

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

December 13, 2020

**Re: EB-2020-0192 – Enbridge London Line Replacement Project Leave to Construct  
Pollution Probe Submission**

Dear Ms. Long:

In accordance with Procedural Order No. 1, dated October 29, 2020 for the above noted proceeding, please find attached Pollution Probe's submission.

Please reach out should you have any questions.

Respectfully submitted on behalf of Pollution Probe.



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Charles Keizer, Torys (via email)  
All Parties (via email)  
Richard Carlson, Pollution Probe (via email)

**ONTARIO ENERGY BOARD**

**Enbridge London Line Replacement Leave to Construct**

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**POLLUTION PROBE SUBMISSION**

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**December 13, 2020**

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**Consultant for Pollution Probe**

## Background

Enbridge Gas Inc. (Enbridge) applied to the Ontario Energy Board (OEB) on September 11, 2020 under sections 90 and 97 of the *Ontario Energy Board Act, 1998*, for an order granting leave to construct of approximately 90.5 kilometres of natural gas pipeline and associated facilities in the County of Lambton, the Township of Dawn-Euphemia, the County of Middlesex, the Municipality of Southwest Middlesex, the Municipality of Strathroy-Caradoc and the Municipality of Middlesex Centre. The proposed natural gas pipeline is proposed to replace Enbridge Gas's existing London South Line and the London Dominion Line, which are two parallel pipelines of varying length, diameter and operating pressure. Enbridge Gas has also applied to the OEB for approval of the form of land-use agreements it offers to landowners for the routing and construction of the project.

This following is the written submission from Pollution Probe in relation to this proceeding.

## Context and Process

Pollution Probe works with consumers, communities, policy makers and related stakeholder organizations and is an active supporter of community energy planning that provides prudent cost-effective energy options to communities in Ontario. Pollution Probe has supported natural gas projects when there is a clear net benefit and they align with policy and local community energy and emissions planning. Given that Ontario consumers could be paying monthly<sup>1</sup> until after 2060 (based on a 40 year amortization) for this natural gas pipelines built today, it is important to assess current and future natural gas demand in light of Provincial, municipal and other related<sup>2</sup> commitments to transition away from fossil fuel from now to 2030 and beyond. The OEB's EB-2020-0091 proceeding should provide additional structure required to ensure that new projects are assessed in a more integrated manner to meet modern expectations. This submission focuses specifically on the project proposed in this application and issues related to the project and approvals required.

The request for a new pipeline approval, even one characterized as a 'replacement' project requires a detailed assessment of demand and alternative options to ensure that it is a prudent investment and suitable for including in rate base. Inherent to that assessment is the need for integrated resource planning (IRP) analysis to ensure all relevant options are considered and not just a comparison of pipeline options. Enbridge has conducted IRP screening related to this project and included certain elements related to IRP in its application. Although there is a separate generic proceeding<sup>3</sup> to enhance the planning requirements for future projects, that proceeding is not focused on specific projects such as the London Line Replacement and there is a duty to Ratepayers<sup>4</sup> now to make a reasonable and best-efforts assessment of options for this specific project until a more comprehensive set of requirements are defined by the OEB. A 'like for like' replacement, is never a prudent investment without detailed analysis to support that option. That is even more true for proposed projects replacing very old infrastructure that was built when there were little or no significant analysis or oversight.

Although recent Leave to Construct applications to the OEB have often failed to consider reasonable IRP options to reduce costs, impacts and stranded asset risks, it appears that Enbridge in this application has attempted to mature its IRP approach by conducting an analysis of broader options. This additional level of diligence has resulted in a downsizing of infrastructure needs<sup>5</sup> and related costs. Enbridge also indicated that it

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<sup>1</sup> Subject to project costs approval in EB-2020-0181

<sup>2</sup> Includes many parties including customers of Enbridge and building owners.

<sup>3</sup> EB-2020-0091

<sup>4</sup> In fact, beyond Ratepayers since the impacts and risks of a new high pressure natural gas pipeline go far beyond those who pay for it.

<sup>5</sup> Replacing two NPS 12. 10 and 8 pipelines with one NPS 6/4 pipeline.

considered DSM as an option to help reduce the size of pipeline required. Unfortunately the DSM assessment conducted in this proceeding is not compliant with the OEB's current DSM Framework (for example, it did not calculate consumer benefits using the defined measure life and ceased DSM benefits after the second year which appears to dilutes benefits of this option by a factor of 500% or more)<sup>6</sup> and was done in a siloed manner without consideration of other proposed activities (e.g. Provincial, consumer or municipal energy and emissions plans) that would have enhanced the benefits of the DSM scenario and made the analysis more accurate and realistic<sup>7</sup>. Even though this application does not represent a best practice IRP assessment, it is a step in the right direction and further highlights the significant benefits that can be achieved through more thorough analysis. Enbridge indicates that "DSM analysis that was conducted for the proposed project was supplied in order to be responsive to OEB direction in the 2015 – 2020 DSM Framework that as part of any utility application for a leave to construct of future infrastructure projects, the gas utilities must provide evidence of how DSM has been considered as an alternative at the preliminary stage of project development"<sup>8</sup>. This shows that when the OEB consistently reinforces expectations, it can improve the quality of applications.

Enbridge conducted a benefit-costs analysis related to options, but declined to provide the (requested) simple NPV calculation comparing the DSM scenario to the proposed project scenario. Provision of this simple calculation would have enabled the OEB and stakeholders to validate the net benefits or make suggestions to correct the calculation if it was not completed correctly<sup>9</sup>. As will be outlined later in this submission, the need for a replacement pipeline would still be valid in this case and providing the more fulsome information requested for the public record would be more compliant with the OEB's Mid-term DSM requirements. This is common sense and these types of calculations do not need to be delayed until the results of the IRP proceeding are completed. Regardless of the quality of the analysis completed by Enbridge in this proceeding, Pollution Probe suggests that the OEB should recognize Enbridge's efforts on this specific project and recommend that this approach set a new minimum floor that can be improved upon until the results of the generic IRP proceeding are completed and implemented.

The proposed pipeline is over 90 km long, which is a much longer pipeline than typical seen for a Leave to Construct (LTC) application. This is the longest pipeline requested for

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<sup>6</sup> EB-2020-0192 Exhibit I.PP.10

<sup>7</sup> Pollution Probe assumes that the DSM Scenario was likely calculated by the Enbridge Planning Department rather than the DSM Department, leading to a miscalculation and lower net benefit for that option. This reinforces the benefits of prescribed IRP requirements from the OEB to ensure consistent application of OEB requirements.

<sup>8</sup> EB-2020-0192 Exhibit I.PP.10d

<sup>9</sup> For example, using the proper DSM calculation would have increased the value of that scenario significantly.

approval in 2020 and appears perhaps to be the longest pipeline approval request to the OEB this decade. Length of a pipeline directly relates to environmental and socio-economic risks and impacts. It also increases the risk that issues may arise during construction and that Enbridge will request additional approvals or variance.

Finally, Enbridge has applied to the OEB for Incremental Capital Module (“ICM”) treatment in EB-2020-0181 for this specific project. It appears that if the OEB does not provide capital approval for this project in EB-2020-0181, the project may not proceed as requested in this proceeding<sup>10</sup>. This highlights a challenge of requesting Leave to Construct approval prior to receiving capital approval. Typically, the OEB does not bind future panels in its Decision’s and in order to do that in this case it must be clear than any approvals for cost recovery would need to be considered in a future application. More advanced planning would provide better visibility on what projects would be coming for approval and enable them to be considered in a more wholistic manner rather than on a piecemeal basis.

### Scope of the Proceeding

In its Argument-in-Chief, Enbridge reiterates it is requesting that the Board make the following Orders<sup>11</sup>:

- a) pursuant to Section 90 (1) of the Ontario Energy Board Act (the “Act”), granting Leave to Construct approximately 51.5 kilometres of Nominal Pipe Size (“NPS”) 4 pipeline and 39 kilometres of NPS 6 pipeline to replace the existing London Lines (the “Project”) and
- b) pursuant to Section 97 of the Act, granting approval of the form of easement agreements as referenced in evidence at Exhibit E, Tab 2, Schedule 3 and Exhibit E, Tab 2, Schedule 4.

This is consistent with the ‘Project’ scope in the application and the basis for approvals sought. Project terminology has been used inconsistently in the application and it is important to come back to the firm scope and definition outlined above. Enbridge has not made any request to the OEB for other approvals, including decommissioning of the existing pipelines or ancillary facilities. The Environmental Report also does not deal with impacts and mitigation needed for the decommissioning project or ancillary facilities. Enbridge specifically indicates that it is not seeking OEB approval for elements related to the decommissioning project as part of this application and Enbridge does not require any OEB approvals for those decommissioning activities. It is important to differentiate what is included in the Project and what is outside the requested approvals since the evidence does not always differentiate between the ‘Project’ and other costs and impacts extraneous to the Project.

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<sup>10</sup> EB-2020-0192 Exhibit I.APPrO.8

<sup>11</sup> EB-2020-0192 Argument-in-Chief of Enbridge Gas Inc. Page 1 of 13

The OEB's Leave to Construct decision could be considered tacit approval of Project capital costs for a future panel and it will also be important to understand the scope of any approval and costs impacts related to this proceeding should an OEB approval be granted.

### Project Options and Integrated Resource Planning

Enbridge indicates that the existing London South Line and London Dominion Line are among the oldest in the Enbridge system and replacement is the preferred option. Enbridge provides numerous details in its application, interrogatory responses and Argument-in-Chief related to the risk of the existing pipelines, including exposed compression couplings. Many sections of the existing pipelines are exposed above ground, which further reinforces the importance of burying pipelines at an adequate depth knowing that over time soil erosion will degrade depth of cover. Based on the assumption that the existing pipelines are no longer suitable, options include the optimal size of a proposed replacement pipeline and routing considerations. Since this pipeline directly serves 135 existing customer and 25 existing distribution stations<sup>12</sup>, it would be difficult to select a different route for the pipeline and if a different route was selected, additional distribution infrastructure would be required along the existing route to reconnect existing customers. These factors support following the existing routing for the proposed replacement pipeline and using specific mitigation measures to minimize the environmental and socio-economic impacts during construction, operation and eventual decommissioning of this pipeline<sup>13</sup>. Pipeline-only solutions are not a robust assessment of energy options for consumers in Ontario. However, in this specific case customer served by the existing pipeline are served by natural gas and it would not be practical to change those customer to alternate energy options in the short timeframe proposed by Enbridge. Increasing the planning horizon for pipeline projects increases the options available to the OEB and Ontario energy consumers.

This leads to the sizing of a replacement option. The benefits of right-sizing this natural gas pipeline include:

- Lower project and Ratepayer costs.
- Align supply with Provincial and municipal energy and emission plan assumptions.
- Reduced environmental and socio-economic impacts.

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<sup>12</sup> Exhibit B, Tab 1, Schedule 1, revised based on Pollution Probe IR 5d

<sup>13</sup> OEB Environmental Guidelines require consideration of impacts during the full lifecycle of a pipeline since those are the impacts if a pipeline is approved by the OEB.

- Reduced impact to municipal infrastructure and decreased congestion in crowded municipal corridors.
- Decreased risk of stranded assets.
- Reduced safety and integrity risks, particularly if a pipeline rupture occurs due to damage or age.
- Aligns with the logical process of integrated system planning.

Sizing of the proposed pipeline is directly related to the customers served, peak load of those customers, and ability to apply DSM or equivalent programs supported by Provincial policy<sup>14</sup>, or municipal energy and emissions plans. Municipalities in the area served by the proposed pipeline have municipal energy plans that outline reductions in fossil fuel use over the life of the proposed pipeline. The Province of Ontario Environment Plan also supports a substantial reduction of natural gas use in Ontario.

Enbridge did not provide detailed analysis supporting the sizing of the proposed pipeline, but did indicate that a reduction in pipeline size is supported by a “reduction in the growth forecast”<sup>15</sup>. Even though this detailed analysis was not provided to the OEB or put on the public record, the proposal of Enbridge to replace existing NPS 8, 10 and 12 pipelines with proposed NPS 6 and 4 pipelines indicates that analysis has been done that enabled downsizing of the existing pipelines which will result in many of the benefits outlined above. This is a step in the right direction and provides a foundation to improve on.

### Project Costs and Feasibility

Enbridge indicated that the total capital costs for the Project as scoped for approval in this application are \$95.206 million<sup>16</sup>. This explicitly excludes indirect overhead costs estimated to be approximately \$21.88 million<sup>17</sup>. Enbridge Gas is also not seeking approval for the ancillary facilities’ costs (i.e. stations, services, abandonment) in this application<sup>18</sup>. Enbridge indicates that it expects the Project will meet the criteria for rate recovery during the deferred rebasing period using the Board’s Incremental Capital Module (“ICM”) mechanism and to be considered by the OEB in EB-2020-0181.

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<sup>14</sup> MENDM-MECP letter to the OEB dated November 27, 2020 highlights the importance of the Ontario Environment Plan to meet GHG reductions by 2030, including increased natural gas DSM. This aligns with the OEB Directive to pursue all cost-effective DSM.

<sup>15</sup> EB-2020-0192 Exhibit I.PP.14

<sup>16</sup> EB-2020-0192 Exhibit I.PP.15b

<sup>17</sup> EB-2020-0192 Exhibit F Tab 2 Schedule 1

<sup>18</sup> Exhibit F Tab 1 Schedule 1



Enbridge indicates that additional analysis since the pre-filed evidence was filed concluded that service connection costs will be \$0.5 million less than stated, but Enbridge “is not proposing to update the cost estimate at this time as the current estimate is based on high level quotes for the project. As detailed design progresses, these estimates will be substituted with quotes developed using more refined scopes of work, as such, the cost estimate will change”<sup>19</sup>. It is unclear what portion of those existing facilities being abandoned (mains, services and stations) and are still be in rate base<sup>20</sup> and since Enbridge does not require OEB approval to abandon capital infrastructure, those impacts would need to be considered separately from this application.

This application is based on preliminary costs estimates that will become more accurate as the cost estimate is matured. This leads to potential OEB approvals based on potentially inflated costs, which are compounded when overheads are added. It would be expected that by the time a project is brought to the OEB for approval, that the cost estimation should be more accurate or advanced. Options to determine more accurate costs estimates are not difficult and even simple tools such as courtesy bids and fixed price contracts could help remedy this issue. The written hearing process defined for this proceeding limits the range of opportunity to delve into these issues, but the OEB could easily require that Enbridge bring forward a more mature cost estimate with suitable back-up in its request to the OEB for cost recovery approval for this project.

This project does not currently have OEB capital funding approval. Should the OEB approve the Leave to Construct prior to the IRM Capital review and approval, it could be interpreted as pre-approval of the capital recovery for this project and binding on the 2021 ICM proceeding panel. In Pollution Probe’s view, it is more appropriate to complete the capital funding request and then assess Leave to Construct approvals for this project if funding is available. Any expenditures made by Enbridge without OEB approval for capital recovery are at the risk of Enbridge shareholders.

### Environmental and Scio-Economic Impacts

Enbridge Gas retained Stantec to undertake a route evaluation and environmental and socio-economic impact study, and Enbridge prepared an Environmental Report intended to conform to the Board’s Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 7th Edition, 2016 (Environmental Guidelines). Pollution Probe notes that the Stantec report and the Environmental Report relates to route selection and general environmental and

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<sup>19</sup> EB-2020-0192 Exhibit I.PP.5d

<sup>20</sup> Per EB-2020-0192 Exhibit I.PP.5d, 75 of the 135 services being abandoned were installed in the past 40 years and are still included in rate base.

socio-economic issues along the proposed route. A detailed mitigation plan typically prepared for LTC projects was not filed in the proceeding and this is likely due to the fact that Enbridge is still working through more detailed project and specific routing issues. When the Stantec report was completed and circulated to permitting and approval authorities, project analysis was still underway and subsequently resulted in a different size of pipeline than that outlined in the Stantec report<sup>21</sup>. The OEB can approve an LTC project without detailed information on location, depth, proposed mitigation and residual environmental and socio-economic impacts. However, such approvals carry more risk in relation to costs, impacts and compliance with environmental and socio-economic requirements outlined in the OEB's Environmental Guidelines. It also poses a challenge to understand exactly what the OEB would be approving in a Decision. The scope of the 'Project' is articulated in the application and specific location and depth is not finalized at this time. In many recent LTC applications, it has been interpreted that the OEB is specifically approving the location and depth of cover for the proposed pipeline. Changes to those elements have required Enbridge to request additional approvals or changes from the OEB. In a recent case<sup>22</sup>, such issues led to a Section 101 application to override the Franchise Agreement and a permit requirement proposed by the municipality. If those same details are not included in this application, does that mean OEB approval is more generic in this proceeding than other similar LTC proceedings? There does not appear to be an opportunity to remedy that issues based on the procedure outlined in this proceeding and the OEB may need to choose to accept those risks in this case unless it extend the process. Including a typical condition that Enbridge must obtain all required permits and approvals prior to commencing construction is an options to help partially mitigate this risk<sup>23</sup>.

Enbridge indicates that it has circulated project materials to the Ontario Pipeline Coordination Committee ("OPCC") and relevant permitting authorities. Responses have not been received from many of these agencies to this point. Enbridge is not mandated by the OEB to follow-up with OPCC and permitting agencies if it does not receive a response prior to filing for OEB Leave to Construct approval. Pollution Probe is concerned that the risks created by the lack of follow-up could result in serious issues not identified in this application. Some recent Leave to Construct projects have resulted in project changes, delays and significant permitting issues<sup>24</sup>. As mentioned, recently a

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<sup>21</sup> EB-2020-0192 Exhibit I.PP.14

<sup>22</sup> EB-2020-0160

<sup>23</sup> Wording has been included in other LTC approvals and an example is included in the recommendation section leveraging EB-2019-0188 Decision and Order, Schedule B, item 2.

<sup>24</sup> Includes EB-2019-0172 where several change request were made and essential permits are still outstanding despite the OEB condition that all approvals were required. Many OEB change requests were also made in EB-2019-0188.

Section 101<sup>25</sup> application was heard by the OEB due to permitting issues that were not sufficiently identified prior to the OEB Leave to Construct application and approval. Sending out a letter or email and assuming all will work out is not an effective approach. It is a concern that responses from permitting agencies and members of the OPCC are still outstanding<sup>26</sup>. It is unclear from the application whether Enbridge will be able to secure all the permits it requires to build the project and whether issues similar to those outlined above would result.

The executed Franchise Agreement in place with the municipality dictates the requirements for Enbridge to construct or abandon pipelines within the municipal road allowance. In specific projects, permits are also required which provide specific project permission and include specific terms and conditions that Enbridge must follow. It will be important that Enbridge comply with those conditions to mitigate issues and reduce risk.

The majority of the proposed project is within road allowance, which can reduce many of the environmental impacts typically encountered with such a long pipeline project. However, environmental permitting and approvals are still required on this project. One particularly set of sensitive features is the 1.4 km of Provincially Significant Wetlands that the pipeline crosses. These wetlands provide a recharge area for critical groundwater that serves water wells and also support a broad range of wildlife, including endangered species. Provincial policy protects these wetlands and special mitigation measures are required, plus permits and approval by the conservation authorities<sup>27</sup> and the Ministry of Natural Resources. These approvals are currently outstanding and nothing has been filed to confirm that approvals will occur if the OEB provides LTC approval. This is a project risk and could be partially mitigated by the recommendations included at the end of this submission.

Given the length of the proposed pipeline and that it travels existing road allowances, there will be a high impact on traffic during construction. Enbridge will need to mitigate these impacts when a traffic plan is developed. Close coordination with the road authorities and public notification (via road signs, newspaper and radio notices) in advance of and during construction will help to reroute traffic, particularly emergency vehicles and heavy-duty vehicles. Delays due to traffic congestion will also increase air emissions and should be mitigated (to the extent possible) in compliance with Enbridge's policy to reduce and report its class 1 and class 2 emissions related to projects. The OEB could require that Enbridge file its detailed mitigation plan which should include many of these details before approval is granted. There would be

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<sup>25</sup> EB-2020-0160

<sup>26</sup> Exhibit I.STAFF.4

<sup>27</sup> EB-2020-0192 Exhibit I.PP.14f

sufficient time to take this approach if the OEB reserves its Decision until after the OEB considers the capital costs of the proposed project in EB-2020-0181.

### Conclusion and Recommendations

Pollution Probe agrees that the existing transmission pipelines will eventually need to be replaced and that a smaller pipeline based on IRP principles is better than defaulting to a 'like for like solution'. This pipeline has been in the current condition for some time and Enbridge has been monitoring it through its integrity program. A more holistic assessment of capital costs will occur through EB-2020-0181 and it would be preferred to considering this project in isolation. Any approval in this proceeding would need to be specific to the scope of the Project defined in the application and exclusive of extraneous component such as the proposed abandonment, ancillary facilities and indirect overheads.

Pollution Probe also recommends the following for this project.

- That the OEB specifically recognize the reduction in pipeline size and costs due to Enbridge's attempt to apply integrated resource planning analysis and assessment of DSM options. Although not fulsome or perfect, it is a step in the right direction until the OEB can raise the bar through enhanced requirements in the generic IRP proceeding.
- Indicate in any decision that the DSM assessment should have been done in a manner consistent with OEB's calculation benefits and costs. In this particular case it would not have changed the outcome of a pipeline solution by Enbridge. Approval of the project without an explicit statement in a Decision could imply that the OEB is fine with a DSM assessment for infrastructure projects that does not comply with best practice or the OEB's DSM Framework.
- If/when the OEB issues an approval, include the following condition of approval - Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.
- To provide the opportunity for the OEB to validate costs based on a more mature cost estimate, the OEB could indicate that it expects Enbridge to include a more mature costs estimate for this project when it applies for project cost recovery. Enbridge has indicated that project costs will be reduced as it updates its cost estimate and those cost savings should be reflected in the updated cost estimate.
- Enbridge confirmed its policy to calculate scope 1 and scope 2 emissions as part of the proposed project<sup>28</sup>. To be consistent with this proposal, Pollution Probe

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<sup>28</sup> EB-2020-0192 Exhibit I.PP.11

requests that the OEB include the following condition of approval if/when a Decision is issued: Enbridge shall report its scope 1 and scope 2 emissions related to the project in its post-construction report. Consistent with the November 27, 2020 letter from MENDM and MECP to the OEB, this would enable the OEB to understand the air emissions related to projects it approves.