



Ontario Energy Board Commission de l'énergie de l'Ontario

DECISION ON INCOMPLETE INTERROGATORY RESPONSES

EB-2016-0004

ONTARIO ENERGY BOARD

GENERIC PROCEEDING ON NATURAL GAS EXPANSION IN
COMMUNITIES THAT ARE NOT SERVED

BEFORE: Ken Quesnelle
Vice Chair and Presiding Member

Cathy Spoel
Member

Paul Pastirik
Member

May 2, 2016

1 INTRODUCTION AND SUMMARY

In response to the Ontario Government's letter¹ that encouraged the OEB to examine opportunities to facilitate access to natural gas services to more communities, the OEB issued a letter² stating that it will hear requests for regulatory flexibility or appropriate exemptions in the context of an application made for approvals pertaining to expansion projects. The OEB invited parties with the appropriate technical and financial expertise to propose, within their application, any options to facilitate the provision of natural gas service to communities that do not have access.

In response to the letter, Union Gas Limited (Union) filed an application (EB-2015-0179) in July 2015 with the OEB seeking approval to provide natural gas service to certain communities that do not have access to natural gas. Based on the submissions of the parties in that proceeding, the OEB through a letter dated January 20, 2016, informed all parties that it intended to proceed with a generic hearing on its own motion as the issues raised by all the parties were common to all gas distributors and new entrants seeking to provide gas distribution services in communities that do not have access to natural gas. The OEB noted that a generic proceeding would allow it to establish a common framework and provide guidance to all entities that wish to provide gas distribution services in communities across Ontario.

The OEB also noted in that letter that Union's application (EB-2015-0179) would be put on hold until the completion of the generic hearing.

Accordingly, the Board in a Decision and Procedural Order No. 2 issued on March 9, 2016, approved intervenors in the proceeding, determined a final Issues List for the proceeding and set the procedural dates for filing of evidence, discovery of the evidence and the oral hearing.

¹ Ontario Minister of Energy Letter dated February 17, 2015 to the Chair of the Ontario Energy Board

² Ontario Energy Board issued letter dated February 18, 2015

2 THE PROCESS

At the Pre-Hearing Conference held on April 26, 2016, some parties indicated that there were interrogatories posed to various other parties that were inadequately answered in their opinion.

The OEB directed parties that were seeking further responses to interrogatories to inform the OEB of the rationale for the request by April 27, 2016. Parties from which further information was requested were directed to respond to the requests by April 29, 2016.

The School Energy Coalition (SEC), Environmental Defence (ED), Parkland Fuel Corporation (Parkland), Union Gas Limited (Union), Enbridge Gas Distribution Inc. (Enbridge), Greenfield Speciality Alcohols Inc. (Greenfield), EPCOR utilities Inc. (EPCOR) and the Municipalities of Kincardine, Arran-Elderslie and Huron-Kinloss (South Bruce) filed information requesting better responses to some of the interrogatories.

School Energy Coalition Interrogatories

SEC sought better information on the following interrogatories:

R13.SouthBruce.SEC.3

R13.SouthBruce.SEC.4

S4.EPCOR.SEC.7

S4.EPCOR.SEC.8

S4.EPCOR.SEC.12

S4.EPCOR.SEC.13

S4.EPCOR.SEC.14

S4.EPCOR.SEC.15

S.15.Union.SEC.8

SEC sought information from EPCOR and South Bruce with respect to the franchise agreement that was recently signed between the two parties. SEC requested information regarding the Request for Information (RFI), the process that ultimately led to the signing of the franchise agreements and the franchise agreements themselves.

SEC argued that this information is relevant to Issue number 8 in this proceeding which seeks to address the conditions that should be added to or changed in Municipal Franchise Agreements to reduce barriers to expansion..

With respect to interrogatories submitted to EPCOR, SEC argued economic aspects of their successful proposal to the South Bruce municipalities such as revenue streams flowing back to the municipalities, submissions received with respect to benefits of the competitive solicitation process, inclusion of subsidies or shareholder contribution, term of the Incremental Tax Equivalent, rate analysis and Profitability Index (PI) of each of the municipalities are relevant.

EPCOR responded to S4.EPCOR.SEC.7 and SEC.13. EPCOR argued that the rest of the interrogatories relate to the franchise application, or future rates or leave to construct applications, not the generic issues that are the subject of this proceeding.

South Bruce similarly argued that the information sought by SEC is not relevant to the proceeding.

The interrogatory directed to Union, requests Union's anticipated average use information for each of the next 40 years which SEC argued is relevant to understanding the long term trend of natural gas consumption including the impact of the recently announced cap and trade program. SEC observed that Enbridge provided similar information for its franchise area.

Union submitted that Enbridge's forecast was prepared on a 15 year basis not 40. Union claimed that it does not have such a forecast for either 40 or 15 years. Union also argued that the impact of greenhouse gas (GHG) emissions on overall gas consumption is outside the scope of this proceeding.

Environmental Defence

Environmental Defence (ED) sought responses from Union with respect to the following interrogatories:

S15.Union.ED.1

S15.Union.ED.4

S15.Union.ED.5

In interrogatory number 1, ED sought Union's comments on a number of potential criteria for projects to be eligible for a subsidy from existing customers including comments on comparing them to alternatives such as conservation or renewable energy investments. The rationale for this question was to understand whether the funds could be better spent on other projects.

Interrogatories 4 and 5 sought information from Union on the steps taken to plan for and estimate further reductions in natural gas consumption needed to meet Ontario's GHG

emission reduction targets. ED submitted that the information was important to understand the reasons for providing a subsidy to expand natural gas consumption when the province will need to make efforts to reduce natural gas consumption in the future.

Union undertook to provide a response to interrogatory number 1 in advance of the oral hearing.

With respect to interrogatories numbers 4 and 5, Union argued that the information requested is outside the scope of the generic proceeding, as it's interest in providing natural gas to communities stems from requests of customers and municipalities who desire natural gas distribution service.

Parkland Fuel Corporation

Parkland sought further information from Enbridge on interrogatory S3.EGDI.Parkland.3 which requested information pertaining to natural gas conversion costs.

In a response dated April 29, 2016, Enbridge provided the additional information requested by Parkland.

Union Gas Limited

Union sought information on the following interrogatories:

Union to EPCOR – IR # 2, 3(b), 5(a), 5 (b) and 8 (a) to (c); and

Union to South Bruce 1(a), 2(a), 3(a) and 4(a)

These interrogatories all relate to the recently signed franchise agreement between EPCOR and South Bruce and the competitive bidding process that led to it. Union argued that the information would be relevant to the OEB as it provided a real and current example of a competitive franchise process and the franchise agreement terms resulting from that process. Union submitted that the requested information would assist the OEB in considering any conditions or changes to the Model Franchise Agreement. EPCOR and South Bruce argued that the interrogatories were not relevant to a generic hearing as EPCOR's applications and franchise agreements are not at issue in this proceeding.

South Bruce also argued that its franchise agreements are not being put forward as an example for the OEB to consider changes to the Model Franchise Agreement. South Bruce further noted that if Union wishes to challenge the specific commercial arrangement arrived at between South Bruce and EPCOR then it can do so in the OEB

proceedings established to consider the franchise agreements (EB-2016-0137, 2016-0138 and 2016-0139).

Enbridge Gas Distribution

Enbridge sought complete information on interrogatory number 1 to South Bruce (R13.SouthBruce.EGD.1). Enbridge submitted that a complete response to the interrogatory would assist the OEB in its consideration of whether there is an appropriate framework under which Request for Proposal (RFI) processes can be used to facilitate the provision of natural gas service to unserved communities.

South Bruce argued that the RFI proposals were not relevant to the generic hearing. South Bruce submitted that it has already provided a comprehensive report documenting the RFI process and that the decision of the municipalities to select EPCOR is not an issue in the generic hearing. Disclosure of the proposals would undermine the integrity of the confidential RFI process that was undertaken by the municipalities.

Greenfield Speciality Alcohols Inc.

Greenfield indicated its support of the requests of SEC and Union for the EPCOR and South Bruce information.

South Bruce

South Bruce noted that it did not receive any response to an interrogatory filed with the Township of Edwardsburgh Cardinal. The Township confirmed that it would file the response by Monday May 2, 2016.

EPCOR Utilities Inc.

EPCOR sought complete responses to the following interrogatories:

Union interrogatory from EPCOR 2(b), which sought the curriculum vitae (CV) of the authors of the LEI report. Union confirmed that it will file the CVs in advance of the oral hearing.

Union interrogatories 4(a to c), 4(d) and 4(f)

The interrogatories sought information on Union's franchise agreements with municipalities. EPCOR noted that the information would provide more public data facilitating entry and would provide information about the degree to which incumbent distributors are securing exclusive franchise rights but not constructing facilities within a reasonable time.

EPCOR sought complete response to interrogatory number 1(b), (c), (d) and (e) filed with Enbridge, which sought similar information on its franchises

Union and Enbridge argued they were not relevant to the generic hearing.

3 OEB DECISION

The OEB notes that some parties have answered or undertaken to answer some interrogatories as noted above. The OEB directs those parties to file this information as soon as reasonably possible, and in any event by May 3, 2016.

With respect to the contested interrogatories, in the context of a generic hearing, the OEB will only require the production of information that will assist in the development of a framework. The testing of the specifics of any particular transaction or proposal is not necessary and in fact may unduly limit the hearing panel's focus to what has recently transpired in negotiations. The hearing panel has based the determinations on whether the information is relevant to the current proceeding. The OEB accepts the rationale provided by EPCOR, Enbridge, South Bruce and Union with the exception of Union's response to SEC regarding its forecasts of gas consumption. The OEB considers demand projections to be informative in the development of a framework dealing with long term assets. Accordingly, the OEB orders Union to respond to S.15.Union.SEC.8 by Wednesday, May 3, 2016.

Union expressed concern that no representative of EPCOR would be present as witness in the proceeding and Dr. Yatchew who will be an expert witness has no direct knowledge of factual matters asserted by EPCOR. In response, EPCOR submitted that it has provided an expert witness who is an independent neutral economist experienced in policy matters that would be very helpful to the OEB in a generic proceeding. The OEB accepts EPCOR's response and will not require a witness from EPCOR to be available for cross-examination.

All filings to the OEB must quote the file number, EB-2016-0004 and be made electronically in searchable / unrestricted PDF format through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Khalil Viraney at Khalil.Viraney@ontarioenergyboard.ca and Board Counsel, Michael Millar at Michael.Millar@ontarioenergyboard.ca

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DATED at Toronto, **May 2, 2016**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary