



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

June 12, 2025

Mr. Ritchie Murray
Acting Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Mr. Murray:

**Re: Enbridge Gas Inc.
Application for Certificate of Public Convenience and Necessity
Township of Tay Valley
Ontario Energy Board File No. EB-2024-0342**

In its Decision on Intervenor Request and Procedural Order No. 2 dated May 29, 2025 (PO No. 2), the Ontario Energy Board (OEB) accepted the intervention of Climate Network Lanark (CNL) and determined that the OEB's expectation is that any evidence CNL may seek to provide would focus on factors that are specific to the Township of Tay Valley.

In its submission dated June 10, 2025, CNL stated that it intends to file evidence to support its opposition to Enbridge Gas' application. Apparently, this evidence would include the climate action plans for the Township of Tay Valley and the County of Lanark, and facts relating to the consistency of the relief requested by Enbridge Gas with those policy documents.

We further note that the Township of Tay Valley by way of their letter dated June 10, 2025 have requested an extension of time to file evidence until after Enbridge Gas has provided answers to questions about the application.

Summary

CNL's request for leave to file its proposed evidence should not be granted by the OEB. In PO No. 2, the OEB provided for the Township of Tay Valley to file evidence by June 13, 2025, almost 7 months after Enbridge Gas filed its application which is administrative in nature. There is no reason to delay this proceeding further to allow CNL to file likely duplicative evidence related to the Township of Tay Valley and, more importantly, evidence on aspects that are outside the scope and jurisdiction of the OEB in respect of an application under the *Municipal Franchises Act* (the "MF Act").

As stated in section 8 of the *MF Act*, a certificate of public convenience and necessity (CPCN) is in respect of the construction of any works to supply natural gas – not an examination of climate change and associated policies related to the consumption and use of natural gas. The OEB has no mandate or jurisdiction to regulate the use of natural gas by customers (and their choice of fuel) or greenhouse gas (GHG) emissions from the use of natural gas or other fuels (or associated climate change plans) under the *MF Act*. CNL's proposal is an inappropriate attempt

to delay and broaden the scope of a narrow administrative proceeding simply intended to align a CPCN with municipal boundaries.

For the same reasons set out above and below, Enbridge Gas also opposes the extension of time request by the Township of Tay Valley. This process is intended to be narrow and administrative in nature and it has already been significantly delayed.

Regulating Customers' Use of Gas and GHG Emissions Is Outside the OEB's Mandate and Irrelevant to this Proceeding

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 the OEB's expectation. In recent CPCN decisions, 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.

Enbridge Gas objected to the interventions of both Environmental Defence (ED) and CNL on the basis that this is a simple administrative proceeding to align the CPCN with the municipal boundaries and that the intended interventions of these groups would unnecessarily delay this proceeding with argument and evidence which is irrelevant and inappropriate for consideration by the OEB. While the OEB has accepted the late intervention request of CNL, careful attention must still be given to CNL's evidence proposal relative to the proper scope and purpose of the proceeding and the OEB's applicable statutory mandate.

In its submission, CNL incorrectly suggests that the climate change action plans of the Township of Tay Valley and the County of Lanark are relevant to and at issue in this proceeding because Enbridge Gas' requested approvals might be inconsistent with these climate change action plans. To begin with, as the OEB noted in its March 20, 2025 Decision to deny ED's request for intervenor status, this is not a generic hearing into matters such as those raised by ED and CNL or any climate change action plan. In any event, it is not within the OEB's mandate to regulate environmental matters in that context. Rather, this proceeding, under s. 8 of the *MF Act*, involves consideration of public convenience and necessity as it relates to the request for approval of a CPCN regarding the construction of works to supply gas that encompasses parts of the Township of Tay Valley not captured by the existing CPCN.

The OEB has no mandate or jurisdiction in this proceeding (or otherwise) to regulate customers' use of natural gas or deny customers the right to choose to use it. And similarly, the OEB has no mandate or jurisdiction to regulate emissions from customers' use of natural gas. These things are not being determined on an application under s. 8 of the *MF Act*, and the OEB has no

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](#)

mandate or jurisdiction to set policy in this regard. Accordingly, consideration of local municipal climate change plans or policies in respect of GHG emissions is irrelevant to the determination of whether Enbridge Gas' existing CPCN should be aligned to the Township of Tay Valley's municipal boundaries.

We further note that the OEB is an economic regulator with a mandate to facilitate rational expansion of the gas system, ensure just and reasonable rates, reliability and quality of gas service. Its overall statutory objectives and powers under the *Ontario Energy Board Act* do not include the regulation of GHG emissions or making determinations about, and applying, local municipal climate change policies. The regulation of GHG emissions and the setting of climate/emissions related policies are matters reserved for federal and provincial governments and are addressed by environmental regulation – not the OEB. Also, municipalities must in any event abide by the mandates / powers set for them by the province. This point was recently reinforced through the enactment of Bill 17 on June 5, 2025, in which the Government of Ontario clarified the limitations on municipalities of attempting to impose green development standards inconsistent with the *Ontario Building Code* through municipal by-laws. The introduction of Bill 40 (including amendments to the *MF Act*) further demonstrates the Province's policy goals to streamline municipal franchise-related processes and ensure the fair and reasonable continuation and expansion of the natural gas network.

The gas distributor's obligation to serve under the *Public Utilities Act* and the *Ontario Energy Board Act* upon receipt of a building owner's written request is also important to bear in mind in this context. Neither a municipality through its climate action plans nor a neighbouring resident through its support of GHG reduction initiatives can veto or displace this statutory obligation or customer request. Both the OEB and municipalities are creatures of statute, governed by provincial laws and policies, and cannot act outside of their statutory mandates.

Simply put, evidence regarding municipal climate action plans and community GHG emission initiatives are beyond the scope of this proceeding and the OEB's mandate and jurisdiction in considering this application under the *MF Act*.

The Risk of Regulatory Inefficiency

In addition to the above, Enbridge Gas submits that there has not been any information provided to justify why Enbridge Gas' current customers should be required to subsidize the preparation and review of the proposed evidence. The OEB should be cautious about what funding is provided to intervenors in limited scope proceedings. It is not appropriate for CNL to seek to turn a streamlined proceeding into a "test case", especially when its proposed evidence is outside the proper scope and purpose of this proceeding.

In its April 11, 2025 submission, CNL stated that it wishes to explore and address the question of what factors should be considered in CPCN applications. Similar to what ED (represented by the same legal counsel as CNL) proposed earlier in this proceeding, CNL appears to be challenging or seeking to expand the CPCN provisions of the *MF Act*, to argue that expanding Enbridge Gas' CPCN area is inconsistent with the goals and mandate of CNL to reduce reliance on fossil fuels and reduce carbon emissions. Even if municipal climate strategies were an issue appropriately considered by the OEB in this proceeding -- which it is not -- it is not clear 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 ED request for intervenor status, so it appears 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 out of scope. Having to address this type of out-of-scope evidence would be an inefficient use of the time and resources of Enbridge Gas and the OEB, and would result in a less efficient and more costly proceeding.

As stated, CNL's proposed evidence is irrelevant 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. At the time that Enbridge Gas receives a request for gas service within the expanded CPCN boundaries, the OEB's practice to align CPCNs with municipal boundaries at the earliest opportunity³ allows Enbridge Gas to act in a timely manner to provide the requested service and not to be delayed by a CPCN proceeding such as this that is taking several months to administer.

With regards to the extension of time requested by the Township of Tay Valley, they advise that further time is needed in order for them to understand the fundamental aspects of the application. It is respectfully submitted that the fundamental aspects of this proceeding are narrow and clear. This process is intended to simply align the CPCN with the municipal boundaries, and their request for a further extension ought to be denied.

Conclusion

Enbridge Gas urges the OEB to reject the CNL and the Township of Tay Valley requests for extending timelines in PO No. 2 and submitting evidence that is out of scope for this proceeding and beyond the OEB's mandate. To the extent the OEB considers any issues unique to the Township of Tay Valley and within the proper scope of this proceeding, any such evidence could be provided by the Township of Tay Valley itself within the timelines set by the OEB, that are already extended for an administrative proceeding of this nature.

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

Yours truly,

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³ In the Natural Gas Facilities Handbook (p. 18), the OEB requires that the gas distributor notify the OEB within 90 days of a changed municipal boundary taking effect to have the certificate amended to reflect the change.