



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

January 21, 2025

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 Franchise Agreement – Town of Essex
Ontario Energy Board File No. EB-2024-0351**

In accordance with instructions set out by the Ontario Energy Board's Letter of Direction dated January 15, 2025, enclosed is my Affidavit of Service in regard to the above-noted proceeding.

Yours truly,

**Gary
Collins** Digitally signed
by Gary Collins
Date: 2025.01.21
08:09:42 -05'00'

Gary Collins
Sr. Analyst Regulatory Research

Encl.

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 Town of Essex 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 Town of Essex;

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 Town of Essex to the by-law is not necessary.

-: AFFIDAVIT OF SERVICE :-

I, Gary Collins, of the Municipality of Southwest Middlesex, in the Province of Ontario, make oath and say as follows:

1. I am an employee in the Chatham Office of Enbridge Gas Inc., the Applicant in the matter referred to in the preamble to this my Affidavit and I have personal knowledge of the matters herein deposed to.
2. By courier on January 15, 2025, a true copy of the Notice of Hearing issued by the Ontario Energy Board on January 15, 2025 and a true copy of the Application dated December 9, 2024 to the above preamble, along with a cover letter, was sent to the Town of Essex attached hereto as Exhibit "A".
3. By courier on January 20, 2025, a true copy of the Notice of Hearing issued by the Ontario Energy Board on January 17, 2025 along with a cover letter, was sent to the Town of Essex attached hereto as Exhibit "B".
4. Pursuant to the January 15, 2025 Letter of Direction, a copy of the Notice, the application and evidence is available for public review upon request to Enbridge Gas and as evidenced by the print screen attached hereto as Exhibit "C" a copy of this material has been posted to the Enbridge Gas website at <https://www.enbridgegas.com/about-enbridge-gas/regulatory>
4. I make this Affidavit in good faith and for no improper purpose.

SWORN BEFORE ME, at the)
City of Toronto in the Province)
of Ontario this 21st day of)
January 2025.)

Lesley M Austin
Digitally signed by
Lesley M Austin
Date: 2025.01.21
08:55:33 -05'00'

A Commissioner, etc.

Gary Collins
Digitally signed
by Gary Collins
Date: 2025.01.21
08:10:06 -05'00'

FROM/DE: UNION GAS 50 KEIL DR N APT/SUITE DOCK A CHATHAM, ONTARIO N7L3V9 519-436-4600 SIN: NET77086312 PIN: NET77086312 REF: PAT MCMAHON WGT: 2.00 LBS DWT: 0.90 LBS DIM: 1X1X1 INCHES		TO/A: TOWN OF ESSEX 33 TALBOT STREET SOUTH ESSEX, ON N8M1A8 N/A ATTN: JOSEPH MALANDRUCCOLO		V STANDARD TERMS AND CONDITIONS APPLY  Loomis Express NET77086312
INSTRUCTIONS:		GRD		
		PREPAID		

**N8M1A8
WINDSOR**



LQN8M1A8AANET77086312

NET77086312 PIN: 1/1 DATE: 01/15/2025 LOOMIS-EXPRESS.COM

This is Exhibit "A" to the
Affidavit of Gary Collins sworn
before me this 21st day of
January 2025.

Town of Essex
33 Talbot Street South
Essex, ON N8M 1A8

(519) 776-7336

Attention: Joseph Malandruccolo, Clerk

**Lesley M
Austin**

Digitally signed
by Lesley M
Austin
Date: 2025.01.21
08:55:52 -05'00'

A Commissioner, etc



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

January 15, 2025

Joseph Malandrucolo, Clerk
Town of Essex
33 Talbot Street South
Essex, ON N8M 1A8

Dear Mr. Malandrucolo:

**Re: Enbridge Gas Inc.
Application for Approval of Franchise Agreement
Town of Essex
Ontario Energy Board File No. EB-2024-0351**

In accordance with instructions set out by the Ontario Energy Board's Letter of Direction dated January 15, 2025, Enbridge Gas now serves upon you a copy of the Notice of Hearing (in English and French) together with a copy of the relevant Application for approval of the Franchise Agreement between Enbridge Gas and the Town of Essex.

The Ontario Energy Board has arranged for publication of the Notice of Hearing in the *Windsor Star* and the *Windsor Le Rempart* newspapers on Thursday, January 23, 2025.

Yours truly,

[Original Signed By]

Patrick McMahon
Technical Manager
Regulatory Research and Records
patrick.mcmahon@enbridge.com
(519) 436-5325

Encl.

NOTICE OF A HEARING

Enbridge Gas Inc. has applied for approval to renew its Natural Gas Franchise with the Town of Essex

Enbridge Gas Inc. (Enbridge Gas) is asking the Ontario Energy Board (OEB) for:

- **An order approving the renewal of a natural gas franchise agreement with the Town of Essex.** This would continue Enbridge Gas's right to construct, operate and add to the natural gas distribution system and to distribute, store and transmit natural gas in and through the Town of Essex for the next 20 years.
- **An order directing that the acceptance of the municipal electors of the Town of Essex is not required in relation to the by-law approving the natural gas franchise agreement.**

YOU SHOULD KNOW

THE ONTARIO ENERGY BOARD WILL HOLD A PUBLIC HEARING

There are three types of OEB Hearings: oral, electronic and written. If you have a preference for the type of hearing, you can write to us to explain why. During this hearing, we will question the applicant about its application. We will also hear questions and arguments from participants that have registered as Intervenor. After reviewing all the evidence, we will decide whether to approve this application.

HAVE YOUR SAY

You have the right to information about this application and to participate in the process. Visit www.oeb.ca/participate and use file number **EB-2024-0351** to:

- Review the application
- Apply to become an intervenor
- File a letter with your comments

IMPORTANT DATES

You must engage with the OEB on or before **February 3, 2025** to:

- Provide input on the hearing type (oral, electronic or written)
- Apply to be an intervenor

If you do not, the hearing will move forward without you, and you will not receive any further notice of the proceeding.

PRIVACY

If you write a letter of comment, your name and the content of your letter will be put on the public record and the OEB website. If you are a business or if you apply to become an intervenor, all the information you file will be on the OEB website.

LEARN MORE

Ontario Energy Board

■ /TTY: 1 877-632-2727

☉ Monday - Friday: 8:30 AM - 5:00 PM

🌐 oeb.ca/participate

Enbridge Gas Inc.

■ 1 866-763-5427

☉ Monday - Friday: 8:30 AM - 5:00 PM

🌐 enbridgegas.com

This hearing will be held under sections 9(4) and 10 of the **Municipal Franchises Act**, R.S.O. 1990, c. M.55.

Ce document est aussi disponible en français.



Ontario
Energy
Board

Enbridge Gas Inc. a déposé une requête en vue d'obtenir l'autorisation de renouveler son contrat de franchise de gaz naturel avec la ville d'Essex.

Enbridge Gas Inc. (Enbridge Gas) demande à la Commission de l'énergie de l'Ontario (CEO) :

- **Une ordonnance approuvant le renouvellement d'un accord de concession de gaz naturel avec la ville d'Essex.** Pendant les 20 prochaines années, Enbridge Gas conserverait ainsi le droit de construire, d'exploiter et d'agrandir le réseau de distribution de gaz naturel et de distribuer, de stocker et de transporter le gaz naturel dans et à travers la ville d'Essex.
- **Un arrêté ordonnant que l'acceptation des électeurs municipaux de la ville d'Essex n'est pas nécessaire en ce qui a trait au règlement administratif approuvant l'accord de concession de gaz naturel.**

À SAVOIR

LA COMMISSION DE L'ÉNERGIE DE L'ONTARIO TIENDRA UNE AUDIENCE PUBLIQUE

Il existe trois types d'audiences à la CEO : les audiences orales, les audiences électroniques et les audiences écrites. Si vous avez une préférence en ce qui concerne le format de l'audience, vous pouvez nous écrire pour nous en expliquer les raisons. Au cours de cette audience, nous interrogerons le requérant sur sa demande. Nous entendrons également les questions et arguments des participants inscrits en tant qu'intervenants. Après avoir examiné tous les éléments de preuve, nous déciderons d'approuver ou non cette requête.

DONNEZ VOTRE AVIS

Vous avez le droit d'être informés au sujet de cette demande et de participer au processus. Visitez le site **www.oeb.ca/fr/participez** et utilisez le numéro de dossier **EB-2024-0351** pour :

- examiner la demande;
- présenter une demande pour devenir un intervenant;
- envoyer une lettre comportant vos commentaires.

DATES IMPORTANTES

Vous devez communiquer avec la CEO au plus tard le **3 février 2025** afin de :

- fournir des renseignements sur le type d'audience (orale, électronique ou écrite);
- présenter une demande en vue de devenir un intervenant.

À défaut de cela, l'audience se déroulera sans vous et vous ne recevrez plus d'avis dans le cadre de la présente procédure.

PROTECTION DES RENSEIGNEMENTS PERSONNELS

Si vous écrivez une lettre de commentaires, votre nom et le contenu de cette lettre seront ajoutés au dossier public et au site Web de la CEO. Si vous êtes une entreprise ou si vous demandez à devenir un intervenant, tous les renseignements que vous déposez seront disponibles sur le site Web de la CEO.

EN SAVOIR PLUS

Commission de l'énergie de l'Ontario

☎ /ATS: 1 877-632-2727

🕒 Du lundi au vendredi, de 8 h 30 à 17 h

🌐 oeb.ca/fr/participez

Enbridge Gas Inc.

☎ 1 866-763-5472

🕒 Du lundi au vendredi, de 8 h 30 à 17 h

🌐 enbridgegas.com

Cette audience sera tenue en vertu du paragraphe 9(4) et de l'article 10 de la **Loi sur les concessions municipales**, L.R.O. 1990, chap. M.55.

This document is also available in English.



Commission
de l'énergie
de l'Ontario



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

December 9, 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 Franchise Agreement
Town of Essex**

Attached is an Application by Enbridge Gas Inc. for Orders of the Ontario Energy Board with respect to a Franchise Agreement with the Town of Essex pursuant to section 10 of the *Municipal Franchises Act*. There is a disagreement between Enbridge Gas and the Town of Essex with regards to the terms and conditions of the proposed Franchise Agreement.

Should you have any questions on this application, please do not hesitate to contact me. I look forward to the receipt of your instructions.

Yours truly,

Patrick
McMahon

Digitally signed by
Patrick McMahon
Date: 2024.12.09
14:30:41 -05'00'

Patrick McMahon
Technical Manager
Regulatory Research and Records
patrick.mcmahon@enbridge.com
(519) 436-5325

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 Town of Essex 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 Town of Essex;

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 Town of Essex to the by-law is not necessary.

APPLICATION

1. Enbridge Gas Inc. (Enbridge Gas), a regulated public utility, is a corporation incorporated under the laws of the Province of Ontario, with its offices in the City of Toronto and the Municipality of Chatham-Kent.
2. The Corporation of the Town of Essex (Municipality) is a municipal corporation incorporated under the laws of the Province of Ontario. Attached hereto and marked as Schedule "A" is a map showing the geographical location of the Municipality and a customer density representation of Enbridge Gas' service area. Enbridge Gas currently serves approximately 8,600 customers in the Town of Essex. Enbridge Gas and its predecessors have been providing gas distribution services within the Town of Essex since approximately 1909.
3. The Town of Essex is a lower-tier municipality located in the County of Essex. On April 1, 1999, the former Town of Essex was merged with the former Township of Colchester North, the former Township of Colchester South and the former Town of Harrow to form the current Town of Essex.
4. Enbridge Gas has an existing franchise agreement with the Town of Essex (RP-2004-0207 / EB-2004-0422) effective December 20, 2004 and associated By-law (By-law 604) which are attached as Schedule "B".
5. Enbridge Gas has a Certificate of Public Convenience and Necessity for the Town of Essex (RP-2004-0207 / EB-2004-0421) dated December 7, 2004 which is attached as Schedule "C". Enbridge Gas is not aware of any changes to the municipal boundaries of the Town of Essex since the Certificate of Public Convenience and Necessity was issued.

6. Enbridge Gas applied to the Council of the Municipality for the renewal of a 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 Town of Essex. Documents related to the renewal of the franchise agreement were forwarded to the Town of Essex on May 9, 2024.
7. Attached at Schedule "D" is the Infrastructure Services Report 2024-04 presented to the council of the Town of Essex on December 2, 2024. The proposed Bylaw 2405 (which includes a declaration that the assent of the municipal electors in respect of this By-Law is not necessary) and form of franchise agreement included within the Infrastructure Services Report 2024-04 were passed through 1st and 2nd readings by the council of the Town of Essex (see Council meeting video between time markings 1:07 and 1:09 - [Regular Council Meeting, December 2, 2024 6:00 - 9:00 PM](#)).
8. At its meeting on December 2, 2024, the Council of the Town of Essex gave approval to a form of a franchise agreement that included several proposed amendments to the Model Franchise Agreement. While Enbridge Gas spoke with representatives of the Town of Essex over the past several months regarding moving forward with the renewal of the franchise agreement, these proposed amendments were not discussed with Enbridge Gas nor were they raised in any discussions between Enbridge Gas and the representatives of the Town of Essex.
9. While Enbridge Gas was not provided with a red-lined version of the Town of Essex's proposed franchise agreement nor any explanation for the proposed changes, the following is Enbridge Gas' understanding of the proposed amendments to the Model Franchise Agreement being proposed by the Town of Essex:

- Part I - Definitions

Paragraph 1(a) - The Town of Essex's proposed franchise agreement excludes "when used in connection with parts of the gas system" from the definition of "decommissioned" and "decommissions":

~~"dDecommissioned" and "dDecommissions" when used in connection with parts of the gas system,~~ means ~~any parts of the gas system~~ taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the Assessment Act;

Paragraph 1(b) - The Town of Essex's proposed franchise agreement changes the reference from "Engineer / Road Superintendent" to "Director, Infrastructure":

~~"Engineer/Road Superintendent"~~ "Director, Infrastructure" means the most senior individual employed by the Corporation with responsibilities for ~~H~~Highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;

Paragraph 1(f) – New - The Town of Essex is proposing to add a new definition for “Insurance Policy” described in Section 11(a).

“Insurance Policy” has the definition prescribed thereto in Section 11(a) of this Agreement;

Paragraph 1(i) - (Paragraph 1(h) in the Model Franchise Agreement) - The Town of Essex is proposing a change to the definition of “Plan” to refer to an updated paragraph (because of the addition of a new Interpretation clause) and referring to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement.

"Plan" means the plan described in Paragraph ~~5~~ 6(b) of this Agreement required to be filed by the Gas Company with the ~~Engineer/Road Superintendent~~ Director Infrastructure prior to commencement of work on the gas system; and

The Town of Essex is proposing to remove Paragraph 1(i) of the Model Franchise Agreement and insert a new Paragraph 2 (Interpretation) which contains the same wording as the paragraph being replaced.

Paragraph 1(j) – New - The Town of Essex is proposing a new definition for “Relocation Work” as described in a later section.

“Relocation Work” has the meaning prescribed thereto in Section 13(a) of this Agreement.

Paragraph 2 – New – The Town of Essex is proposing a new Interpretation clause with wording previously contained in Paragraph 1(i) in the Model Franchise Agreement:

Whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

- Part II – Rights Granted

Paragraph numbering has been changed to correspond to the new Paragraph 2.

- Part III – Conditions

Paragraph numbering has been changed to correspond to the new Paragraph 2.

Paragraph 6(a) - (Paragraph 5(a) in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement:

(a) *The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the travelled portion of any highway unless a permit therefor has first been obtained from the ~~Engineer/Road Superintendent~~ Director, Infrastructure and all work done by the Gas Company shall be to ~~his~~ the satisfaction of the Director, Infrastructure.*

Paragraph 6(b) - (Paragraph 5(b) in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement:

(b) *Prior to the commencement of work on the gas system, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the ~~Engineer/Road Superintendent~~ Director, Infrastructure a Plan, satisfactory to the ~~Engineer/Road Superintendent~~ Director, Infrastructure, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy (the “Plan”).*

Paragraph 6(c) - (Paragraph 5(c) in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement:

- c) *The Plan filed by the Gas Company shall include geodetic information for a particular location:*
 - (i) *where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the ~~Engineer/Road Superintendent~~ Director, Infrastructure, or*
 - (ii) *when requested, where the Corporation has geodetic information for its own services and all others at the same location.*

Paragraph 6(d) - (Paragraph 5(d) in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement:

(d) *The ~~Engineer/Road Superintendent~~ Director, Infrastructure may require sections of the gas system to be laid at greater depth than required by the latest CSA standard for gas pipeline systems to facilitate known projects or to correct known highway deficiencies.*

Paragraph 6(e) - (Paragraph 5(e) in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement:

(e) Prior to the commencement of work on the gas system, the ~~Engineer/Road Superintendent Director, Infrastructure~~ must approve the location of the work as shown on the Plan filed by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.

Paragraph 6(f) - (Paragraph 5(f) in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement:

(f) In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the ~~Engineer/Road Superintendent Director, Infrastructure~~ approves this proposal, ~~he the Director, Infrastructure~~ may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.

Paragraph 6(h) - (Paragraph 5(h) in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement:

(h) The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the ~~Engineer/Road Superintendent Director, Infrastructure~~ to do so is received.

The Town of Essex is proposing to remove Paragraph 5(i) of the Model Franchise Agreement with respect to municipal approval not being unreasonably withheld:

~~(i) — The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.~~

Paragraph 6(i) - (Paragraph 5(j) in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement

(j) The approval of the ~~Engineer/Road Superintendent Director, Infrastructure~~ is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

Paragraph 7 - (Paragraph 6 in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement:

6. *As Built Drawings*

The Gas Company shall, within six months of completing the installation of any part of the gas system, provide two copies of "as built" drawings to the ~~Engineer/Road Superintendent~~ Director, Infrastructure. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the gas system and the ground surface at the time of installation) and distance of the gas system. The "as built" drawings shall be of the same quality as the Plan and, if the approved pre-construction plan included elevations that were geodetically referenced, the "as built" drawings shall similarly include elevations that are geodetically referenced. Upon the request of the ~~Engineer/Road Superintendent~~ Director, Infrastructure, the Gas Company shall provide one copy of the drawings in an electronic format and one copy as a hard copy drawing.

Paragraph 8 - (Paragraph 7 in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the "Director, Infrastructure" instead of the "Engineer/Road Superintendent" referenced in the Model Franchise Agreement:

7. *Emergencies*

In the event of an emergency involving the gas system, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the ~~Engineer/Road Superintendent~~ Director, Infrastructure is normally required for the work, the Gas Company shall use its best efforts to immediately notify the ~~Engineer/Road Superintendent~~ Director, Infrastructure of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction. The Gas Company shall provide the Engineer/Road Superintendent with at least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

Paragraph 9 - (Paragraph 8 in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the "Director, Infrastructure" instead of the "Engineer/Road Superintendent" referenced in the Model Franchise Agreement and adds a defined reference to "Restoration Work":

8. *Restoration*

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the ~~Engineer/Road Superintendent~~ Director, Infrastructure, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference (the "Restoration Work"). If the Gas Company fails at any time to do any work required by this Paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay the Corporation's reasonably incurred costs, as certified by the ~~Engineer/Road Superintendent~~ Director, Infrastructure.

Paragraph 11 - (Paragraph 10 in the Model Franchise Agreement) - The Town of Essex is proposing various changes and additional conditions related to the sections of the franchise agreement related to insurance:

10. Insurance

- (a) The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph ~~9~~ 10 (the “Insurance Policy”). The insurance policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The insurance policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the ~~Gas Company~~ Insurer.*
- (b) The issuance of ~~an~~ the insurance policy ~~as provided in this Paragraph~~ shall not be construed as relieving the Gas Company of liability not covered by such insurance ~~policy~~ or in excess of the policy limits of such insurance ~~policy~~.*
- (c) Upon request by the Corporation, the Gas Company shall confirm that premiums for such insurance ~~policy~~ have been paid and that such insurance ~~policy~~ is in full force and effect. ~~Evidence of the Insurance Policy shall be provided to the Corporation prior to entering this Agreement and annually thereafter for the duration of the Agreement.~~*

Paragraph 12 - (Paragraph 11 in the Model Franchise Agreement) - The Town of Essex is proposing a reference change to correspond to its proposed paragraph numbering:

11. Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if it is feasible, to provide the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph ~~12~~ 13 of this Agreement.

Paragraph 13 - (Paragraph 12 in the Model Franchise Agreement) - The Town of Essex is proposing various changes and additional conditions related to the sections of the franchise agreement related to pipeline relocation:

12. Pipeline Relocation

- a) *If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, **with method and costs being pre-approved by the Director, Infrastructure**, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the ~~Engineer/Road Superintendent~~ **Director, Infrastructure (the "Relocation Work")**.*
- b) *Where any part of the ~~gas system relocated in accordance with this Paragraph~~ **Relocation Work** is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.*
- c) *Where any part of the ~~gas system relocated in accordance with this Paragraph~~ **Relocation Work** is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:*
 - (i) *the amount **reasonably** paid to Gas Company employees up to and including field supervisors for the hours worked on the ~~project~~ **Replacement Work** plus the **pro-rated** current cost of fringe benefits for these employees,*
 - (ii) *the amount paid for rental equipment while in use on the project and ~~an~~ **a reasonable** amount, charged at the unit rate, for Gas Company equipment while in use on the ~~project~~ **Relocation Work**,*
 - (iii) *the amount paid by the Gas Company to contractors for work related to the project,*
 - (iv) *the cost to the Gas Company for materials used in connection with the ~~project~~ **Relocation Work**, and*
 - (v) *a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.*
- d) *The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.*

- Part IV – Procedural and Other Matters

Paragraph numbering has been changed to correspond to the new paragraphs added.

Paragraph 15 - (Paragraph 14 in the Model Franchise Agreement) - The Town of Essex is proposing a change to how notice is transmitted:

14. Giving Notice

*Notices may be delivered to, sent by **email**, facsimile or mailed by prepaid registered post to the Gas Company at its head office or to the authorized officers of the Corporation at its municipal offices, as the case may be.*

Paragraph 16 - (Paragraph 15 in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement and proposing a significant change to responsibility for costs of removing decommissioned pipe:

15. Disposition of Gas System

(a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.

(b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan ~~as required by Paragraph 5 of this Agreement~~ for approval by the ~~Engineer/Road Superintendent~~ Director, Infrastructure. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system ~~as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby~~ the cost of which will be borne solely by the Gas Company. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph ~~12~~ 13 applies to the cost of relocation.

Paragraph 18 – New – The Town of Essex is proposing a new Pavement Cuts clause to the franchise agreement:

18. Pavement Cuts

If any pavement cuts are required to perform any of the work under this Agreement, prior to such pavement cuts being performed, the Gas Company shall seek the approval of the Director, Infrastructure. In the event a pavement cut is deemed necessary by the Director, Infrastructure, said Director, Infrastructure may specify the type, thickness, and method of pavement cut restoration, both temporary and permanent. And in return the Gas Company shall make good any setting or subsistence caused by such excavation. All pavement cuts shall be repaired without delay at the expense of the Gas Company. Should the repairs not be carried out without delay, the Corporation shall be entitled to make such repairs and invoice the Gas Company for the cost of restoration, to be paid in accordance with the terms of the invoice.

Paragraph 19 - (Paragraph 17 in the Model Franchise Agreement) - The Town of Essex is proposing a change to wording of the paragraph referring to the Franchise Handbook:

17. Franchise Handbook

The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. ~~Concerning matters not addressed within this agreement~~, the Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the gas utility companies, as may be amended from time to time.

Paragraph 20 - (Paragraph 18 in the Model Franchise Agreement) - The Town of Essex is proposing a change to refer to the “Director, Infrastructure” instead of the “Engineer/Road Superintendent” referenced in the Model Franchise Agreement:

18. Other Conditions

Notwithstanding the cost sharing arrangements described in Paragraph 12, if any part of the gas system altered or relocated in accordance with Paragraph 12 was constructed or installed prior to January 1, 1981, the Gas Company shall alter or relocate, at its sole expense, such part of the gas system at the point specified, to a location satisfactory to the ~~Engineer/Road Superintendent~~ Director, Infrastructure.

Paragraph 21 – New – The Town of Essex is proposing a new Drainage Act clause to the franchise agreement:

21. Drainage Act

The rights and obligations set out in this Agreement are at all times subject to the Drainage Act, RSO, 1990, as amended. Where there is a conflict between this Agreement and the Drainage Act conflict, the Drainage Act shall prevail.

Signature Blocks – The Town of Essex is proposing to add “**We have the authority to bind the corporation**” under the signatures of the Town of Essex and Enbridge Gas.

10. 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. Enbridge Gas does not believe that the Town of Essex has raised any issues unique to the Town of Essex that would lead the OEB to consider such a deviation. Enbridge Gas does not support any of the model franchise agreement amendments as they are being proposed by the Town of Essex.
11. The OEB adopted the Model Franchise Agreement and its terms and conditions 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. Enbridge Gas has franchise agreements in place with 315 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 be inappropriate for the OEB to consider changes to the Model Franchise Agreement with the Town of Essex in an ad hoc and narrow manner for one lower-tier municipality which, in turn, could have cascading implications on and/or involve considerations applicable to other municipalities which are not involved in this proceeding.
12. Enbridge Gas is submitting this application pursuant to section 10 of the *Municipal Franchises Act* which gives the OEB the jurisdiction, “if public convenience and necessity appear to require it”, to renew the right of Enbridge Gas to operate the gas distribution system in the Town of Essex “upon such terms and conditions as may be prescribed by the OEB”.
13. Attached hereto as Schedule “E” is a copy of the franchise agreement proposed by Enbridge Gas for approval. It is in the form of the 2000 Model Franchise Agreement with no amendments and is for a term of twenty (20) years.
14. Enbridge Gas has franchise agreements with and Certificates of Public Convenience and Necessity for the Town of Amherstburg, the Town of Lasalle, the Town of Kingsville, and the Town of Tecumseh which are immediately adjacent to the Town of Essex. Enbridge Gas is not aware of any other natural gas distributor in the area.
15. The address of the Municipality is as follows:

Town of Essex
33 Talbot Street South
Essex, ON N8M 1A8
Attention: Joseph Malandrucolo, Clerk
Telephone: (519) 776-7336 ext. 1132
Email: jmalandrucolo@essex.ca

The address for Enbridge Gas' regional operations office is:

Enbridge Gas Inc.
3840 Rhodes Drive
Windsor, ON N9A 6N7
Attention: Andrea Seguin, Director, Regional Operations
Email: andrea.seguin@enbridge.com

16. Enbridge Gas believes that publishing the Notice in the local newspaper, on the OEB web site, on the Enbridge Gas' web site and on the municipality's web site will provide a broad awareness of this application. The newspaper having the highest circulation in the Town of Essex is the *Windsor Star*. This is the newspaper used by the Municipality for its notices.
17. Enbridge Gas now applies to the Ontario Energy Board for:
 - (a) an Order under s.10 of the *Municipal Franchises Act* approving the terms and conditions upon which, and the period for which, the Town of Essex is, by by-law, to grant Enbridge Gas 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; and
 - (b) an Order pursuant to s.9(4) of the *Municipal Franchises Act* directing and declaring that the assent of the municipal electors of the Town of Essex is not necessary for the proposed franchise agreement by-law under the circumstances.

DATED at the Municipality of Chatham-Kent, in the Province of Ontario this 9th day of December 2024.

ENBRIDGE GAS INC.

Patrick

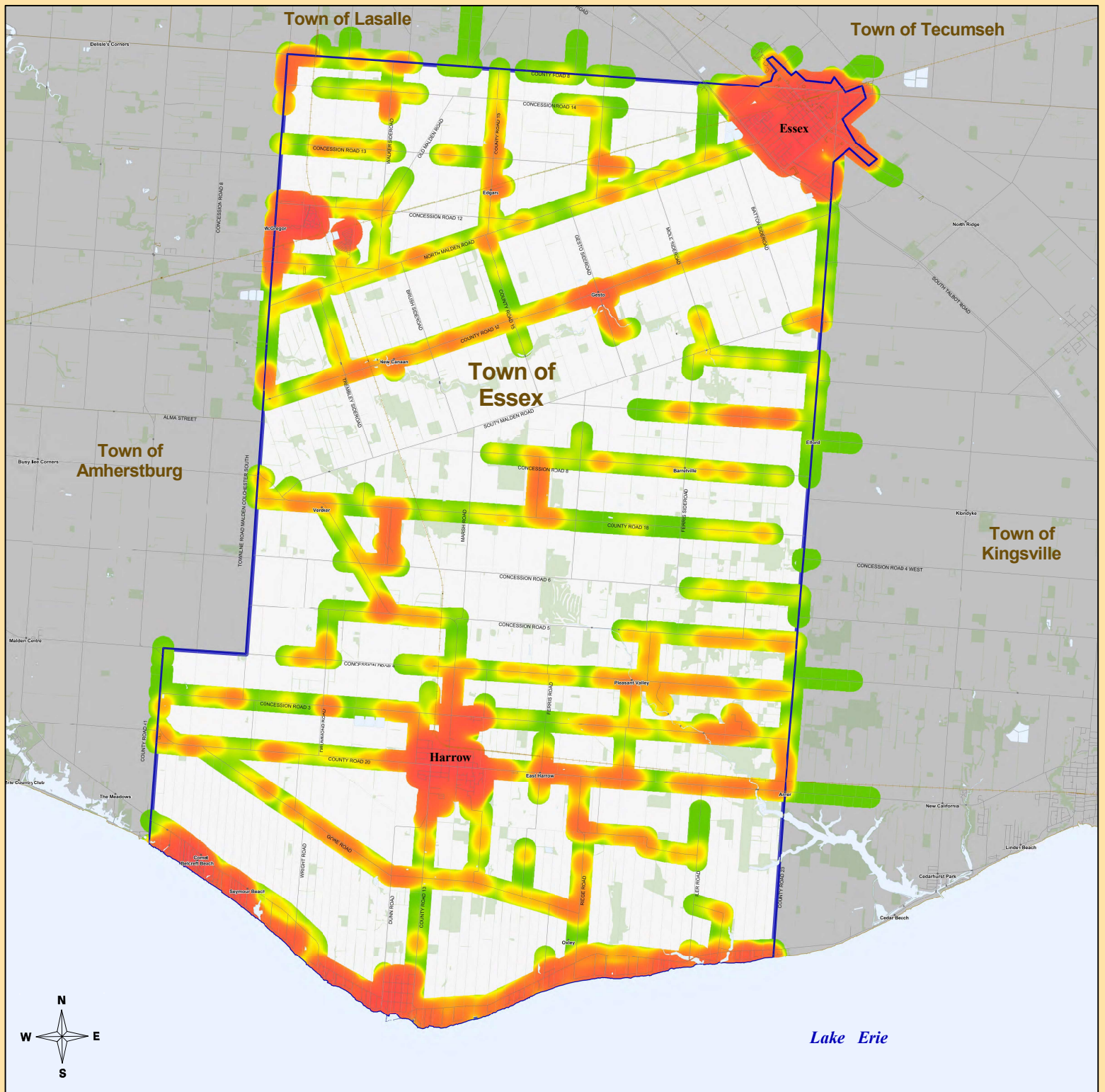
McMahon

Digitally signed by
Patrick McMahon
Date: 2024.12.09
14:28:26 -05'00'

Patrick McMahon
Technical Manager
Regulatory Research and Records

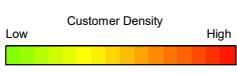
Comments respecting this Application should be directed to:

Mr. Patrick McMahon
Technical Manager, Regulatory Research and Records
Enbridge Gas Inc.
50 Keil Drive North
Chatham, ON N7M 5M1
patrick.mcmahon@enbridge.com
Telephone: (519) 436-5325



Legend

- Enbridge Gas Pipeline Coverage Area
- Town of Essex
- Roads
- Railways
- Municipal and Township Boundaries
- First Nation Boundaries



Town of Essex



Disclaimer:
 The map is provided with no warranty express or implied and is subject to change at any time. Any Person using the Density Map shall do so at its own Risk and the Density Map is not intended in any way As a tool to locate underground infrastructure for the purposes of excavation



THE CORPORATION OF THE TOWN OF ESSEX

BY-LAW #604

A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT BETWEEN THE CORPORATION OF THE TOWN OF ESSEX and UNION GAS LIMITED

WHEREAS the Council of The Corporation of The Town of Essex deems it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Union Gas Limited;

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to The Municipal Franchises Act on December 7, 2004 and December 10, 2004 has approved the terms and conditions upon which and the period for which the franchise provided in the Franchise Agreement is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-Law is not necessary:

NOW THEREFORE the Council of The Corporation of the Town of Essex enacts as follows:

1. **THAT** the Franchise Agreement between The Corporation of the Town of Essex and Union Gas Limited attached hereto and forming part of this by-law is hereby authorized and the franchise provided for therein is hereby granted.
2. **THAT** the Mayor and Clerk be and they are hereby authorized and instructed on behalf of The Corporation of the Town of Essex to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law.
3. **THAT** the following by-laws be and the same are hereby repealed:

By-law #2156 for The Corporation of the Town of Essex, passed in Council on the 15th day of January, 1990;

By-law #1579 for The Corporation of the Township of Colchester North, passed in Council on the 14th day of August, 1961;

By-law #2416 for The Corporation of the Township of Colchester North, passed in Council on the 9th day of March, 1992;

By-law #984 for The Corporation of the Township of Colchester South, passed in Council on the 21st day of August, 1961;

By-law #2104 for The Corporation of the Township of Colchester South, passed in Council on the 17th day of March, 1992;

By-law #319 for The Corporation of the Town of Harrow, passed in Council on the 14th day of August, 1961;

By-law #906 for The Corporation of the Town of Harrow, passed in Council on the 9th day of March, 1992;

4. **THAT** this by-law shall come into force and take effect as of the final passing thereof.

Read a first time this 9th day of August, 2004.

Read a second time this 9th day of August, 2004.

Read a third time and finally passed this 20th day of December, 2004.

THE CORPORATION OF THE TOWN OF ESSEX

Per:

[Original Signed By Ron McDermott]

Ron McDermott, Mayor

[Original Signed By Jerry Marion]

Jerry Marion, Clerk

2000 Model Franchise Agreement

THIS AGREEMENT effective this 20 day of December, 2004.

BETWEEN:

THE CORPORATION OF THE TOWN OF ESSEX

hereinafter called the "Corporation"

- and -



uniongas

LIMITED

hereinafter called the "Gas Company"

WHEREAS the Gas Company desires to distribute, store and transmit gas in the Municipality upon the terms and conditions of this Agreement;

AND WHEREAS by by-law passed by the Council of the Corporation (the "By-law"), the duly authorized officers have been authorized and directed to execute this Agreement on behalf of the Corporation;

THEREFORE the Corporation and the Gas Company agree as follows:

Part I - Definitions

1. In this Agreement

- (a) "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the *Assessment Act*;
- (b) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;
- (c) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (d) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;

- (e) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the traveled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) "Model Franchise Agreement" means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) "Plan" means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.



Part II - Rights Granted

2. To provide gas service

The consent of the Corporation is hereby given and granted to the Gas Company to distribute, store and transmit gas in and through the Municipality to the Corporation and to the inhabitants of the Municipality.

3. To Use Highways

Subject to the terms and conditions of this Agreement the consent of the Corporation is hereby given and granted to the Gas Company to enter upon all highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the distribution, storage and transmission of gas in and through the Municipality.

4. Duration of Agreement and Renewal Procedures

- (a) If the Corporation has not previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law.

or

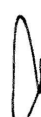
- (b) If the Corporation has previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20 year term of this Agreement, the Model Franchise Agreement is changed, then on the 7th anniversary and on the 14th anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20 year term.
- (c) At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the *Municipal Franchises Act*.



Part III – Conditions

5. Approval of Construction

- (a) The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the traveled portion of any highway unless a permit therefore has first been obtained from the Engineer/Road Superintendent and all work done by the Gas Company shall be to his satisfaction.
- (b) Prior to the commencement of work on the gas system, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a Plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy.
- (c) The Plan filed by the Gas Company shall include geodetic information for a particular location:
 - (i) where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the Engineer/Road Superintendent, or
 - (ii) when requested, where the Corporation has geodetic information for its own services and all others at the same location.
- (d) The Engineer/Road Superintendent may require sections of the gas system to be laid at greater depth than required by the latest CSA standard for gas pipeline systems to facilitate known projects or to correct known highway deficiencies.
- (e) Prior to the commencement of work on the gas system, the Engineer/Road Superintendent must approve the location of the work as shown on the Plan filed by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.
- (f) In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the Engineer/Road Superintendent approves this proposal, he may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.



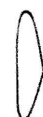
- (g) Where the gas system may affect a municipal drain, the Gas Company shall also file a copy of the Plan with the Corporation's Drainage Superintendent for purposes of the *Drainage Act*, or such other person designated by the Corporation as responsible for the drain.
- (h) The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received.
- (i) The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.
- (j) The approval of the Engineer/Road Superintendent is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

6. As Built Drawings

The Gas Company shall, within six months of completing the installation of any part of the gas system, provide two copies of "as built" drawings to the Engineer/Road Superintendent. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the gas system and the ground surface at the time of installation) and distance of the gas system. The "as built" drawings shall be of the same quality as the Plan and, if the approved pre-construction plan included elevations that were geodetically referenced, the "as built" drawings shall similarly include elevations that are geodetically referenced. Upon the request of the Engineer/Road Superintendent, the Gas Company shall provide one copy of the drawings in an electronic format and one copy as a hard copy drawing.

7. Emergencies

In the event of an emergency involving the gas system, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the Engineer/Road Superintendent is normally required for the work, the Gas Company shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction. The Gas Company shall provide the Engineer/Road Superintendent with at least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.



8. Restoration

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Engineer/Road Superintendent, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. If the Gas Company fails at any time to do any work required by this Paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay the Corporation's reasonably incurred costs, as certified by the Engineer/Road Superintendent.

9. Indemnification

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its gas system in the Municipality, or utilizing its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

10. Insurance

- (a) The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph 9. The insurance policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The insurance policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the Gas Company.
- (b) The issuance of an insurance policy as provided in this Paragraph shall not be construed as relieving the Gas Company of liability not covered by such insurance or in excess of the policy limits of such insurance.
- (c) Upon request by the Corporation, the Gas Company shall confirm that premiums for such insurance have been paid and that such insurance is in full force and effect.



11. Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if it is feasible, to provide the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 12 of this Agreement.

12. Pipeline Relocation

- (a) If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.
- (b) Where any part of the gas system relocated in accordance with this Paragraph is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.
- (c) Where any part of the gas system relocated in accordance with this Paragraph is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:
 - (i) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
 - (ii) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
 - (iii) the amount paid by the Gas Company to contractors for work related to the project,



- (iv) the cost to the Gas Company for materials used in connection with the project, and
- (v) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.
- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

Part IV - Procedural And Other Matters

13. Municipal By-laws of General Application

The Agreement is subject to the provisions of all regulating statutes and all municipal by-laws of general application, except by-laws which have the effect of amending this Agreement.

14. Giving Notice

Notices may be delivered to, sent by facsimile or mailed by prepaid registered post to the Gas Company at its head office or to the authorized officers of the Corporation at its municipal offices, as the case may be.

15. Disposition of Gas System

- (a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 12 applies to the cost of relocation.

16. Use of Decommissioned Gas System

- (a) The Gas Company shall provide promptly to the Corporation, to the extent such information is known:
 - (i) the names and addresses of all third parties who use decommissioned parts of the gas system for purposes other than the transmission or distribution of gas; and



- (ii) the location of all proposed and existing decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas.
- (b) The Gas Company may allow a third party to use a decommissioned part of the gas system for purposes other than the transmission or distribution of gas and may charge a fee for that third party use, provided
 - (i) the third party has entered into a municipal access agreement with the Corporation; and
 - (ii) the Gas Company does not charge a fee for the third party's right of access to the highways.
- (c) Decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas are not subject to the provisions of this Agreement. For decommissioned parts of the gas system used for purposes other than the transmission and distribution of gas, issues such as relocation costs will be governed by the relevant municipal access agreement.

17. Franchise Handbook

The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. The Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the gas utility companies, as may be amended from time to time.



18. **Other Conditions**

Notwithstanding the cost sharing arrangements described in Paragraph 12, if any part of the gas system altered or relocated in accordance with Paragraph 12 was constructed or installed prior to January 1, 1981, the Gas Company shall alter or relocate, at its sole expense, such part of the gas system at the point specified, to a location satisfactory to the Engineer/Road Superintendent.

19. **Agreement Binding Parties**

This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

IN WITNESS WHEREOF the parties have executed this Agreement effective from the date written above.

THE CORPORATION OF THE TOWN OF ESSEX

Per: *[Original Signed By Ron McDermott]*

Ron McDermott Mayor

[Original Signed By Jerry Marion]

Jerry Marion, Clerk

UNION GAS LIMITED

Per: *[Original Signed By Christine Jackson]*

Christine Jackson, Assistant Secretary

RP-2004-0207
EB-2004-0421

Certificate of Public Convenience and Necessity

The Ontario Energy Board hereby grants

Union Gas Limited

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M-55, as amended, to construct works to supply gas to the

Town of Essex

This certificate replaces the certificates of the former municipalities that are now within the Town of Essex.

Dated at Toronto, December 7, 2004

ONTARIO ENERGY BOARD



Peter H. O'Dell
Assistant Board Secretary



Report to Council

Department: Infrastructure Services

Division: Infrastructure Services

Date: December 2, 2024

Prepared by: Kevin Girard, P.Eng., MBA
Director, Infrastructure Services

Report Number: Infrastructure Services-2024-04

Subject: Enbridge Model Franchise Agreement

Number of Pages: 15 (including attachments)

Recommendation(s)

That Infrastructure Services-2024-04 entitled, “Enbridge Model Franchise Agreement” prepared by Kevin Girard, Director, Infrastructure Services dated December 2, 2024 be received, and

That By-Law 2405 attached hereto and being a By-Law to authorize a franchise agreement between the Corporation of the Town of Essex and Enbridge Gas Incorporated be read a first and second time and provisionally adopted on December 2, 2024.

Purpose

The purpose of this report is to renew the Franchise Agreement between the Town and Enbridge Gas.

Background and Discussion

Gas Franchise agreements are governed under the *Municipal Franchises Act* which sets out requirements for the allocation of municipal services to the regulated utilities. The Act allows

utility companies the right to supply and distribute gas to the residents of the municipality. The Act requires a Franchise Agreement between the local municipal authority and the gas company servicing the municipality. On December 20, 2004, the Town approved By-law 604 attached, a By-law to authorize an agreement between the Town and Union Gas Ltd.

The agreement gives the natural gas supplier the rights to install and maintain infrastructure under public roadways and affords the municipality protections to allow it to approve the placement location, receive accurate records, and ensure reinstatement of infrastructure is appropriately completed post-construction. In addition, the agreement also provides for the cost sharing of gas lines that need to be relocated either by the gas supplier or at the request of the municipality.

The previous agreement was granted for a period of twenty (20) years from the date of final passing and is set to expire in December 2024. The previous agreement states that at any time within the two years prior to the expiration of the agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Enbridge Gas notified the Town in 2024 that it wished to enter into a new Franchise Agreement.

Although this agreement will not be executed by both parties before the expiration of the current agreement, the current agreement requires both parties to continue the terms of the previous agreement until the terms of the new agreement are settled.

One notable change to the new agreement being proposed by the Town is paragraph 21, that requires that the Drainage Act take precedent over the franchise agreement.

Financial Impact

As outlined in paragraph 13 of the proposed agreement, if the Town requires relocation of any gas system as a result of municipal work, the agreement remains at 35% by the Town and 65%

for Enbridge, except if located on a bridge, viaduct or structure, where Enbridge pays 100% of costs. Additionally, the Model Agreement states that Enbridge pays 100% of relocation costs on unassumed roads or an unopened road allowance.

This language is unchanged from the previous agreement, however, does continue to have a financial impact on the Town as part of its infrastructure capital projects that require Enbridge Gas relocation.

Consultations

Joseph Malandrucolo, Director, Legal and Legislative Services/Clerk

Link to Strategic Priorities

- ☒ Embrace asset management best practices to build, maintain, and continuously improve our municipally owned infrastructure.
- ☐ Leverage our Town's competitive advantages to promote jobs and economic investment.
- ☐ Take care of our natural environment and strengthen the sense of belonging to everyone who makes Essex "home".
- ☐ Deliver friendly customer service in an efficient, effective, and transparent manner while providing an exceptional working environment for our employees.
- ☐ Build corporate-level and community-level climate resilience through community engagement and partnership and corporate objectives.

Report Approval Details

Document Title:	Enbridge Model Franchise Agreement - Infrastructure Services-2024-04.docx
Attachments:	- Bylaw and Franchise Agreement - Town of Essex (December 20, 2004).pdf
Final Approval Date:	Nov 26, 2024

This report and all of its attachments were approved and signed as outlined below:

[Original Signed By Joseph Malandrucolo]

Joseph Malandrucolo, Director, Legal and Legislative Services/Clerk - Nov 26, 2024 - 2:07 PM

[Original Signed By Doug Sweet]

Doug Sweet, Chief Administrative Officer - Nov 26, 2024 - 2:37 PM

THE CORPORATION OF THE TOWN OF ESSEX

BY-LAW #604

A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT BETWEEN THE CORPORATION OF THE TOWN OF ESSEX and UNION GAS LIMITED

WHEREAS the Council of The Corporation of The Town of Essex deems it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Union Gas Limited;

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to The Municipal Franchises Act on December 7, 2004 and December 10, 2004 has approved the terms and conditions upon which and the period for which the franchise provided in the Franchise Agreement is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-Law is not necessary:

NOW THEREFORE the Council of The Corporation of the Town of Essex enacts as follows:

1. **THAT** the Franchise Agreement between The Corporation of the Town of Essex and Union Gas Limited attached hereto and forming part of this by-law is hereby authorized and the franchise provided for therein is hereby granted.
2. **THAT** the Mayor and Clerk be and they are hereby authorized and instructed on behalf of The Corporation of the Town of Essex to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law.
3. **THAT** the following by-laws be and the same are hereby repealed:

By-law #2156 for The Corporation of the Town of Essex, passed in Council on the 15th day of January, 1990;

By-law #1579 for The Corporation of the Township of Colchester North, passed in Council on the 14th day of August, 1961;

By-law #2416 for The Corporation of the Township of Colchester North, passed in Council on the 9th day of March, 1992;

By-law #984 for The Corporation of the Township of Colchester South, passed in Council on the 21st day of August, 1961;

By-law #2104 for The Corporation of the Township of Colchester South, passed in Council on the 17th day of March, 1992;

By-law #319 for The Corporation of the Town of Harrow, passed in Council on the 14th day of August, 1961;

By-law #906 for The Corporation of the Town of Harrow, passed in Council on the 9th day of March, 1992;

4. **THAT** this by-law shall come into force and take effect as of the final passing thereof.

Read a first time this 9th day of August, 2004.

Read a second time this 9th day of August, 2004.

Read a third time and finally passed this 20th day of December, 2004.

THE CORPORATION OF THE TOWN OF ESSEX

Per:

[Original Signed By Ron McDermott]

Ron McDermott, Mayor

[Original Signed By Jerry Marion]

Jerry Marion, Clerk

2000 Model Franchise Agreement

THIS AGREEMENT effective this *20* day of *December*, 2004.

BETWEEN:

THE CORPORATION OF THE TOWN OF ESSEX

hereinafter called the "Corporation"

- and -



uniongas

LIMITED

hereinafter called the "Gas Company"

WHEREAS the Gas Company desires to distribute, store and transmit gas in the Municipality upon the terms and conditions of this Agreement;

AND WHEREAS by by-law passed by the Council of the Corporation (the "By-law"), the duly authorized officers have been authorized and directed to execute this Agreement on behalf of the Corporation;

THEREFORE the Corporation and the Gas Company agree as follows:

Part I - Definitions

1. In this Agreement

- (a) "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the *Assessment Act*;
- (b) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;
- (c) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (d) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;

- (e) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the traveled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) "Model Franchise Agreement" means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) "Plan" means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.



Part II - Rights Granted

2. To provide gas service

The consent of the Corporation is hereby given and granted to the Gas Company to distribute, store and transmit gas in and through the Municipality to the Corporation and to the inhabitants of the Municipality.

3. To Use Highways

Subject to the terms and conditions of this Agreement the consent of the Corporation is hereby given and granted to the Gas Company to enter upon all highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the distribution, storage and transmission of gas in and through the Municipality.

4. Duration of Agreement and Renewal Procedures

- (a) If the Corporation has not previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law.

or

- (b) If the Corporation has previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20 year term of this Agreement, the Model Franchise Agreement is changed, then on the 7th anniversary and on the 14th anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20 year term.
- (c) At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the *Municipal Franchises Act*.

Part III – Conditions

5. Approval of Construction

- (a) The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the traveled portion of any highway unless a permit therefore has first been obtained from the Engineer/Road Superintendent and all work done by the Gas Company shall be to his satisfaction.
- (b) Prior to the commencement of work on the gas system, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a Plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy.
- (c) The Plan filed by the Gas Company shall include geodetic information for a particular location:
 - (i) where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the Engineer/Road Superintendent, or
 - (ii) when requested, where the Corporation has geodetic information for its own services and all others at the same location.
- (d) The Engineer/Road Superintendent may require sections of the gas system to be laid at greater depth than required by the latest CSA standard for gas pipeline systems to facilitate known projects or to correct known highway deficiencies.
- (e) Prior to the commencement of work on the gas system, the Engineer/Road Superintendent must approve the location of the work as shown on the Plan filed by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.
- (f) In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the Engineer/Road Superintendent approves this proposal, he may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.



- (g) Where the gas system may affect a municipal drain, the Gas Company shall also file a copy of the Plan with the Corporation's Drainage Superintendent for purposes of the *Drainage Act*, or such other person designated by the Corporation as responsible for the drain.
- (h) The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received.
- (i) The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.
- (j) The approval of the Engineer/Road Superintendent is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

6. As Built Drawings

The Gas Company shall, within six months of completing the installation of any part of the gas system, provide two copies of "as built" drawings to the Engineer/Road Superintendent. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the gas system and the ground surface at the time of installation) and distance of the gas system. The "as built" drawings shall be of the same quality as the Plan and, if the approved pre-construction plan included elevations that were geodetically referenced, the "as built" drawings shall similarly include elevations that are geodetically referenced. Upon the request of the Engineer/Road Superintendent, the Gas Company shall provide one copy of the drawings in an electronic format and one copy as a hard copy drawing.

7. Emergencies

In the event of an emergency involving the gas system, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the Engineer/Road Superintendent is normally required for the work, the Gas Company shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction. The Gas Company shall provide the Engineer/Road Superintendent with at least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.



8. Restoration

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Engineer/Road Superintendent, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. If the Gas Company fails at any time to do any work required by this Paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay the Corporation's reasonably incurred costs, as certified by the Engineer/Road Superintendent.

9. Indemnification

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its gas system in the Municipality, or utilizing its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

10. Insurance

- (a) The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph 9. The insurance policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The insurance policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the Gas Company.
- (b) The issuance of an insurance policy as provided in this Paragraph shall not be construed as relieving the Gas Company of liability not covered by such insurance or in excess of the policy limits of such insurance.
- (c) Upon request by the Corporation, the Gas Company shall confirm that premiums for such insurance have been paid and that such insurance is in full force and effect.



11. Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if it is feasible, to provide the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 12 of this Agreement.

12. Pipeline Relocation

- (a) If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.
- (b) Where any part of the gas system relocated in accordance with this Paragraph is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.
- (c) Where any part of the gas system relocated in accordance with this Paragraph is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:
 - (i) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
 - (ii) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
 - (iii) the amount paid by the Gas Company to contractors for work related to the project,



- (iv) the cost to the Gas Company for materials used in connection with the project, and
- (v) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.
- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

Part IV - Procedural And Other Matters

13. Municipal By-laws of General Application

The Agreement is subject to the provisions of all regulating statutes and all municipal by-laws of general application, except by-laws which have the effect of amending this Agreement.

14. Giving Notice

Notices may be delivered to, sent by facsimile or mailed by prepaid registered post to the Gas Company at its head office or to the authorized officers of the Corporation at its municipal offices, as the case may be.

15. Disposition of Gas System

- (a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 12 applies to the cost of relocation.

16. Use of Decommissioned Gas System

- (a) The Gas Company shall provide promptly to the Corporation, to the extent such information is known:
 - (i) the names and addresses of all third parties who use decommissioned parts of the gas system for purposes other than the transmission or distribution of gas; and

- (ii) the location of all proposed and existing decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas.
- (b) The Gas Company may allow a third party to use a decommissioned part of the gas system for purposes other than the transmission or distribution of gas and may charge a fee for that third party use, provided
 - (i) the third party has entered into a municipal access agreement with the Corporation; and
 - (ii) the Gas Company does not charge a fee for the third party's right of access to the highways.
- (c) Decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas are not subject to the provisions of this Agreement. For decommissioned parts of the gas system used for purposes other than the transmission and distribution of gas, issues such as relocation costs will be governed by the relevant municipal access agreement.

17. Franchise Handbook

The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. The Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the gas utility companies, as may be amended from time to time.



18. **Other Conditions**

Notwithstanding the cost sharing arrangements described in Paragraph 12, if any part of the gas system altered or relocated in accordance with Paragraph 12 was constructed or installed prior to January 1, 1981, the Gas Company shall alter or relocate, at its sole expense, such part of the gas system at the point specified, to a location satisfactory to the Engineer/Road Superintendent.

19. **Agreement Binding Parties**

This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

IN WITNESS WHEREOF the parties have executed this Agreement effective from the date written above.

THE CORPORATION OF THE TOWN OF ESSEX

Per: *[Original Signed By Ron McDermott]*

Ron McDermott Mayor

[Original Signed By Jerry Marion]

Jerry Marion, Clerk

UNION GAS LIMITED

Per: *[Original Signed By Christine Jackson]*

Christine Jackson, Assistant Secretary

THE CORPORATION OF THE TOWN OF ESSEX

BY-LAW NUMBER 2405

A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT BETWEEN THE
CORPORATION OF THE TOWN OF ESSEX and ENBRIDGE GAS INCORPORATED

WHEREAS the Council of The Corporation of The Town of Essex deems it expedient to enter into the attached franchise agreement with Enbridge Gas Incorporated (the "**Franchise Agreement**");

AND WHEREAS the Ontario Energy Board by its Order issued pursuant to The Municipal Franchises Act on [date to be included once Decision & Order received from OEB] has approved the terms and conditions upon which and the period for which the franchise provided in the Franchise Agreement is proposed to be granted, and has declared and directed that the assent of the municipal electors in respect of this By-Law is not necessary.

NOW THEREFORE the Council of The Corporation of the Town of Essex enacts as follows:

1. **THAT** the Franchise Agreement attached hereto and forming part of this By-Law is hereby authorized and the franchise provided for therein is hereby granted;
2. **THAT** the Mayor and Clerk be and they are hereby authorized and instructed on behalf of The Corporation of the Town of Essex to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law;
3. **THAT** By-Law 604 is hereby repealed effective December 20th, 2024; and
4. **THAT** this By-Law shall come into force and take effect as of December 20th, 2024.

Read a first and second time and provisionally passed on December 2nd, 2024

Read a third time and finally passed on _____

Mayor

Clerk

THIS AGREEMENT dated this 2nd day of **December, 2024** BETWEEN:

THE CORPORATION OF THE TOWN OF ESSEX
(hereinafter called the “Corporation”)

- and-

ENBRIDGE GAS INC.
(hereinafter called the “Gas Company”)

WHEREAS the Gas Company desires to distribute, store and transmit Gas in the Municipality upon the terms and conditions of this Agreement;

AND WHEREAS by By-Law passed by the Council of the Corporation (the "**By-law**"), the duly authorized officers have been authorized and directed to execute this Agreement on behalf of the Corporation;

THEREFORE the Corporation and the Gas Company agree as follows:

Part I – Definitions and Interpretation

1. In this Agreement:

- (a) **“Decommissioned”** and **“Decommissions”** means taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the *Assessment Act*;
- (b) **“Director, Infrastructure”** means the most senior individual employed by the Corporation with responsibilities for Highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;
- (c) **“Gas”** means natural Gas, manufactured Gas, synthetic natural Gas, liquefied petroleum Gas or propane-air Gas, or a mixture of any of them, but does not include a liquefied petroleum Gas that is distributed by means other than a pipeline;
- (d) **“Gas System”** means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of Gas in or through the Municipality;
- (e) **“Highway”** means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the traveled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) **“Insurance Policy”** has the definition prescribed thereto in Section 11(a) of this Agreement;
- (g) **“Model Franchise Agreement”** means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (h) **“Municipality”** means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (i) **“Plan”** means the plan described in Paragraph 6(b) of this Agreement required to be filed by the Gas Company with the Director, Infrastructure prior to commencement of work on the Gas System; and
- (j) **“Relocation Work”** has the meaning prescribed thereto in Section 13(a) of ~~the~~ **Page 133 of 230**

Agreement.

2. Interpretation:

Whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires

Part II - Rights Granted

3. To provide Gas service

The consent of the Corporation is hereby given and granted to the Gas Company to distribute, store and transmit Gas in and through the Municipality to the Corporation and to the inhabitants of the Municipality.

4. To Use Highways

Subject to the terms and conditions of this Agreement the consent of the Corporation is hereby given and granted to the Gas Company to enter upon all Highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a Gas System for the distribution, storage and transmission of Gas in and through the Municipality.

5. Duration of Agreement and Renewal Procedures

- (a) If the Corporation has not previously received Gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the effective date of the By-law.

or

- (b) If the Corporation has previously received Gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20 year term of this Agreement, the Model Franchise Agreement is changed, then on the 7th anniversary and on the 14th anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20 year term.
- (c) At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the *Municipal Franchises Act*.

Part III-Conditions

6. Approval of Construction

- (a) The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the traveled portion of any Highway unless a permit therefore has first been obtained from the Director, Infrastructure and all work done by the Gas Company shall be to the satisfaction of the Director, Infrastructure.
- (b) Prior to the commencement of work on the Gas System, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the Highway), the Gas Company shall file with the Director, Infrastructure a plan, satisfactory to the Director, Infrastructure, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the Highways in which it proposes to lay its Gas System and the particular parts thereof it proposes to occupy (the "Plan").
- (c) The Plan filed by the Gas Company shall include geodetic information for

particular location:

- (i) where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the Director, Infrastructure, or
 - (ii) when requested, where the Corporation has geodetic information for its own services and all others at the same location.
- (d) The Director, Infrastructure may require sections of the Gas System to be laid at greater depth than required by the latest CSA standard for Gas pipeline systems to facilitate known projects or to correct known Highway deficiencies.
 - (e) Prior to the commencement of work on the Gas System, the Director, Infrastructure must approve the location of the work as shown on the Plan filed by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.
 - (t) In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the Gas System to a bridge, viaduct or other structure, if the Director, Infrastructure approves this proposal, the Director, Infrastructure may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the Gas System.
 - (g) Where the Gas System may affect a municipal drain, the Gas Company shall also file a copy of the Plan with the Corporation's Drainage Superintendent for purposes of the *Drainage Act*, or such other person designated by the Corporation as responsible for the drain.
 - (h) The Gas Company shall not deviate from the approved location for any part of the Gas System unless the prior approval of the Director, Infrastructure to do so is received.
 - (i) The approval of the Director, Infrastructure is not a representation or warranty as to the state of repair of the Highway or the suitability of the Highway for the Gas System.

7. **As Built Drawings**

The Gas Company shall, within six (6) months of completing the installation of any part of the Gas System, provide two copies of "as built" drawings to the Director, Infrastructure. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the Gas System and the ground surface at the time of installation) and distance of the Gas System. The "as built" drawings shall be of the same quality as the Plan and, if the approved pre-construction plan included elevations that were geodetically referenced, the "as built" drawings shall similarly include elevations that are geodetically referenced.

Upon the request of the Director, Infrastructure, the Gas Company shall provide one copy of the drawings in an electronic format and one copy as a hard copy drawing.

8. **Emergencies**

In the event of an emergency involving the Gas System, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the Director, Infrastructure is normally required for the work, the Gas Company shall immediately notify, upon the discovery of the emergency, the Director, Infrastructure of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction all at the sole cost and expense of the Gas Company. The Gas Company shall provide the Director, Infrastructure with at least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

9. **Restoration**

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Director, Infrastructure, all Highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its

Gas System, and shall make good any settling or subsidence thereafter caused by such excavation or interference (the "Restoration Work"). If the Gas Company fails at any time to do any Restoration Work required by this Paragraph 9 within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay the Corporation's incurred costs, as certified by the Director, Infrastructure.

10. **Indemnification**

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its Gas System in the Municipality, or utilizing its Gas System for the carriage of Gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

11. **Insurance**

- (a) The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph 10 (the "**Insurance Policy**"). The Insurance Policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The Insurance Policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the Insurer.
- (b) The issuance of the Insurance Policy shall not be construed as relieving the Gas Company of liability not covered by such Insurance Policy or in excess of the policy limits of such Insurance Policy.
- (c) Upon request by the Corporation, the Gas Company shall confirm that premiums for such Insurance Policy have been paid and that such Insurance Policy is in full force and effect. Evidence of the Insurance Policy shall be provided to the Corporation prior to entering this Agreement and annually thereafter for the duration of the Agreement.

12. **Alternative Easement**

The Corporation agrees, in the event of the proposed sale or closing of any Highway or any part of a Highway where there is a Gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if it is feasible, to provide the Gas Company with easements over that part of the Highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the Gas System in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the Gas System to facilitate continuity of Gas service, as provided for in Paragraph 13 of this Agreement.

13. • **Pipeline Relocation**

- (a) If in the course of constructing, reconstructing, changing, altering or improving any Highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the Gas System, the Gas Company shall, upon notice to do so, with method and costs being pre-approved by the Director, Infrastructure, remove and/or relocate within a reasonable period of time such part of the Gas System to a location approved by the Director, Infrastructure (the "**Relocation Work**").
- (b) Where any part of the Relocation Work is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the Gas System at its sole expense.
- (c) Where any part of the Relocation Work is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any

upgrading of the Gas System, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes the total relocation costs shall be the aggregate of the following:

- (i) the amount reasonably paid to Gas Company employees up to and including field supervisors for the hours worked on the Replacement Work plus the pro-rated current cost of fringe benefits for these employees,
 - (ii) the amount paid for rental equipment while in use on the project and a reasonable amount, charged at the unit rate, for Gas Company equipment while in use on the Relocation Work,
 - (iii) the amount paid by the Gas Company to contractors for work related to the project,
 - (iv) the cost to the Gas Company for materials used in connection with the Relocation Work, and
 - (v) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.
- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

Part IV - Procedural And Other Matters

14. Municipal By-laws of General Application

The Agreement is subject to the provisions of all regulating statutes and all municipal by-laws of general application, except by-laws which have the effect of amending this Agreement.

15. Giving Notice

Notices may be delivered to, sent by email, facsimile or mailed by prepaid registered post to the Gas Company at its head office or to the authorized officers of the Corporation at its municipal offices, as the case may be.

16. Disposition of Gas System

- (a) If the Gas Company Decommissions part of its Gas System affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its Gas System affixed to the bridge, viaduct or structure.
- (b) If the Gas Company Decommissions any other part of its Gas System, it shall have the right, but is not required, to remove that part of its Gas System. It may exercise its right to remove the Decommissioned parts of its Gas System by giving notice of its intention to do so by filing a Plan for approval by the Director, Infrastructure. If the Gas Company does not remove the part of the Gas System it has Decommissioned and the Corporation requires the removal of all or any part of the decommissioned Gas System for the purpose of altering or improving a Highway or in order to facilitate the construction of utility or other works in any Highway, the Corporation may remove and dispose of so much of the Decommissioned Gas System, the cost of which will be borne solely by the Gas Company. If the Gas Company has not removed the part of the Gas System it has Decommissioned and the Corporation requires the removal of all or any part of the Decommissioned Gas System for the purpose of altering or improving a Highway or in order to facilitate the construction of utility or other works in a Highway, the Gas Company may elect to relocate the decommissioned Gas System and in that event Paragraph 13 applies to the cost of relocation

17. Use of Decommissioned Gas System

- (a) The Gas Company shall provide promptly to the Corporation, to the extent such information is known:
 - (i) the names and addresses of all third parties who use Decommissioned parts of the Gas System for purposes other than the transmission or distribution of Gas; and
 - (ii) the location of all proposed and existing Decommissioned parts of the Gas System used for purposes other than the transmission or distribution of Gas.
- (b) The Gas Company may allow a third party to use a Decommissioned part of the Gas System for purposes other than the transmission or distribution of Gas and may charge a fee for that third party use, provided
 - (i) the Third Party has entered into a municipal access agreement with the Corporation; and
 - (ii) the Gas Company does not charge a fee for the third party's right of access to the Highways.
- (c) Decommissioned parts of the Gas System used for purposes other than the transmission or distribution of Gas are not subject to the provisions of this Agreement. For Decommissioned parts of the Gas System used for purposes other than the transmission and distribution of Gas, issues such as relocation costs will be governed by the relevant municipal access agreement.

18. Pavement Cuts

If any pavement cuts are required to perform any of the work under this Agreement, prior to such pavement cuts being performed, the Gas Company shall seek the approval of the Director, Infrastructure. In the event a pavement cut is deemed necessary by the Director, Infrastructure, said Director, Infrastructure may specify the type, thickness, and method of pavement cut restoration, both temporary and permanent. And in return the Gas Company shall make good any setting or subsistence caused by such excavation. All pavement cuts shall be repaired without delay at the expense of the Gas Company. Should the repairs not be carried out without delay, the Corporation shall be entitled to make such repairs and invoice the Gas Company for the cost of restoration, to be paid in accordance with the terms of the invoice.

19. Franchise Handbook

The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. Concerning matters not addressed within this agreement, the Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the Gas utility companies, as may be amended from time to time.

20. Other Conditions

Notwithstanding the cost sharing arrangements described in Paragraph 12, if any part of the Gas System altered or relocated in accordance with Paragraph 12 was constructed or installed prior to January 1, 1981, the Gas Company shall alter or relocate, at its sole expense, such part of the Gas System at the point specified, to a location satisfactory to the Director, Infrastructure.

21. Drainage Act

The rights and obligations set out in this Agreement are at all times subject to the *Drainage Act, RSO, 1990*, as amended. Where there is a conflict between this Agreement and the *Drainage Act* conflict, the *Drainage Act* shall prevail.

22. Agreement Binding Parties

This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

IN WITNESS WHEREOF the parties have executed this Agreement effective from the date written above.

THE CORPORATION OF THE TOWN OF ESSEX

Mayor

Clerk

We have the authority to bind the corporation.

ENBRIDGE GAS INCORPORATED

We have the authority to bind the corporation.

2000 Model Franchise Agreement

THIS AGREEMENT effective this day of , 2025

BETWEEN:

THE CORPORATION OF THE TOWN OF ESSEX

hereinafter called the "Corporation"

- and -

ENBRIDGE GAS INC.

hereinafter called the "Gas Company"

WHEREAS the Gas Company desires to distribute, store and transmit gas in the Municipality upon the terms and conditions of this Agreement;

AND WHEREAS by by-law passed by the Council of the Corporation (the "By-law"), the duly authorized officers have been authorized and directed to execute this Agreement on behalf of the Corporation;

THEREFORE the Corporation and the Gas Company agree as follows:

Part I - Definitions

1. In this Agreement

- (a) "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the *Assessment Act*;
- (b) "Engineer/Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;

- (c) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;
- (d) "gas system" means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;
- (e) "highway" means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) "Model Franchise Agreement" means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) "Municipality" means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) "Plan" means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

Part II - Rights Granted

2. To provide gas service

The consent of the Corporation is hereby given and granted to the Gas Company to distribute, store and transmit gas in and through the Municipality to the Corporation and to the inhabitants of the Municipality.

3. To Use Highways

Subject to the terms and conditions of this Agreement the consent of the Corporation is hereby given and granted to the Gas Company to enter upon all highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the distribution, storage and transmission of gas in and through the Municipality.

4. Duration of Agreement and Renewal Procedures

- (a) If the Corporation has not previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law.

or

- (b) If the Corporation has previously received gas distribution services, the rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20 year term of this Agreement, the Model Franchise Agreement is changed, then on the 7th anniversary and on the 14th anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20 year term.
- (c) At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the *Municipal Franchises Act*.

Part III – Conditions

5. Approval of Construction

- (a) The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the travelled portion of any highway unless a permit therefor has first been obtained from the Engineer/Road Superintendent and all work done by the Gas Company shall be to his satisfaction.
- (b) Prior to the commencement of work on the gas system, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a Plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy.
- (c) The Plan filed by the Gas Company shall include geodetic information for a particular location:
 - (i) where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the Engineer/Road Superintendent, or
 - (ii) when requested, where the Corporation has geodetic information for its own services and all others at the same location.
- (d) The Engineer/Road Superintendent may require sections of the gas system to be laid at greater depth than required by the latest CSA standard for gas pipeline systems to facilitate known projects or to correct known highway deficiencies.
- (e) Prior to the commencement of work on the gas system, the Engineer/Road Superintendent must approve the location of the work as shown on the Plan filed by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.
- (f) In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the Engineer/Road Superintendent approves this proposal, he may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.

- (g) Where the gas system may affect a municipal drain, the Gas Company shall also file a copy of the Plan with the Corporation's Drainage Superintendent for purposes of the *Drainage Act*, or such other person designated by the Corporation as responsible for the drain.
- (h) The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received.
- (i) The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.
- (j) The approval of the Engineer/Road Superintendent is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

6. As Built Drawings

The Gas Company shall, within six months of completing the installation of any part of the gas system, provide two copies of "as built" drawings to the Engineer/Road Superintendent. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the gas system and the ground surface at the time of installation) and distance of the gas system. The "as built" drawings shall be of the same quality as the Plan and, if the approved pre-construction plan included elevations that were geodetically referenced, the "as built" drawings shall similarly include elevations that are geodetically referenced. Upon the request of the Engineer/Road Superintendent, the Gas Company shall provide one copy of the drawings in an electronic format and one copy as a hard copy drawing.

7. Emergencies

In the event of an emergency involving the gas system, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the Engineer/Road Superintendent is normally required for the work, the Gas Company shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction. The Gas Company shall provide the Engineer/Road Superintendent with at least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

8. **Restoration**

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Engineer/Road Superintendent, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. If the Gas Company fails at any time to do any work required by this Paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay the Corporation's reasonably incurred costs, as certified by the Engineer/Road Superintendent.

9. **Indemnification**

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its gas system in the Municipality, or utilizing its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

10. **Insurance**

- (a) The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph 9. The insurance policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The insurance policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the Gas Company.
- (b) The issuance of an insurance policy as provided in this Paragraph shall not be construed as relieving the Gas Company of liability not covered by such insurance or in excess of the policy limits of such insurance.
- (c) Upon request by the Corporation, the Gas Company shall confirm that premiums for such insurance have been paid and that such insurance is in full force and effect.

11. **Alternative Easement**

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if it is feasible, to provide the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 12 of this Agreement.

12. **Pipeline Relocation**

- (a) If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.
- (b) Where any part of the gas system relocated in accordance with this Paragraph is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.
- (c) Where any part of the gas system relocated in accordance with this Paragraph is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:
 - (i) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
 - (ii) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
 - (iii) the amount paid by the Gas Company to contractors for work related to the project,

- (iv) the cost to the Gas Company for materials used in connection with the project, and
 - (v) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.
- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

Part IV - Procedural And Other Matters

13. Municipal By-laws of General Application

The Agreement is subject to the provisions of all regulating statutes and all municipal by-laws of general application, except by-laws which have the effect of amending this Agreement.

14. Giving Notice

Notices may be delivered to, sent by facsimile or mailed by prepaid registered post to the Gas Company at its head office or to the authorized officers of the Corporation at its municipal offices, as the case may be.

15. Disposition of Gas System

- (a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for

any loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 12 applies to the cost of relocation.

16. Use of Decommissioned Gas System

- (a) The Gas Company shall provide promptly to the Corporation, to the extent such information is known:
 - (i) the names and addresses of all third parties who use decommissioned parts of the gas system for purposes other than the transmission or distribution of gas; and
 - (ii) the location of all proposed and existing decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas.
- (b) The Gas Company may allow a third party to use a decommissioned part of the gas system for purposes other than the transmission or distribution of gas and may charge a fee for that third party use, provided
 - (i) the third party has entered into a municipal access agreement with the Corporation; and
 - (ii) the Gas Company does not charge a fee for the third party's right of access to the highways.
- (c) Decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas are not subject to the provisions of this Agreement. For decommissioned parts of the gas system used for purposes other than the transmission and distribution of gas, issues such as relocation costs will be governed by the relevant municipal access agreement.

17. Franchise Handbook

The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. The Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the gas utility companies, as may be amended from time to time.

18. Other Conditions

Notwithstanding the cost sharing arrangements described in Paragraph 12, if any part of the gas system altered or relocated in accordance with Paragraph 12 was constructed or installed prior to January 1, 1981, the Gas Company shall alter or relocate, at its sole expense, such part of the gas system at the point specified, to a location satisfactory to the Engineer/Road Superintendent.

19. Agreement Binding Parties

This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

IN WITNESS WHEREOF the parties have executed this Agreement effective from the date written above.

THE CORPORATION OF THE TOWN OF ESSEX

Per: _____
Sherry Bondy, Mayor

Per: _____
Joseph Malandrucolo, Clerk

ENBRIDGE GAS INC.

Per: _____
Mark Kitchen, Director, Regulatory Affairs

Per: _____
Andrea Seguin, Director, Regional Operations

This is Exhibit "B" to the
Affidavit of Gary Collins sworn
before me this 21st day of
January 2025.

Town of Essex
33 Talbot Street South
Essex, ON N8M 1A8

(519) 776-7336

Attention: Joseph Malandruccolo, Clerk

Lesley M Austin

Digitally signed by
Lesley M Austin
Date: 2025.01.21
08:57:02 -05'00'

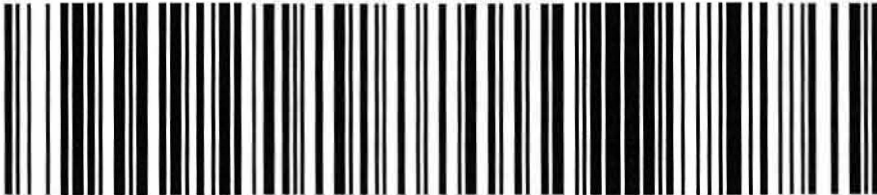
A Commissioner, etc

1/20/25, 1:37 PM

loomis-express.com/loomship/en/Shipping/PrintLabels?wbs=NET77108107

FROM/DE: UNION GAS 50 KEIL DR N APT/SUITE DOCK A CHATHAM, ONTARIO N7L3V9 519-436-4600 SIN: NET77108107 PIN: NET77108107 REF: PAT MCMAHON WGT: 1.00 LBS DWT: 0.90 LBS DIM: 1X1X1 INCHES		TO/A: TOWN OF ESSEX 33 TALBOT STREET SOUTH ESSEX, ON N8M1A8 N/A ATTN: JOSEPH MALANDRUCCOLO		V STANDARD TERMS AND CONDITIONS APPLY Loomis Express NET77108107
INSTRUCTIONS:		GRD		
		PREPAID		

**N8M1A8
WINDSOR**



NET77108107 LQN8M1A8AANET77108107 PIN: 1/1 DATE: 01/20/2025 LOOMIS-EXPRESS.COM



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

January 20, 2025

Joseph Malandruccolo, Clerk
Town of Essex
33 Talbot Street South
Essex, ON N8M 1A8

Dear Mr. Malandruccolo:

**Re: Enbridge Gas Inc.
Application for Approval of Franchise Agreement
Town of Essex
Ontario Energy Board File No. EB-2024-0351**

Further to my letter of January 15, 2025, we have been advised by the Ontario Energy Board that while the French version of the Notice of Hearing was originally scheduled to be published in the *Windsor Le Rempart* newspaper, we understand that this is a bi-weekly newspaper and will not be published this week. In order to stay with its January 23, 2025 publishing date, the Ontario Energy Board has decided to publish the attached bilingual Notice of Hearing in the *Windsor Star* newspaper on January 23, 2025.

Yours truly,

[Original Signed By]

Patrick McMahon
Technical Manager
Regulatory Research and Records
patrick.mcmahon@enbridge.com
(519) 436-5325

Encl.

Enbridge Gas Inc. has applied for approval to renew its Natural Gas Franchise with the Town of Essex

Enbridge Gas Inc. (Enbridge Gas) is asking the Ontario Energy Board (OEB) for:

- **An order approving the renewal of a natural gas franchise agreement with the Town of Essex.** This would continue Enbridge Gas's right to construct, operate and add to the natural gas distribution system and to distribute, store and transmit natural gas in and through the Town of Essex for the next 20 years.
- **An order directing that the acceptance of the municipal electors of the Town of Essex is not required in relation to the by-law approving the natural gas franchise agreement.**

YOU SHOULD KNOW

THE ONTARIO ENERGY BOARD WILL HOLD A PUBLIC HEARING

There are three types of OEB Hearings: oral, electronic and written. If you have a preference for the type of hearing, you can write to us to explain why. During this hearing, we will question the applicant about its application. We will also hear questions and arguments from participants that have registered as Intervenor. After reviewing all the evidence, we will decide whether to approve this application.

HAVE YOUR SAY

You have the right to information about this application and to participate in the process.

Visit www.oeb.ca/participate and use file number **EB-2024-0351** to:

- Review the application
- Apply to become an intervenor
- File a letter with your comments

IMPORTANT DATES

You must engage with the OEB on or before **February 3, 2025** to:

- Provide input on the hearing type (oral, electronic or written)
- Apply to be an intervenor

If you do not, the hearing will move forward without you, and you will not receive any further notice of the proceeding.

PRIVACY

If you write a letter of comment, your name and the content of your letter will be put on the public record and the OEB website. If you are a business or if you apply to become an intervenor, all the information you file will be on the OEB website.

LEARN MORE

Ontario Energy Board

☎/TTY: 1 877-632-2727

🕒 Monday - Friday: 8:30 AM - 5:00 PM

🌐 oeb.ca/participate

Enbridge Gas Inc.

☎ 1 866-763-5427

🕒 Monday - Friday: 8:30 AM - 5:00 PM

🌐 enbridgegas.com

This hearing will be held under sections 9(4) and 10 of the **Municipal Franchises Act**, R.S.O. 1990, c. M.55.

Ce document est aussi disponible en français.



Ontario
Energy
Board

Enbridge Gas Inc. a déposé une requête en vue d'obtenir l'autorisation de renouveler son contrat de franchise de gaz naturel avec la ville d'Essex

Enbridge Gas Inc. (Enbridge Gas) demande à la Commission de l'énergie de l'Ontario (CEO) :

- **Une ordonnance approuvant le renouvellement d'un accord de concession de gaz naturel avec la ville d'Essex.** Pendant les 20 prochaines années, Enbridge Gas conserverait ainsi le droit de construire, d'exploiter et d'agrandir le réseau de distribution de gaz naturel et de distribuer, de stocker et de transporter le gaz naturel dans et à travers la ville d'Essex.
- **Un arrêté ordonnant que l'acceptation des électeurs municipaux de la ville d'Essex n'est pas nécessaire en ce qui a trait au règlement administratif approuvant l'accord de concession de gaz naturel.**

À SAVOIR

LA COMMISSION DE L'ÉNERGIE DE L'ONTARIO TIENDRA UNE AUDIENCE PUBLIQUE

Il existe trois types d'audiences à la CEO : les audiences orales, les audiences électroniques et les audiences écrites. Si vous avez une préférence en ce qui concerne le format de l'audience, vous pouvez nous écrire pour nous en expliquer les raisons. Au cours de cette audience, nous interrogerons le requérant sur sa demande. Nous entendrons également les questions et arguments des participants inscrits en tant qu'intervenants. Après avoir examiné tous les éléments de preuve, nous déciderons d'approuver ou non cette requête.

DONNEZ VOTRE AVIS

Vous avez le droit d'être informés au sujet de cette demande et de participer au processus.

Visitez le site www.oeb.ca/fr/participez et utilisez le numéro de dossier **EB-2024-0351** pour :

- examiner la demande;
- présenter une demande pour devenir un intervenant;
- envoyer une lettre comportant vos commentaires.

DATES IMPORTANTES

Vous devez communiquer avec la CEO au plus tard le **3 février 2025** afin de :

- fournir des renseignements sur le type d'audience (orale, électronique ou écrite);
- présenter une demande en vue de devenir un intervenant.

À défaut de cela, l'audience se déroulera sans vous et vous ne recevrez plus d'avis dans le cadre de la présente procédure.

PROTECTION DES RENSEIGNEMENTS PERSONNELS

Si vous écrivez une lettre de commentaires, votre nom et le contenu de cette lettre seront ajoutés au dossier public et au site Web de la CEO. Si vous êtes une entreprise ou si vous demandez à devenir un intervenant, tous les renseignements que vous déposez seront disponibles sur le site Web de la CEO.

EN SAVOIR PLUS

Commission de l'énergie de l'Ontario

☎/ATS: 1 877-632-2727

🕒 Du lundi au vendredi, de 8 h 30 à 17 h

🌐 oeb.ca/fr/participez

Enbridge Gas Inc.

☎ 1 866-763-5472

🕒 Du lundi au vendredi, de 8 h 30 à 17 h

🌐 enbridgegas.com

Cette audience sera tenue en vertu du paragraphe 9(4) et de l'article 10 de la **Loi sur les concessions municipales**, L.R.O. 1990, chap. M.55.

This document is also available in English.



Commission
de l'énergie
de l'Ontario



[Home](#) / [About Us](#)

Regulatory Information

Enbridge Gas is a regulated company through the Ontario Energy Board and Canada Energy Regulator. You can view all of our rate case information and evidence – as well as the evidence we filed in other regulatory proceedings. Please note that we have not posted any evidence that was confidential or that required a non-disclosure agreement.

FRANCHISES✓

OTHER REGULATORY PROCEEDINGS

RATE CASES AND GRAM

EB-2024-0351 - Town of Essex

Application

Notice of Hearing - English and French

- EB-2024-0342 - Township of Tay Valley - CPCN
- EB-2024-0339 - City of Ottawa - CPCN
- EB-2024-0335 - Township of Champlain - CPCN
- EB-2024-0332 - Town of Amherstburg
- EB-2024-0329 - Town of Hawkesbury - CPCN
- EB-2024-0328 - Town of Tillsonburg
- EB-2024-0327 - Township of Perth East - CPCN
- EB-2024-0323 - Township of Elizabethtown-Kitley - CPCN
- EB-2024-0315 - Town of Perth - CPCN

This is Exhibit "C" to the Affidavit of Gary Collins sworn before me this 21st day of January 2025.

Lesley M Austin

Digitally signed by Lesley M Austin
Date: 2025.01.21 08:57:54 -05'00'

A Commissioner, etc