SOCIETY of UNITED PROFESSIONALS
IFPTE 160

SUBMISSION ON BILL 165, THE "KEEPING ENERGY COSTS DOWN" ACT

SUBMITTED ON BEHALF OF THE SOCIETY OF UNITED PROFESSIONALS

APRIL 5, 2024

INTRODUCTION

The Society of United Professionals represents over 10,000 engineers, scientists, supervisors, and other professionals in Canada's energy and legal sectors. As an organization, we have represented professionals for over 70 years.

Our members work in every aspect of the electricity industry. They are involved in generation, transmission and distribution of electricity, management of the electricity system, regulation and enforcement of standards, and management of the electricity market. They are employed as first-line managers and supervisors, professional engineers, scientists, information systems professionals, economists, auditors and accountants, as well as many other professional, administrative, and associated occupations.

As the union representing staff at the Ontario Energy Board, and professionals at key OEB regulated electricity sector employers, the Society has serious concerns with the Government's Bill 165, also known as the "Keeping Energy Costs Down Act", which we believe poses a significant threat to regulatory independence, an important pillar of trust in the province's energy sector.

THE DUBIOUS NEED FOR LEGISLATION

The Minister of Energy introduced Bill 165 shortly after the OEB issued its Enbridge Gas 2024-2028 Natural Gas Distribution Rates decision. The Minister seemed to take issue with the OEB's decision to reduce the revenue horizon for new natural gas connections to zero years, from the current 40-year horizon, requiring new developments to pay the entire natural gas connection fee up-front.

In the Government's posted request for comments, the Government listed five key purposes for the legislation. Three of those purposes will be addressed below, as the Society believes that with regards to the OEB's decision on the Enbridge Revenue Horizon, this legislation, as intended, is not necessary.

1. PROTECT FUTURE HOMEBUYERS AND PROMOTE AFFORDABLE HOUSING.

The Government's response to the OEB's Enbridge Rate decision seems to assume that by ending the 40-year revenue horizon, and requiring the full connection cost to be paid as an upfront contribution in aid of construction (CIAC), the cost of the new connection will be passed on from the developer to the home buyer, impacting housing affordability.

The OEB, however, addresses this concern in the published rate decision, stating that Enbridge would need to adopt an approach that ensures that "these new gas customers would pay rates that reflect the fact that a CIAC had been paid."[1]

[1] OEB Decision, Enbridge Gas Inc. 2024-2028 Natural Gas Distribution Rates, EB-2022-0200. https://www.oeb.ca/applications/applications-oeb/current-major-applications/eb-2022-0200

The OEB's rate decision addresses housing affordability by highlighting the two considerations that need to be made with respect to whether housing remains affordable – the upfront cost, and the ongoing operating cost. The OEB suggests that reducing gas rates for new customers to reflect the payment of the CIAC would be "largely a wash for homebuyers."[2]

Additionally, the OEB's decision to end the 40-year revenue horizon was done with the expressly stated intent of protecting future homeowners and ratepayers from facing significant rate hikes as a result of stranded assets from the coming energy transition. Not only does Government interference in this decision not impact affordability for new homebuyers, it poses significant risk to affordability in the future, as a potential death spiral of stranded assets could force remaining ratepayers to deal with skyrocketing natural gas rates.

2. MAINTAIN CUSTOMER CHOICE WITH RESPECT TO ENERGY OPTIONS FOR HOMES AND BUSINESSES.

The OEB's rate decision to end the 40-year revenue horizon was done, in part, to promote customer choice with respect to energy options. The OEB's decision acknowledges that all homes have to make decisions regarding the source of energy for space and water heating. The current 40-year revenue horizon hides the true cost of relying on natural gas for space and water heating, especially the long-term cost associated with the real risk of stranded assets. By bringing these costs upfront, through a CIAC, developers and their customers are able to make an informed decision taking all elements of affordability – both upfront costs and ongoing operating costs – into account.

The Government's interference with the OEB's decision through Bill 165 does not maintain customer choice, but rather attempts to push the customer towards choosing the Government's preferred energy source. The Society is concerned that not only does this set a bad precedent for future OEB decisions, it also poses significant risk to the rate payer in the long run.

3. ENSURE GOVERNMENT SETS ENERGY POLICY, NOT THE REGULATOR.

The Society has long held the position that broad energy policy should be set by legislation and ministerial directive, while more independence should be given to the regulator and the system planner to implement that policy.

In the specific case of the OEB's Enbridge decision, this is precisely what appears to have happened. The OEB refers to the Government's *Powering Ontario's Growth* report to highlight the Government's expectation that Ontario's homes will rely more on electric heat pumps to heat their homes as part of the province's energy transition[3,4]. The Ontario Government has also launched the Clean Home Heating Initiative, to encourage and support the shift to electric heat pumps in St. Catharines, London,

[2] OEB Decision, Enbridge Gas Inc. 2024-2028 Natural Gas Distribution Rates, EB-2022-0200. https://www.oeb.ca/applications/applications-oeb/current-major-applications/eb-2022-0200
[3] ibid
[4] Powering Ontario's Growth. July 7, 2023. https://www.ontario.ca/page/powering-ontarios-growth

Peterborough, and Sault Ste. Marie. These actions, combined with the Federal Government's series of incentives within the Canada Greener Homes Program, partnering with Enbridge in Ontario, to provide grants and interest free loans to switch from fossil fuel-based home heating and water heating to electric heat pumps, suggests that Government energy policy at all levels are meant to promote a transition away from fossil fuels to electric heating.

Under the direction of the assumed energy policy, the risk of stranded assets become far more significant, creating a serious affordability risk to future rate payers. Additionally, if Governments are funding retrofits to install electric heat pumps, it is safe to assume that they would also be in favour of the far more cost-effective approach of installing heat pumps at the time of building.

Furthermore, if there is concern from the Government that a specific OEB decision may run counter to the Government's preferred energy policy, the Minister has the ability to issue a letter of expectation to the OEB. The Society cannot recall a time where clearly stated expectations from the Minister have not been fulfilled by the OEB in the past.

THE IMPORTANCE OF REGULATORY INDEPENDENCE

At the heart of the Society's opposition to the proposed Bill 165 is the removal of regulatory independence from the OEB. Publicly traded companies that rely on regulated rates, and credit rating agencies that determine credit quality in the province's utilities sector, need to trust that the regulator maintains its independence, and does not become a political arm of the Government.

In a recent analysis by S&P Global, the bond rating agency laid out the four pillars of Ontario's natural gas and electricity regulatory environment. They are:

- Regulatory stability
- Tariff-setting procedures
- Financial stability
- Regulatory independence

They further state that they "believe the Ontarian regulatory framework is the most credit supportive kind, benefiting all key stakeholders."[5] However, they warn that their assessment of the province's regulatory framework could change if ***"there was a loss of regulatory independence or instances of political interference in the framework."***[6]

The Society is concerned that Bill 165 removes regulatory independence from the OEB, and signals that this Government is willing to overrule decisions of the regulator for its own political purposes. While Bill 165 was almost certainly a reaction to the Government's disapproval of the OEB's Enbridge decision, it

[5] S&P Global Ratings, "Why We See Ontario's Electricity and Gas Regulatory Framework as Strong". January 13, 2021. https://www.spglobal.com/ratings/en/research/articles/210113-why-we-see-ontario-s-electricity-and-gas-regulatory-framework-as-strong-11763156

[6] ibid

also paves the way for the Government to interfere in the OEB's decision surrounding the Panhandle Regional Expansion Project, and undermines our confidence that the OEB will remain independent of political interference on matters concerning the Society's other rate regulated employers.

The Government already has ways to influence the direction of the OEB, that do not rely on heavy-handed legislation that will undermine confidence in our regulatory framework. As already mentioned, the Government can issue a letter of expectation from the Minister, such letters have historically been considered favourably by the regulator. Furthermore, the Government appoints the OEB's commissioners for fixed terms, allowing for some influence through the appointment process. Finally, any disagreement with an OEB decision can be appealed to divisional courts by applicants and intervenors.

CONCLUSION

In summary, as the union representing professional staff at the OEB, as well as representing professionals at other OEB regulated workplaces, the Society stands in strong opposition to the proposed Bill 165.

It is the Society's belief that Bill 165, if passed as written, would strip the province's energy regulator of its regulatory independence, and severely undermine trust in the province's regulatory framework. It is difficult to imagine any amendments that would make this level of political interference in our energy regulator palatable. As such, the Society urges this committee to report to the legislature with a recommendation that the Bill be withdrawn.

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