

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

November 19, 2021

**EB-2021-0205 – Greenstone Pipeline Leave to Construct
Pollution Probe Submission on the Request for Confidential Treatment**

Dear Ms. Long:

In accordance with Procedural Order No. 1, please find below Pollution Probe's submissions related to the request for confidential treatment of certain elements of the evidence supporting Enbridge's request to the OEB for Leave to Construct approval.

In the Enbridge filing for OEB Leave to Construct approval there were several elements of the supporting evidence that were redacted, more specifically portions of:

- Gas Distribution Contract (Ex B/T1/S1/Attachment 1)
- Landowner List (Exhibit G/T1/S1/Attachment 5)
- Indigenous Consultation Log and Attachments (Exhibit H/T1/S1/Attachment 7)

In its letter to the OEB dated November 1, 2021, Pollution Probe identified issues with the redaction of some of the information that does not meet the OEB requirements and is required to be part of the open public record. Subsequently, Environmental Defense identified in its letter dated November 8, 2021 that Enbridge failed to comply with the Practice Direction on Confidential Filings and requested the information to assess Enbridge's request for confidential treatment. Pollution Probe represents consumer, community and public interests and often coordinates with other stakeholders in proceedings, including Leave to Construct. Evidence that is core to the proceeding and treated as confidential restricts the ability to fully assess evidence in this proceeding.

The OEB has set a very high requirement (and specific process) for the consideration of confidential treatment for information in a public proceeding, and rightly so. The public interest default requirement is to file a full, complete and unredacted version of all evidence unless the requesting party is able to satisfy the OEB that confidential treatment is essential. This provides a complete public record and reduces the incremental burden on all parties that comes with additional hearing processes to deal with confidential information. Issuing OEB decisions based on confidential information provides additional challenges in that the public record is not fully visible to provide the evidence supporting the decision. Pollution Probe supports the OEB's Practice Direction on Confidential Filings and believes that information requested by Pollution Probe does not meet this OEB standard as confidential information.

It should be noted that although Pollution Probe only requested that portions of the redacted information be filed in an unredacted manner, the OEB standard applies to all the evidence filed and it is

likely that most or all the evidence should be filed in an unredacted manner. The only portion of evidence that appears to meet (in part) the OEB standard is the Landowner list, not including business information. There is often a confusion by applicants what is personal information and what is business information. In a business context (such as the contract with Greenstone Gold Mines), all of the information relates to a business transaction and none of the information is of a personal nature. Additionally, a request for confidential treatment (such as done by Enbridge and Greenstone Gold Mines) without suitable supporting rationale (in accordance with the OEB Practice Direction on Confidential Filings) is not sufficient.

Pollution Probe specifically requested that the following information be provided in an unredacted manner:

- Section 11¹ of the contract filed by Enbridge including two redacted lines indicating details related to the customer's ability to terminate the contract.
- Appendix A - Schedule of payment for the CIAC and Schedule 1 has redacted information (e.g. estimated daily peak demand).

In both these cases, this information is core to the proceeding and directly related to the OEB's assessment of the application. The submissions made by Enbridge and Greenstone Gold Mines suggest that the redacted information is commercially sensitive, but in fact this is not the case.

Pollution Probe understands that the termination Clause wording is no longer part of the request for confidential information since in the Greenstone Gold Mine letter dated November 16, 2021 confirms that the termination clause wording may be disclosed in an unredacted manner.

Related to the CIAC schedule and amounts, the Greenstone Gold Mine letter indicates "GGM would expect the payment schedule to be considered confidential **as a standard practice** given this is commercial information negotiated between GGM and Enbridge Gas". It is an incorrect assumption that evidence filed would be treated as confidential as a standard practice. In actual fact it is the opposite, that OEB filing are treated as not confidential unless an application is made to the OEB that deems confidential treatment based on the Practice Direction on Confidential Filings. The CIAC schedule is an essential component of determining the cost-effectiveness and viability of the project. It also is the only document that protects ratepayers from incurring costs should the CIAC payment not be made. It is standard practice to provide the CIAC schedule and amounts in a Leave to Construct application.

Respectfully submitted on behalf of Pollution Probe.



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¹ Exhibit B, Tab 1, Schedule 1, Attachment 1 Page 6 of 11



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