

Elson Advocacy

June 24, 2024

BY RESS

Nancy Marconi

Registrar

Ontario Energy Board

2300 Yonge Street, Suite 2700, P.O. Box 2319

Toronto, Ontario M4P 1E4

Dear Ms. Marconi:

**Re: Review of Decisions in Bobcaygeon, Sandford, Eganville, and Neustadt Gas
Expansion Projects (EB-2022-0111; EB-2023-0200/0201/0261)
Review Motion File #: EB-2024-0197**

I am writing to respond to the letter submitted by Enbridge in response to the review motions filed in these proceedings by Environmental Defence and the Federation of Rental-housing Providers of Ontario. Enbridge argues that the motions should be summarily dismissed without a hearing under Rule 43.01. There is no basis for that outcome.

Enbridge argues that the Environmental Defence review should be summarily dismissed because the issues were already fully decided in the previous review regarding the Hidden Valley and Selwyn gas expansion projects. That is not the case. The previous review decision is not determinative and the current case raises important and different issues. The previous review decision only addressed certain heat pump evidence, unlike this case, which focuses on a request to file customer connection survey evidence akin to the customer connection survey evidence filed by Enbridge in support of its revenue forecast. Also, the previous review decision concerned projects that were far smaller than the ones at issue here, which was an important factor in that previous decision.¹ The current four applications have a forecast capital cost that is over 23 times the projects addressed in the previous review decision (\$7 million versus \$165 million).

There are also additional substantive issues, such as the exclusion of normalized reinforcement costs (which are required to be included in cost-effectiveness calculations pursuant to EBO 188), the higher-than-average annual gas consumption per customer assumed by Enbridge in its revenue forecast, and whether Enbridge sufficiently responded to the \$44 million shortfalls in previous gas expansion projects. There is no basis in Enbridge's assertion that the issues in this case have already been determined in the previous review decision.

¹ EB-2023-0313, Decision and Order, December 13, 2023, pp. 3-17.

Enbridge alleges that this review motion is “nothing more than another attempt by ED to further complicate and delay these proceedings.” This is false. Environmental Defence is seeking to succeed in the review motion and obtain the requested relief. There is no basis for Enbridge’s allegation of ulterior motives.

Enbridge also uses wording to suggest that Environmental Defence is acting inappropriately, such as referring to a “pattern of conduct.” However, Environmental Defence has acted responsibly throughout. For example, it has met or beat all deadlines. It filed final submissions in most of the gas expansion cases long before they were due.

Enbridge cites some words said by an Environmental Defence staff person about opposition to Enbridge and methane gas as proof of some sort of wrongful conduct. However:

- It is not somehow wrongful to oppose the use of fossil fuels or express opposition to Enbridge.
- Enbridge plucked the words out of context from a webinar about Bill 165.
- The webinar included critiques of Enbridge’s actions, such as its deceptive marketing and attempts to obtain subsidies from existing customers to fund the expansion of its fossil fuel pipeline system. That is not improper.
- Enbridge misattributes the words as being a statement by Environmental Defence’s Executive Director. Instead, they were a few short words expressed off the cuff by a staff person in the midst of an extended webinar.
- Enbridge is asking the OEB to rely on new evidence that was not before the initial panel, without seeking leave to do so and without an opportunity for Environmental Defence to file responding evidence.

Finally, Enbridge argues that Environmental Defence is responsible for undue delays with respect to gas expansion projects. This is incorrect and unfair. Environmental Defence has participated responsibly and brought to light serious concerns about potential cross-subsidies. In the first review motion, the review panel held that the motion raised “relevant issues material enough to warrant a review of the decision.”² Raising material issues is a standard part of the regulatory process – not some sort of improper delay or nor a delay tactic.

In any event, the real delay in these proceedings is due to Enbridge. In the Bobcaygeon case, which constitutes over two-thirds of the capital costs for the four projects, Enbridge put the project in abeyance for over one year.³ In all cases, Enbridge could have filed for leave to construct from the OEB much sooner – the list of projects eligible for Phase II funding was announced back in 2021, approximately three years ago. After waiting this long to proceed with the Bobcaygeon case and the other gas expansion cases, Enbridge cannot now blame others and

² EB-2023-0313, Decision and Order, December 13, 2023, p. 8.

³ The abeyance stretched from July 5, 2022 to August 14, 2023. See EB-2022-0111, OEB Letter, July 5, 2023 ([link](#)); *Procedural Order #1*, August 14, 2023 ([link](#)).

ask the OEB to eschew the appropriate regulatory review that is required by the Natural Gas Expansion Program and O. Reg. 24/19 s. 2(1)(b).

Yours truly,

A handwritten signature in blue ink, appearing to read 'K. Elson', with a stylized, cursive script.

Kent Elson

cc: Parties in the above proceeding