waterfront Toronto to incur the costs of this project. Nor has it identified the relevant statutory provisions and case law. Without that, the intervenors will have to speculate on Enbridge's justifications. This will likely result in unnecessarily lengthy and/or unfocused submissions from intervenors address *potential* arguments that Enbridge is not in fact raising.

In light of the above, there are at least four reasons to ask for submissions from Enbridge first:

1. This will result in submissions from intervenors that are more helpful to the Board as they will be more focused and will be more likely to directly address Enbridge's argument;
2. Applicants normally have the obligation and opportunity to put their case forward first such that intervenors know what they are arguing for or against;
3. This normal process would be fair because it would avoid asking intervenors to speculate as to Enbridge's justifications; and
4. This process would also be fair to Enbridge as it already has received submissions from the most impacted party, Waterfront Toronto, on the jurisdictional question.

This request would not need to impact the overall schedule for this proceeding, including interrogatories. If the Board grants this request, Environmental Defence could provide submissions by December 24, 2020, which is one week after Enbridge's deadline December 17, 2020. We believe this slight change to the procedural steps would significantly improve the quality of material submitted to the Board without any associated downsides.

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