

**ONTARIO ENERGY BOARD**

**EB-2019-0255**

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**POTENTIAL PROJECTS TO EXPAND  
ACCESS TO NATURAL GAS DISTRIBUTION**

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**Canadian Propane Association's comments  
on OEB Draft Guidelines, Timelines and Confidentiality**

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## Introduction

The Canadian Propane Association (“**CPA**”) shares many of the concerns raised by Energy Probe with respect to this subsidy initiative, including the impact on the Board’s ability to set just and reasonable rates, overall fairness across all customer classes, and the burden of a gas expansion surcharge on low-income and other customers.

However, the CPA recognizes that the policy decision to proceed has been mandated by the Minister, and the OEB is now obligated to proceed in a way that ensures fairness and protects all customers, at least to the greatest extent possible given the mandate.

Within that context, the CPA is pleased to offer the following 10 recommendations for the OEB’s *Draft Guidelines for Potential Projects to Expand Access to Natural Gas Distribution* (the “**Guideline**”), in an effort to ensure that, despite the policy risks and pitfalls associated with the initiative as a whole, the process implemented by the OEB is as effective, and mitigates as much of the risk and uncertainty, as possible:

### 1. Relevant comparative cost information should be excluded for certain purposes, included for others

Proponents completing the costing information outlined below should exclude the following:

- Demand-Side Management (DSM) costs
- Gas commodity costs and associated upstream transportation costs to Ontario
- Royalty payments to municipalities if the payments are not recovered through the proponents’ revenue requirements

The Guideline’s opening clarification that DSM, commodity, transportation and royalty costs should be excluded from the “costing information outlined below” is accurate, if “outlined below” is referring to Parts IV, V, VI or VII of the Guideline.

However, with respect to the evaluation of comparative cost savings, this costing information is relevant and should be captured.

The Minister’s directive letter to the OEB dated December 12, 2019 (the “**Section 35 Letter**”) requires the Board to consider “*the extent to which the ... project would reduce the household energy cost burden in the project area.*” The Minister’s intent is clearly to be able to assess whether a proposed project will actually save the customer money at the end of the day.

The word “reduce” implies that a comparison is to be made between household energy costs after the project is built (presumably using natural gas), versus household energy costs if the project had not been built (using fuels other than natural gas).

The cost of gas commodity, the upstream transportation costs to bring gas to Ontario, and the unrecovered royalty payments to municipalities, are all intrinsic parts of total energy cost for households using natural gas. They are not “project costs” and are not costs incurred by the project proponent to develop the project, and therefore not relevant to determining the “Cost of the Project” itself for the purposes of Parts IV, V, VI or VII of the Guideline. But they are nonetheless costs incurred and payable by homeowners and customers, and they do form part of the “household energy cost burden”.

Existing energy sources in the subject communities, such as electricity or propane, also have their own commodity, upstream transportation, and in some cases royalty costs, which currently form part of the current household energy costs. These may be higher or lower than the comparable commodity, upstream transportation and royalty costs applicable to natural gas.

The Board is not able to provide an honest assessment of the extent to which natural gas might increase or decrease household energy costs unless it includes these costs in its analysis.

The Minister notably did not ask the Board to assess the extent to which just the *local energy distribution portion* of household energy costs may be reduced. He asked for a relative assessment of “household energy costs”, which clearly includes the energy commodity itself, all transportation and delivery costs, and other costs.

This makes sense. A \$200,000 electric BMW i8 may be much cheaper to operate than a \$16,000 Ford Fiesta when looking only at fuel commodity costs and not at all-in costs; but that does not mean that drivers can save money by buying a BMW instead of a Ford.

**Recommendation #1**: The Board should revise the Guideline to require proponents to submit their best estimates of gas commodity costs, upstream transportation costs, royalty costs, equipment conversion and maintenance costs, carbon emission costs, and all other costs which are ultimately reflected in a customer’s “household energy cost”, but only for the purposes of estimating the reduction in household energy costs in Part III of the Guideline.

## 2. Proponent's Record of Forecast Accuracy

### **Part II – Description of Proponent's Technical Expertise and Financial Capability**

Proponents are being asked in Parts III, IV, VI and VII of the Guideline to provide various forecasts and estimates, and the Board is relying on the accuracy of these forecasts and estimates to properly assess the proposal.

The Board has indicated it will consider the Proponent's technical expertise to assess whether they are likely to be able to properly construct, operate and maintain the project; and the Board asks for information in Part 2.1 of the Guideline order to help it assess the Proponent's technical abilities.

The Board has also indicated it will consider the Proponent's financial expertise to assess whether they are likely to be able to properly fund the project; and the Board asks for information in Part 2.2 of the Guideline order to help it assess the Proponent's technical abilities.

It should be equally important for the Board to consider the Proponent's forecasting expertise, to assess the likelihood that they have properly forecast or estimated the attachment rates, volumes, conversion costs, capital costs, OM&A costs, revenue requirement and profitability. If the Proponent is the developer of one of the 9 expansion projects currently underway as listed in Regulation 24/19, then it should be fairly simple to assess the accuracy of the Proponent's forecasting record. For others, their most recent project applications to the Board can be reviewed.

**Recommendation #2:** For each facility application submitted by the Proponent to the Board in the last 10 years, the Board should require Proponents to submit a table comparing their original forecasts and estimates (extracted from their original Applications) to the actual results. At the very least, the accuracy of past forecasts of capital costs and customer attachments should form part of the submissions and assessment.

### 3. Financial Guarantees for Forecast Inaccuracies

2.2	<p>Describe the proponent's financial capability to develop, construct, operate and maintain a natural gas distribution system, and provide the following:</p> <ul style="list-style-type: none"><li>• Current credit rating of the proponent, its parent or associated companies.</li><li>• Financial statements for each of the past two fiscal years. This may include audited financial statements, annual reports, prospectuses or other such information. If the proponent does not have financial statements (because it is a new entrant), the proponent is instead to</li></ul>
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The Section 35 Letter calls for a *"demonstrated commitment by the proponent that it would be willing to be held to the project cost, timelines and volumes forecasts"*.

As drafted, the Guideline does not achieve any such demonstrated commitment. Yes, it asks for the Proponent to provide an estimated distribution rate to be charged over a 10-year rate stability period. But as this is an "estimate" only, the implication is that when the actual rate application comes forward prior to commissioning, if the forecasts were off, the Proponent may apply for and be granted a 10-year distribution rate that differs from the estimated rate submitted as part of EB-2019-0255. There is no commitment to live with the forecast, and as a result, live with the estimated distribution rate.

Further, even once the project is in service and a 10-year distribution charge has been approved, if any of the cost, timeline or volume forecasts turn out to be off, making it uneconomic to operate the project, there is no actual commitment by the proponent or its shareholders to pay the shortfall out of their own pockets. The Proponent is free to come back to the Board and any time and seek an adjustment, notwithstanding any "rate stability period", and if the Proponent indicated that it could or would not continue to operate without such an adjustment, the Board would be hard-pressed to deny the request. Or the Proponent would temporarily fund the shortfall, but at the end of 10 years, would seek to recoup all of its losses through its Year 11+ distribution charges.

As demanded by the Minister, there must be a "demonstrated commitment" to be held to its forecasts. A mere "trust us, we promise" statement is not a demonstrated commitment. A financial guarantee from a parent company or shareholder, or other financial security instruments (not funded by ratepayers) that can be called upon – *that* is a demonstrated commitment.

**Recommendation #3:** The Board should require Proponents to demonstrate through action that they commit to be bound to their own forecasts, by submitting or committing to submit a parent or shareholder guarantee, or another form of financial security that is not ultimately borne by ratepayers, and which can be called upon by the Board to fund any capital or operating shortfall in the event that the Proponent's forecasts were inaccurate.

#### 4. Committed Debt for Forecast Inaccuracies

- If the proponent needs to raise additional debt or equity to finance the proposed project, evidence of the proponent's ability to access the debt and equity markets.

It is one thing to demonstrate that a Commitment Letter, a Loan Agreement, or an Investment Agreement exists. But those are meaningless if debt or equity provider has the right to walk away or refuse to fund. This is particularly relevant where forecasted revenues don't materialize, or forecasted costs are exceeded.

Those are precisely the situations where additional debt or equity financing will be needed, and yet are typically precisely the situations where so-called committed debt or equity sources have the right to call the loan, seek a return of equity, or suspend all further advances.

The Board needs to ensure not only that the Proponent has access to debt and equity, but that the Proponent has access to debt and equity *when it needs it most*: when there are cost overruns or revenue shortfalls.

**Recommendation #4**: The evidence requested by the above-noted item in Part 2.2 of the Guideline should include evidence that such access to funds may not be revoked by the lender or investor as a result of failure to satisfy forecasts, and that such limitations can not later be unilaterally altered by agreement of the Proponent and the financing party, without the Board's consent.

## 5. Reliability of Forecasts

3.2	Provide the annual and cumulative forecast of the number of customer attachments over the rate stability period, by residential, commercial/institutional and industrial sectors for each community. Indicate for each customer type whether the service to be provided would be firm or interruptible.
3.3	Provide the annual and cumulative forecast of volumes (in m <sup>3</sup> ) over the rate stability period, by residential, commercial/institutional and industrial sectors for each community.  For the mass market segment the average consumption level to be used is 2,200 m <sup>3</sup> per year.

While the Board can never be assured that the submitted forecasts will be correct, it can and should be assured that the submitted forecasts are reliable, in that they were fairly, expertly, impartially and conservatively derived.

Because project approval, the approved distribution charge, and most importantly the amount of the approved subsidy, are all based upon the forecasts (and not on the actual results), there is an inherent conflict of interest, as Proponents have a natural incentive to adopt forecasts that will support their Applications.

While this may be unavoidable, the Board must demand that Proponents submit not only their forecasts, but also evidence to support the reliability of those forecasts. How were the forecasts derived?

For example, for attachment forecasts, did the Proponent speak to every possible customer, or did they extrapolate based on a small sample? Did those forecast customers sign a document indicating that they *will* convert and connect, or did they merely give some kind of verbal indication that they were open to the possibility of connecting if it turns out to be cheaper? Exactly what information, suggestions, assurances or incentives were conveyed to those surveyed prior to such survey which may have influenced the response (e.g. regarding cost savings, conversion costs, distribution rates, subsidies, etc.), and can the accuracy of such information, suggestions, assurances or incentives be proven?

For costing and timing forecasts, has the Proponent executed actual agreements or term sheets with municipalities, landowners, equipment suppliers, and subcontractors, which set out binding pricing? Or are the forecasts just based on average costs for past projects in other areas of the province? Has the Proponent completed all of the geotechnical due diligence necessary, or are the forecasts based on estimated routes and historical work plans?

We are not proposing that the Board must necessarily mandate how each forecast is to be done. But the Board should at the very least require the submission of evidence by which the Board can determine for itself, on a case by case basis,

whether it considers the forecasts to be reliable. If sufficient levels of reliability can not be proven to the Board's satisfaction, the Board should not recommend the project to the Minister.

**Recommendation #5:** Require Proponents to submit not only their forecasts, but also detailed evidence as to the methodology by which such forecasts were developed, and copies of any independent third party sources that were relied upon, so that Board can assess the independence and reliability of the forecasts. Reject any proposals where the Proponent has not submitted sufficient proof that the forecasts are reliable.



## 6. Completeness and Accuracy of Conversion Cost Information

3.4	<p>Provide the estimated conversion costs to convert each of the existing heating systems (e.g., propane forced air, oil forced air, electric forced air and electric baseboard) and water-heating systems (e.g., electric, oil and propane) to natural gas. To the extent available, provide information on the current proportion of customers on each type of heating system.</p> <p>Provide the estimated annual costs of the existing alternative fuels relative to natural gas, including the annual savings with natural gas.</p>
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- (a) All of the above information is critical to facilitate the Board's and the Minister's assessment of the extent to which household energy costs will be reduced, as required by the Section 35 Letter. It is equally relevant in assessing the forecasted attachment rates.

However, these assessments can only be accurately and reliably done if the information provided is accurate, reliable and complete. The Board must be able to ascertain whether the Proponent's conversion cost estimates are credible.

To that end, Proponents should be required to provide details on how they determined these various conversion costs, and evidence to support them, including copies of all credible sources or studies that were used. There is a clear incentive for Proponents to underestimate conversion costs, both before the Board and in their marketing materials to prospective customers. The Board needs to bring some discipline to these estimates and ensure that the purported conversion costs as claimed and advertised by the Proponent are credible and accurate. Otherwise both the household energy cost savings, and the attachment forecasts, will be entirely unreliable.

**Recommendation #6(a):** Require Proponents to submit detailed and credible evidence to support their conversion cost estimates. Alternatively, the Board could, through a brief consultation process, determine and prescribe its own independent estimates of conversion costs and require all Proponents to use the Board-prescribed amounts in their forecasts, submissions, and Applications (similar to the way in which the Board prescribes the interest rate to be used, even though lenders may actually charge or pay Applicants a different rate).

- (b) A proper forecast of customer attachments can not be produced unless the Proponent knows how many customers are currently served by each type of heating system.

For example, if the initial conversion costs for an existing oil-heated customer are less than the future savings, but the initial conversion costs for an existing electrically-heated customer are greater than the future savings, then an assumption can be made that current oil customers will probably convert, and current electric customer probably will not. The Proponent can not possibly produce a reasonable attachment forecast without knowing the precise proportions of oil vs electric customers. If the entire community is currently on oil, then the attachment forecast should be high. If the entire community is currently electric, then the attachment forecast should be nil.

If the Proponent has not ascertained with some degree of accuracy how many of each heating system type are currently in use (and not simply used a historical or province-wide average), then their attachment forecast, and in turn their revenue forecast, distribution charge estimate, and amount of subsidy needed, will all be wrong. Therefore submission of this fundamental information should be mandatory, not simply "to the extent possible".

**Recommendation #6(b)**: In Part 3.4 of the Guideline, replace "To the extent possible, provide information on the current proportion of customers on each type of heating system", with "Provide the current proportion of customers on each type of heating system, together with an explanation or evidence as to how such figures were ascertained."

- (c) The requirement to provide the estimated annual costs of the existing alternative fuels relative to natural gas, and to specify the estimated annual savings, leaves much room for natural gas distributors to underestimate the cost of gas and overestimate the cost of alternatives, thereby exaggerating the extent of any savings. Gas distributors will have a natural commercial incentive to exaggerate the cost of alternatives and to thereby exaggerate the savings attributable to their proposed project. Such exaggerations not only make their projects appear more favourable when compared to alternative fuels, but also when compared to other expansion projects. One expansion project should not be granted Section 36.2 funding over another expansion project simply because the first Proponent estimated a higher cost for propane than the other Proponent did.

Accordingly, it behooves the Board to impose some additional parameters around these submissions, to ensure that they are fair, reasonable, accurate, and most of all, consistent so that different expansion projects can be fairly compared against one another.

First, any savings estimate should be on a net basis, to reflect the fact that conversion costs will reduce the net savings. In fairness to the Proponents, one could assume that customers will be able to amortize their conversion costs over a multi-year period, but in order to facilitate the comparison of one gas expansion project against another on a consistent basis, the Board should prescribe both the assumed amortization period and the assumed interest rate over that period, rather than allow each Proponent to use different amortization period for conversion costs.

Second, “estimated annual costs of the existing alternative fuels” must be accurate (for the purposes of both the Board’s assessment and consumer protection purposes), and must be applied consistently from one expansion proposal to the next (for the sake of the Board’s and Minister’s ability to compare projects competing for the same Section 36.2 funds). The best way to achieve this is to have the Board itself prescribe the cost estimates to be used, after inviting interested parties (including the existing alternative fuel suppliers, who will have the most accurate information in this regard) to make submissions to the Board. In the absence a consistent Board-prescribed estimate, Proponents must be required to submit detailed evidence to support their estimates.

Third, the submission of “the annual savings with natural gas” should be broken down with sufficient specificity to allow the Board to properly assess its accuracy. That means not only disclosing the estimated alternative fuel costs, the estimated conversion costs, and the estimated amortization rates used to calculate the savings as described above, but also the estimated annual customer volume, the estimated fixed customer charges (as opposed to volumetric), the estimated expansion surcharge. Unless these estimates are consistently applied and are accurate, the Board will be unable to

properly compare one expansion proposal to another, and there will be no mechanism to ensure that customers are receiving accurate and fulsome disclosure prior to making the decision to convert and attach.

**Recommendation #6(c)**: Revise Part 3.4 of the Guideline to require that:

- (i) annual savings estimates be calculated net of natural gas conversion costs. Conversion costs should be amortized over a period and at an interest rate prescribed by the Board for consistency;
- (ii) alternative fuel cost estimates be calculated using rates prescribed by the Board for consistency; and
- (iii) annual savings estimates be accompanied by a detailed breakdown of all elements of the calculation, all estimates or forecasts used to determine such elements, and specific evidence to support such estimates or forecasts.

- (d) While the conversion cost information is necessary for the purpose of evaluating the benefits of the project and assessing the extent of any household energy cost savings, the Board should make it clear that these conversion costs are not intended to be:
- (i) included as part of the project costs in Part IV of the Guideline; or
  - (ii) included as part of the requisite project funding in Part V of the Guideline.

The “distribution project” consists of the distributor-owned equipment installed for the purpose of delivering natural gas to the customer’s property. It does not include paying for any customer-owned equipment which burns the gas and creates heat or other energy; nor does it include customer-owned equipment which carries the gas from distributor’s pipe at the property line, across the customer’s property and into the customer’s furnace or other equipment.

The presence of Part 3.4 risks creating the misconception that conversion costs are to be included in the project’s capital costs.<sup>1</sup> The Board should eliminate any ambiguity by clarifying that Part 3.4 does not mean that customer conversion costs are project capital costs which can be recouped through rates or subsidies.

To this end, the CPA support’s Energy Probe’s recommendation that the EBO 188 Guidelines<sup>2</sup> be maintained as the basis for all expansion applications, whether they are self-funded profitable projects or subsidized uneconomic projects. In particular, section 4 of the EBO 188 Guidelines, which requires Proponents to adhere to “a clear set of common Board-approved Customer Connection and Contribution in Aid Policies”, which “will apply to all customer classes”, is critical to ensuring transparency, clarity and consistency, both from one Proponent to the next, and from one customer to the next.

**Recommendation #6(d)**: Add clarifying statements applicable to Parts IV and V of the Guideline that:

- (i) customer conversion costs, and the costs of the customer’s pipe from and after the property line, shall not be included in the project costs or in the determination of the Section 36.2 funding needed; and

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<sup>1</sup> This is of particular importance in light of the current OEB Compliance Review which has been ongoing for the past 6 months to investigate whether a gas distributor has been improperly using ratepayer funds to subsidize selected customers’ connection and conversion costs to recruit new customers for an expansion project.

<sup>2</sup> *Ontario Energy Board Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario*, found at Appendix B to the Final Report of the Board in E.B.O. 188, and posted at <https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2019-01/EBO-188-AppB-Guidelines-Gas-Expansion-19980130.pdf>

- (ii) Section 4 of the *OEB Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario*, which requires consistent compliance with Board-approved Customer Connection and Contribution in Aid Policies, continues to apply to all projects and applications; Proponents are not relieved of this obligation simply by virtue of receiving a subsidy.

- (e) A fair assessment of any project demands consideration of both the benefits and the harm. The Board should ensure that its process solicits sufficient information to allow the Minister to consider both.

In addition to information on the potential savings and benefits, information should also be gathered on the potential harms and economic costs. In addition to information on customers who might potentially benefit, information should also be collected on the alternative energy suppliers who might suffer. (The argument that propane and oil suppliers who might suffer are not relevant because they are not subject to OEB oversight does not hold water, as propane and oil customers are also not subject to OEB oversight yet the Board is still asking for information about them and their benefits).

The Minister should have available to him sufficient information about economic harms, job losses, the extent of alternative fuel cost increases forced upon neighbouring communities, and other consequential impacts of the project. It is up to the Minister whether or not he chooses to consider such impacts before adding a new expansion project to Schedule 1 of Regulation 24/19; that is not the Board's responsibility. However, it is the Board's responsibility to at least make available to the Minister information that "will be taken into account, along with other considerations, to make a determination on future expansion projects."

**Recommendation #6(e)**: Following the deadline for the filing by Proponents of project information, and the posting of project information on the OEB's website, the Board's proposed process and Timeline should include a brief period for the solicitation of written comments from those who would be impacted by the proposed project, describing those impacts. That information would be assessed and, if considered relevant by the Board, summarized and included in the Report to be delivered to the Minister by August 31, 2020, in order to provide a more comprehensive assessment of the potential *net* benefits (or net harm) of each project to the Minister. Such information will also enable the Minister to compare and select among competing projects, in the event sufficient funding is not available for all proposed projects. In assessing any Proponent's claim of confidentiality, the Board should take into account, as one factor, the extent to which such confidential treatment may limit the ability of an impacted party to comment on the impact (or even to recognize that there will be an impact).

## 7. Clarify the Exclusions from Project Costs

Proponents completing the costing information outlined below should exclude the following:

- Demand-Side Management (DSM) costs
- Gas commodity costs and associated upstream transportation costs to Ontario
- Royalty payments to municipalities if the payments are not recovered through the proponents' revenue requirements

The Section 35 Letter makes clear that the Minister's intent is to provide Section 36.2 funding for the purposes of supporting the construction of new uneconomic natural gas distribution expansion projects which serve new customers.

Any costs relating to the upgrade, maintenance, repair, replacement or improvement of existing pipelines or services, or that would provide new benefits to existing customers, or to new customers who previously could have had access to natural gas ("**Improvement Expenses**"), are not intended to be eligible for Section 36.2 funding. If the cost is one that the particular distributor would have eventually incurred even in the absence of an expansion, it should not be paid for by Section 36.2 funded collected from all customers (including the customers of other distributors).

The Guideline refers throughout to the "project", without providing a clear indication of what a "project" is. There is a clarification in the very first paragraph of the Guideline as to some of the things that a "project" is *not*, but that list fails to exclude Improvement Expenses.

Given the flexibility granted to Proponents to structure their submissions as they see fit and to provide whatever level of detail they consider appropriate, there is significant risk that some Improvement Expenses, or the costs of piece of equipment which might simultaneously improve service to existing customers and facilitate service to new expansion customers, may improperly find their way into the project costs. Those improper inclusions might not be identifiable by the Board until greater details can be reviewed and tested at a future rate proceedings, long after the Minister as allocated Section 36.2 funding.

The Board should specify that Improvement Expenses, and any costs which relate even in part to Improvement Expenses, must be excluded from the "project". The Board should further require the Proponent to describe the proposed project costs in sufficient detail to permit the Board to confirm that the Revenue Requirement, and the resulting claim for Section 36.2 funding which is based on that Revenue Requirement, do not surreptitiously or accidentally include any such Improvement Expenses.

**Recommendation #7(a)**: In the first paragraph of the Guideline, the list of costing information to be excluded should include Improvement Expenses and any costs which relate in part to Improvement Expenses.



**Recommendation #7(b)**: In Parts 4.2, 4.3, 4.4, 5.1, 7.1 and 7.2 of the Guideline, the Board should demand and prescribe sufficient levels of detail and itemization in respect of costs, revenue requirements and funding needs, to allow the Board to determine and confirm to its satisfaction that all Improvement Expenses have been excluded.

## 8. Other Approvals

Part VIII –OEB Approvals	
8.1	Identify any OEB approvals that will be required for the project (Leave to Construct, Certificate of Public Convenience and Necessity, Municipal Franchise Agreement, etc.)
8.2	For OEB approvals identified in section 8.1, provide a schedule for applying for them and the date by which each of these approvals is required to meet the proposed in-service date.

The Section 35 Letter makes it clear that the Minister is only looking to identify those projects *“that can reasonably be expected to start construction by 2023, allowance being made for the timelines typically applicable to the process of obtaining regulatory approvals”*.

In Part VIII of the Guideline, the Board asks Proponents to provide information only about any required “OEB approvals”, but fails to solicit any information about requirements for or the status of any other regulatory approvals.

The Minister’s reference to “regulatory approvals” was not limited only to OEB approvals. The fact that a Proponent may have secured its OEB approvals is not determinative of its ability to start construction. In order to be able to assess the likelihood of being able to start construction by 2023, the Board and the Minister must give due consideration to the Proponent’s regulatory approval schedule. The estimated timing for any necessary approvals from the Ministry of Environment, the TSSA, the local municipality and others is as relevant as the estimated timing for OEB approvals.

**Recommendation #8:** Part VIII of the Guideline should be expanded to require the identification of, and application schedule for, *all* requisite approvals.

## 9. Board Report Methodology

In the interests of transparency, and to assist Proponents in preparing information packages that are useful for the Board, it would be helpful for the Board to explain how it proposes to assess the information packages after submission, and how it proposes to determine and structure its Report to the Minister, and what types of information it anticipates including in its Report.

For example, will the Board merely provide a summary of the proposals? Will the Board provide the Minister with recommendations for or against each proposed project? Will the Board rank projects? Will the Board recommend a specific Section 36.2 funding amount for each project?

Also, will the Board tailor its Report with an eye to encouraging diversity among Proponents, and shying away from recommending only projects from a single applicant? Will the Board tailor its Report to try to achieve geographic diversity?

**Recommendation #9:** The Board should provide further information as to how it plans to analyze and assess proposals, and how (and what) it plans to Report to the Minister.

## 10. Enforcement and Accuracy

In the interests of incenting Proponents to exercise appropriate levels of diligence and review in preparing their proposals for submission, it would be helpful for the Board to explain how it proposes to enforce compliance with the proposals.

It is not clear at present whether, when returning to the Board later for Leave to Construct, Certificate of Public Convenience and Necessity, rate approvals, etc., Proponents will be required to adhere to all of the submissions they made as part of this EB-2019-0255 process, or once eligibility for Section 36.2 funding has been granted by way of amendment to Regulation 24/19, will they be able to depart from their present submissions and alter the scope, cost or other elements of the proposed project?

Nor is it clear what sanctions might be available or imposed on Proponents who misrepresent the facts or mislead the Board in the present process, whether negligently or deliberately.

**Recommendation #10:** The Board should provide further information as to the extent to which Proponents will be bound to, or allowed to deviate at later stages from, the submissions in their information packages, as well as the Board's powers and intent for sanctioning those who later deviate, or those who are later discovered to have misrepresented or misled.