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September 4, 2024

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

Dear Ms. Marconi,

**RE: EB-2024-0200 Enbridge Gas Application for leave to construct natural gas pipelines
in the City of Ottawa – Comments of Energy Probe on Intervenor Evidence
Proposals**

In Procedural Order No.1, for the EB-2024-0200 proceeding the OEB ordered that any party wishing to comment on the relevance of any proposed intervenor evidence shall file its submissions with the OEB and serve them on all parties by September 4, 2024. Two parties proposed to file intervenor expert evidence: Environmental Defense and Pollution Probe. The comments of Energy Probe are in this letter.

The submission of expert evidence in OEB proceedings is covered by Rule 13A Expert Evidence in the OEB Rules of Practice and Procedure¹. Rule 13A.02 requires that the expert assist the OEB impartially.

13A.02 An expert shall assist the OEB impartially by giving evidence that is fair and objective.

Rule 13A.06 deals with responsibilities of the expert as set out in Form A, Acknowledgement of Expert Duty

13A.06 A party that engages an expert shall ensure that the expert is made aware of, and has agreed to accept, the responsibilities that are or may be imposed on the expert as set out in this Rule 13A and Form A.

Section 3 of OEB Form A requires the expert to provide evidence that is fair, objective and non-partisan.

¹ Ontario Energy Board, Rules of Practice and Procedure, Revised February 1, 2024

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3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:

(a) to provide opinion evidence that is fair, objective and non-partisan;

(b) to provide opinion evidence that is related only to matters that are within my area of expertise; and

(c) to provide such additional assistance as the Board may reasonably require, to determine a matter in issue.

Rule 13.03 deals with expert's qualifications in 13A.03 b

13A.03 An expert's evidence shall, at a minimum, include the following:

(b) the expert's qualifications, including the expert's relevant educational and professional experience in respect of each issue in the proceeding to which the expert's evidence relates;

Therefore, to be qualified as experts the authors of the evidence must be able to impartially assist the OEB by giving evidence that is fair, objective and non-partisan. They must also have relevant educational experience. To have been accepted as experts in past cases or in other jurisdictions does not automatically qualify the authors as experts in this case.

The author of the evidence proposed by Environmental Defense, Chis Neme, has been a partisan advocate against the use of natural gas in his previous testimony before the OEB and his participation in OEB consultations on behalf of his clients. Mr. Neme has a bachelor's degree in political science, and a master's degree in public policy, both from University of Michigan. It is difficult to see how his academic credentials would be "educational experience" relevant to the issues in this proceeding.

The authors of the evidence proposed by Pollution Probe are Yuill Herbert and Mike Fletcher. Mr. Fletcher appeared as a witness in the EB-2020-0293 proceeding where his evidence was not impartial but supported his clients "The Sponsors" (The City of Ottawa, Pollution Probe, and the School Energy Coalition). He was a partisan advocate for the phasing out of natural gas in Ottawa. Mr. Fletcher has a bachelor's degree in microbiology and food science from the University of Guelph and a diploma from the Institute of Brewing. He clearly does not have "educational experience" relevant to the issues in this case as required by Rule 13A.03 (b).

As far as Energy Probe knows, Mr. Herbert never appeared as a witness before the OEB. His background indicates that he is a partisan advocate for energy transition and is unlikely to impartially assist the OEB by giving evidence that is fair, objective and non-partisan. Mr. Herbert has a bachelor's degree in philosophy from Mount Allison University and a master's degree in adult education from St. Francis Xavier University. Like Mr. Fletcher he clearly does not have "relevant educational experience" as required by Rule 13A.03 (b).

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Energy Probe believes that the evidence proposed by Environmental Defense, and the proposed evidence of Pollution Probe do not meet the requirements for expert evidence and are no different than pre-filed argument.

The evidence proposals of Environmental Defense and Pollution Probe are unlikely to be of assistance to the commissioners in reaching their decision because they will not be impartial, and their authors lack relevant academic credentials. The OEB should not accept the proposals.

Respectfully submitted on behalf of Energy Probe.

Tom Ladanyi
TL Energy Regulatory Consultants Inc.

cc. Patricia Adams (Energy Probe)
Zora Crnojacki (OEB Staff)
James Sidlofsky (OEB Staff)
EGI Regulatory Proceedings
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