

Elson Advocacy

August 2, 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 Bobcaygeon Gas Expansion Decision (EB-2022-0111)
Review Motion File #: EB-2024-0186**

I am writing on behalf of Environmental Defence to provide submissions on the review motion filed by the Federation of Rental Housing Providers of Ontario (“FRPO”) in relation to the Bobcaygeon Gas Expansion Decision. With respect, the panel’s decision should be overturned as it was procedurally unfair and in error.

FRPO sought a technical conference to confirm whether the ancillary reinforcement project included in the Bobcaygeon project could be avoided or deferred. This is outlined in more detail in a Notice of Motion submitted by FRPO. Environmental Defence and other intervenors rely on FRPO for this kind of technical analysis as it is represented in OEB proceedings by a professional engineer and former Union Gas facilities planner with over 35 years of experience in the gas sector.

If the project could be avoided or deferred there would be considerable savings for customers. Furthermore, a deferral could generate even greater benefits if customer connections turn out to be fewer than expected or if pre-existing demand declines such that the reinforcement could be entirely avoided.

The potential savings are at least in the range of \$10 million, which are the direct costs for the reinforcement pipeline.¹ However, the savings would be higher after including indirect overheads as well as whatever portion of the \$70 million in “ancillary costs” that could also be avoided or deferred if the reinforcement pipe is avoided or deferred.²

¹ Exhibit E, Tab 1, Schedule 1, Page 1.

² *Ibid.*

Declining to hold a technical conference to explore this obviously important and relevant issue was a clear error. It is well known in the intervenor community that FRPO is one of the few intervenors that retains an engineer capable of conducting the kind of engineering analysis required to determine the need for a reinforcement pipeline such as this. The panel and other parties do not have that technical expertise. It is in the best interests of customers to leverage FRPO's expertise by including procedural steps that would allow FRPO to fully explore these issues.

It appears that this could have had a significant impact on the outcome. FRPO conducted an analysis with the information available to it, which suggested that the ancillary reinforcement pipeline was not required, at least in the initial years. However, that cannot be adequately determined at this stage without the opportunity to put that analysis to Enbridge witnesses and ask questions in a technical conference.

Furthermore, the decision not to hold a technical conference exacerbated an earlier decision by the panel to decline to require that Enbridge include provide evidence such as a network analysis to confirm that the reinforcement pipeline was needed.³ The panel rejected this request without explaining how the pre-filed evidence could be considered to have included key elements outlined in the Natural Gas Facilities Handbook relating to need, such as a "system capacity analysis."⁴

These decisions were procedurally unfair. FRPO has a strong interest in protecting ratepayers from unnecessary costs, such as the cost to build reinforcement pipelines that are not needed. The panel's decision denied FRPO the opportunity to do so.

Furthermore, the panel never engaged with FRPO's arguments or concerns in its findings. The panel provided only one extremely vague sentence in its decision with respect to those arguments, stating as follows: "Finally, with respect to the FRPO submission regarding the need for the reinforcement pipeline, the OEB has reviewed FRPO's concerns and is satisfied that the supply lateral and the reinforcement pipeline as proposed by Enbridge Gas are the minimum size required to meet demand."⁵ The panel did not engage with the issues raised by FRPO and did not even properly characterize FRPO's concerns in the panel's findings. The panel's findings refer to sizing when FRPO's concern related to whether any reinforcement is needed whatsoever and whether it could be deferred.

The panel's reasoning in disallowing a technical conference was also flawed. It found that a technical conference would "cause further and unnecessary delays to this proceeding."⁶ A technical conference can be carried out very quickly and exploration of relevant issues is critical to the OEB's mandate, not an "unnecessary delay."

³ *Procedural Order 1*, August 14, 2023, p. 3

⁴ Natural Gas Facilities Handbook, March 31, 2022, Section 4.4.1

⁵ Decision and Order, May 14, 2024, p. 16.

⁶ *Procedural Order #2*, February 20, 2024, p. 23.

The ultimate result is unfairness to FRPO and a decision made on the basis of an incomplete and flawed record. That decision should be overturned and a technical conference should be held to allow the robust decision-making expected from top quartile regulators.

Yours truly,

A handwritten signature in blue ink, appearing to read 'K. Elson', with a stylized flourish at the end.

Kent Elson

cc: Parties in the above proceeding