



THE BOARD OF DIRECTORS

PATRICIA ADAMS
Chair and President
ANN CAVOUKIAN
Executive Director, PBDI, Ryerson University
ANDREW COYNE
Columnist, Globe and Mail
IAN GRAY
President, St. Lawrence Starch Co. Ltd.
GAIL REGAN
President, Cara Holdings Inc.
GEORGE TOMKO
Expert-in-Residence in IPSI, University of Toronto

MAX ALLEN
Producer, CBC Radio
DAVID CAYLEY
Writer and Broadcaster
GLENN FOX
Economist, University of Guelph
BRUCE PARDY
Professor of Law, Queen's University
ANDREW ROMAN
Lawyer

February 5, 2021

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

Dear Ms. Long,

**RE: EB-2020-0198 Enbridge Gas NPS 20 Waterfront Relocation LTC Application
Energy Probe Submission on the Notice of Withdrawal of the Application**

The following is the submission of Energy Probe Research Foundation (Energy Probe) on the topics set out in Procedural Order No.5 regarding the Notice of Withdrawal of the EB-2020-0198 Application by Enbridge Gas Inc. for the approval of a Leave to Construct for the NPS 20 Waterfront Relocation Project.

Background

Enbridge Gas Inc. applied to the OEB on October 13, 2020 for an order granting leave to construct approximately 1.9 kilometres of 20-inch diameter and approximately eight metres of 24-inch diameter natural gas pipeline and ancillary facilities because Waterfront Toronto requested that the existing pipeline be relocated.

In its notice of intervention Waterfront Toronto stated that the City of Toronto sent a letter to Enbridge on October 30, 2020 terminating Enbridge's access rights to the Keating Railway bridge where the existing pipeline is located. Waterfront Toronto claims that the City is now the party that is requesting that Enbridge relocate its pipeline, and not Waterfront Toronto. Following several procedural steps Enbridge filed a notice of withdrawal of the application on January 25, 2021. Waterfront Toronto objected to the withdrawal in its letter of January 26, 2021.

Energy Probe Research Foundation 225 BRUNSWICK AVE., TORONTO, ONTARIO M5S 2M6

Phone: (416) 964-9223 Fax: (416) 964-8239 E-mail: EnergyProbe@nextcity.com Internet: www.EnergyProbe.org

In Procedural Order No. 5 issued on January 29, 2021, the OEB invited parties to the proceeding to file submissions on following three topics:

1. *Adverse Impacts on Waterfront Toronto: What impact could the withdrawal of the application have on the Flood Protection Project schedule, if any? Can Waterfront Toronto adjust its schedule such that Enbridge Gas has more time to assess alternatives to the Project proposed in this Application?*
2. *Public Interest and Reliability of Natural Gas supply: If the Application is withdrawn, how can Enbridge Gas ensure the security of gas supply to its customers in the City of Toronto while addressing the removal of the Existing Pipeline from the Bridge?*
3. *Withdrawal with Conditions: If the OEB allows the Application to be withdrawn what, if any, conditions should it include in its decision? For example, should Enbridge Gas be required to provide a schedule for filing a new Leave to Construct application?*

The following is the submission of Energy Probe Research Foundation (Energy Probe) on the three topics.

The OEB's Objectives

Any discussion of the three topics should be informed by the Board's objectives under the OEB Act.

Board objectives, gas

2 *The Board, in carrying out its responsibilities under this or any other Act in relation to gas, shall be guided by the following objectives:*

1. *To facilitate competition in the sale of gas to users.*
2. *To inform consumers and protect their interests with respect to prices and the reliability and quality of gas service.*
3. *To facilitate rational expansion of transmission and distribution systems.*
4. *To facilitate rational development and safe operation of gas storage.*
5. *To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.*
- 5.1 *To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas.*
6. *To promote communication within the gas industry.*

In dealing with the notice of withdrawal by Enbridge Gas of its application, the OEB should be guided by the objective *“to inform consumers and protect their interests with respect to prices and the reliability and quality of gas service.”*

Energy Probe submits that the notice of withdrawal does not affect prices, reliability, and quality of gas service to consumers. Waterfront Toronto is not a gas consumer or a gas distributor. There is nothing in the OEB Act that would require the OEB to do anything in response to the request by Waterfront Toronto that the notice of withdrawal be rejected.

The Submission of Energy Probe on Topic 1

Adverse Impacts on Waterfront Toronto: What impact could the withdrawal of the application have on the Flood Protection Project schedule, if any? Can Waterfront Toronto adjust its schedule such that Enbridge Gas has more time to assess alternatives to the Project proposed in this Application?

Energy Probe is not aware that there is a document on the record in this proceeding that is the Flood Protection Project Schedule. It is therefore not possible to determine with any certainty what would be the impacts of the withdrawal of the application, or if any such impacts would be adverse on Waterfront Toronto. Since there is no schedule before the Board, it is not possible for the Board to determine if Waterfront Toronto can *“adjust its schedule such that Enbridge Gas has more time to assess alternatives to the Project proposed in this Application”*.

Even if such a schedule were on the record, responsibility for flood control is not within the *Board objectives*, gas quoted above. Energy Probe submits that the OEB does not have the authority to deal with flood protection. It would be exceeding its authority if it started acting as the “Ontario Flood Protection Board.”

The Submission of Energy Probe on Topic 2

Public Interest and Reliability of Natural Gas supply: If the Application is withdrawn, how can Enbridge Gas ensure the security of gas supply to its customers in the City of Toronto while addressing the removal of the Existing Pipeline from the Bridge?

There is no evidence that the withdrawal of the application affects the security of supply to Enbridge Gas customers in the City of Toronto. How Enbridge Gas ensures the security of supply to its customers in the City of Toronto is the responsibility of Enbridge Gas management. If that requires any approvals from the OEB, Enbridge Gas will file the required applications seeking approvals as it has always done in the past.

The Submission of Energy Probe on Topic 3

Withdrawal with Conditions: If the OEB allows the Application to be withdrawn what, if any, conditions should it include in its decision? For example, should Enbridge Gas be required to provide a schedule for filing a new Leave to Construct application?

The OEB should not include any conditions since that would serve no purpose. There is no document on the record that is the Flood Control Project Schedule. If the OEB issues a condition of withdrawal that would require Enbridge to provide a schedule for filing, the OEB would not be able to determine if the filing schedule is appropriate.

Conclusion

Energy Probe submits that the withdrawal of the application by Enbridge Gas should be accepted by the OEB without conditions. There is no need for the OEB to do anything in response to the request by Waterfront Toronto. The City of Toronto, not Waterfront Toronto, is the party that is requesting that Enbridge remove its pipeline from the Keating Railway Bridge. There is no evidence before the Board regarding potential adverse impacts on Waterfront Toronto. There is no evidence that the withdrawal of the application affects the security of supply to Enbridge Gas customers in the City of Toronto. There is no reason for the OEB to include conditions for withdrawal of the application.

Respectfully submitted on behalf of Energy Probe,

Tom Ladanyi
TL Energy Regulatory Consultants Inc.

cc. Patricia Adams (Energy Probe Research Foundation)
Joel Denomy (Enbridge Gas Inc.)
Ritchie Murray (OEB Staff)
Enbridge Gas Inc. (Regulatory Proceedings)