

April 17, 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 Certificate of Public Convenience and Necessity
Township of Tay Valley
Ontario Energy Board File No. EB-2024-0342**

On February 26, 2025 the OEB suspended the remaining procedural steps set out in Procedural Order No. 1 of this proceeding. Late in the day on Friday, April 11, 2025, Enbridge Gas received an email from the Elson Advocacy group containing a submission by Climate Network Lanark (CNL) and its request for late intervenor status. While acknowledging that procedural steps have been suspended, Enbridge Gas is filing this submission on how the request for intervenor status and the issues raised in the CNL submission are not appropriate for consideration in this proceeding.

Summary

In support of the submission that CNL should not be granted intervenor status, several issues will be described in detail below along three main themes:

- 1. CNL's Request is Out of Scope and Untimely:** CNL is seeking to participate well past the intervention deadline and is attempting to broaden the scope of a narrow administrative proceeding intended to align a Certificate of Public Convenience and Necessity (CPCN) with municipal boundaries.
- 2. No Substantial Interest Demonstrated:** CNL has not demonstrated any material or local interest in the matter, nor is it clear that they have the authority to represent impacted residents or the municipal council.
- 3. Risk of Regulatory Inefficiency:** Granting CNL Intervenor status would lead to delays, increased costs, and complexity, contrary to the objectives set out by the Ontario Energy Board (OEB) and the Minister of Energy and Electrification.

Background

This application addresses Enbridge Gas' current CPCN issued on August 25, 1960 for the former Township of Bathurst which represents approximately half the area that makes up the current Township of Tay Valley. The requested new CPCN for the Township of Tay Valley will expand the overall CPCN rights held by Enbridge Gas to include the former townships of South Sherbrooke and North Burgess (now part of the Township of Tay Valley). Not having a CPCN that covers the whole Township of Tay Valley would unnecessarily delay responding to requests for natural gas service in currently unserved areas of the municipality because of the need to apply for CPCN amendments. This approach is also consistent with recent CPCN decisions in which the OEB has noted that issuing new CPCNs that are geographically aligned with municipal borders is consistent with the intent of the OEB that the CPCN holders update service areas if boundaries of their existing CPCNs are affected by municipal amalgamations, annexations or name changes¹. This position is supported by the guidance in the *Natural Gas Facilities Handbook*² to notify the OEB of any change to municipal boundaries in order to have CPCNs amended to reflect any change.

As noted in our application, the Township of Tay Valley is a lower-tier municipality located in the County of Lanark within which Enbridge Gas provides service to approximately 30 customers pursuant to franchise agreements and CPCNs that have been in place since approximately 1959. A community expansion project to provide access to natural gas to an additional 80 residential households, one commercial / institutional customer and one industrial customer in the Township of Tay Valley was included in the proposals to Phase 2 of the Natural Gas Expansion Program³.

Intervention Deadline Expired

The deadline for intervention requests and comments on hearing type in this proceeding was January 9, 2025 (over three months ago) which was the date the Township of Tay Valley submitted its letter of comment to the OEB. The OEB arranged for publication of the Notice of Hearing in the *Frontenac News* newspaper on Thursday, December 19, 2024 and on the www.insideottawavalley.com web site from Thursday, December 19, 2024 through Monday, December 30, 2024. The Notice of Hearing was also delivered to the Township of Tay Valley by courier and posted on the Enbridge Gas and OEB web sites. For anyone directly impacted by the application, there was ample notice and opportunity to submit comments or concerns to the OEB by the January 9, 2025 deadline. CNL is well beyond the deadline for filing a request to become an intervenor. If parties are allowed to ignore filing deadlines, then these deadlines will lose their meaning and regulatory inefficiency will be introduced into the process as a result.

Contrary to CNL's assertion that the timing of its request causes no delay or prejudice to any party, allowing CNL to intervene at this late stage will delay this proceeding since they are seeking to file evidence and greatly expand the scope of what is intended to be a straightforward administrative request to align the existing CPCN with current municipal boundaries.

¹ For example, OEB Decisions and Orders issued in EB-2024-0294, EB-2023-0239 and EB-2023-0146, and the Decision on Intervention Request issued March 20, 2025 in this current proceeding.

² [Natural Gas Facilities Handbook | Ontario Energy Board](#)

³ [EB-2019-0255](#)

The Expansive Scope of the Request

When determining whether to grant intervenor status to a person in a given proceeding, the OEB considers whether the person has a substantial interest in the matter being heard and whether the person's concern will be addressed within the scope of the proceeding. In accordance with Rule 22 of the OEB's Rules of Practice and Procedure, a person has a substantial interest if they have a material interest that is within the scope of the proceeding; for example, a person that: (i) primarily represents the direct interests of consumers (e.g., ratepayers) in relation to services that are regulated by the OEB; (ii) primarily represents an interest or policy perspective relevant to the OEB's mandate and to the proceeding; or (iii) has an interest in land that is affected by the proceeding.

Previously in this proceeding⁴, the OEB determined that Environmental Defence (represented by the same legal counsel as CNL and proposing a debate on the same issues as identified by CNL) had not met the onus of satisfying the OEB that it had a substantial interest in the determination of whether public convenience and necessity requires that a CPCN be granted to Enbridge Gas in respect of the Township of Tay Valley.

It is unclear how CNL has any substantial interest in this proceeding. There is no indication that CNL has any authority to speak for the residents or the municipal council of the Township of Tay Valley and there is no indication that there are residents within the Township of Tay Valley associated with CNL.

In its submission, CNL incorrectly suggests that the Climate Change Action Plan of the Township of Tay Valley is at issue in this proceeding because Enbridge Gas' requested approvals are contrary to the Township's Climate Change Action Plan. As was noted in its March 20, 2025 Decision on Environmental Defence's request for intervenor status, this is not a generic hearing into matters such as those raised by Environmental Defence and CNL nor any climate change action plan. This proceeding involves consideration of public convenience and necessity as it relates to the request for approval of a CPCN that encompasses parts of the Township of Tay Valley not captured by the existing CPCN.

This is Not a Generic Proceeding

Enbridge Gas submits that there has not been any information provided to justify the suitability of CNL as an intervenor, including whether Enbridge Gas' current customers should be required to subsidize the intervention (and evidence) of potential non-gas customers. Enbridge Gas submits that the OEB should be cautious about admitting funded intervenors into limited scope proceedings, particularly where there is no indication the proposed intervenor has constituents who are directly impacted by the relief sought in the case. It is not appropriate for prospective intervenors to seek to turn a proceeding into a "test case", especially where there is no demonstrable link between the intervenor and the impacted community. Generic concerns should be addressed in generic proceedings.

In its April 11, 2025 submission, CNL states that it wishes to explore and address the question of what factors should be considered in CPCN applications. Similar to what Environmental Defence proposed earlier in this proceeding, CNL appears to be challenging the CPCN provisions of the *Municipal Franchises Act*. CNL wishes to explore whether public convenience and necessity require approval to expand the area in which Enbridge Gas is allowed to construct gas works in the Township of Tay Valley. CNL also wants to argue that expanding

⁴ EB-2024-0342 – Decision on Intervention Request, March 20, 2025

Enbridge Gas' CPCN area is inconsistent with the goals and mandate of CNL to reduce reliance on fossil fuels and reduce carbon emissions. It is not clear to Enbridge Gas how the goals and mandate of CNL have any role to play in the decisions to be made by the OEB in this proceeding given that the Township of Tay Valley has its own Climate Change Action Plan.

CNL is raising the same issues that were raised in the Environmental Defence request for intervenor status, so it appears to Enbridge Gas that the common legal counsel for these two groups is simply using a different group to attempt to gain access to a regulatory proceeding to debate issues that are completely out of scope. Having to address this type of out-of-scope intervention wastes the time and resources of Enbridge Gas and the OEB.

The Risk of Regulatory Inefficiency

Enbridge Gas submits that any evidence CNL purports to file regarding this Application will not be remotely relevant to an application to ensure that the boundaries of an existing CPCN accurately reflects the result of a municipal amalgamation in an area of the province where no other gas distributor operates. What is clear is that contrary to CNL's assertions, filing this broad-ranging evidence will greatly broaden the scope of this narrow case and will confuse what is being determined in this proceeding.

The OEB's mandate is to regulate Ontario's energy sector as required under provincial legislation. The OEB's objectives, responsibilities and powers are set out in legislation, regulations and directives issued by the provincial government. Enbridge Gas submits that it would certainly not be appropriate for the OEB to consider proposed changes to the provisions of the *Municipal Franchises Act* or their general applicability in an ad hoc and narrow manner for one lower-tier municipality as is being suggested by CNL. This proceeding cannot result in different legislative provisions because that is not within the jurisdiction of the OEB.

Similar to the previous efforts of Environmental Defence, it is clear that CNL is seeking to turn the simple request in this proceeding into a broad examination of complex and wide-ranging questions. CNL is seeking to re-frame how the OEB considers and approves CPCNs. CNL is clearly looking at this as a "test case" that would have broader implications beyond the Township of Tay Valley, which has approximately 6,000 residents and within which Enbridge Gas only has 30 customers.

CNL is seeking outcomes that could have broad implications on Enbridge Gas and on communities and Enbridge Gas customers across Ontario. Presumably there could be a wide range of interested parties who would want to participate in such a debate or should at least be given the opportunity to do so. All of this would turn the simple administrative request to align a CPCN with municipal boundaries into a very complex proceeding.

In the Minister of Energy and Electrification's December 19, 2024 Renewed Letter of Direction (the Renewed Directive) to the OEB, the Minister highlighted his expectation that the OEB ensure intervenors are cost effective, efficient and in the public interest⁵. 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***

⁵ [Steven Lecce, Minister of Energy and Electrification, December 19, 2024](#), p. 8.

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)

It is clear from the Renewed Directive that it should not be business as usual when it comes to the OEB accepting intervention requests without giving due consideration to how the intervenor process can be rendered more efficient. More specifically, this requires the OEB to consider whether an intervenor is appropriately representing ratepayers and issues that are properly within the scope of a given proceeding.

Also, in the recent franchise agreement renewal proceeding for Lennox and Addington County (EB-2024-0134), the OEB was forced to cancel a scheduled hearing date, for which other parties had prepared and incurred costs, at the eleventh hour because the Concerned Residents (vaguely described as a group of concerned residents represented by CNL's counsel) ultimately determined their issues were out of scope for the hearing. It was open for the OEB to determine that those intervenors did not have a "substantial interest" in the issues in scope for the proceeding at the stage of considering the intervention request, rather than allow for out-of-scope discovery and final submissions. Intervenors represented by CNL's counsel similarly withdrew their intervention in another recent Enbridge Gas franchise agreement renewal proceeding for the Township of Guelph-Eramosa (EB-2024-0188) rather than providing the OEB with clear information about how they had a substantial interest in the matters in scope for that proceeding. The OEB should not allow such regulatory inefficiencies to repeat and proliferate.

Conclusion

In summary, Enbridge Gas submits that CNL should not be granted intervenor status as it has no substantial interest in this proceeding. Enbridge Gas objects to CNL's proposal to file evidence because what is proposed is neither relevant nor necessary, and it will add to the time, scope, cost and complexity of this proceeding. In any event, the scope of the proceeding for this application should be limited to local issues relevant to this CPCN request. The issues identified by CNL for debate are redundant to issues recently considered by the OEB in the Enbridge Gas 2024 Rebasing proceeding and if the OEB is still inclined to consider further, are more suited to discussions within a generic or consultation proceeding.

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

Yours truly,

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