



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

February 21, 2025

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

Dear Ms. Marconi:

**Re: Enbridge Gas Inc.  
Application for Approval of Renewal of Franchise Agreement  
County of Simcoe  
Ontario Energy Board File No. EB-2024-0280**

Pursuant to Procedural Order No. 1, Enbridge Gas hereby submits reply argument submissions to the argument submissions by Ontario Energy Board Staff and the County of Simcoe.

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

Yours truly,

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cc: (email only)

Alex Freeman-Carter, County of Simcoe  
Zarah Walpole, County of Simcoe  
Christian Meile, County of Simcoe  
Natalya Plummer, OEB  
Richard Lanni, OEB

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 County of Simcoe is, by by-law, to grant to Enbridge Gas Inc. the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works in the County of Simcoe;

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

### **REPLY ARGUMENT OF ENBRIDGE GAS INC.**

1. These are Enbridge Gas Inc.'s (Enbridge Gas) reply submissions in response to the submissions of Ontario Energy Board (OEB) Staff and the County of Simcoe (Simcoe County) in this matter.

#### Response to OEB Staff's Submissions

2. Enbridge Gas brought this application on September 24, 2024 to renew the current franchise agreement with Simcoe County using the same Model Franchise Agreement (without amendment). Enbridge Gas has two existing franchise agreements with Simcoe County that it seeks to replace with a single franchise agreement. In making this application, Enbridge Gas is following its practice over the years since the amalgamation of Union Gas and Enbridge Gas Distribution to address the renewal of franchise agreements associated with municipalities in which both legacy utilities operated at the time of the earliest franchise agreement expiry date.<sup>1</sup>
3. Enbridge Gas has Model Franchise Agreements (without amendments) in place with all other lower-tier municipalities within Simcoe County as well as with an additional 300+ municipalities within which Enbridge Gas operates.
4. As OEB Staff recognizes, Section 10 of the *Municipal Franchises Act* gives the OEB the power, if public convenience and necessity require it, to renew or extend the right of a gas company to operate the gas distribution system in a municipality, on "terms and conditions as may be prescribed by the OEB".<sup>2</sup>
5. Enbridge Gas agrees with OEB Staff's observations that (i) Simcoe County filed no evidence to support its argument that the deviations from the Model Franchise Agreement are warranted in this specific proceeding and (ii) the proposed amendments have not been clearly articulated nor consistent with the OEB's general approach of adhering to the Model Franchise Agreement in gas franchise renewal applications.<sup>3</sup>

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<sup>1</sup> Exhibit EGI-OEB-1

<sup>2</sup> OEB Staff Submission, February 6, 2025, pages 1 and 3

<sup>3</sup> OEB Staff Submission, February 6, 2025, page 4

6. The Model Franchise Agreement outlines the terms that the OEB finds reasonable under the *Municipal Franchises Act*.<sup>4</sup> As noted by OEB Staff, the OEB has previously advised natural gas distributors that they are expected to follow the form of the Model Franchise Agreement when filing applications for the approval of franchise agreements unless there is a compelling reason for deviation.<sup>5</sup> The OEB has been consistent in this regard and Enbridge Gas submits there is no reason to take a different approach in this case.
7. OEB Staff rightly argues that the cost-sharing provisions of the Model Franchise Agreement should apply to Simcoe County<sup>6</sup> as they do in every other municipality in which Enbridge Gas operates. Enbridge Gas notes that if the cost-sharing formula in paragraph 12 (d) of the Model Franchise Agreement does not apply in Simcoe County, then it will likely result in additional costs being passed on to Enbridge Gas' ratepayers.

#### Response to Simcoe County's Submissions

8. Contrary to Simcoe County's assertions<sup>7</sup>, there have been various communications between Enbridge Gas and the municipality with respect to the need to renew the franchise agreement. On November 17, 2022, Enbridge notified Simcoe County by email that it was looking to establish a single franchise agreement between Enbridge Gas and Simcoe County which would replace existing franchise agreements entered into with legacy utilities Enbridge Gas Distribution and Union Gas. At that time, Enbridge Gas stated that the parties needed to commence the process to renew the franchise agreement using the approved model for upper-tier municipalities for a term of 20 years and provided drafts of a resolution and bylaw that Simcoe County could consider.
9. In December 2022, Simcoe County's Director of Transportation and Engineering put forward proposed amendments to the Model Franchise Agreement for Enbridge Gas to consider. Over the next several months, Enbridge Gas staff met with Simcoe County to discuss.
10. Contrary to Simcoe County's assertion, Enbridge Gas is not relying on the fact that every other municipality in Ontario has put the unamended Model Franchise Agreement in place as justification for this application.<sup>8</sup> As noted above, the Model Franchise Agreement outlines the terms that the OEB finds reasonable under the *Municipal Franchises Act* and natural gas distributors are expected to follow the form of the Model Franchise Agreement when filing applications for the approval of franchise agreements. That the Model Franchise Agreement is in place in all municipalities that Enbridge Gas operates in is a result of that expectation in practice.
11. Given the consistent position taken by the OEB that a municipality would need to provide compelling evidence that an amendment to the Model Franchise Agreement should be considered, and the fact that Simcoe County has not provided any such evidence, Enbridge Gas submits that there is no compelling reason to amend the Model Franchise Agreement for Simcoe County. While Simcoe County's submission points to the expiry of the 20-year term of the Model Franchise Agreement (and the desired revisions it has identified during the term)<sup>9</sup>, it is not at all clear why this should justify deviating from the Model Franchise Agreement, and Enbridge Gas believes (as does OEB Staff) that there is nothing compelling about the reasons given.

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<sup>4</sup> Report of the Ontario Energy Board - Natural Gas Facilities Handbook - EB-2022-0081, March 31, 2022

<sup>5</sup> EB-2021-0269, Decision and Order, February 17, 2021

<sup>6</sup> OEB Staff Submission, February 6, 2025, pages 4 and 5

<sup>7</sup> Simcoe County Submission, February 5, 2025, paragraph 6

<sup>8</sup> Simcoe County Submission, February 5, 2025, paragraph 12

<sup>9</sup> Simcoe County Submission, February 5, 2025, paragraph 13

12. It is the OEB's prerogative to approve the terms of the franchise agreement under the *Municipal Franchises Act* and the effect of the OEB making an order under section 10(2) of the *Municipal Franchises Act* is that the order is deemed to be a valid by-law of the municipality assented to by the municipal electors.<sup>10</sup>
13. Enbridge Gas does not believe that Simcoe County has met the burden to provide compelling evidence that it is unique with respect to Enbridge Gas' operations within the municipality. To the contrary, the only evidence on the record of this proceeding is that Simcoe County is not unique in that regard.<sup>11</sup>
14. While Simcoe County also asserts that their proposed amendments are intended to minimize the recovery of the cost of Enbridge Gas' infrastructure from its residents<sup>12</sup>, this does not justify why the terms of the Model Franchise Agreement that the OEB has consistently found to be reasonable are suddenly no longer reasonable when applied to Simcoe County or why Simcoe County is unique from any other municipality served by Enbridge Gas such that the amendments are warranted in this case.
15. Enbridge Gas submits that the OEB has the authority to impose the terms of the Model Franchise Agreement upon Simcoe County. Section 10 of the *Municipal Franchises Act* clearly gives the OEB the power, if public convenience and necessity require it, to renew or extend the right of a gas company to operate the gas distribution system in a municipality, on "terms and conditions as may be prescribed by the OEB". As stated in OEB Staff's submission, the OEB may issue an order renewing a franchise agreement under section 10 of the *Municipal Franchises Act* even when there is no agreement between the municipality and the gas company and this position has been held consistently by the courts and the OEB.
16. In conclusion, Enbridge Gas requests that the OEB issue an order pursuant to section 10 of the *Municipal Franchises Act* renewing the existing Enbridge Gas franchise in Simcoe County in accordance with the terms and conditions of the 2000 Model Franchise Agreement without amendment, for 20 years, as set out in Schedule E of Enbridge Gas' application.

All of which is respectfully submitted this 21<sup>st</sup> day of February, 2025.

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<sup>10</sup> Municipal Franchises Act, section 10(5)

<sup>11</sup> Exhibit EGI-OEB-3(b)

<sup>12</sup> Simcoe County Submission, February 5, 2025, paragraph 27