



April 5, 2024

Stephen Motluk
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Ministry of Energy
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**Re: Bill 165 (proposed Keeping Energy Costs Down Act, 2024)
ERO Posting: 019-8307**

Dear Mr. Motluk:

The following comments are submitted on behalf of Citizens Climate Lobby Canada (“CCL Canada”) in response to the Environmental Bill of Rights Registry Posting No. 019-8307.

CCL’s comments are organized as follows:

1. Summary
2. Discussion
3. About CCL Canada

1. Summary

- CCL Canada strongly supports the [Decision and Order](#) of the Ontario Energy Board (“OEB”) on Enbridge Gas Inc. Application for 2024 Rates – Phase 1 (“OEB Decision”) and, in particular, its recognition that climate change is driving an energy transition from fossil fuels to low carbon energy sources.
- This energy transition is an essential component in the mitigation of climate change, which is causing unprecedented droughts, floods, storms, extreme heat and forest fires, and the resulting human and public health costs.

- CCL Canada opposes the proposed [Keeping Energy Costs Down Act, 2024](#) (“Bill 165”), which would provide the provincial government with authority to overturn the OEB Decision. As well, the Bill fails to require that the government, in formulating energy policy, consider: (i) the role of methane gas, and its associated greenhouse gas (“GHG”) emissions, in causing climate change, and (ii) the urgent need for an energy transition from fossil fuels to low carbon energy sources.
- CCL Canada would respectfully request that the government
 - withdraw Bill 165, or
 - in the alternative, amend the Bill to (i) remove any authority to overrule the OEB Decision, and (ii) require that the Lieutenant Governor in Council and the Minister of Energy exercise any of the additional powers accorded to them in Bill 165 in a manner consistent with national GHG emissions reduction targets.

2. Discussion

(a) Why CCL Canada is providing comments in response to the ERO posting on Bill 165

- CCL Canada has for the past 13 years advocated for measures to address the current climate crisis in order that youth and future generations may live in a world free from the disastrous effects of climate change.
- CCL Canada accordingly wants to express to the government its support for the OEB Decision, which recognized that climate change is driving an energy transition from fossil fuels to low carbon energy sources.

(b) The planet is in the midst of a climate crisis

- The reality of global warming has been recognized internationally, nationally and provincially.

Continued greenhouse gas emissions will lead to increasing global warming, with the best estimate of reaching 1.5°C in the near term in considered scenarios and modelled pathways. Every increment of global warming will intensify multiple and concurrent hazards ...

[Intergovernmental Panel on Climate Change](#)

... All parties to this proceeding agree that climate change is an existential challenge. It is a threat of the highest order to [Canada], and indeed to the world ...

[Supreme Court of Canada](#)

Climate change is one of the greatest challenges of our time. Rising atmospheric concentrations of greenhouse gases are altering the earth's climate, driving increases in global average temperatures and variability and extremes of weather. These changes are causing unprecedented impacts, transforming ecosystem structure and function, damaging infrastructure, disrupting business operations, and imposing harm to human health and well-being. Physical climate impacts and risks to human, natural and built systems in Ontario are driven by average annual warming temperature and extreme heat, drought, changes to intensity and frequency of precipitation and other climate variables...

[Ontario Provincial Climate Change Impact Assessment: Technical Report](#)

c) The necessity of reducing GHG emissions as soon as possible

- Given the climate crisis, the need to rapidly reduce GHG emissions has also been recognized internationally, nationally and provincially

All global modelled pathways that limit warming to 1.5°C ... with no or limited overshoot and those that limit warming to 2°C ... involve rapid and deep and, in most cases, immediate greenhouse gas emissions reductions in all sectors this decade ...

[Intergovernmental Panel on Climate Change](#)

There is an urgent need to address climate change and move towards a low-carbon economy. At current rates, global warming of 1.5°C will likely be reached between 2030 and 2052, and it is only with urgent, deep reductions in greenhouse gas (GHG) emissions that global warming can be limited to below 2°C ...

[2030 Emissions Reduction Plan - Canada's Next Steps for Clean Air and a Strong Economy](#)

... Avoiding or reducing the worst impacts of human-induced climate change requires action on parallel fronts: rapid and deep reductions in greenhouse gas emissions and proactive and planned measures to adapt to current and imminent future changes ...

[Ontario Provincial Climate Change Impact Assessment: Technical Report](#)

(d) The necessity of an energy transition from fossil fuels to low carbon energy sources

- National and provincial policies to mitigate climate change, and the need to reduce GHG emissions, have given rise to a transition from fossil fuels to low carbon energy sources.
- This was recognised in the December 2023 [Report of the Electrification and Energy Transition Panel](#) to the provincial Minister of Energy:

... The current transition to clean energy is driven by an emerging global commitment to reduce greenhouse gas emissions and the use of unabated fossil fuels as a primary driver of climate change ...

...

Energy transition is already underway in Ontario, and despite the diversity of Ontario's energy sector and very different perspectives and interests, there is a shared sense of urgency, excitement and willingness to collaborate and contribute to this global shift towards clean energy ...

(e) The OEB decision rationally addresses the energy transition issue

- The OEB's Decision has been [described](#) as a comprehensive, well-written and fully reasoned 147 pages long decision (including a three page partial dissent) , with a thorough public hearing process involving more than a year of review, thousands of pages of company and expert evidence, a comprehensive oral hearing and a thorough process for submissions by Enbridge Gas, OEB Staff, and a number of informed and expert customer and public interest intervenor representatives.
- The OEB Decision [determined](#) (among other matters) that new gas connection costs should be paid by new home builders (under a zero "revenue horizon" model), rather than deferred for payment through ongoing gas delivery rates by gas customers decades into the future.
- Significantly, the OEB decision took into account provincial and federal GHG policy considerations, energy transition pathways studies and routes to net zero and, in particular, the following two important themes:
 - climate change policy is driving an energy transition that gives rise to a stranded asset risk, and
 - the usual way of doing business is not sustainable.
- CCL Canada believes that the OEB Decision rationally addressed, in a procedurally fair manner, the role of the energy transition in a rate hearing for a regulated fossil fuel utility.

- The OEB’s decision is entirely consistent with the urgent need to address the climate crisis, which is causing unprecedented droughts, floods, storms, extreme heat and forest fires, and the resulting human and public health costs.
- The OEB’s decision also took into account the very real risk of costly stranded assets as Enbridge proposes a continued expansion of its pipeline network for years to come, despite the accelerating, worldwide transition away from fossil fuel.

The OEB concludes that Enbridge Gas’s proposal is not responsive to the energy transition and increases the risk of stranded or underutilized assets, a risk that must be mitigated. ... Enbridge Gas identified the energy transition as a source of increased business risk. Despite this, Enbridge Gas has proposed approximately \$14 billion in capital expenditures for the 2023 to 2032 period (an average of \$1.4 billion per year), based on a forecast that shows continued growth in natural gas peak demand, extending the historic trendline, with a very small impact from the energy transition.

- Ian Modrow, of the law firm Gowlings, has [provided](#) a thoughtful analysis of the OEB Decision and its implications.

(f) The OEB Decision should not be overruled pursuant to Bill 165

- A [Backgrounder](#) issued by the provincial government on the introduction of Bill 165 stated that the Bill

... would give the government time-limited authority to set the revenue horizon for residential, small commercial and small farm customers – effectively reversing the OEB’s December 2023 decision ...

- The Backgrounder also indicated that “the government intends to immediately introduce regulations to reset the revenue horizon for natural gas connection costs to 40 years”. This implies that methane gas will still be supplying Ontarians long past 2050 when Canada and much of the world have committed to achieving Net-Zero greenhouse gas emissions.
- As well, the Backgrounder stated that the OEB Decision “could increase the cost of new homes in the province by tens of thousands of dollars”, which claim has been [refuted](#) by economists.

- It is also important to bear in mind that, should the use of methane gas be expanded to service the 1.5 million homes that the provincial government has pledged to have built by 2031, this would add 100 megatonnes of GHGs to Ontario’s emissions over the 15-year life of the methane-gas furnaces. This would seriously jeopardize Ontario’s ability to meet its GHG emissions reduction targets.
- Bill 165 makes [other amendments](#) to the *Ontario Energy Board Act*, which will change the balance between the role of the provincial government in setting energy policy and the role of the OEB as the independent regulator of Ontario’s electricity and natural gas sectors.
- Regretfully, there is nothing in Bill 165 which mandates that the government, in setting energy policy, take into account the role of methane gas, and its associated GHG emissions, in causing climate change, and the urgent need for an energy transition from fossil fuels to low carbon energy sources.

3. Recommendations

- CCL Canada would respectfully request that the government
 - withdraw Bill 165, or
 - in the alternative, amend the Bill to (i) remove any authority to overrule the OEB Decision, and (ii) require that the Lieutenant Governor in Council and the Minister of Energy exercise any of the additional powers accorded to them in Bill 165 in a manner consistent with national GHG emissions reduction targets.

3. About CCL Canada

- Citizens’ Climate Lobby is a non-profit, non-partisan, grassroots advocacy organization funded solely by Canadians with a twin focus: to create the political will for a livable planet, and to empower people to claim their political and personal power.
- CCL has 48 chapters covering over 120 ridings across the country.

Please feel free to contact canada@citizensclimatelobby.org if further information is required.

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