



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

January 22, 2025

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: EPCOR Natural Gas Limited Partnership
Application for a Certificate of Public Convenience and Necessity (Norfolk County)
Enbridge Gas Final Argument Submissions
Ontario Energy Board File Number: EB-2024-0239**

Pursuant to Procedural Order No. 1 to the above noted proceeding, Enbridge Gas hereby files its final argument submissions.

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

c.c. (email only): Tim Hesselink, EPCOR Natural Gas Limited Partnership
Tayler Meagher, EPCOR Natural Gas Limited Partnership
Annette Demaiter, 1390204 Ontario Inc.
Chris Demaiter, 2670338 Ontario Inc.
Natalya Plummer, OEB
Richard Lanni, OEB

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, (Schedule B) as amended;

AND IN THE MATTER OF the *Municipal Franchises Act*, R.S.O. 1990, c. M.44, as amended;

AND IN THE MATTER OF an Application by EPCOR Natural Gas Limited Partnership for an Order for a limited Certificate of Public Convenience and Necessity to supply natural gas in Norfolk County.

SUBMISSIONS OF ENBRIDGE GAS INC.

1. These are the submissions of Enbridge Gas Inc. (Enbridge Gas) regarding the application by EPCOR Natural Gas Limited Partnership (EPCOR) for an order approving a limited Certificate of Public Convenience and Necessity (CPCN) to supply natural gas in Norfolk County.
2. Enbridge Gas holds a franchise agreement (EB-2005-0506) and CPCN (EB-2021-0238-H) allowing it to provide gas services to approximately 24,500 customers in most areas within the single-tier municipality of Norfolk County. Enbridge Gas' CPCN specifically includes the area in which EPCOR was initially proposing that it be granted CPCN rights to allow a pipeline to be built to provide additional gas supply to an existing EPCOR customer (EZ Grow Farms). That proposed pipeline is now built and in operation.
3. Section 8 of the *Municipal Franchises Act* provides that no person shall construct any works to supply natural gas in a municipality without the approval of the OEB. Therefore, a CPCN is required prior to the construction of any works to supply natural gas within a municipality. The facilities proposed by EPCOR and subsequently constructed by Clearbeach Resources (Clearbeach) to supply additional gas to EZ Grow Farms are on lands that are already part of the CPCN held by Enbridge Gas so this will require OEB approval of a by-pass.
4. As noted, based on EPCOR's responses to interrogatories¹, the proposed pipeline to provide the additional gas supply has already been constructed and is in operation. EPCOR's request for additional CPCN rights within Norfolk County was based on its proposal to supply the required additional natural gas to EZ Grow Farms by having Clearbeach construct a new pipeline at Concession 7 - Lots 2 and 3 (excluding municipal addresses 220 and 230 8th Concession Road) and Concession 7 – North Part of Lot 2 in Norfolk County which would traverse Enbridge Gas' CPCN territory.² Following construction, EPCOR proposed buying the newly constructed pipeline from Clearbeach³ and entering into a system gas supply agreement with Clearbeach to supply the additional gas volumes for EZ Grow Farms.⁴

¹ EPCOR Response to OEB STAFF-2 dated January 7, 2025

² Application dated August 15, 2024, pages 4 and 5.

³ Application, page 6, paragraph 7

⁴ Application, page 7, paragraph 8

5. Enbridge Gas interprets EPCOR's application to mean that EPCOR was contracting with Clearbeach to build the pipeline for EPCOR and to contract for gas supply from Clearbeach. In any event, EPCOR is the OEB-regulated gas distributor seeking OEB approval to provide ongoing service pursuant to the requested CPCN. Therefore, it was EPCOR's responsibility to ensure that construction did not commence until OEB approval of the CPCN was obtained. This is the main concern that Enbridge Gas has with the EPCOR application.
6. Regarding the OEB's review of the requested by-pass, Enbridge Gas notes that one of the key considerations in determining whether a by-pass approval is appropriate is whether there will be harm to existing ratepayers of the "by-passed" utility – i.e., Enbridge Gas.⁵ While Enbridge Gas questions the premature construction of the Clearbeach pipeline, as long as the CPCN rights within Norfolk County that are subject of this application are limited to providing additional gas supply to EZ Grow Farms, there should be limited impact on Enbridge Gas' existing ratepayers given the nature of Enbridge Gas' facilities in this area.
7. Enbridge Gas would like to correct the record based on EPCOR's statement – "*To the best of ENGLP's knowledge, the location of the nearest Enbridge Gas distribution pipeline is 7 km northeast of the proposed pipeline and associated facilities*".⁶ While we have existing facilities closer than 7 km, Enbridge Gas is not in a position to provide additional supply to EZ Grow Farms without incurring system reinforcement costs.
8. OEB Staff proposed conditions of approval for the proposed CPCN that are reporting requirements of EPCOR specifically associated with the construction of a project⁷. EPCOR appears to disagree with the proposed conditions because they are typically associated with projects requiring leave to construct. Enbridge Gas notes that the proposed conditions include giving the OEB notice in advance of construction and in advance of putting the new supply line in service which is not possible given that the proposed project has already been constructed by Clearbeach and is in operation prior to any approvals being issued by the OEB.
9. It is clear from the wording of section 8 of the *Municipal Franchises Act* that prior OEB approval of the CPCN is required before construction proceeds. EPCOR should at a minimum be required to explain and justify its and its contractor's premature actions in this regard and the OEB can determine any other appropriate directions to be provided.

⁵ EBRO 410-1 / EBRO 411-1 / EBRO 412-1 - Reasons for Decision (December 12, 1986)

⁶ EPCOR Response to OEB STAFF-1(c) dated January 7, 2025

⁷ EPCOR Response to OEB STAFF-3 dated January 7, 2025