



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

March 31, 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 Approval of Franchise Agreement - Town of Essex
Ontario Energy Board File No. EB-2024-0351**

Pursuant to Procedural Order No. 1, Enbridge Gas hereby submits reply submissions in response to the submissions of Ontario Energy Board staff in this matter.

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

Yours truly,

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

cc: (email only)

Natalya Plummer, OEB
Richard Lanni, OEB
Joseph Malandrucolo, Town of Essex

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 franchise agreement is not necessary.

REPLY ARGUMENT OF ENBRIDGE GAS INC.

1. These are the reply submissions of Enbridge Gas Inc. (Enbridge Gas) in response to the submissions of Ontario Energy Board (OEB) staff in this matter.

Response to OEB Staff's Submissions

2. Enbridge Gas brought this application on December 9, 2024 to renew the current franchise agreement with the Town of Essex using the same Model Franchise Agreement (without amendment).
3. Enbridge Gas has Model Franchise Agreements (without amendments) in place with all other lower-tier municipalities within the County of Essex 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".¹
5. OEB staff also recognizes that given the approximately 8,600 residents and businesses currently receiving natural gas services from Enbridge Gas in the Town of Essex, it is clear that public convenience and necessity require a renewal of the franchise agreement.
6. Enbridge Gas agrees with OEB staff's observations that (i) the Town of Essex filed no evidence to support its argument that the requested 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.²
7. The Model Franchise Agreement outlines the terms that the OEB finds reasonable under the *Municipal Franchises Act*.³ As noted by OEB staff, the OEB has consistently 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

¹ OEB Staff Submission, March 25, 2025, page 3

² OEB Staff Submission, March 25, 2025, page 1

³ Report of the Ontario Energy Board - Natural Gas Facilities Handbook - EB-2022-0081, March 31, 2022

reason for deviation.⁴ The OEB has been consistent in this regard and Enbridge Gas submits there is no reason to take a different approach in this case. That the Model Franchise Agreement is in place in all municipalities in which Enbridge Gas operates is a result of that expectation in practice.

8. 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 the Town of Essex has not provided any such evidence, Enbridge Gas submits that there is no compelling reason to amend the Model Franchise Agreement for the Town of Essex.
9. 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.⁵
10. Enbridge Gas agrees with OEB staff that the Town of Essex has not met the burden to provide compelling evidence that it is unique with respect to Enbridge Gas' operations within the municipality.
11. Enbridge Gas submits that the OEB has the authority to impose the terms of the Model Franchise Agreement upon the Town of Essex. 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.⁶
12. OEB staff also notes that the deviations requested by the Town of Essex would likely ultimately result in broader implications for multiple municipalities and regulated entities, and the OEB should not adopt them at this time. OEB staff reference the OEB's comments in recent proceedings addressing franchise agreement renewals in the County of Simcoe (EB-2024-0280) and the City of Guelph (EB-2025-0058) that it may make a determination on the need for a generic proceeding at a later date.⁷ Enbridge Gas agrees that a generic proceeding is the appropriate forum for generic issues such as those raised by the Town of Essex.
13. 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 with the Town of Essex 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 31st day of March, 2025.

⁴ OEB Staff Submission, March 25, 2025, page 3

⁵ Municipal Franchises Act, section 10(5)

⁶ OEB Staff Submission, March 25, 2025, page 3

⁷ OEB Staff Submission, March 25, 2025, page 1