

ONTARIO ENERGY ASSOCIATION

**LEAVE TO CONSTRUCT FOR
HYDROCARBON PIPELINES:
ERO 019-3041 &
ELECTRICITY TRANSMISSION PROJECTS:
ERO 019-3038
SUBMISSIONS**

APRIL 29, 2021

To shape our energy future for a stronger Ontario.



Ontario Energy Association

ABOUT

The Ontario Energy Association (OEA) is the credible and trusted voice of the energy sector. We earn our reputation by being an integral and influential part of energy policy development and decision making in Ontario. We represent Ontario's energy leaders that span the full diversity of the energy industry.

OEA takes a grassroots approach to policy development by combining thorough evidence based research with executive interviews and member polling. This unique approach ensures our policies are not only grounded in rigorous research, but represent the views of the majority of our members. This sound policy foundation allows us to advocate directly with government decision makers to tackle issues of strategic importance to our members.

Together, we are working to build a stronger energy future for Ontario.

The recommendations contained in OEA papers represent the advice of the OEA as an organization. They are not meant to represent the positions or opinions of individual OEA members, OEA Board members, or their organizations. The OEA has a broad range of members, and there may not always be a 100 percent consensus on all positions and recommendations. Accordingly, the positions and opinions of individual members and their organizations may not be reflected in this report.

The Ontario Energy Association (OEA) is pleased to provide this response to the Ministry of Energy, Northern Development and Mines (the Ministry) on proposed regulatory amendments related to (1) the Leave to Construct Cost Threshold for Hydrocarbon Pipelines (ERO: 019-3041); and (2) to exempt certain electricity transmission projects from Section 92 (Leave to Construct) approval (ERO: 019-3038).

COMMENTS AND KEY RECOMMENDATIONS

The OEA has reviewed the summary proposals which states that the Ministry is seeking to (1) to increase the cost threshold for hydrocarbon pipelines that require Ontario Energy Board (OEB) approval through its Leave to Construct process from \$2 million to \$10 million; and (2) amend Ontario Regulation 161/99 to exempt certain electricity transmission projects that are not expected to have a significant ratepayer impact from the requirement to obtain Section 92 (electricity Leave to Construct) approval from the Ontario Energy Board (OEB).

The OEA is encouraged that the Ministry is taking initiative to simplify the approval process. The OEA supports both regulatory proposals to amend leave to construct regulations and believes they will reduce the regulatory burden on utilities, ratepayers and the OEB.

The OEA has the following key recommendations:

Recommendation 1. Increasing Other Thresholds

Currently, the legislative (Sections 90 (gas) and 92 (electricity) of the OEB Act) and regulatory (Section 6.2 of Ontario Regulation 161/99 (electricity) and Section 3 of Ontario Regulation 328/03 (gas)) thresholds for having a leave-to-construct (LTC) proceeding are based on factors such as projected cost (\$2 million, which the government is proposed to increase to \$10 million for hydrocarbon pipelines), length of transmission line (20 km for gas; 2 km for electricity), pipe size (12") and pressure (operating at over 2,000 kPa).

The OEA believes that the government should consider, in addition to the projected cost threshold, an increase in the other thresholds for a hydrocarbon pipeline, such as increasing line length to 50km, the pipe size requirement to 16", and the operating pressure to 3,600 kPa to further reduce the number of regulatory applications required, reducing the regulatory burden on the utilities, ratepayers and the OEB. Increasing these thresholds would still allow for appropriate oversight while enabling regulatory efficiency by allowing the Ontario Energy Board (OEB) to focus its attention and resources on larger and more complex projects.

Recommendation 2. Opportunity to Comment on Draft Regulatory Language

While the postings contain plain language descriptions of the proposed changes, neither include draft regulatory language for the proposed amendments. The opportunity of stakeholders to comment on draft regulatory language is a key part of regulatory design. The absence of draft regulatory language and the details it provides makes it difficult for stakeholders to provide substantive comments on regulatory proposals.

The OEA strongly recommends that the Ministry provide stakeholders an opportunity to comment on the draft regulatory amendments regarding both regulatory proposals before the Ministry incorporates them as final regulations. This would allow participants to assess the proposed changes in detail and ensure critical issues are not overlooked and misinterpreted, so that the Ministry can successfully achieve the intended of goals of the proposals.

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Ontario Energy Association

Let's unravel complex energy challenges, together.