

ONTARIO ENERGY BOARD

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 Natural Resources Gas Limited for an order approving the terms and conditions upon which, and the period for which, the Corporation of the Town of Aylmer is, by by-law, to grant to Natural Resources Gas Limited the right to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works in the Town of Aylmer;

AND IN THE MATTER OF an application by Natural Resources Gas Limited for an order directing and declaring that the assent of the municipal electors of the Town of Aylmer to the by-law is not necessary.

DRAFT ISSUES LIST OF THE TOWN OF AYLMER

1. The Board's Decision and Order dated May 5, 2009 in EB-2008-0413 (the "2009 Franchise Decision") at page 12 refers to the Board's 1986 Report in acknowledging the legitimacy of "municipalities seeking alternative supply in the appropriate circumstances".
 - a. What is the process for municipalities seeking alternative supply to follow?
 - b. What are the "appropriate circumstances" in which the Board would order that municipalities be permitted to not renew their Franchise Agreement(s) in order to seek alternative supply?
2. Subsection 10(2) of the *Municipal Franchises Act* clearly gives the Board jurisdiction to make an order refusing a renewal or extension of the rights contained in a Franchise Agreement. Section 2.2 of the *OEB Act* requires that the Board in exercising such power have regard to, among other things, the interests of consumers with respect to the reliability of gas service.
 - a. What powers does the Board have to ensure the reliability of gas service in the period of transition between the making of an order refusing the renewal or extension of a Franchise Agreement and the commencement of service by a new supplier under a new Franchise Agreement?

- b. What is the appropriate process for municipalities seeking alternative supply to request the exercise of those powers?
- 3. The 2009 Franchise Decision, at page 12, acknowledges the legitimacy of municipalities in the NRG service area seeking to align the expiration dates of all of their respective Franchise Agreements.
 - a. What is the process for municipalities to follow in order to seek orders of the Board aligning the expiration dates of their respective Franchise Agreements?
 - b. Should this proceeding be adjourned, with the Interim Order herein dated February 27, 2012 remaining in effect, until such time as similar applications have been commenced in respect of each of the Franchise Agreements of the other municipalities in the NRG service area, so that the issue of the alignment of the renewal and expiry dates can be addressed in a consolidated hearing?
- 4. Whether the Board should reconsider the 2009 Franchise Decision in light of its February 11, 2011 Decision and Order in EB-2010-0374?
- 5. If the Franchise Agreement with NRG is to be renewed, should the Board make it a condition of renewal that:
 - a. NRG be required to commit to conduct and adopt a new cost-allocation study to ensure that all costs and revenues are properly allocated between rate classes prior to its next rate hearing;
 - b. Either,
 - i. NRG's shareholder be required to remove the "retractable" feature of NRG's Class "C" shares; or
 - ii. NRG be required to provide to the municipalities a Postponement Agreement in favour of NRG's security deposit holders relating to the redemption of the Class "C" retractable shares in a form substantially similar to the Postponement Agreement that NRG provided to the BNS on August 26, 2008 and that it provided to Union Gas pursuant to the Board's Decision and Order dated November 27, 2008 in EB-2008-0273; and
 - c. NRG be required to implement a complete separation of its utility gas distribution business from its non-utility ancillary businesses such as hot water heater rentals?
- 6. Whether there are continuing concerns regarding NRG's quality of service, reliability, and financial viability that affect the renewal terms sought by NRG?

7. If the Franchise Agreement with NRG is to be renewed, is there any reason to renew it for a term greater than the 10 years, that was considered adequate for a renewal agreement in the 2009 Franchise Decision at page 5, and in the Board's 1986 and 2000 Reports?
8. Who should bear the costs of this proceeding?