

Elson Advocacy

January 4, 2021

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-2020-0065 – Enbridge Gas Inc. – Branchton Relocation Project

I am writing to respond to Enbridge's objection to Environmental Defence's intervention in the above matter.

Enbridge states that Environmental Defence "does not demonstrate how it may be directly impacted by the Project." Enbridge misunderstands the test for granting intervenor status and costs eligibility. Environmental Defence is eligible for intervenor status and costs eligibility under section 3.03(a) and (b) of the Ontario Energy Board's *Practice Direction on Costs Awards* as it represents "an interest or policy perspective relevant to the Board's Mandate," including environmental protection, and the "direct interest of consumers" who wish to achieve lower bills through Integrated Resource Planning ("IRP"), increased energy efficiency, and other means that simultaneously achieve financial and environmental aims.¹

Enbridge also mischaracterizes the issues that Environmental Defence wishes to raise. Environmental Defence's intervention request outlines the following issues, which are clearly sufficient for the purposes of granting intervention status:

- Whether the project is in fact needed, and if yes, why;
- Whether the same drivers for this project would apply to other nearby pipelines, and if yes, whether a broader length of pipe should be considered for relocation holistically with this project;

¹ Section 3.03 reads as follows: A party in a Board process is eligible to apply for a cost award where the party: (a) primarily represents the direct interests of consumers (e.g. ratepayers) in relation to services that are regulated by the Board; (b) primarily represents an interest or policy perspective relevant to the Board's mandate and to the proceeding for which cost award eligibility is sought; or (c) is a person with an interest in land that is affected by the process.

- Whether approval of this project would imply that similar projects are needed elsewhere in Enbridge's system, and, if yes, what that might cost;
- Whether this project has been considered in an appropriately holistic and integrated way in relation to other projects that might be needed in the area; and
- Whether the project accounts for the possibility of declining future gas use.

Environmental Defence has put forward sufficient detail to support its request for intervention status.

Lastly, Enbridge states that the issues Environmental Defence wishes to raise “are being adjudicated in the Enbridge Gas Integrated Resource Planning proceeding and are not appropriate for a Project of this nature for which the primary focus is safety and compliance.” This is incorrect. First, Environmental Defence wishes to raise issues that will not be adjudicated in the IRP proceeding. For example, the IRP proceeding will not be addressing the need for this specific project or proposals to address the drivers for the project in a more cost-effective and prudent way.

Second, although this proceeding may touch on issues that may arise in the IRP proceeding, that is no reason to bar Environmental Defence from participating. Enbridge has ongoing obligations with respect to IRP which have not been suspended pending the outcome of the IRP proceeding. The Board has directed Enbridge to practice IRP many times over the past 30 years.² These directions date back to the OEB's IRP proceeding in the early 1990s.³ More recently, in its 2014 decision on Enbridge's GTA pipeline case, the Board directed Enbridge “to provide a more rigorous examination of demand side alternatives, including rate options, in all gas leave to construct applications” (emphasis added).⁴ The Board added further detail later that year in its DSM Framework:

As part of all applications for leave to construct 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.

In order for the gas utilities to fully assess future distribution and transmission system needs, and to appropriately serve their customers in the most reliable and cost-effective manner, the Board is of the view that DSM should be considered when developing both regional and local infrastructure plans. ...The Board expects the gas utilities to consider the role of DSM in reducing and/or deferring future infrastructure investments far enough in advance of the infrastructure replacement or upgrade so that DSM can reasonably be considered as a possible

² E.g. EBO 169-III, *Report of the Board on the Demand-Side Management Aspects of Gas Integrated Resource Planning*, July 23, 1993, pp. 1-4; Ontario Energy Board, *Decision in EB-2012-0451/0433*, January 30, 2014, p. 46-47 (GTA Pipeline); ² Ontario Energy Board, *DSM Framework*, December 22, 2014, p. 35-36; ² EB-2018-0097, *Decision and Order*, January 3, 2019, pp. 6-7 (Bathurst Reinforcement).

³ EBO 169-III, *Report of the Board on the Demand-Side Management Aspects of Gas Integrated Resource Planning*, July 23, 1993

⁴ Ontario Energy Board, *Decision in EB-2012-0451/0433*, January 30, 2014, p. 46-47 (GTA Pipeline).

alternative. If a gas utility identifies DSM as a practical alternative to a future infrastructure investment project, it may apply to the Board for incremental funds to administer a specific DSM program in that area where a system constraint has been identified. (emphasis added)⁵

In 2018, the Board again directed Enbridge to do better. The Board's DSM Mid-Term Review report called on Enbridge to develop "rigorous protocols to include DSM as part of their internal capital planning process" and that this "include a comprehensive evaluation of conservation and energy efficiency considered as an alternative to reduce or defer infrastructure investments as part of all leave to construct applications."⁶ The full passage is as follows:

Stakeholders indicated reservations in the usefulness of the transition plan provided by the natural gas utilities. The OEB agrees that although the progress made is at an early stage, the transition plan does not advance the understanding of the role and impact that energy conservation can play in deferring or avoiding capital projects. Currently, leave to construct applications do not include a description of the DSM alternatives considered to help avoid and/or defer the proposed capital project. The natural gas utilities should continue to develop rigorous protocols to include DSM as part of their internal capital planning process. This should include a comprehensive evaluation of conservation and energy efficiency considered as an alternative to reduce or defer infrastructure investments as part of all leave to construct applications.⁷

In the 2019 Bathurst Reinforcement decision, the Board again directed Enbridge "to provide sufficient and timely evidence of how DSM has been considered as an alternative at the preliminary stage of project development."⁸ It also warned Enbridge that it "faces the risk that future application will be deemed incomplete."⁹

The IRP proceeding will hopefully result in significant improvements to Enbridge's IRP processes. In the meantime, Enbridge cannot ignore IRP in leave to construct applications. By holding an IRP proceeding, the OEB did not intend to allow Enbridge to avoid its obligations to consider IRP in the interim.

Enbridge appears to have ruled out any kind of IRP for this project (including reconfiguration, downsizing, etc.) because the project is driven by safety and compliance. That may or may not have been the correct decision. At this stage, Environmental Defence has questions to pose to Enbridge to test and shed light on this decision. There is no reason to bar Environmental Defence from doing so. Indeed, this portion of Environmental Defence's intervention would be in support of many years of OEB directions to Enbridge.

⁵ Ontario Energy Board, *DSM Framework*, December 22, 2014, p. 35-36.

⁶ EB-2017-0127/0128, *Report of the Ontario Energy Board, Mid-Term Review of the Demand Side Management (DSM) Framework for Natural Gas Distributors (2015-2020)*, November 29, 2018, p. 20-21.

⁷ *Ibid.* (emphasis added).

⁸ EB-2018-0097, *Decision and Order*, January 3, 2019, pp. 6-7.

⁹ *Ibid.*

Please do not hesitate to contact me if anything further is required.

Yours truly,

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

Kent Elson