

Ms. Nancy Marconi
OEB Registrar
Ontario Energy Board
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2300 Yonge Street
Toronto, ON M4P 1E4

June 3, 2024

**EB-2022-0111 Bobcaygeon Community Expansion Project Leave to Construct
Pollution Probe Cost Claim Reply**

Dear Ms. Marconi:

Pollution Probe is in receipt of Enbridge's letter dated May 28, 2024 related to Cost Claims for the above-noted proceeding. Pollution Probe provides the following comments in relation to its Cost Claim in response to comments submitted by Enbridge.

The majority of the comments submitted by Enbridge relate to Environmental Defence's Cost Claim, but Pollution Probe has not included comments related to the Environmental Defence Cost Claim since that would be an 'apples to oranges' comparison based on each party's participation in the proceeding and the specific information included in each Cost Claim. The Pollution Probe's Cost Claim stands on its own merit and is based on time spent and the related costs. Pollution Probe was responsible and conservative in its Cost Claim and in fact did not include certain time related to items such as 'Review Decision' or others as allowed by the OEB and applicable to this proceeding.

This appears to be a new tactic on behalf of Enbridge to threaten a cost disallowance if a party questions the consideration of customer choice for non-gas options or the reasonableness of a project forecast that could decrease natural gas project economics and capital rate base. A significant strength of the OEB process is that it is an open, fair and transparent process that enables a fact-based Decision. Allowing the perception of Applicants to pursue punitive action against those that question their evidence and related assumptions could weaken and undermine the principles that the OEB process is built on.

Pollution Probe notes that the time and related costs included are reasonable. Enbridge's letter does not question the amount of Pollution Probe's Cost Claim, but suggests **solely** that 'Discovery' and 'Argument' category costs (which make up the entirety of the Cost Claim) be reduced due to Enbridge's opinion that any interrogatories that refer directly or indirectly to customer choice and related non-gas options (e.g. air-source heat pumps) are prohibited in the proceeding. Enbridge has prorated a theoretical decrease to all Cost Claim categories used by Pollution Probe based on Enbridge's assumption that certain Interrogatories were not permissible in this proceeding (i.e. out of scope).

Any opinions related to proceeding scope and the OEB approved Issues List would have been more appropriately raised early in the proceeding. As Enbridge has noted, these issues have been included as in the scope of similar recent expansion project Leave to Construct proceedings that utilised the exact same Issues List. It is unclear why Enbridge thinks the Issues List should be interpreted differently in this

proceeding compared to other recent proceedings which used the exact same issues list. Similarly, Enbridge made no mention of its concerns during the Discovery phase of the proceeding. It would be punitive and unfair to retroactively reduce Pollution Probe's Cost Claim after the fact when nothing was identified at any point during the proceeding that would merit such action.

Enbridge has suggested that the OEB should reduce the Pollution Probe Cost Claim by 14.4%¹. Enbridge indicates that the reduction is premised on a theoretical decrease to Pollution Probe's entire Cost Claim based on a list of interrogatory questions it deems to be out of scope for the proceeding. The interrogatories flagged by Enbridge relate directly or indirectly with project need and consumer choice options for non-gas alternatives. Pollution Probe considered this information in conjunction with the Enbridge survey in providing comments related to the customer demand driving the project forecast over the 40 year revenue horizon. This has been a standard area of focus in all recent Leave to Construct proceedings and it is unclear why this proceeding should be treated differently. If Enbridge believes that the OEB should interpret the Issues List in a different manner from other recent expansion Leave to Construct proceedings, this should be requested on a generic basis so that all proceedings can be approached in a consistent manner.

Issue 1 on the Issues List for the proceeding specifically includes:

Has the applicant demonstrated that the project is needed? What factors are driving the need? (e.g., new customer demand, increased system capacity requirement, reliability of service, need for pipeline relocation, operational risks, integrity issues) Has sufficient evidence demonstrating need been provided (e.g., customer or volumetric forecast, system capacity analysis, engineering reports)?

Issue 3 on the Issues List includes:

- 3.1: Has the applicant provided sufficient information to demonstrate that the estimates of the project costs are reasonable? How do the costs of the project compare with recent similar projects, where applicable?
- 3.2: Has the applicant adequately identified and described any risks associated with the proposed project? Is the proposed contingency budget appropriate and consistent with these identified risks?
- 3.3: Has the applicant demonstrated that the project's economics meet the OEB's economic tests using the methodology outlined in EBO 188 or EBO 134, as applicable? Where a contribution in aid of construction is required, is the amount of the contribution reasonable and consistent with OEB policies?

The basis for which Enbridge has forecasted that consumers in the community are likely to switch to natural gas, remain on natural gas and the related project economic forecast is specifically relevant to Issues 1 and 3 for the proceeding. Recognition of customer choice and non-gas alternatives directly relates to the issues on the Issues List. The OEB has previously reinforced the importance of customer choice and alternatives when forecasting natural gas customer demand and their likelihood of remaining on the gas system for the projected 40 year revenue forecast period². To suggest that questioning Enbridge's customer and revenue forecast is out of scope for the proceeding is clearly absurd.

¹ Enbridge proposal of \$11,571.10 compared to the Costs Claim of \$13,517.64 is a decrease of approximately 14.4%

² Including in EB-2022-0200 Phase 1 and all recent expansion project Decisions.

Additionally, **the OEB has itself recognized the potential customer energy savings associated with the installation of such heat pumps and their favourable impact on lowering the consumption of natural gas**³. The OEB Decision in this proceeding acknowledges the relevance of customer choice and non-gas alternative issues surrounding the project forecast and the risk related to project economics over the 10 year Rate Stability Period and beyond.

The time included in the Pollution Probe Cost Claim is reasonable and in alignment with costs approved by the OEB⁴ where a similar range of issues were present. Pollution Probe notes that it was the only intervenor to focus on environmental and socio-economic issues under Issue 4 (Environmental Impacts) on the OEB Issues List for the proceeding. This is a significant and important set of issues and OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (Environmental Guidelines) outline the ranges of environmental and socio-economic issues that must be considered for each individual project. Although there are some commonalities to expansion projects supported under the Natural Gas Expansion Program (NGEP), every Leave to Construct project and its Environmental Report is unique in its assessment and proposed mitigation for environmental and socio-economic impacts. Enbridge and the OEB has also confirmed the importance of addressing impact mitigation of the residual risks for this project as identified in the Environmental Report when Enbridge creates the Environmental Protection Plan (EPP) required prior to construction⁵.

The Environmental Report alone almost **doubled** the amount of evidence filed by Enbridge in its Application⁶. Through the discovery and evidence analysis process Pollution Probe was able to rationalise the relevant environmental and socio-economic mitigation risks down to an efficient narrow list which Enbridge confirmed it would address in its EPP prior to construction. Applying a prorated theoretic discount ignored the basis on which the Cost Claim was developed.

Pollution Probe submits that it participated responsibly throughout this proceeding and requests that the OEB approve its Cost Claim as filed.

Respectfully submitted on behalf of Pollution Probe.



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³ EB-2022-0111 dec_order_EGI_Bobcaygeon NGEP_20240514_eSigned, Page 24.

⁴ For example, the OEB EB-2019-0187 Saugeen expansion Leave to Construct had environmental and socio-economic issues in a similar range to this project and resulted in full Cost Claim approval by the OEB in the same range.

⁵ Item 4 on the OEB Conditions of Approval for the Project and as committed by Enbridge in Exhibit I.PP.40

⁶ The updated Application was 990 pages (slightly less without the cover letter) and excluded Exhibit F-1-1 (Environmental Report) which was filed separately. The Environmental Report filed was 841 pages filed separately which essentially doubled the amount of evidence filed by the Applicant in the original Application.