

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

July 23, 2021

**Re: EB-2021-0072 2019 DSM Deferral and Variance Account Disposition Application
Pollution Probe Cost Claim Reply**

Dear Ms. Long:

In accordance with the OEB Decision and Order dated June 24, 2021, Pollution Probe submitted its Costs Claim for the above-noted proceeding. On July 19, 2021 Enbridge submitted its cost claim response letter and noted two concerns in the Pollution Probe Costs Claim. The first concern was related to the hours for interrogatory preparation and responses. The second concern was related to hours for argument preparation and submission. There were no other comments noted by Enbridge and no recommendation for a specific adjustment. Pollution Probe appreciate this opportunity provided by the OEB to provide additional details related to these two areas of activity and we trust that this will provide the information required.

There was no specific recommendation made by Enbridge on what adjustment it recommends, but based on the Enbridge comment it appears that Enbridge suggests that a simple average per hours for Interrogatories and Argument is an appropriate benchmark. Pollution Probe disagrees with this assertion based on the facts provided below. Using a simple average may appear tempting and convenient, but it is inappropriate and would result in an 'apples to oranges' comparison when assessing the validity of hours used for activities claimed and the value related to a stakeholder's participation. In this proceeding, just like many others, there was a wide range of intervenor activity and that is quite normal and expected based on issues and interests represented. The range of activity and claims for the 2019 DSM account clearance proceeding is well within the range for similar proceedings, including those where over \$22.3 million dollars is being assessed for clearance.

It is very rare for Pollution Probe to be at or near the high end of cost claims and when that happens, it is for specific reasons aligned with the required level of participation and number of relevant issues. Below are specific comments related to the categories flagged by Enbridge. It is not appropriate for Pollution Probe to comment on how other stakeholders allocated their time, so the information below is based on the facts of the public record for the proceeding.

Comments related to Argument

Pollution Probe filed its Argument early as it often does to assist the OEB process. On an apples-to-apples basis, Argument from parties ranged in detail from 1 page to 8 pages depending on the number of relevant issues and level of analysis covered (not including cover pages). Pollution Probe submitted the most at 8 pages (not including cover pages) and the average was 3.25. The hours allocated by Pollution Probe relating to Argument was 6.5 hours, compared to an average of approximately 3.25

hours. This time included coordination with staff at Pollution Probe on relevant issues. Based on the number of issues and analysis covered by Pollution Probe 6.5 hours is reasonable and proportionate. Pollution Probe not only covered more issues, but was also more efficient than the average in the time allocated to Argument (i.e. time per page/issue).

Pollution Probe was the only stakeholder that provided detailed analysis and recommendations in its Argument related to the clearance of accounts based on the information in the 2019 DSM Audit and related documents (the primary evidence reference supporting clearance). The 2019 DSM Audit alone includes 189 pages of relevant information and the related Annual Report was also 189 pages. In Pollution Probe's view it is quite reasonable to incur 3.25 hours above the average related to analysis and argument of over 350 pages of evidence.

Comments related to Interrogatories

Preparation and review of Interrogatories is also a case where comparing to a simple average hours is not appropriate or reasonable. Some parties in the proceeding filed none or only one interrogatory related to issues in this proceeding and appear to have less issues represented in their submissions. As outlined above, Pollution Probe conducted detailed analysis on a significant amount of evidence in the proceeding (including over 350 pages related to the 2019 DSM audit and Annual Report). Pollution Probe filed more than double the average number of interrogatories (23 questions with parts grouped by issue) and only claimed 10 hours against the average of 5 hours. This is reasonable, proportionate and appropriate. Also, 2/3rds (4 out of 6) of parties filing cost claims did not allocate any hours to the review of interrogatory responses and claimed 0 hours for Interrogatory Responses in their cost claims. Enbridge's response to interrogatories was over 150 pages and the time for Pollution Probe to review the responses is in line with typical proceedings and reasonable timelines.

Conclusion

Pollution Probe confirms that the hours in its Cost Claim are accurate and reasonable. Pollution Probe participated responsibly in the process; contributed to a better understanding of issues in the process; complied fully with the Board's orders and direction, and avoided duplication with other parties. Pollution Probe respectfully requests OEB approval of its Cost Claim for this proceeding filed July 12, 2021. Please do not hesitate to reach out should you have any questions.

Respectfully submitted on behalf of Pollution Probe.



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