



EB-2017-0108

Union Gas Limited

**Application for certificates of public convenience and
necessity for Norfolk County, the County of Elgin,
and the County of Middlesex**

**PROCEDURAL ORDER NO. 6
June 7, 2018**

Union Gas Limited (Union Gas) applied to the Ontario Energy Board (OEB) on February 24, 2017, under section 8 of the *Municipal Franchises Act*, for an order amending Union Gas' authorizations to construct gas works and supply gas in Norfolk County, the County of Elgin and the County of Middlesex (the Counties). EPCOR Natural Gas Limited Partnership (EPCOR) and OM Limited Partnership (OMLP) are intervenors in the proceeding.

Through procedural orders, the OEB provided for an interrogatory process and a settlement conference that extended to the end of January 2018.

On January 30, 2018, Union Gas filed a letter indicating that there was no settlement proposal arising from settlement discussions and requested an opportunity to update its application.

On February 5, 2018, the OEB issued Procedural Order No. 4, which ordered Union to file any updates to its application by February 16, 2016, and made provision for intervenors to submit evidence if they chose to do so, as well as for an interrogatory process for intervenor evidence (while reminding parties to refrain from using or sharing information arising out of the settlement conference).

On March 5, 2018, EPCOR filed a letter advising the OEB that it intended to file intervenor evidence by the March 9, 2018 deadline. On March 8, 2018, EPCOR filed a second letter advising the OEB that EPCOR would not be filing intervenor evidence.

In accordance with the OEB's Procedural Order No. 5, issued on March 26, 2018, EPCOR, OMLP and OEB staff filed their written submissions by April 12, 2018, and Union Gas filed its reply submission by April 26, 2018.

OEB staff's submission presented two options for the OEB to consider. Option "A" would result in an OEB Order cancelling the existing certificates of public convenience and necessity (certificates) in the Counties and issuing new certificates to Union Gas and EPCOR, relating to the applicable lower-tier municipality and limited to the metes and bounds of their respective existing infrastructure. Alternatively, Option "B" would result in an OEB Order cancelling the existing certificates in the Counties and replacing them with a certificate for the whole of the lower-tier municipality. A certificate would be awarded to one utility if it was the only distributor in the lower-tier municipality. Where there was more than one utility providing service in a lower-tier municipality, the OEB would grant certificates to each utility limited to the metes and bounds of each utility's existing infrastructure in the municipality.

In its reply submission, Union Gas indicated a preference for a third option: Option "C". Union Gas submitted that, under this option, the OEB could cancel all existing certificates in the Counties and issue to one utility a lower-tier certificate for the whole municipality if it was the only distributor in the area; and, if Union Gas and EPCOR both have infrastructure in the area, then the utility who owns the majority of the infrastructure in the area could be granted a lower-tier certificate that covers the area of the whole municipality, excluding the areas where the other utility has infrastructure. The other utility would then be granted a certificate for the lower-tier municipality limited only to the areas where it currently has infrastructure. If neither distributor has a majority of the infrastructure in the lower-tier municipality, then each distributor is granted a certificate limited to the specific lots on which it currently has infrastructure, leaving the remaining areas without a certificate.

On May 9, 2018, EPCOR filed a letter of comment, stating that it maintains the position outlined in its submission dated April 12, 2018 but that, if the OEB is inclined to select one of the options, EPCOR prefers Option "A". EPCOR also stated that "if required, [EPCOR] would be happy to provide further submissions regarding the matters discussed in this letter". Union Gas filed a letter on May 10, 2018, stating it was inappropriate for EPCOR to file what it effectively considered to be a sur-reply, given

that the OEB had not, by procedural order, made any provision for further submissions from EPCOR after April 12, 2018.

Having considered the unique nature of Union Gas' application and its potential impact on EPCOR, as well the options presented in OEB staff's submission, the OEB will provide an opportunity for EPCOR to provide further submissions. In particular, EPCOR is invited to address the consumer-related issues raised by Union Gas in respect to Options "A" and "B", which in Union Gas' view, would result in delays before a new customer outside the service boundary can receive service; and additional costs. The OEB will also provide for a further reply submission from Union Gas.

The OEB considers it necessary to make provision for the following matters related to this proceeding. The OEB may issue further procedural orders from time to time.

IT IS THEREFORE ORDERED THAT:

1. EPCOR Natural Gas Limited Partnership may file a written submission with the OEB and serve it on all parties by **June 15, 2018**.
2. Union Gas Limited may file a written reply submission with the OEB and serve it on all parties by **June 22, 2018**.

All filings with the OEB must quote the file number **EB-2017-0108**, and be made through the OEB's web portal at <https://www.pes.oeb.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the OEB by 4:45 p.m. on the stated date. Parties should use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.ca. If the web portal is not available, parties may e-mail their documents to the attention of the Board Secretary at BoardSec@oeb.ca.

ADDRESS

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DATED at Toronto, **June 7, 2018**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary