



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

January 6, 2025

Ms. Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> 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. 4, Enbridge Gas hereby submits a summary of our oral argument to be delivered at the hearing scheduled for January 13, 2025. Enbridge Gas estimates that our argument should require approximately 20 minutes of hearing time.

With respect to the oral hearing, the following attendees will be representing Enbridge Gas:

- Patrick McMahon ([patrick.mcmahon@enbridgegas.com](mailto:patrick.mcmahon@enbridgegas.com))
- Tania Persad ([tania.persad@enbridgegas.com](mailto:tania.persad@enbridgegas.com))
- Patrick Copeland ([pcopeland@airdberlis.com](mailto:pcopeland@airdberlis.com))

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

Yours truly,

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cc (email only):

Eric DePoe, Concerned Residents  
Kent Elson, Elson Advocacy  
Amanda Montgomery, Elson Advocacy  
Tracey McKenzie, County of Lennox and Addington  
Natalya Plummer, OEB  
Richard Lanni, OEB

Encl.

## ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Municipal Franchises Act*, R.S.O. 1990, c.M.55, as amended;

**AND IN THE MATTER OF** an Application by Enbridge Gas Inc. for an Order approving the terms and conditions upon which, and the period for which, the Corporation of the County of Lennox and Addington is, by by-law, to grant to Enbridge Gas Inc. the right 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 Lennox and Addington;

**AND IN THE MATTER OF** an Application by Enbridge Gas Inc. for an Order directing and declaring that the assent of the municipal electors of the County of Lennox and Addington to the by-law is not necessary.

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### ENBRIDGE GAS INC. Written Summary of Oral Argument

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January 6, 2025

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In this Application, Enbridge Gas Inc. (“**Enbridge Gas**”) seeks an order pursuant to section 9 of the *Municipal Franchises Act*: (i) approving the terms and conditions of the renewal of its natural gas franchise agreement with the County of Lennox and Addington (the “**County**”) based on the OEB’s Model Franchise Agreement without amendment (the “**MFA**”)<sup>1</sup>; and (ii) declaring and directing that assent of the municipal electors to the by-law approving such renewal is not necessary.

The County is an upper-tier regional municipality that is comprised of four lower-tier municipalities. As confirmed in its resolution dated March 20, 2024, the Council for the County fully supports the orders being sought in this Application.<sup>2</sup>

The OEB’s *Natural Gas Facilities Handbook* (the “**Handbook**”) directs that franchise agreements be based on the MFA unless there is a “compelling reason” to deviate from it.<sup>3</sup> The Handbook further confirms that “virtually all municipal franchise agreements” are based on the MFA without the assent of municipal electors.<sup>4</sup> Enbridge Gas currently has approximately 340 franchise agreements in place with municipalities that are in the form of the MFA.<sup>5</sup>

A vaguely described group called Concerned Residents (“**CR**”) has intervened in the OEB’s review of this Application ostensibly seeking amendments to the MFA and an order requiring the assent of municipal electors. CR’s primary arguments seem to relate to the County being unable to charge Enbridge Gas fees for the use of its highways for the 20 year MFA term, and that taxpayers bear too much of a burden for relocating gas pipelines where they conflict with public works.

Fundamental to CR’s argument is the hypothetical revocation of, or amendment to, O. Reg. 584/06 (the “**Regulation**”) that has been introduced in Ontario’s Legislative Assembly via a Private Member’s Bill. Section 9 of the Regulation expressly precludes municipalities from charging fees for the use of pipelines located on highways. While it concedes that any changes to the Regulation “may or may not occur”<sup>6</sup>, CR nevertheless seems to argue that the MFA should include additional rights for the County (such as a right of renegotiation) to account for this (theoretical) possibility. CR also points to energy transition (and the risks of stranded assets in particular) as a further reason why amendments may be required. CR’s apparent rationale for obtaining the assent of municipal electors seems to be based on these same considerations. There are numerous reasons why CR’s position should be viewed with significant skepticism.

Very little is known about CR, despite the OEB having “encouraged” CR to provide more information about its organization, members, and objectives in Procedural Order No. 2.<sup>7</sup> All that CR has chosen to reveal about itself is that it is a “group of local residents who are concerned

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<sup>1</sup> See Schedule D to the Application dated April 5, 2024 for the MFA approved by the County’s Council.

<sup>2</sup> See Schedule C to the Application dated April 5, 2024 for the Council’s resolution CC-24-72.

<sup>3</sup> Natural Gas Facilities Handbook, page 11.

<sup>4</sup> Natural Gas Facilities Handbook, pages 10 - 11.

<sup>5</sup> As set out in Exhibit EGI-CR-10, the only franchise agreement approved since 2000 that is currently in force and that contains any amended wording relates to the City of Kitchener, where clause 2 includes additional wording to specifically identify the area within the municipality currently served by Enbridge Gas.

<sup>6</sup> Page 2 of the letter from K. Elson to OEB dated October 25, 2024.

<sup>7</sup> Procedural Order Number 2, page 3.

about financial and environmental impacts of methane gas distribution and combustion”.<sup>8</sup> It is unknown, among other things, how many undisclosed potential citizen(s) of the County are represented by CR, whether any of them have ever communicated any of their concerns to the County’s Council, and to what extent any of them are resident in the County for tax purposes. There is no evidence that the County in any way endorses CR’s position in this Application. In fact, Council’s above-noted resolution leads to the exact opposite conclusion.

Enbridge Gas disagrees with the underlying premise of CR’s position that municipalities are providing free use of its lands. Enbridge Gas pays property taxes in every municipality (including the County) in which it has facilities. Further, Enbridge Gas is subject to permit fees in several municipalities to cover the administrative costs of those municipalities issuing permits. The terms and conditions with which CR takes issue are already in place pursuant to the franchise agreements Enbridge Gas has with lower-tier municipalities within the County.

A legislative change to the Regulation (even if it were to occur) would necessarily have the same implications for the hundreds of municipalities that are currently subject to the MFA. There are no circumstances that are specific to the County<sup>9</sup> that relate to the implications of this speculative legislative change, or to the consequences of energy transition. Procedural Order No. 4 specifically confirmed that evidence relating to the potential repeal of the Regulation (and its potential consequences) would not be “material to the specific circumstances of the County such that it could justify deviation from the terms of the [MFA]”.<sup>10</sup> Procedural Order No. 2 also confirmed the OEB’s agreement with Enbridge Gas that a detailed discussion regarding generic changes to the MFA are not in scope in this Application.<sup>11</sup>

The requirement to obtain the assent of municipal electors is dispensed with in “the vast majority of cases”.<sup>12</sup> All of the MFAs currently in force with Enbridge Gas and other municipalities have dispensed with such assent. As is the norm in these matters, Enbridge Gas is relying on a resolution duly passed by the Council of the County supporting the requested orders. To prefer CR’s position in this Application would, among other things, effectively sanction an end-run around the County’s governance processes and the will of the duly elected Council charged with representing the County’s residents. That so little is known about who comprises CR (including if anyone is even an Enbridge Gas customer) further illustrates the inherent tension between CR’s position and circumstances that are specific to the County.

Enbridge Gas submits that it would be inappropriate for the OEB to consider changes to the MFA in an *ad hoc* and narrow manner, especially given those changes could have cascading implications on, and/or involve considerations applicable to, other municipalities which are not involved in this proceeding. There are no compelling reasons to deviate from the MFA given circumstances specific to the County or to require the assent of municipal electors in these circumstances. Enbridge Gas submits that the requested orders within this Application ought to be granted.

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<sup>8</sup> See Intervention Request by CR dated May 13, 2024.

<sup>9</sup> Being the scope of this proceeding as confirmed in Procedural Order No. 2.

<sup>10</sup> Procedural Order Number 4, page 3.

<sup>11</sup> Procedural Order Number 2, page 2.

<sup>12</sup> Natural Gas Facilities Handbook, page 11.