



Ontario
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BY EMAIL

September 20, 2022

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Marconi:

**Re: Enbridge Gas Inc. (Enbridge Gas)
Application for Approval of a Franchise Agreement with the County of
Essex
OEB File Number: EB-2022-0207**

In accordance with Procedural Order No. 1, please find attached OEB staff interrogatories in the above proceeding. The attached document has been forwarded to the applicant and to all other registered parties to this proceeding.

Yours truly,

Original Signed By

Natalya Plummer
Analyst, Natural Gas

Encl.



OEB Staff Interrogatories

**Application for Approval of a Franchise Agreement with the
County of Essex**

EB-2022-0207

September 20, 2022

**OEB Staff Interrogatories
Enbridge Gas Inc.
EB-2022-0207**

Please note, Enbridge Gas Inc. is responsible for ensuring that all documents it files with the OEB, including responses to OEB staff interrogatories and any other supporting documentation, do not include personal information (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's *Rules of Practice and Procedure*.

Staff.1 **Ref:** Application, page 2, paragraph 4
Application, page 3, paragraph 15
Application, page 4, paragraph 17
Schedule B: By-Law Number 1270, pages 1-2
Schedule B: 1957 Agreement, pages 1-3
Schedule D: OEB Decision and Order EB-2019-0172
Dawn-Euphemia (Township) v. Union Gas Ltd., 2004 Carswell Ont 3909, paras 36 and 38.

Preamble:

Enbridge Gas stated that it currently has a “perpetual” franchise agreement with the County of Essex dated December 11, 1957 (1957 franchise agreement). The 1957 franchise agreement is not based on the OEB’s 2000 Model Franchise Agreement (model franchise agreement). Details in respect of processes relating to as-built drawings, terms for completing emergency work, insurance, and alternative easements notifications that are standard components of the model franchise agreement are not also found in the 1957 franchise agreement.

Enbridge Gas stated that a new agreement, based on the model franchise agreement, is required to satisfy the requirements under the *Municipal Franchises Act* for the use of the rights of way of the highways in the County of Essex and would provide updated language regarding insurance and relocations.

Questions:

- a) Please discuss how the model franchise agreement is needed to satisfy the requirements under the *Municipal Franchises Act* for the use of the rights of way of the highways in the County of Essex.

- b) Please describe operational and other challenges, if any, when dealing with matters relating to as-built drawings, terms for completing emergency work,

insurance, and alternative easements, for example, that are not detailed in the 1957 franchise agreement (as they are in the model franchise agreement).

- c) Please advise if Enbridge Gas's use of the right of way of the highways in the County of Essex has been negated or hindered in the absence of there being a model franchise agreement between the parties and, if it has been, explain how.
- d) Please explain why the application was filed pursuant to section 10 of the *Municipal Franchises Act*, given that Enbridge Gas views the 1957 franchise agreement to be "perpetual" (i.e. having no expiry date).
- e) Please explain why Enbridge Gas did not file this application at an earlier time, such as in 2004 following the Ontario Divisional Court's decision in *Dawn-Euphemia (Township) v. Union Gas Ltd.*, or even more recently in 2019, for example, with Enbridge Gas's EB-2019-0172 leave to construct application?

Staff.2 **Ref:** 1957 Agreement, page 2, paragraph 3

Preamble:

Section 3 of the 1957 franchise agreement states that "pipelines shall be laid across the said highways in locations approved by the Road Superintendent of the County of Essex." Section 3 also requires charges to be covered for the Road Superintendent or an officer to approve a pipeline.

Questions:

- a) Please describe how any issues pertaining to the conditions under section 3 of the 1957 franchise agreement are negotiated or resolved, and how this compares to Enbridge Gas's practices in other municipalities.

Staff.3 **Ref:** Application, page 2, paragraph 5
 Application, page 3, paragraph 11

Preamble:

Enbridge Gas states that the 1957 franchise agreement only references Enbridge Gas's transmission assets and does not reference the distribution of gas, except for a clause that allows Enbridge Gas to service a customer that abuts the road. Enbridge Gas submits that a model franchise agreement needs to be put in place to cover distribution and transmission assets and associated operations within the County of Essex.

Questions:

- a) Please discuss how the model franchise agreement would better cover Enbridge

Gas's distribution and transmission assets in the County of Essex.

- b) Please discuss how the model franchise agreement would better confirm Enbridge Gas's operational obligations in the County of Essex.
- c) Please advise if the absence of a model franchise agreement has been (and/or will be) a challenge to connecting new customers in the County of Essex and, if so, how.

Staff.4 **Ref:** Application, page 2, paragraph 5
E.B.O. 125 Report to the Board, section 7.38. (May 21, 1986).

Preamble:

Enbridge Gas advised that it currently has franchise agreements in place with 312 lower and single-tier municipalities as well as with 26 other upper-tier municipalities and all except one are the current model franchise agreement without amendments.

The E.B.O. 125 Report to the Board was issued in 1986. At that time, Union Gas Ltd. (now Enbridge Gas) held over 80 "perpetual" franchise agreements in Ontario.

Questions:

- a) Please advise if Enbridge Gas continues to hold "perpetual" franchise agreements with any municipalities in Ontario other than the County of Essex and, if so, if Enbridge Gas plans to bring similar applications under section 10 of the *Municipal Franchises Act* before the OEB in respect of them. Also, in the past when Enbridge Gas has transitioned from "perpetual" franchise agreements to agreements based on the model franchise agreement, please explain the process by which it has done so.