



Enbridge Gas Inc.
50 Keil Drive North
Chatham, Ontario, Canada
N7M 5M1

August 8, 2024

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

Dear Ms. Marconi:

**Re: Enbridge Gas Inc.
Application for Renewal of Franchise Agreement
County of Lennox and Addington
Ontario Energy Board File No. EB-2024-0134**

Pursuant to Procedural Order No. 1, the Concerned Citizens (CC) submitted responses to questions posed by Ontario Energy Board (OEB) staff regarding the nature of the evidence that the CC plans to submit for consideration by the OEB in this proceeding.

Enbridge Gas submits the following comments on how the issues set out in the August 2, 2024 submission as well as the letter of intervention filed by CC are not appropriate for consideration in this proceeding.

As is noted in our application, the County of Lennox and Addington is an upper-tier regional municipality comprised of four lower-tier municipalities - the Township of Addington Highlands, the Town of Greater Napanee, the Township of Loyalist and the Township of Stone Mills. Enbridge Gas provides service to approximately 1,800 customers pursuant to franchise agreements with and certificates of public convenience and necessity for each of the lower-tier municipalities within the County of Lennox and Addington, except the Township of Addington Highlands. Enbridge Gas does not have any customers living in the County of Lennox and Addington that are not covered by a lower-tier franchise agreement and we do not have any customers covered solely by the franchise agreement with the upper-tier County government.

While Procedural Order No. 1 indicated that the OEB had accepted CC as an intervenor and that Enbridge Gas had not objected, because of the manner and timing in which this intervention was brought to the attention of Enbridge Gas, it has not had an opportunity to make submissions on the request for intervenor status. It is unclear who exactly constitutes CC. The only contact information made available for this intervenor is related to a legal firm in Toronto and an email address for an individual that may or may not be a citizen of the County of Lennox and Addington or one of the lower-tier municipalities within the County. There is no indication if there are additional residents within the County associated with CC, or in what jurisdiction they are a resident for tax paying purposes (which appears to be important information for the OEB to have given their expressed concerns). In fact, Enbridge Gas submits that there has not been enough information provided to form an opinion about the suitability of CC as an intervenor, including whether Enbridge Gas' current customers should be required to subsidize the intervention (and evidence) of potential non-gas customers.

In its August 2, 2024 submission, CC highlights concerns about the County of Lennox and Addington not being able to charge fees for use of highways under its jurisdiction and taxpayers bearing too large of a burden for relocating gas pipelines where they conflict with public works.

First, this current application was brought forward with full agreement by the County of Lennox and Addington to the terms and conditions of the proposed franchise agreement, which is for the renewal of a franchise relationship that has been in place with the County since 1959. The resolution passed by council and submitted at Schedule C of the application attests to the County council's agreement with the proposed franchise agreement and ensuring that natural gas is made available to the citizens of the County on an ongoing basis. These same terms and conditions are in place pursuant to the franchise agreements with the lower-tier municipalities within the County. There is no indication in the CC submissions whether they have communicated with any municipal council in the County on these matters. This is important information for the OEB to have to assess the appropriateness of the intervention.

CC claims that the proposed franchise agreement appears to lock the County into an arrangement where it cannot charge any fees for use of its highways for pipelines for 20 years. Enbridge Gas notes that it pays property taxes in every municipality in which it has facilities based on linear infrastructure and it is misleading to state that municipalities are providing free use of lands. Enbridge Gas is also subject to permit fees in several municipalities to cover the administrative costs of those municipalities issuing permits. Further, CC concerns with respect to Ontario Regulation 584/06, that it states is the subject of an ongoing campaign by some municipalities, are prospective and premature for the OEB to consider in any manner.

With respect to waiving the need for the assent of municipal electors, as has been the case for all franchise agreements currently in place throughout the province, elected councils of municipalities represent the interests of the citizens of the municipalities and make decisions on their behalf that are within the jurisdiction of the municipalities, such as the use of highways for public utilities. In this case, the County has by resolution determined it is appropriate for the OEB to waive the assent of municipal electors and the OEB should heed that request over the intervention of one (or maybe more) undisclosed potential citizen(s) who may or may not have communicated their concerns with a relevant municipal council in any way and who may or may not be users of the public utility service serving the surrounding communities.

Overall, it appears that CC is unfamiliar with not only the history behind the development of the current model franchise agreement, but also the practical application of the terms and conditions within the model franchise agreement throughout the province. For instance, CC indicates that it does not object to an interim extension of the existing franchise agreement, yet the terms of the existing franchise agreement have already been extended pursuant to clause 4(c) of the current franchise agreement with the County of Lennox and Addington until a new franchise agreement is executed.

The OEB's *Natural Gas Facilities Handbook* directs that franchise agreements be based on the model franchise agreement unless there are compelling reasons to deviate from it.¹ In this case, it does not appear that CC has raised any issues unique to the municipality that would lead the OEB to consider such a deviation.

¹ Natural Gas Facilities Handbook, page 11

The OEB adopted the model franchise agreement following significant input from the Association of Municipalities of Ontario (AMO) and the natural gas utilities of the day as a tool to efficiently administer the many franchise agreements across Ontario. This includes terms such as the 20-year term of the agreement and allocation of costs associated with pipeline relocation required at the request of the municipality.

Enbridge Gas has franchise agreements in place with 312 single/lower-tier municipalities and 27 upper-tier municipalities, all in the form of the current model franchise agreement as determined by the OEB in accordance with its longstanding policy and practice. Enbridge Gas submits that it would certainly not be appropriate for the OEB to consider changes to the model franchise agreement in an ad hoc and narrow manner for one upper-tier municipality as is being suggested by CC.

In summary, Enbridge Gas does not believe that there is enough substantive information about CC and its constitution, status as a customer or taxpayer and any communications it may have had with municipal council for the OEB to accept CC as an intervenor in this proceeding. Neither are there any compelling and unique issues raised by CC that warrant the OEB allowing gas ratepayer subsidization of CC participation in the proceeding or preparation and submission of evidence. Rather, the issues raised by CC are generic, prospective and/or premature and appear to be based on broader lobbying efforts of various clients of CC's lawyer. In any event, if the OEB were to consider such generic issues in relation to the model franchise agreement, such consideration must include an opportunity for other stakeholders to participate, including other municipalities, gas ratepayers and gas distribution utilities at a minimum.

Should you have any questions on this submission, please do not hesitate to contact me.

Yours truly,

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