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June 15, 2017

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
27th Floor, 2300 Yonge Street  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Enbridge Gas Distribution Inc.  
Application for Franchise Agreement with the Town of Collingwood  
OEB File Number EB-2017-0159**

In accordance with Procedural Order No. 1, please find attached OEB staff's submission on Enbridge Gas' request for confidentiality. Enbridge Gas and all intervenors have been copied on this filing.

Yours truly,

*Original signed by*

Azalyn Manzano  
Case Manager

/ attach.



# **ONTARIO ENERGY BOARD**

## **STAFF SUBMISSION**

**June 15, 2017**

**Enbridge Gas Distribution Inc.  
Franchise Renewal for the Town of Collingwood  
EB-2017-0159**

## BACKGROUND

Enbridge Gas Distribution Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) on April 4, 2017, under section 9 of the *Municipal Franchises Act, 1990*. The application is for an order approving Enbridge Gas' proposed franchise agreement with the Town of Collingwood.

Following receipt of the application, OEB staff requested additional material from Enbridge Gas; namely, a map of the Town of Collingwood showing the density and location of customers served, together with clearer road boundaries. The purpose of the additional information would be to enable the OEB to more properly define the utility's service area boundaries within the Town should the OEB issue a Decision and Order approving the application.

Further to OEB staff's request, Enbridge Gas filed two versions of a map: in one version, the precise locations of the utility's gas mains within the Town are identified (the Gas Mains Map) while, in the second version, the gas mains are altogether not shown (the Redacted Map).

On May 23, 2017, Enbridge Gas filed a request for confidential treatment of the Gas Mains Map. The grounds for its confidential treatment included that the information contained therein is proprietary and subject to periodic change; and that it contains highly sensitive information from public safety, system security and customer personal information perspectives.

The OEB issued Procedural Order No. 1 on June 7, 2017. The Procedural Order made provision for submissions from OEB staff and intervenors on Enbridge Gas' request for confidentiality of the Gas Mains Map, including other possible alternatives.

***Should the subject material be placed on the public record or be treated as confidential, or is there an alternative available to the OEB?***

While the OEB's general policy on requests for confidentiality (as stated in its *Practice Direction on Confidential Filings*) is that all evidence should be on the public record, the OEB has also recognized that some information may be of a confidential nature and should be protected:

As set out in the Practice Direction, it is the OEB's general policy that all records should be open for inspection by any person unless disclosure of the record is prohibited by law. This reflects the OEB's view that its proceedings should be open, transparent and accessible. The Practice Direction seeks to balance these objectives with the need to protect information that has been properly designated as confidential. In short, placing materials on the public record is the rule and confidentiality is the exception. The onus is on the person requesting confidentiality to demonstrate why confidentiality is appropriate.<sup>1</sup>

Although OEB staff appreciates Enbridge Gas' concerns, OEB staff is concerned that granting confidential treatment to the Gas Mains Maps in this proceeding may impact other types of applications, such as future leave to construct filings.

OEB staff submits that rather than making a decision on Enbridge Gas' request for confidential treatment to the Gas Mains Map, Enbridge Gas should be afforded an opportunity to retract the Gas Mains Map from the proceeding and, in its place, file a further revised version – one that both meets the OEB's informational needs for this current proceeding, alleviates the applicant's confidentiality concerns, and that can ultimately be placed on the public record.

Enbridge Gas should be permitted to file a map of the specific geographical areas it serves within the Town of Collingwood that is at a level of detail that is significantly more useful than the Redacted Map but which it also feels comfortable being placed on the public record. For the purposes of this proceeding, the OEB needs to be able to accurately delineate a distributor's service boundaries, as well as the location and density of customers served. A map that is less detailed than the Gas Mains Map could still satisfy the OEB's informational needs in processing gas franchise and certificates of public convenience and necessity applications.

For example, one alternative might be to shade the area of service, varying the colour of the shading to indicate density, and to provide the number of customers in the area. This would also assist the OEB in facilitating new gas expansion opportunities in Ontario, including by new entrants. The decision on the Generic Proceeding on Community Expansion (EB-2016-0004)<sup>2</sup> clarified that where a certificate has been issued for an area but there is currently no distribution service, another distributor can apply for a certificate to serve that area.

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<sup>1</sup> EB-2013-0115; EB-2013-0159; EB-2013-0174 Decision and Order, dated May 29, 2014

<sup>2</sup> EB-2016-0004 Decision and Order, dated November 17, 2016

In other words, in OEB staff's view, granting Enbridge Gas' request for confidentiality is, at this stage procedurally unnecessary and, moreover, less than ideal from a public policy perspective.

**All of which is respectfully submitted.**