

Elson Advocacy

August 6, 2025

BY RESS

Ms. Nancy Marconi

Registrar

Ontario Energy Board

2300 Yonge Street, Suite 2700, P.O. Box 2319

Toronto, Ontario M4P 1E4

Dear Ms. Marconi:

**Re: Enbridge – Approval to Construct Gas Works in Tay Valley Township
EB-2024-0342**

I am writing on behalf of the Climate Network Lanark to request that a technical conference be held in this matter. Alternatively, the Climate Network Lanark requests that Enbridge be directed to provide a full and adequate response to interrogatories EGI-OEB-2, EGI-CNL-9 and EGI-CNL-1, and to answer several follow-up questions.

Technical conference

A technical conference is required to explore Enbridge's assertions regarding the need for a certificate that covers an expanded area. Enbridge has indicated that an expanded area is needed in order to avoid "delay responding to requests for natural gas service in currently unserved areas of the municipality."¹ However, this conflicts with other evidence from Enbridge indicating that the areas to be added to the certificate (the former townships of South Sherbrooke and Burgess) are far from existing pipelines and "[t]here are currently no plans in place related to constructing pipelines in the areas being added to Enbridge Gas' current CPCN."² This obvious contradiction merits exploration at a technical conference.

A technical conference is also required to explore the specific questions set out below. Those answers could be addressed by way of an order that Enbridge provide full and adequate responses to several existing interrogatories and to several follow-up questions. However, a technical conference may be more efficient as it would allow for the backs and forths that are sometimes helpful in reconciling seemingly conflicting information.

Alternative Relief – Interrogatory Responses

In the alternative, the Climate Network Lanark requests that Enbridge be directed to provide full and adequate responses to interrogatories EGI-OEB-2 and EGI-CNL-9 and to answer several

¹ Exhibit EGI-OEB-3.

² Exhibit EGI-CNL-1.

follow-up questions. With respect to this alternative relief, we ask that this letter be treated as a notice of motion under the *Rules of Practice and Procedure*.

EGI-OEB-2 and EGI-CNL-9

EGI-OEB-2 included the following questions:

- a) Please discuss whether there are any pending requests for service attachments in, and if there any planned natural gas infrastructure expansion projects for, the Township of Tay Valley. If there are pending service requests or plans for infrastructure expansion, please provide the following:
 - i. The total number and general location of any prospective customers.
 - ii. A map showing the location of any service requests or planned infrastructure. ...

Enbridge did not provide the number of prospective customers or their general location (including whether they are inside or outside the expanded area that Enbridge seeks to add to its CPCN). Enbridge also did not provide a map. We ask that both be provided.

EGI-CNL-9 requested similar information. It read as follows:

- a) Is Enbridge planning to construct any pipelines in the area covered by the proposed Tay Valley Township MFA s. 8 certificate?
- b) If yes:
 - i. Please provide a map showing the proposed new pipeline(s) and the location of potential new customers who may connect to that pipeline;
 - ii. Please indicate the number of customers that Enbridge expects to connect to that pipeline over the next 10 years; and
 - iii. Please indicate the number of residents or businesses that are located along that pipeline route.
- c) Please indicate the number of customers that Enbridge expects to connect to any existing pipelines in Tay Valley Township over the next 10 years.
- d) Please indicate the number of residents or businesses that are located along existing pipelines in Tay Valley Township that have not connected to the gas system but could connect due to their proximity to an existing pipeline.

Enbridge referred us back to EGI-OEB-2. However, that response did not include the information we requested in parts (b) and (c). We ask that both be provided.

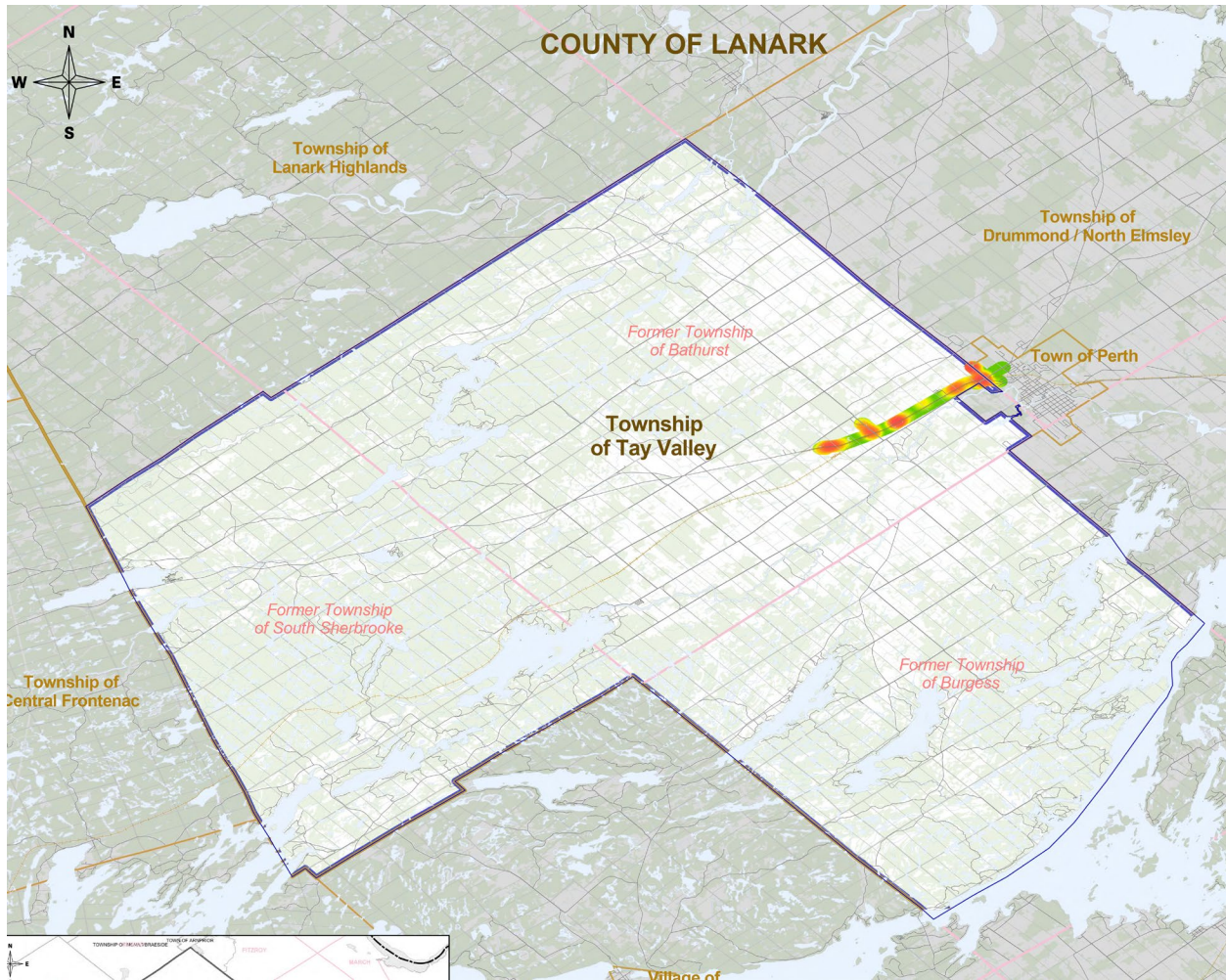
This is highly relevant. Enbridge has alleged that the certificate is required to avoid delay, including “for residents and businesses that may be in proximity to the various pipelines being constructed related to the proposed Lanark / Balderson community expansion project.”³ But

³ Exhibit EGI-OEB-3.

based on information that is not on the record, that project does not appear to be anywhere near to the expanded areas that Enbridge is seeking to incorporate into the certificate. Although the Lanark community expansion project is currently being reviewed, Enbridge should nevertheless provide a revised map that shows the potential project routes under consideration to confirm whether any routes come any closer to the expanded areas and whether the project has any bearing on the need for an expanded certificate.

Follow up question 1

In response to EGI-CNL-1, Enbridge provided the following map:



The following questions are means to test Enbridge’s assertion in EGI-OEB-3 that an expanded certificate is needed to avoid “delay responding to requests for natural gas service in currently unserved areas of the municipality.”⁴

⁴ Exhibit EGI-OEB-3.

- (a) How far away (in km) is the closest Enbridge pipeline to the closest point in the Former Township of Burgess? If the pipeline in question is not already illustrated on a map, please provide a map doing so.
- (b) How far away (in km) is the closest Enbridge pipeline to the closest point in the Former Township of South Sherbrooke? If the pipeline in question is not already illustrated on a map, please provide a map doing so.
- (c) Please provide a rough and approximate cost to construct a km of pipeline based on past pipeline projects in this area or in Enbridge service territory more generally.
- (d) Based on the distances in (a) and (b) and the cost in (c), please comment on the likelihood that customers in the former townships of South Sherbrooke and Burgees would have the demand necessary to make a line extension cost-effective.
- (e) Please provide an aerial map showing the land use in the expanded areas that are closest to Enbridge pipelines (i.e. the northern portion of the former township of Burgess).
- (f) This appears to be a low-density rural area. Does Enbridge agree?

Follow-up question 2

In EGI-CNL-8, Enbridge indicates as follows: “situations resulting in CPCNs being issued that do not cover the entire geographic area of a municipality are related to occasions where more than one natural gas distributor is operating.” However, the *Natural Gas Facilities Handbook* states as follows in s. 3.6.2:

If the boundaries of a person’s existing certificate are affected by a municipal amalgamation or annexation, and no other person holds a certificate for any part of the newly amalgamated or annexed municipal territories, then the person should notify the OEB within 90 days of the date that the change takes effect to have the certificate amended to reflect the change. The OEB will not as a matter of course amend the territory covered by the person’s existing certificate to include any additional service area that was added to the municipality through the amalgamation or annexation. The certificate would be amended to include the metes and bounds of the person’s existing certificate.

The handbook clearly states that certificates will not be amended as a matter of course to include any additional service area even where “no other person holds a certificate for any part of the newly amalgamated or annexed municipal territories” and that “the certificate would be amended to include the metes and bounds of the person’s existing certificate.”

We ask that Enbridge respond to this follow-up question: (a) How does Enbridge reconcile its position set out in EGI-CNL-8 with s. 3.6.2 of the *Natural Gas Facilities Handbook* set out above? Enbridge has the burden in this proceeding. It is important that its positions be clear, particularly seeing as there is no provision for Enbridge to provide an argument-in-chief or for CNL to provide reply submissions in *Procedural Order #3*.

Conclusion re technical conference and alternative relief

There is no urgency in this case and no projects pending that require a certificate covering an expanded area. This is also an unprecedented case seeing as no gas utility has ever sought to impose a certificate of public convenience and necessity on a municipality against its will.⁵ In light of the gaps in the record, the OEB should order a technical conference or order that Enbridge provide full and adequate responses to the interrogatories and follow-up questions noted above.

Comment re regulatory efficiency

It appears to CNL that this proceeding is not a prudent use of regulatory resources as there is no need for Enbridge to have permission to construct gas infrastructure within a larger area of Tay Valley Township. By way of this letter, we therefore invite Enbridge to withdraw its application and instead seek to amend the wording of the existing certificate to make it clear that it continues to only cover the Former Township of Burgess (or amend its application to the same effect). Based on our reading of the *Municipal Franchises Act*, a non-substantive administrative amendment to the certificate of this nature could be achieved administratively without an OEB hearing.⁶ This would be far more efficient.

The continued adjudication of this proceeding will inevitably absorb more regulatory resources. Both parties will need to research and make submissions on case law interpreting the “public convenience and necessity” test. Enbridge has already referred to some case law in its interrogatory responses. The OEB will then need to carefully consider and adjudicate the relevant legal and factual issues. This does not appear to be a prudent use of time and effort when there is no indication that Enbridge intends to build pipelines in the new area it seeks to add to its certificate and the municipality opposes Enbridge being awarded that expanded monopoly. Although the OEB cannot require that Enbridge withdraw or amend its application, and we are not seeking an order to that effect, we nevertheless invite Enbridge to do so voluntarily for the sake of regulatory efficiency.

Yours truly,



Kent Elson

cc: Parties in the above proceeding

⁵ Exhibit EGI-CNL-6

⁶ *Municipal Franchises Act*, R.S.O. 1990, c. M.55, s. 8. The *Act* states that a hearing is required before a certificate can be granted, but a certificate has already been granted for the area covered by the Former Township of Bathurst. Nothing in s. 8 appears to require a hearing for a non-substantive amendment to a certificate that merely provides clarity on the area covered by the certificate.