

# Elson Advocacy

## BY RESS AND EMAIL

October 28, 2024

**Ms. Nancy Marconi**  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, Ontario M4P 1E4

Dear Ms. Marconi:

**Re: EB-2024-0200 – St. Laurent Pipeline Replacement Project**

I am writing on behalf of Environmental Defence to respond to Enbridge's letter of today's date in which it reiterated its position that it need not invite its expert witnesses to answer questions at the technical conference. None of Enbridge's arguments have merit.

First, Enbridge argues that its experts need not attend the technical conference because its experts only responded to a few interrogatories. However, this is part of the problem. For instance, Environmental Defence asked a number of questions to Integral and instead received responses from Enbridge as well as refusals to answer certain questions. This necessitates further questions at the technical conference regarding the Integral model. Furthermore, Environmental Defence asked 21 questions to Posterity and has a number of follow up questions on those.

Second, Enbridge argues that "there are additional interrogatories ED chose not to ask." That is not the case. We are dealing here with new methodologies that Enbridge is putting forward. It is reasonable that additional questions would arise relating to the interrogatories. Just because Environmental Defence has additional questions at the technical conference, does not mean that these are items that it chose not to ask by way of interrogatories.

Third, Enbridge argues that it should not be required to invite its witnesses because, in its words, Environmental Defence "waited 10 days to respond on this issue." That is untrue and a mischaracterization of the obligations of the parties in these circumstances. Environmental Defence did not miss any deadlines. Instead, it clearly indicated in its letter of October 16, 2024 that it had questions for these expert witnesses and that this would use the majority of Environmental Defence's time at the technical conference.

Although Enbridge indicated on October 18<sup>th</sup> that it did not believe it was necessary to bring those witnesses to the technical conference, at no point did Environmental Defence indicate that it was no longer seeking to ask questions to these consultants. Nor would it have been reasonable for Enbridge to assume that Environmental Defence was satisfied with its response in light

Environmental Defence's earlier correspondence. Nor did Enbridge reach out to Environmental Defence to discuss the issue. Nor were there any deadlines facing Environmental Defence.

Although I likely would have written the OEB sooner had I not been tied up in other matters and if I did not have my arm in cast due to a broken wrist, it remains Enbridge's obligation to provide a witness panel that can answer the relevant questions put forward by intervenors. Environmental Defence fulfilled its obligations when it clearly indicated the need for those witnesses to be present at the technical conference. It is Enbridge that is not fulfilling its obligations with respect to the technical conference. We hope that that can be addressed before Wednesday and Thursday of this week. But if that is not the case, it is Enbridge that should be responsible for exploring alternative solutions.

Furthermore, it appears from Enbridge's letter that it has not even attempted to have the relevant consultants appear at the technical conference. It does not state in its letter that those experts are unavailable. It simply says there would not be sufficient time to even try to make those arrangements. Enbridge should have made those arrangements two weeks ago when we indicated that we had extensive questions for those witnesses. Although that clearly did not happen, those calls could have and should have been sent this morning, such that we would at least know the availability of those experts and be in a position to address any scheduling challenges as necessary.

Finally, we note that the OEB has not yet decided whether an oral hearing is necessary in this case. One of the benefits of an adequate technical conference is that it could eliminate or at least reduce the need for an oral hearing. It would be much more efficient and a much better use of the OEB's valuable time to have these witnesses appear at a technical conference.

Yours truly,



Kent Elson

cc: Parties to the above proceeding