



Submission to Environmental Registry of Ontario Proposed Amendments to the Ontario Energy Board Act, 1998 to provide the government with the authority to ensure fair and informed decision-making at the OEB to foster affordable communities

Clean Prosperity

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We are pleased to provide these comments on the Proposed Amendments to the Ontario Energy Board Act, 1998 to provide the government with the authority to ensure fair and informed decision-making at the OEB to foster affordable communities on behalf of Clean Prosperity. Clean Prosperity is a Canadian climate policy organization that develops and advocates for practical climate policy solutions to reduce Canada's emissions and grow the economy.

Reducing upfront costs for new homes is critically important, but so is setting Ontario up the clean energy future. Currently, there is no existing provincial policy ensuring that companies are responsible for end-of-life liabilities. Provincial legislation in the spring of 2024 will require a rethinking of how to reconcile these two policy objectives.

The Rationale for Government Intervention

The OEB decided to tackle the energy transition first via the economic feasibility test of a new natural gas connection based on future customer revenues. The OEB has rules that if the forecast for a given home over an up to 40 year period results in revenues that are more than the long-term operating and amortized construction cost, Enbridge may connect the new home at no upfront cost to the developer. If there is a gap between expected costs and expected revenues over this long time horizon, Enbridge charges an upfront cost to cover the difference.

The OEB decision to reduce the time horizon from 40 to zero years is predicated on the risk of stranded assets from the energy transition. The first immediate consequence is that if customers begin to leave the natural gas network, it will lead to higher costs for remaining customers. This cycle would continue until the system is no longer economically viable. This is called the "utility death spiral."

The other larger externality is what could happen in a potential final end state of an energy transition in which the existing hydrocarbon pipeline system no longer has any use. Without such requirements, taxpayers face the risk of remediating stranded natural gas pipeline infrastructure for both new and existing infrastructure.

The cost of decommissioning and remediation of energy infrastructure of any kind that has a set life span is inescapable. Oil and gas wells and mines all have an inescapable end-of-life. Ontario has in place a mine remediation and financial assurance requirement, for example. But the end-of-life question applies more broadly to other energy infrastructure. Wind and solar farms, gas stations, power plants and much more of the infrastructure that provides us energy must be torn down eventually. The question becomes who will pay for these costs.

If a company gradually retrofits existing infrastructure, its customers can pay a share of the decommissioning cost. If that company may not be viable after the asset's useful life, the choice we have as society is whether to plan for this expense during the operating life of the infrastructure or risk paying for the costs afterwards. If we pay later, society would then have to choose to pay for mitigating the consequences, such as public expense for remediation, or the cost of adaptation. Residents of Southwestern Ontario know this consequence as they face the risk of unsafe gas wells that oil and gas companies a century ago walked away from without remediation.

Expanding Financial Assurance to Address Potential Energy Pathways

Fortunately, Ontario has put in place financial assurance of tens of billions of dollars to deal with future remediation risks in nuclear power. Future taxpayers who won't benefit from closed nuclear plants should not and will not pay for the decommissioning cost because of forward thinking provincial policy.

However, this model of financial assurance for potential future costs covers only a patchwork of Ontario's energy infrastructure. Producing financial assurance is mandatory for landfills, but not mandatory in most other circumstances. The Ministry of the Environment has the ability to require financial assurance for certain facilities, most [notably renewable energy projects](#), but on a project-specific basis.

A requirement for companies to hold financial assurance for future remediation costs is becoming increasingly common across Canada for various types of energy infrastructure. Alberta introduced in February of 2024 a requirement for financial security for renewable power

infrastructure. Federally regulated pipelines are accumulating financial assurance for remediation costs.

A similar approach could apply to Ontario. Currently, natural gas provides much more energy value now than electricity. There is a limited need to impose strict levels of immediately available financial assurance for decommissioning costs as the system will be in use for many years. But how much we will rely on natural gas in the future is unclear. Clean Prosperity modeling pathways foresee outcomes ranging from declining use of natural gas infrastructure to growing use of existing infrastructure for renewable natural gas, for example.

The OEB decision reflects no willingness to take on any risk of stranded assets from the energy transition. A better approach would be more nuanced that reflects multiple potential outcomes. The level of financial security required of pipeline companies should grow in one circumstance of natural gas infrastructure use declining. Another outcome could be little need for financial assurance if the infrastructure sees greater use. Financial assurance allows for the gradual preparation of various outcomes. Adding this financial security requirement means that the OEB and natural gas pipelines can continue their practice of not requiring homebuyers to pay the upfront cost of a natural gas connection. The financial assurance for remediation, and potentially other cross-subsidization, can address these risks and allow for financial markets, not the regulator or government alone, determining the appropriate likelihood and cost of this risk. Financial services providers can provide third-party assurance of this remediation risk.

Financial markets are more attuned to nuanced measurement of risk and a range of potential outcomes than regulatory decisions that prescribe a certain path. Investors and insurers may foresee a higher likelihood of one pathway emerging versus others. They can then reflect that pathway in their valuation of the remediation cost of the existing natural gas distribution system. Such a financial tool exists to reflect these costs if regulators mandate a flexible financial assurance to cover the potential future costs of pipeline remediation. Such a system would see prices rising for financial assurance rising and falling based on perceived risk, akin to a tightening or loosening of bolts.

The economic and environmental consequences of energy infrastructure transition risks the OEB tried to tackle are similar to those Canadians face when dealing with climate change, albeit with

much more localized and obvious effects when the risks materialize. And the policy tools to deal with the issue face similar tradeoffs. Using financial assurance with prices for that assurance set by financial markets as the main mechanism for protecting the public is likely to be the least costly approach than strict regulatory measures on upfront cost allocation. A strict regulation, like the OEB's decision to require upfront payment, will reduce emissions. But at a large cost to homebuyers.

Instead, governments and regulators should use policy tools that define the outcome, such as emissions reductions or guarantees on infrastructure remediation, and letting market prices determine the level of effort required and right technology. This is particularly true in an area like home heating in which the lowest cost technology that will meet all of the needs of consumers, government, and the public is not certain.

Next Steps from Bill 165

Bill 165 gives the government the power to direct the OEB to hold a new hearing to address how it sets connection fees. As part of that directive, the province should require a comprehensive assessment of the stranded asset risk of the existing natural gas pipeline network, along with a consideration of stranded asset risks of all energy infrastructure, noting the various energy transition scenarios that could emerge. The province has also committed to producing a Natural Gas Policy Statement. The Natural Gas Policy Statement should outline policy principles of how much risk mitigation the province desires. The directive and Natural Gas Policy Statement should ask that the OEB develop a flexible mandate to cover these costs with financial assurance that can reconcile the various potential risks at the lowest possible cost. With the right tools, the OEB can reconcile housing affordability and the right incentives to protect customers and taxpayers from the risks of the energy transition.