

ONTARIO ENERGY BOARD

EB-2025-0306

IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S. O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF applications for leave to construct gas pipelines in and around the communities of Lanark and Balderson

Submissions of Climate Network Lanark

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Contents

Overview.....	2
Issue 1: Need.....	3
Issue 3: Project cost and economics.....	3
Normalized reinforcement costs	3
Findings re survey evidence and revenue forecast	5
Protect customers from greater subsidies.....	5
Procedural fairness	6
Conclusion	6
Condition of approval or strengthened wording	6
Conclusion	8

Overview

Enbridge is proposing to build pipelines to connect areas in and around Lanark and Balderson to its methane gas distribution system. The project is forecast to cost over \$12 million in capital costs, which amounts to over \$65,000 for each customer that Enbridge plans to connect to its gas system.¹ The project is supported by a subsidy of over \$12 million from existing gas ratepayers, which amounts to a subsidy of \$44,313 for each customer that Enbridge plans to connect to its gas system. The capital costs and subsidies from existing ratepayers are summarized in Table 1 and Table 2 below.

In addition to the subsidy, the project capital costs and ongoing O&M costs are supported by a forecast of over \$18 million in revenue from forecast new customers over a revenue horizon that extends out to 2067.² The customer and revenue forecast underpins the project economics and the achievement of a profitability index of 1.

The proposed project is inconsistent with Ontario’s Natural Gas Expansion Program (“NGEP”) and puts too much financial risk on existing ratepayers. Ontario’s program dictates the specific levels of subsidy from existing ratepayers as set out in Table 2 below, *not more*. However, Enbridge has failed to design these projects in a way that will avoid further subsidies and has not discharged its burden to show that revenues from new customers will cover costs over the 40-year revenue horizon. Furthermore, Enbridge has not accounted for normalized reinforcement costs, contrary to EBO 188, resulting in a further subsidy from existing customers.

¹ See [Table 1](#) below.

² Exhibit I.CNL-36.

Although the Climate Network Lanark (“CNL”) opposes this pipeline, it understands that leave to construct will be granted based on past precedent. Therefore, these submissions focus on requests aimed at reducing (or eliminating) the risk of further subsidies from existing customers. To reduce the risk of further subsidies, CNL requests that the OEB:

1. Order Enbridge to account for Normalized Reinforcement Costs as required by EBO 188 to ensure that existing customers are not required to subsidize the incremental impact of this project on upstream reinforcement needs and costs;
2. Refrain from “approving” Enbridge’s survey evidence and revenue forecast in ways that would make it more difficult for a future OEB panel to hold Enbridge accountable for revenue shortfalls over the 40-year revenue horizon; and
3. Require that Enbridge commit to fully insulate existing customers from the risk of cost overruns and revenue shortfalls as a condition of approval.

Table 1: Forecast Capital Costs			
	Capital Cost ³	Forecast New Customers ³	Capital Cost per New Customer ³
Lanark/Balderson	\$18,606,994	286	<u>\$65,059</u>

Table 2: Subsidies from Existing Ratepayers			
	Subsidy from Existing Customers ³	Forecast New Customers ³	Subsidy per New Customer ³
Lanark/Balderson	\$12,673,429	286	<u>\$44,313</u>

Issue 1: Need

The need for this project as defined by EBO 188 and the test applied in leave-to-construct cases has been met. In CNL’s view, it is not necessary for the OEB decision to evaluate this aspect of the test in any detail.

Issue 3: Project cost and economics

Normalized reinforcement costs

Enbridge has declined to account for normalized reinforcement costs in the project economics. This results in a further subsidy from existing customers contrary to the NGEP program and EBO 188. The OEB should order Enbridge to account for those costs. Enbridge would then

³ Exhibit I.CNL-11.

presumably make up for those costs (i.e. achieve a profitability index of 1) by adjusting other parameters, such as reducing capital costs.

EBO 188 is intended to ensure that existing customers do not subsidize new connections. Generally speaking, it does this by requiring that the present value of the future stream of revenue from connecting customers is sufficient to cover the present value of all costs. The NGEF program maintains this structure and principle, while also providing an initial up-front subsidy that is treated like a financial contribution in aid of construction. This lowers the costs that must be covered by the stream of future revenue.

EBO 188 requires that all relevant costs be accounted for to ensure comprehensiveness and avoid cross-subsidization. This includes normalized reinforcement costs, which account for the fact that new customer connections contribute to overall system expansion needs and costs.⁴ These costs are “normalized” such that all incremental upstream capital costs will be accounted for in the financial feasibility calculations for all customer connections.

By excluding normalized reinforcement costs in the Lanark/Balderson case, Enbridge is saddling existing customers with an additional subsidy burden equal to this project’s contribution to overall system expansion needs and costs. That is inconsistent with EBO 188 and the NGEF program.

Enbridge argues that “[n]ormalized reinforcement costs are not applicable to community expansion projects.”⁵ However, Enbridge provides no justification for this statement, which is contrary to EBO 188. CNL asked the following interrogatory to Enbridge: “If Enbridge did not include normalized system reinforcement cost, please fully explain why that is justified. Please refer to and attach and supporting documents.”⁶ Enbridge provided no supporting documentation that would override the clear wording in EBO 188 that requires accounting for normalized reinforcement costs.⁷ It merely provided the following response, which is circular and does not justify a departure from EBO 188:

Normalized system reinforcement costs (NSRC) are not applicable to community expansion projects and all reinforcement costs associated with the Project are directly applied in the DCF analysis for the Project. The cost of reinforcement required for community expansion projects are separate to, and not included within, calculations of NSRC. Therefore, it would not be appropriate to apply NSRC to the Project.⁸

The gist of Enbridge’s answer is the circular reasoning that Enbridge excludes normalized reinforcement costs because they are not included in the calculations. The OEB has accepted Enbridge’s assertion in past NGEF cases, but has done so without engaging with the issue at all whatsoever, and without explaining or justifying the departure from EBO 188. NGEF projects are like other customer connections in that they increase peak demand, which contributes to

⁴ Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario, EBO 188, January 30, 1998, section 2.1, Capital Costs, (c) ([link](#), p. 4).

⁵ Exhibit I.CNL-15.

⁶ Exhibit I.CNL-18.

⁷ Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario, EBO 188, January 30, 1998, section 2.1, Capital Costs, (c) ([link](#), p. 4).

⁸ Exhibit I.CNL-18.

upstream reinforcement needs and costs (albeit in an incremental way). Departure from the EBO 188 requirement that this cost be accounted for is not warranted, and would require express justification.

Unfortunately, CNL cannot indicate what the normalized reinforcement costs would be when attributed to this project because Enbridge declined to calculate the number when asked.⁹ However, that cannot justify disregarding the amount.

In the alternative, if the OEB does not wish to have Enbridge account for normalized reinforcement costs at this stage, we ask that the OEB direct Enbridge to account for normalized reinforcement costs in the first rebasing case after the 10-year rate stability period when the OEB will consider the actual project costs and revenues and determine what amounts should be recognized in rates.

Findings re survey evidence and revenue forecast

CNL asks that the OEB refrain from “approving” Enbridge’s survey evidence and revenue forecast in ways that would make it difficult for an OEB panel in the future to hold Enbridge accountable for revenue shortfalls over the 40-year revenue horizon. This is necessary both to protect existing customers and provide procedural fairness.

Protect customers from greater subsidies

In *Procedural Order #3*, the OEB indicated as follows:

During the ten-year Rate Stability Period (RSP), a requirement of the NGEP, Enbridge Gas is responsible for any shortfall in revenues needed to meet its revenue requirement. This RSP provides insulation against possible risks if actual customer connections and revenues are less than forecast connection and revenue estimates. Beyond the RSP period, there is no guarantee that Enbridge Gas will be permitted to recover any post-RSP revenue shortfalls. Enbridge Gas is not guaranteed total cost recovery if actual capital costs and revenues result in an actual PI below 1.0. As the OEB has held in other similar proceedings, there is a reasonable expectation that Enbridge Gas customers will not be called upon to provide a further subsidy to compensate for post-RSP revenue shortfalls.

Setting out this reasonable expectation is helpful in protecting the interests of customers, but not sufficient. One key concern is that Enbridge will argue that it should be allowed to recoup all revenue shortfalls because its decision to build the pipeline was prudent at the *based on the OEB’s express approval of the survey evidence and revenue forecast*. The future OEB panel hearing the case will be in a difficult position, knowing that the regulatory compact generally requires utilities to be allowed to recoup prudently incurred capital costs.

This risk is somewhat mitigated if the OEB declines to expressly approve or accept Enbridge’s survey evidence and revenue forecast. Instead, the OEB can approve the project based on the expectation that Enbridge customers will not be called upon to provide a further subsidy. That

⁹ Exhibit I.CNL-18.

basis for the OEB's decision will provide the OEB panel hearing the rebasing case after the rate stability period with more leeway in deciding what amounts to include in rates.

Procedural fairness

The OEB declined to allow CNL's proposed survey evidence on the basis that "the OEB is already aware that there are risks that connection and revenue forecasts will not be met."¹⁰ That is procedurally fair only if the OEB's final decision is *not* based on acceptance or approval of the Enbridge survey. If the OEB explicitly accepts the Enbridge survey evidence and finds that its revenue forecast is reasonable on a balance of probabilities, it will have denied CNL an opportunity to challenge that finding through its own survey and own evidence critiquing the Enbridge survey.

CNL's evidence was intended to do more than show that "there are risks that connection and revenue forecasts will not be met." Those risks always exist. CNL intended to show on a balance of probabilities that the revenue forecast would not be met and that the Enbridge survey could not be relied on. If the OEB then expressly decides that the survey is reliable, or that the revenue forecast will be achieved on a balance of probabilities, it will be deciding this case on the very issue that CNL was denied an opportunity to provide evidence on. That fairness concern is particularly because there would be ample time for CNL's evidence seeing as construction is not scheduled to commence until April of 2027.¹¹

However, the OEB can still grant leave to construct without denying procedural fairness by granting leave on the basis of protections to ensure that revenue shortfalls will not be borne by existing customers, rather than accepting a survey and forecast that cannot be contested with intervenor evidence.

Conclusion

Both procedural fairness and customer protection benefit from an OEB decision that is careful not to expressly accept the survey evidence or the prudence of the revenue forecast.

Condition of approval or strengthened wording

CNL asks for a condition of approval requiring Enbridge to commit that it will fully insulate existing customers from cost overrun and revenue shortfall risks throughout the revenue horizon.

The OEB included some wording regarding risk mitigation in the decisions in the Bobcaygeon, Sandford, Eganville, and Neustadt projects. However, that wording was far from sufficient to protect customers. For instance, the OEB panel was persuaded in those cases that existing customers would be protected because "Enbridge Gas is not guaranteed total cost recovery if actual capital costs and revenues result in an actual PI below 1.0" (emphasis added).¹² However, the lack of *guaranteed* cost recover is a far cry from the protection that customers need and that

¹⁰ *Procedural Order #3*, May 1, 2026, p. 8

¹¹ Exhibit A, Tab 2, Schedule 1, Page 2, para. 7

¹² EB-2022-0111, Decision and Order, May 14, 2024, p. 14.

the Ontario Government called for. The Minister of Energy's December 12, 2019 letter to the OEB required "a demonstrated commitment by the proponent that it would be willing to be held to the project cost, timelines and volumes forecasts as set out in their project proposal."¹³ Being held to a volume forecast is very different from a lack of a "guarantee" of total cost recovery.

Furthermore, under EBO 188, utilities never have a guarantee of total cost recovery if the actual profitability index falls below 1.0 (e.g. see s. 6.3.9).¹⁴ The OEB's statement that there is no guarantee of cost recovery provides no additional protection to customers.

Similarly, the OEB panel concluded in those cases that "the project can achieve a PI of 1.0." (emphasis added).¹⁵ That is not sufficient to protect customers. That amounts to the mere possibility that the project will be economic, whereas the OEB's guidelines refer to "the expected PI" and state that the "project must have a PI of 1.0."¹⁶

In the first rebasing case beyond the rate stability period, there is nothing to stop Enbridge from seeking to recover all revenue shortfalls arising up to year 10 from existing customers. Although Enbridge is not "guaranteed" said recovery, nor are existing customers "guaranteed" protection from said recovery. The full protection of existing customers from additional subsidies requires a clear condition that Enbridge assume the full revenue forecast risk and cannot seek to recoup shortfalls arising during the rate stability period from customers at the first rebasing case after the end of the rate stability period.

The risks to existing customers in the 30 years beyond the rate stability period are even greater. Over 73% of the required revenue is forecast for years 11 to 40.¹⁷ As such, the majority of the risk is not addressed by the rate stability period at all whatsoever. This is also the riskiest period because Enbridge provided no analysis of the likelihood of customers leaving the gas system over those years, which extend to 2067. This assumes, without justification, that gas home heating is consistent with a decarbonized future far beyond 2050. In CNL's view, the likelihood of many customers leaving the gas system before 2067 is high.

After the rate stability period is over and this asset is added to rate base, existing customers will bear the full risk for the majority of the revenue forecast. The protection of existing customers from additional subsidies requires a clear condition that Enbridge assume the full revenue forecast risk and cannot seek to recoup shortfalls arising *after* the rate stability period.

In the alternative, if the requested condition of approval is not ordered by the OEB, CNL asks that the wording in the OEB's decision be strengthened beyond the wording in previous OEB NGEF decisions.

¹³ Minister of Energy, [Letter to the OEB](#), December 12, 2019.

¹⁴ E.B.O. 188, [Final Report of the Board](#), January 30, 1998, s. 6.3.9.

¹⁵ EB-2022-0111, Decision and Order, May 14, 2024, p. 14.

¹⁶ EB-2019-0255, *Potential Projects to Expand Access to Natural Gas Distribution*, March 5, 2020, Appendix A, p. 5.

¹⁷ Exhibit I.CNL-36.

Conclusion

The Ontario Government has approved a subsidy worth \$44,313 per new customer.¹⁸ This project is contrary to Ontario Government policy as there is a significant possibility that the project will result in even greater subsidies from existing customers beyond the approved amounts via upstream reinforcement costs, shortfalls in customer connections, and customer disconnections prior to 2067. As the proponent and staunch defender of these projects, Enbridge should bear the revenue forecast risks, not existing customers.

¹⁸ See [Table 2](#) above.