

Elson Advocacy

August 2, 2024

BY RESS

Harris Ginis and Tania Persaud
500 Consumers Road
North York, Ontario
Canada M2J 1P8

Dear Mr. Ginis and Ms. Persaud

**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**

It has come to our attention that your client, Enbridge, is commencing construction in the above-referenced gas expansion projects despite the pending review and appeal of those decisions. This is a change from past practice wherein Enbridge would wait for the OEB review process to be complete before moving forward with construction. Out of respect for the OEB processes, we ask that Enbridge not carry out the construction in these communities until and if leave to construct is upheld in the ongoing review.

There is no urgency for these pipelines. For example, they are not required for safety or reliability. Also, residents in these communities can already obtain less expensive heating by installing an air-source heat pump. Furthermore, the deadline for participation in the Natural Gas Expansion Program is very far away. The program merely requires that Enbridge submit an application for leave to construct before December 31, 2025. Enbridge has already met this deadline for these projects.

If Enbridge proceeds with the construction of these facilities now, it puts itself at risk of not recovering the capital costs from the Natural Gas Expansion Program or from ratepayers. As you know, s. 2(1)(b) of O. Reg. 24/19 requires that all approvals be in place to meet the definition of “qualifying investment” required for funding under the program. Cost recovery is at a particularly high risk for the reinforcement pipeline that is part of the Bobcaygeon project as the analysis by FRPO suggests that the reinforcement is simply not needed at this time.

Furthermore, if the matter is returned for a re-hearing by the OEB, it will remain fully within the OEB’s authority to implement a condition that Enbridge assume the liability for revenue shortfalls as a condition for approval, as Environmental Defence has requested.

Further still, if the review or appeal are successful, Enbridge will find itself to be immediately in breach of s. 90 of the *OEB Act*. It may also need to abruptly halt ongoing construction at an

inconvenient time for doing so. Depending on the circumstances, it could be that offences are committed under s. 126(1) and (2) of the *OEB Act*.

Enbridge may be seeking to make the review motion and appeals moot by finishing the construction before those processes are complete. That would be inappropriate. But in any event, those processes will not be made moot. For example, Environmental Defence's request for a condition of approval requiring Enbridge to assume the risk of revenue shortfalls will still be a matter that can and should be adjudicated.

We respectfully request that you let us know as soon as possible whether Enbridge intends to proceed with construction at this time while these matters are still under review by the Ontario Energy Board and the Divisional Court.

Yours truly,



Kent Elson

cc: Parties in the above proceeding