

March 7, 2025

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

Dear Ms. Marconi:

**Re: Enbridge Gas Inc.
Approval of Renewal of Franchise Agreement – County of Lennox and Addington
Ontario Energy Board (OEB) File No. EB-2024-0134**

Pursuant to the Ontario Energy Board's Decision and Order dated February 11, 2025, Enbridge Gas has reviewed the cost claim submission from the Concerned Residents (CR) for activities from May 13, 2024 to February 11, 2025 and provides the following comments for the OEB's consideration.

Enbridge Gas submits that the OEB should reflect on this cost claim through the lens of the OEB's Framework for Review of Intervenor Processes and Cost Awards (EB-2022-0011) policy consultation, which was undertaken pursuant to direction from the Minister of Energy and Electrification, as well as the Minister's December 19, 2024 Renewed Letter of Direction (Renewed Directive) to the OEB in which the Minister highlighted his expectation that the OEB ensure intervenors are cost effective, efficient and in the public interest¹. The Minister expressed his expectations in this regard at page 8 of the Renewed Directive:

*Keep my office and ministry informed on the progress of implementing the 10-point action plan outlined in the OEB's Report Back dated September 27, 2024 on Intervenor and Regulatory Efficiency. I also expect that OEB management and staff will provide assistance, as appropriate, to Commissioners **by being proactive and diligent in ensuring that such report recommendations – and other good practices for ensuring intervenors are cost effective, efficient and in the public interest – are followed**, and that Commissioners are transparently advised, as appropriate given the independence of their adjudicative role, where staff believe improvements are required, **or intervenors need to be limited or directed.** (emphasis added)*

According to the OEB's Practice Direction on Cost Awards, in determining the amount of a cost award to a party, the OEB may consider, amongst other things, whether the party has demonstrated through its participation and documented in its cost claim that it has: contributed to a better understanding by the OEB of one or more of the issues in the process; made reasonable efforts to ensure that its participation in the process, including its evidence, interrogatories and cross-examination, was not unduly repetitive and was focused on relevant and material issues; and has not engaged in any conduct that tended to lengthen the process

¹ [Steven Lecce, Minister of Energy and Electrification, December 19, 2024](#), p. 8.

unnecessarily. Enbridge Gas submits that the CR participation in this proceeding has failed to meet any of these criteria.

Enbridge Gas submits that in accordance with the ongoing direction from the OEB about the limited scope of this proceeding, the OEB's review of the CR cost claim in this proceeding provides another opportunity for the OEB to implement the Minister's directions in the Renewed Directive to achieve incremental regulatory efficiencies. Further, the experience of this proceeding once more demonstrates the importance of giving careful consideration to intervenor activities in regulatory proceedings – a need that has been highlighted in the intervenor processes policy consultation.

Enbridge Gas recommends that the OEB continue to reconsider how the value of intervenor participation is addressed through cost claims and cost awards. The frequency of some representatives appearing for multiple intervening organizations presents an opportunity for the OEB to assess value of those representations over time, provide that feedback to the intervenors, and scale customer-funded cost awards commensurate with value.

As was outlined in our submission dated August 8, 2024 in this proceeding, it is unclear who exactly constitutes CR and how they represent any significant portion of the residents of the County of Lennox and Addington. This further reinforces the apparent disconnect between CR's position in this proceeding and the specific circumstances of the County of Lennox and Addington.

Enbridge Gas submits that CR's entire participation in this proceeding was an exploration of issues that were not material to the proceeding at all.

There was no ambiguity in the OEB's Procedural Order No. 2, issued on September 6, 2024, about the limited scope of this proceeding:

"The issues within the scope of this proceeding include any proposed amendment(s) to the terms and conditions of the franchise that may be warranted as a result of circumstances specific to the County."

The OEB agrees with Enbridge Gas that any detailed discussion of generic changes to the Model Franchise Agreement is not in scope given this application is for one specific franchise agreement renewal."²

CR admits in its September 20, 2024 letter that the amendments and wording CR was seeking for the franchise agreement throughout this proceeding were not the result of circumstances that are unique to the County of Lennox and Addington and stated, "If all issues have been removed from scope except those that are unique to County, please let us know as that would remove from scope all the issues that the Concerned Residents wish to raise."³

CR's admission that its concerns were out of scope for this proceeding was confirmed by the interrogatories it filed that were seeking to canvas matters that were beyond the scope of this proceeding the OEB set out in Procedural Order No. 2. CR wasted the time of Enbridge Gas and the OEB to delay its admission until after the interrogatory process. CR caused Enbridge Gas and the OEB to unnecessarily waste time and effort preparing and considering out of scope interrogatories.

² EB-2024-0134 – Procedural Order No. 2, September 6, 2024, page 2

³ EB-2024-0134 – Concerned Residents Letter to OEB, September 20, 2024

On September 26, 2024, the OEB determined that should CR seek to introduce new evidence, it must file a detailed outline of its proposed evidence with the OEB which was to include a proposed budget and an explanation of how the proposed evidence relates to the County of Lennox and Addington and natural gas customers residing there who would be impacted by the franchise agreement renewal.

In its submission, CR's justification for its proposed evidence related to the hypothetical repeal of Ontario Regulation 584/06. This hypothetical was not only plainly speculative, and therefore premature, but it further demonstrated how CR, despite the OEB's ongoing confirmation of the limited scope of this proceeding, was seeking to expand the scope of this proceeding to a realm that was more akin to a generic hearing. Any potential repeal of Ontario Regulation 584/06 would, if it materialized, necessarily have the same implications (whatever those may be) for all municipalities that are subject to the Model Franchise Agreement. CR did not identify any "specific circumstances" of the County of Lennox and Addington that related to the implications of this hypothetical repeal which, of course, may never come to pass in any event.

Even after constant reminders of the specific direction of the OEB regarding the scope of this proceeding, CR pursued a further and better interrogatory responses motion to again attempt to expand the scope of this proceeding far beyond what was originally ordered by the OEB in Procedural Order No. 2. CR's position on this motion, and this proceeding more generally, related to considerations that, at best, are more properly the subject matter of a generic hearing regarding the Model Franchise Agreement rather than this proceeding that is specific to renewing the franchise agreement between Enbridge Gas and the County of Lennox and Addington. The OEB specifically rejected the idea that this proceeding was an appropriate forum to raise CR's generic issues relating to the Model Franchise Agreement when it issued Procedural Order No. 2.

Ultimately, the OEB denied CR's request to file evidence because the purpose of the proposed evidence would be to justify amendments to the terms of the Model Franchise Agreement, namely in respect of alleged issues relating to fees for the use of highways (such as fees charged in other jurisdictions), free highway access alleged to be no longer being in the public interest (given the supposed role of pipeline infrastructure in climate change), and the need to negotiate fees in the event that Ontario Regulation 584/06 is amended (including evidence on the likelihood that the regulation itself would be amended).⁴ The OEB found that CR's proposed evidence was not material to the specific circumstances of the County of Lennox and Addington such that it could justify deviation from the terms of the Model Franchise Agreement.

As part of its Procedural Order No. 4, the OEB made provision for a one-day transcribed oral hearing of argument on January 13, 2025. The hearing was to include the opportunity for Enbridge Gas to present an oral argument-in-chief, oral submissions from CR, OEB Staff and the County of Lennox and Addington, and oral reply submissions from Enbridge Gas. Immediately following the issuing of Procedural Order No. 4, Enbridge Gas began making arrangements (including travel and hotel arrangements) for staff and legal support to be available for the oral hearing.

Procedural Order No. 4 was issued on November 19, 2024. It directed Enbridge Gas and other parties to file with the OEB a written summary of their oral argument and serve it on all parties by January 6, 2025. Enbridge Gas was therefore required to prepare its materials during the holiday season to allow it to file with the OEB on January 6, 2025.

⁴ EB-2024-0134 – Procedural Order No. 4, November 19, 2024

OEB Staff also filed a written summary of their oral argument on January 6, 2025, along with a compendium of documents and authorities to be relied upon at the hearing. Presumably, OEB Staff also spent substantial time in their preparation efforts.

On January 6, 2025, CR did not submit an argument summary. Instead, CR submitted a letter stating that they no longer were seeking deviations from the Model Franchise Agreement in this proceeding and did not seek to participate in the upcoming hearing. CR's letter stated: "The Concerned Residents are no longer seeking to secure those deviations from the model agreement because it is clear from the latest OEB order that the arguments and evidence in support of those deviations are out of the scope of this proceeding."

This obviously made the hearing unnecessary so all the time spent preparing and making arrangements for the hearing were a complete waste of time for Enbridge Gas and OEB Staff. CR's letter was not filed until after Enbridge Gas and OEB Staff had completed their work and made their filings to the OEB. Presumably, CR could have filed this letter withdrawing from the proceeding at any time between November 19, 2024 and early January 2025, but they waited until the eleventh hour to file their letter.

Enbridge Gas does not believe that CR has contributed anything in this proceeding that warrants an award of costs by the OEB for CR's participation.

For these reasons, Enbridge Gas submits that the OEB should decline CR's request for costs.

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

Yours truly,

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