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

June 9, 2022

**EB-2022-0003 – Waterfront NPS 20 Leave to Construct  
Pollution Probe Submission**

Dear Ms. Marconi:

In accordance with Procedural No. 1 for the above-noted proceeding, please find attached Pollution Probe's submission.

Respectfully submitted on behalf of Pollution Probe.

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Cc: Dave Janisse, Enbridge (via email)  
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Scott Stoll, Aird & Berlis (via email)  
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Richard Carlson, Pollution Probe (via: email)

**ONTARIO ENERGY BOARD**

**Enbridge Gas Inc.  
Leave to Construct Application  
Waterfront NPS 20 Leave to Construct**

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**POLLUTION PROBE SUBMISSION**

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**June 9, 2022**

**Submitted by: Michael Brophy  
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**Consultant for Pollution Probe**

## Background

Enbridge Gas Inc. (Enbridge) applied to the Ontario Energy Board (OEB) on February 24, 2022, under sections 90 and 97 of the Ontario Energy Board Act, 1998 for an order granting leave to construct for two new gas pipelines: a temporary 190 metre 20-inch diameter pipeline (Temporary Bypass) and a permanent 160 metre 20-inch diameter pipeline (Permanent Relocation) in the City of Toronto. The proposed pipelines would facilitate the abandonment of approximately 155 metres of existing NPS 20 pipeline which is located on and near the Keating Railway Bridge and conflicts with the construction of Waterfront Toronto's Port Lands Flood Protection and Enabling Infrastructure Project. 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 new pipelines.

In accordance with Procedural Order No. 1, the following is the written submission of Pollution Probe.

## Project Need and Timing

This project has been in consideration for several years and was also previously considered by the OEB in EB-2020-0198. The project was ultimately withdrawn by Enbridge based on several factors including funding agreement issues and the lack of the route selection and Environmental Report to consider more cost-effective options. Some of the routing concerns made by parties during EB-2020-0198 were added for consideration in this application. Overall, there has been a significant reduction in pipeline length, impact and related costs compared to the initial project analysis and proposal.

Based on the court order included in the Enbridge application, it appears clear that the existing pipeline will need to be removed. It is Enbridge's case to make to indicate what reasonable options have been considered and why the proposed Permanent Replacement and Temporary Bypass should be approved by the OEB as filed. As will be indicated below, Pollution Probe believes that a more thorough assessment of alternatives should have been conducted, including a proper IRP assessment. There has been sufficient time to develop that information and include it in this application. Unfortunately, at this time there ii appears that there is little time left to conduct the proper assessment. Indicating urgency at the time of application filing is not a substitute for proper project assessment prior to the application. At the core of the proceeding is the OEB's consideration of replacement urgency over additional information and options that should have been considered and filed.

Please note that Pollution Probe has assessed a broader set of issues in alignment with the Issue List for the proceeding<sup>1</sup>. Following a review of the material available including interrogatory responses, Pollution Probe has decided to include a smaller subset in this submission. It should not be interpreted that the full set of issues are not important, but in this particular application project urgency will likely restrict the ability for the OEB to consider some of the other important issues and recommendations that would normally be applied to this type of project.

### Cost Estimate and Project Impacts

The total cost for the Project is estimated to be \$23.5 million, less a contribution from Waterfront Toronto of \$5.0 million, for a net Project cost of \$18.5 million. Waterfront Toronto will also be responsible for the costs it incurs related to consulting and construction services to design and construct a new utility corridor on the Keating Rail bridge, the estimated value of which is approximately \$3 million.

It is possible that additional changes, mitigation and related costs will be required once the Environmental Protection Plan. For example, the likely impact of hydrocarbon, chemical and other contamination in the area can impact construction protocols, public safety and regulatory approvals/requirements for the proposed project. At this time, there is not enough information to assess the potential costs and net impacts related to these issues. The Environmental Report was conducted using a desktop review only and the site specific Environmental Protection Plan has not been developed by Enbridge at this time.

Enbridge expects that, upon rebasing, the net capital costs associated with the Project will be included within rate base. Enbridge intends to allocate project costs to rate classes according to the applicable OEB-approved cost allocation methodology in place at the time the Company applies for such rate recovery<sup>2</sup>. If approved by the OEB, the project costs will be added as incremental to based utility costs (including overheads), it is recommended that the indirect overhead costs of \$3,251,073<sup>3</sup> be removed as incremental costs in the project budget. This proceeding represents the only OEB review for this specific project and budget and any change from what Enbridge has proposed would need to be addressed by the OEB in this decision.

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<sup>1</sup> E.g. Cost, environmental and socio-economic impacts and risk related to contaminated soils under the Don River, in the study area and directly along the proposed pipeline route.

<sup>2</sup> EB-2022-0003 Exhibit I.PP.2

<sup>3</sup> EB-2022-0003 Exhibit D, Tab 1, Schedule 1, Table 1.

### Planning, Demand and Option Consideration

Enbridge is treating the proposed project as a “like for like” replacement and therefore has not done any detailed analysis on the future demand in the City of Toronto over the life of the proposed pipeline. In response to questions from OEB Staff on the pipeline options (i.e. sizing) considered for this project, Enbridge indicated that it “assessed the replacement of the existing NPS 20 pipeline with a smaller diameter pipeline as part of this Project. Enbridge Gas determined that a reduction to NPS 16 would cause the flow velocity to double, increasing restriction through the pipeline and reducing capacity to the area of benefit”<sup>4</sup>. It is logical that a smaller pipeline will have a lower peak capacity, but this does not constitute an assessment of future demand (for the area served by the proposed pipeline) in the City of Toronto or an alignment of the proposed peak capacity with that future demand.

Enbridge indicates that in order to assess the demand for the proposed pipeline it would need to assess the full KOL loop that it is part of. More specifically, Enbridge indicated that “any broad assessment of the future demands within the City of Toronto or an assessment of any related IRP Plan would be applicable to the NPS 20 KOL as a whole and not limited to the 154m segment of pipeline that is at issue in this proceeding”<sup>5</sup>. It is a standard request from the OEB to provide a more holistic analysis when a project is one of manner smaller projects impacting the broader system. Filing individual projects without this context and analysis does not align with effective project or proper Integrated Resource Planning (IRP).

The City of Toronto is forecasting a significant decline in natural gas use over the life of the proposed pipeline<sup>6</sup> and using a “like for like” assumption does not match project capacity to future demand and increases the potential for the proposed pipeline to become stranded (in part or whole) in the future. The proposed amortization period for the proposed Permanent Relocation is 40 years<sup>7</sup> which would mean that rate payers will still be paying for costs related to this pipeline in 2062. Even by 2050 the City of Toronto is forecasting natural gas use within the City of Toronto to be approximately 1/3<sup>rd</sup> of historical demand.

**Pollution Probe recommends that the OEB specifically reconfirm that where a project is part of a broader system (e.g. KOL Loop) that Enbridge should update the relevant demand forecast and file it with the application.** This will ensure that the project aligns with future demand and reduces the likelihood of stranded assets that

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<sup>4</sup> EB-2022-0003 Exhibit I.STAFF.2

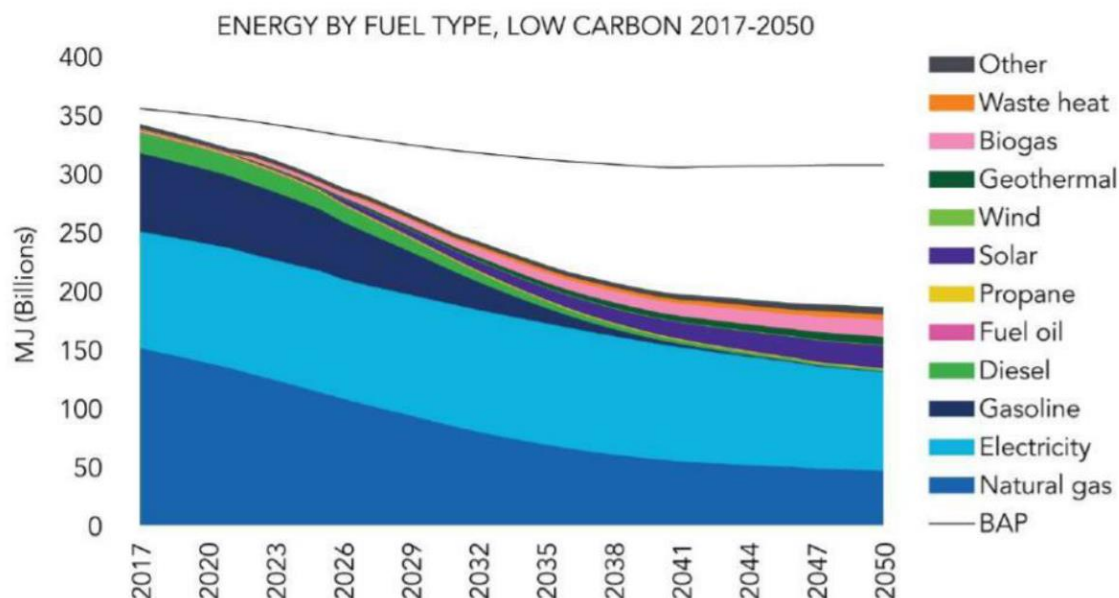
<sup>5</sup> EB-2022-0003 Exhibit I.PP.6d

<sup>6</sup> See diagram below per EB-2022-0003 Exhibit I.PP.6

<sup>7</sup> EB-2022-0003 Exhibit I.PP.5

are not fully depreciated. Enbridge confirmed that at least two additional section replacements are also planned in the future that may require similar OEB review and approval.

### City of Toronto Transform TO Report, Figure 33



### OEB IRP Requirements

Enbridge indicated that it has not conducted any IRP alternative assessment related to this project<sup>8</sup>. Enbridge indicated that it believes that the project is exempt from IRP alternative consideration because it was driven by a need under three years<sup>9</sup>. An exemption from IRP considerations is not automatic and it was identified in the IRP proceeding that a Leave to Construct application process<sup>10</sup> is one appropriate check and balance against claiming IRP exemptions inappropriately<sup>11</sup>. To be clear, a proposed Leave to Construct project can only be considered for a potential exemption if the OEB determined that the project is exempt and that reasonable attempts were taken to assess IRP alternative (such as a decreased pipeline size) during project development prior to application filing. This is based on consideration of the criteria in the OEB IRP Framework and more importantly linked to OEB approval on project timing. The three

<sup>8</sup> EB-2022-0003 Exhibit I.PP.8

<sup>9</sup> Exhibit C, Tab 1, Schedule 1, pages. 5-6.

<sup>10</sup> And confirmed in EB-2022-0003 Exhibit I.PP.10

<sup>11</sup> Since the EB-2020-0091 Decision all Leave to Construct applications filed by Enbridge have claimed to be exemption. However, not all projects have been approved by the OEB and in EB-2020-0293 the OEB indicated that it expects Enbridge to apply IRP considerations.

year exemption consideration is also not meant to reflect the period of time from application to when project commissioning is expected, but is meant to reflect the broader period of time that Enbridge had to consider project options and alternatives prior to making an application.

This project has been in consideration for more than three years and although recent circumstances outlined in the Enbridge application have increased the sense of urgency, Pollution Probe believes that an IRP assessment should have been conducted. There has been sufficient time even since the EB-2020-0198 project withdrawal to conduct a proper IRP assessment. Furthermore, a proper IRP assessment would have provided comfort to the OEB and stakeholders that the proposed option, impacts and costs represent the best option.

### Amortization Period

Enbridge confirmed that the amortization period for the Replacement Project to be 40 years<sup>12</sup>. Enbridge also confirmed that the costs for the Temporary Bypass is included in the total capital cost of the Project<sup>13</sup>. Enbridge does not have a specific internal policy/guidance document, nor is the Company aware of OEB direction that sets the basis for evaluation and financial treatment of proposed Temporary Bypasses<sup>14</sup>. Enbridge expects that, upon rebasing, the net capital costs associated with the full Project will be included within rate base. Enbridge Gas will allocate Project costs to rate classes according to the applicable OEB-approved cost allocation methodology in place at the time the Company applies for such rate recovery<sup>15</sup>.

It appears that if the OEB grants Leave to Construct Approval for the project as filed, there would be no other OEB review of project costs and it would mean that the full project costs (Permanent Replacement plus Temporary Bypass) would be added to Enbridge rates at rebasing (2024) and be amortized over a 40 year period. Pollution Probe has previously highlighted the challenges with amortizing new pipelines over multiple decades when the local municipal energy and emission plan indicate a significant decrease in natural gas over the same period. This is a broader issue that the OEB will need to assess. However, in this case there will be a Temporary Bypass representing a portion of the project costs that will no longer be “used and useful” once the Permanent Replacement is installed and commissioned in August 2024<sup>16</sup>. It seems

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<sup>12</sup> EB-2022-0003 Exhibit I.PP.5

<sup>13</sup> EB-2022-0003 Exhibit I.PP.7

<sup>14</sup> EB-2022-0003 Exhibit I.PP.7

<sup>15</sup> EB-2022-0003 Exhibit I.PP.2

<sup>16</sup> EB-2022-0003, Exhibit B, Tab 1, Schedule 1. Paragraph 27.

more appropriate that the Temporary Bypass would only be allowed in rate base for the period it is operation, i.e. “used and useful”. Since this is the only proposed OEB review of this project, that issue would need to be considered by the OEB in this proceeding.

### Environmental and Socio-economic Impacts

There are numerous environmental and socio-economic issues related to the project. This project area is known to be an area of contamination due to over a century of industrial use permeating the soil, groundwater and Don River. The Don River contamination is largely locked in the riverbed sediments and would remain dormant unless work disturbs the riverbed sediments.

Enbridge indicated that Stantec completed a desktop review of potentially contaminated sites in the study area, which is outlined in Section 4.3.5 of the Environmental Report (ER). The overview includes the location of active and closed landfill sites which were identified by reviewing the Ministry of Environment, Conservation and Parks (“MECP’s”) Waste Disposal Site Inventory, the City of Toronto Official Plan maps, and the MECP’s lists of large and small landfill sites in Ontario. Additionally, Stantec has conducted a certificate of property use records review to evaluate current and historical information pertaining to sites in the areas surrounding the preferred and alternate routes. Mitigation measures are outlined in Table 5-1 of the ER; mitigation measures specific to Contaminated Sites are shown on page 70<sup>17</sup>. The desktop review conducted by Stantec is very high level and resulted in a generic set of recommendations not specific to the proposed pipeline route. This may have been due to using a general set of recommendations applied to ERs when only a desktop review is conducted.

Pollution Probe recommends a more site specific investigation and mitigation plan to identify and plan for soil and groundwater contamination. Even simple dewatering of the pipeline trench during construction could result in human exposure to contamination and outflow of the contaminated water into the Don River.

Additionally, the proposed route impacts a significant area of commuter and bike path traffic exposing general public to greater than normal impacts related to construction. Special site-specific consideration is required to plan for and mitigate environmental and socio-economic impacts related to the proposed project.

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<sup>17</sup> EB-2022-0003 Exhibit I.PP.13