Elson
Advocacy

September 4, 2025

Mr. Richie Murray
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4
registrar@oeb.ca

Dear Mr. Murray,

Re: City of Guelph Franchise Agreement EB-2025-0058
eMerge Guelph Sustainability Motion for Full and Adequate Interrogatory Responses

I am writing on behalf of eMerge Guelph Sustainability ("eMerge Guelph" or "eMerge") in accordance with the OEB's Procedural Order 4, in which the Board granted eMerge Guelph's request to hear a motion for full and adequate responses to interrogatories from Enbridge Inc.

eMerge's specific requests and associated arguments are contained in the enclosed Notice of Motion dated August 5, 2025. Should new issues arise as a result of Enbridge's submissions, they will be addressed by eMerge Guelph in reply submissions as set out in the Board's procedural timeline.

Yours truly,

Kent Elson

cc: Parties in the above proceeding

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ONTARIO ENERGY BOARD

EB-2025-0058

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 under s. 10 of the *Municipal Franchises Act* imposing the terms and conditions of a franchise agreement on the Corporation of the City of Guelph and to approve a new Certificate of Public Convenience and Necessity;

Notice of Motion

(For full and adequate responses to the interrogatories of eMerge Guelph Sustainability)

August 5, 2025

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NOTICE OF MOTION

eMerge Guelph Sustainability will make a motion to the OEB on a date and through a method of hearing to be determined by the OEB.

THE MOTION IS FOR:

1. An order that Enbridge Gas Inc. ("Enbridge" and the "Corporation") provide full and adequate responses to the following interrogatories:

    a. EGI-EMG-5

    b. EGI-EMG-8

    c. EGI-EMG-10

    d. EGI-EMG-11

    e. EGI-EMG-16

2. Any such further relief as requested by the moving party and that the OEB deems just.

THE GROUNDS FOR THE MOTION ARE:

3. Enbridge Gas Inc. is required to provide a "full and adequate" response to interrogatories.[1] If relevant information is not available, Enbridge is required to provide a response "setting out the reasons for the unavailability of such information, as well as any

[1] OEB, *Rules of Practice and Procedure*, s. 27.01.

alternative available information in support of the response."[2] Enbridge has not provided full responses to the above interrogatories and, where applicable, has not provided alternative relevant information, as required by the OEB *Rules of Practice and Procedure*.

4. The interrogatories outlined below are relevant to the Board's determination in this proceeding under section 10 of the *Municipal Franchises Act* of whether "public convenience and necessity appear to require" the imposition of a franchise agreement on the City of Guelph, and if so, on what terms and conditions.

5. It is important that the Board has all relevant information before it to ensure that a determination is just in the particular circumstances of this application.

EGI-EGM-5

6. This interrogatory asked Enbridge to provide lists of payments made by the City of Guelph and others to the gas company for the relocation of gas pipelines that conflicted with municipal and other works during the term of the previous franchise agreement. Enbridge responded by stating that "[p]roviding details of how costs of pipeline relocation projects within the City of Guelph have been allocated and recovered are not germane to this proceeding."

7. This assertion is unreasonable and obscures the true nature of this proceeding. Enbridge seeks to renew a franchise agreement with the City of Guelph that was in place for twenty years. The appropriateness of the terms allocating costs for pipelines relocations is a key

[2] OEB, *Rules of Practice and Procedure*, s. 27.02(b).

issue of dispute. The magnitude of the relevant costs under dispute is clearly relevant and the historic costs provide an indication of what the future costs may be.

8. Enbridge's response also referenced the Board's previous statement regarding the scope of the proceeding:

> …this proceeding will address whether there are compelling reasons to deviate from the terms and conditions of the Model Franchise Agreement in the City of Guelph and that broad issues that may have implications for communities and natural gas consumers across Ontario, which are not specific to the City of Guelph, will not be within the scope of this proceeding.[3]

9. The City of Guelph, with the support of eMerge Guelph, seeks modifications to the terms of the proposed franchise agreement relating to the allocation of relocation costs. The requested information is clearly relevant to that issue and should not be withheld at this stage of the proceeding. Enbridge may question whether the information raises compelling reasons to deviate from the terms of the Model Franchise Agreement in its final submissions.

10. We ask for a revised response that provides a complete answer to the question.

EGI-EMG-8

11. This interrogatory asked for details regarding the property taxes paid by Enbridge to the City of Guelph in the most recent year. In addition to the total amount paid, eMerge sought "the value of the property on which those taxes were paid, a breakdown of the property by address, type (e.g. pipelines vs. buildings), size and value…"

[3] EB-2025-0058, Procedural Order No. 1.

12. Enbridge provided the total amount of property taxes paid in 2024 but did not include the other details requested (i.e. the breakdown by type). eMerge assumes that this may have been an oversight, as the response included no explanation for the omission. We are hopeful that Enbridge will provide the additional information voluntarily. Otherwise, we ask that the information be provided as part of this motion as it is relevant to Enbridge's ongoing assertions regarding the need for deviations from the Model Franchise Agreement in the City of Guelph. Enbridge itself has pointed to the property taxes paid with respect to its pipelines as a justification for not paying any land-based charges for the public lands where those pipelines are located.

13. We ask for a revised response that provides a complete answer to the question.

EGI-EMG-10

14. Parts (a) and (c) of this interrogatory asked Enbridge to share the length of pipelines owned by the Corporation in the City of Guelph, as well as a list of all infrastructure owned, described by type, size and use.

15. Enbridge refused both requests on the grounds that the information is not relevant given the scope of the proceeding.

16. On the contrary, the information is relevant to the issues raised by the municipality and eMerge Guelph regarding compelling reasons to deviate from portions of the Model Franchise Agreement, including sections dealing with the allocation of relocation costs, land-based charges, and abandonment of pipelines. Any positions Enbridge takes with regard to the existence of compelling reasons to deviate from the current agreement terms

should be made in final submissions and should not limit the disclosure of relevant information at this stage of the proceeding.

17. We ask for a revised response that provides a complete answer to the question.

EGI-EMG-11

18. This interrogatory asked Enbridge to share the following information about the pipelines and other infrastructure owned by the Corporation in the City of Guelph:

    a. Length of pipelines on City of Guelph and private property, not on a municipal highways;

    b. Land-based fees paid for the above;

    c. Fees paid to landowners for use of private property for pipelines; and

    d. List of other infrastructure located under municipal and privately-owned property in the City of Guelph.

19. Enbridge declined to provide the information requested on the basis that it was outside the scope of the proceeding.

20. The information is relevant to the relief sought by the City of Guelph with the support of eMerge Guelph for a franchise agreement term permitting municipal land-based fees in the event of provincial legislative amendments, which would avoid locking the municipality into providing free access to its land for an extended period of time regardless of whether the ongoing campaign to amend provincial legislation is successful.

21. We ask for a revised response that provides a complete answer to the question.

EGI-EMG-16

22. This interrogatory asked Enbridge to explain their position regarding the merits of three proposed franchise agreement terms (sections 12(b), 12(c) and 15(b)). It also asked Enbridge to provide a position on the relief sought by the City of Guelph in relation to those provisions.

23. Enbridge refused to provide the information requested on the basis that it was outside the scope of the proceeding.

24. The information sought is relevant to the application before the Board.

25. In bringing an application under section 10 of the *Municipal Franchises Act*, Enbridge bears the burden to prove why a franchise renewal on the specific terms proposed is required for public convenience and necessity. This is particularly true in a case such as this where the municipality opposes specific proposed agreement terms. It is reasonable to request that the Corporation provide, at this stage, information regarding its position on the challenged terms in order that the parties may efficiently and effectively address those arguments in their submissions.

26. Alternatively, if Enbridge is not directed to answer this question by way of an interrogatory response, it should be directed to provide its rationales in its argument-in-chief. If Enbridge waits to provide its rationales until its reply, intervenors will not have a chance to respond.

Order is justified

27. For those reasons, eMerge Guelph requests an order for full and adequate responses to the interrogatories identified above.