



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

December 6, 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 Approval of a Franchise Agreement with the County of Dufferin
Ontario Energy Board File No. EB-2024-0274**

Further to the questions submitted by Ontario Energy Board Staff related to the establishment of franchise agreements, Enbridge Gas provides the following responses.

Staff Question-1

Reference: Application, Page 1, Paras 4 and 5
EB-2022-0081, Natural Gas Facilities Handbook, March 31, 2022

Preamble:

Enbridge Gas acknowledges that it has constructed part of its gas distribution system within the road allowances under the jurisdiction of the County of Dufferin without a formal franchise agreement. Enbridge Gas states that there are 190 customers along roads under the jurisdiction of the County of Dufferin. The OEB's Natural Gas Facilities Handbook provides as follows:

“A person is not permitted to provide gas distribution service within a municipality in Ontario unless the requirements of the Municipal Franchises Act have been met. These include obtaining a franchise from the municipality in which the works are to be located and having the terms and conditions of the franchise approved by the OEB. These terms and conditions are typically set out in the form of a franchise agreement.”

Enbridge Gas states that the County of Dufferin was of the opinion that upper tier municipalities did not have the authority to approve municipal franchise agreements for gas distribution. Enbridge Gas states further that given a proposed pipeline within the current County Road 109 right-of way to serve a new development, Enbridge Gas applied to the Council of the County of Dufferin for approval of an initial franchise agreement permitting Enbridge Gas to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works in the County of Dufferin.

Question:

- a) Please elaborate on why Enbridge Gas did not pursue establishing a franchise agreement with the County of Dufferin previously while constructing the distribution system within the road allowances under the jurisdiction of the County of Dufferin.

Response:

- a) As is noted in the application, in the early years of being within the County of Dufferin (~1960s) and prior to the establishment of the first Model Franchise Agreement in 1987, the County of Dufferin was of the opinion that upper-tier municipalities did not have the authority to approve municipal franchise agreements for gas distribution believing that this was a function assigned to lower-tier municipalities under the *Municipal Franchises Act*. This prevented Enbridge Gas' predecessors from having any success in discussions with the County of Dufferin with respect to a franchise agreement.

Enbridge Gas believes that when pipe was being constructed along roads under the jurisdiction of the County of Dufferin starting in approximately 1974, it was not clear to utility personnel at the time that the lower-tier municipal franchise agreements would cover this pipe given that there is typically shared jurisdiction on county roads.

With the introduction of the Ontario Ministry of Infrastructure's Natural Gas Grant Program (NGGP) and subsequently the *Access to Natural Gas Act, 2018*, the Natural Gas Expansion Program (NGEP) and the Natural Gas Facilities Handbook, Enbridge Gas put additional efforts into ensuring that franchise agreements and CPCNs were in place where required. The recent request for additional pipe within the current County Road 109 right-of way to serve a new development increased the urgency to put a franchise agreement in place with the County of Dufferin.

Staff Question-2

Reference: EB-2024-0230, Enbridge Gas Response to OEB Staff Questions, October 17, 2024

Preamble:

In the certificate proceeding for the Township of Armour¹, in its response to OEB staff questions about any large scale reviews that have conducted to ensure that Enbridge Gas is not operating in any other parts of Ontario without a certificate/franchise, Enbridge Gas stated that "other than the Township of Armour and the County of Dufferin, Enbridge Gas is not aware of any other areas in Ontario where we are operating without a certificate / franchise agreement in place."² Enbridge Gas also stated that "it continues to update its mapping systems with information related to franchise agreements and certificates of public convenience and necessity in order to prevent any construction in areas not currently covered by a franchise agreement and CPCN where required."³

¹ EB-2024-0230

² EB-2024-0230, Enbridge Gas Response to OEB Staff 2-a), October 17, 2024

³ EB-2024-0230, Enbridge Gas Response to OEB Staff 2-b), October 17, 2024

Question:

- a) Please confirm that Enbridge Gas's response is still accurate and that it has not discovered any other areas in Ontario where it is operating without a franchise agreement. If not confirmed, please provide a list of any other municipalities that have been identified and explain whether franchise applications have been submitted for those municipalities.

Response:

- a) Confirmed. Other than the application submitted regarding a new certificate of public convenience and necessity (CPCN) for the City of Ottawa⁴ (which addresses areas of the City of Ottawa in which pipe has been constructed without CPCN rights in place), Enbridge Gas is not aware of any other areas where we are operating without the required franchise agreement and CPCN rights in place.

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

Yours truly,

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⁴ EB-2024-0339