

Ms. Nancy Marconi
OEB Registrar
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

September 27, 2024

**EB-2024-0250 Overlea Station Relocation Project Leave to Construct
Pollution Probe Intervenor Request Letter**

Dear Ms. Marconi:

Pollution Probe is in receipt of the notice for the above noted proceeding which is an exemption request for the same Overlea Station Relocation Project submitted to the OEB for Leave to Construct approval in EB-2024-0141. Pollution Probe has submitted an Intervenor Request for EB-2024-0141 and requests that it also be applied to EB-2024-0250 given that it is the same project. If anything additional is required, we request clarity from the OEB.

Enbridge has recently begun a process of requesting exemptions from the OEB for projects that are of a similar size and nature to projects that were previously not exempted¹. The Overlea Station project is the largest project in 2024 so far, for which an exemption is being requested. As this appears to be a new trend from Enbridge and could be interpreted (rightly or wrongly) as precedent setting for future projects that are subject to Leave to Construct requirements, it is important to adequately assess the request in a public manner and provide specific details on any Decision approving or denying the exemption request.

Pollution Probe is aware that the OEB issued its '*Filing Requirements and Performance Standard for Leave to Construct Exemption Applications for Certain Hydrocarbon Line Projects*' on September 24, 2024. These OEB Guidelines specify 'Filing Requirements for Leave to Construct Exemption Applications for hydrocarbon line projects that cost between \$2 million and \$10 Million'. Projects below \$2 million do not require Leave to Construct approval and there is consideration of changing this level to \$10 million. Of course, projects of any size can have specific issues that warrant detailed public review. Pollution Probe is not aware of public consultation on the new OEB Guidelines, but overall the \$2 million to \$10 million ranges seems reasonable under current circumstances. However, the Overlea Station Relocation estimated costs are \$17,417,228 with ancillary costs, over 70% higher than the exemption guidelines of \$10 million. Even without the related ancillary costs, the project is more than 50% higher than the \$10 million threshold.

¹ Other recent examples include EB-2024-0084 and EB-2024-0249


Additionally, the OEB indicated to Enbridge that “It is short sighted to continue the practice of capitalizing indirect overheads at the proposed level in the face of a transition to IFRS accounting ...²”, which is what is proposed in the Overlea Station Relocation Project. Indirect Overheads related to the project and ancillary facilities is \$4,420,214 (25% of total costs) and there has been no attempt in the application to mitigate the Indirect Overhead costs based on the OEB’s Decision or indicate how this project fits into the direction provided by the OEB. It appears that Enbridge has ignored the OEB’s Decision for this application.

These discrepancies make EB-2024-0250 the ideal proceeding to review the exemption request in a detailed public manner and also to provide greater clarity for the expected future exemption requests that are not compliant with OEB requirements. This could be done by joining EB-2024-0250 and EB-2024-0141 and hearing them concurrently. Pollution Probe recommends that the OEB proceed on that basis.

Pollution Probe received the notice for EB-2024-0250 from Enbridge based on direction from the OEB. However, Pollution Probe did not receive the other recent Leave to Construct Exemption applications from Enbridge. They were brought to our attention by Indigenous stakeholder partners and we appreciate their notification. Pollution Probe requests that it be added to the notice circulation for future Leave to Construct exemption applications to mitigate that gap.

Pollution Probe appreciates the OEB’s consideration of the requests noted above.

Respectfully submitted on behalf of Pollution Probe.



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² EB-2022-0200 dec_order_EGI_2024 Rebasing_Phase I_20231221, Page 100.