

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

November 3, 2022

**EB-2022-0157 – Panhandle Regional Expansion Project Leave to Construct
Pollution Probe Letter of Comment**

Dear Ms. Marconi:

Pollution Probe in receipt of Enbridge's letter date November 2, 2022 and OEB Staff's email dated November 3, 2022 related to the complexity of the issues in this proceeding and the time needed to review and respond to these issues. Pollution Probe agrees that there are complex issues in this proceeding. The OEB did not have the benefit of this input or the Environmental Defense evidence filed October 28, 2022 when it released Procedural Order No. 2 on October 14, 2022. However, at this stage of the proceeding the level of complexity related to the issues are more transparent.

Pollution Probe supports the extended dates Enbridge proposed for Reply Evidence, Interrogatories and response to Interrogatories. All of this will provide a more fulsome understanding of issues and potential gaps that still remain. This process will provide information to support the OEB in making an informed decision on the proposed project.

As the OEB considers the relevant information prior to issuing further procedural orders in this proceeding, Pollution Probe would like to flag a significant issue that has emerged through the discovery process that would impact the fundamental considerations in this proceeding. In its application Enbridge indicated that it intended to solely use the tests outlined in the OEB EBO 134 Guideline. Some parties inquired during the Technical Conference why EBO 188 principles should not also be considered given that the project is being significantly (if not entirely) driven by a small number of large customers. Based on information provided during discovery, this project appears to align with the OEB's definition of a Distribution pipeline also covered under EBO 188.

JT1.2 indicates that "consistent with the definition set out within the OEB's Natural Gas Facilities Handbook, Enbridge Gas generally defines transmission pipelines as those pipelines where no distribution customers are directly connected". Enbridge confirmed that there are at least five customers attached to the pipeline¹ which appears to align with the definition of a Distribution pipeline covered by EBO 188. Also, large volume contracts used for the large customers driving this project also include clauses applicable to Distribution pipeline requirements² (i.e. EBO 188 cost sharing requirement not adequately address in EBO 134).

¹ Final Transcript for EB-2022-0157 Enbridge LTC Panhandle Day 2. Page 2 lines 14-21.

² Final Transcript for EB-2022-0157 Enbridge LTC Panhandle Day 2. Page 28 lines 1-19 and contract being referred to which is included in Exhibit I.PP.5, attachment 1. Page 12.

Perhaps this is a case where elements of both EBO 134 and EBO 188 are relevant, but it unclear how the OEB would choose to handle this situation and what consideration and direction to stakeholders the OEB may wish to provide. Regardless, it would be of value to understand this issue better and receive more specific OEB direction prior to setting a date for Enbridge Argument-in-Chief, Stakeholder Argument and Enbridge Reply Argument. Proceeding with the closing phase of the proceeding without clarity and direction will likely lead to inefficiency and lack of ability for stakeholders (including Enbridge) to ensure all relevant issues are addressed in a manner suitable for the OEB. It could also result in other issues such as rate payer cross-subsidization to a small number of large customers.

The adjustment to procedural timelines requested by Enbridge would extend this proceeding into early 2023. This provides a good opportunity and adequate time for the OEB to consider this issue and any procedural adjustments required.

Respectfully submitted on behalf of Pollution Probe.



Michael Brophy, P.Eng., M.Eng., MBA
Michael Brophy Consulting Inc.
Consultant to Pollution Probe
Phone: 647-330-1217
Email: Michael.brophy@rogers.com

Cc: Dave Janisse, Enbridge Regulatory (via email)
Tania Persad, Enbridge Legal (via email)
Charles Keizer, Tory (via email)
All Parties (via email)
Richard Carlson, Pollution Probe (via email)