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June 15, 2018

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor, 2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: EPCOR Natural Gas Limited Partnership (EPCOR)
Application for approval of municipal franchise agreement with the County of Oxford
OEB File Number EB-2017-0232**

In accordance with Procedural Order No. 2, please find attached OEB staff's submission on Union Gas Limited's motion to compel further and better interrogatory responses from EPCOR. Union Gas has been copied on this filing.

Yours truly,

Original signed by

Azalyn Manzano
Case Manager

/ attach.



ONTARIO ENERGY BOARD

OEB STAFF SUBMISSION

EPCOR Natural Gas Limited Partnership

EB-2017-0232

**MOTION TO COMPEL FURTHER AND
BETTER INTERROGATORY RESPONSES**

June 15, 2018

Introduction

These are OEB staff's submissions on the motion filed by Union Gas Limited (Union Gas) for an order of the OEB compelling EPCOR Natural Gas Limited Partnership (EPCOR) to provide full and adequate responses to certain of Union's interrogatories in this proceeding.

Background

EPCOR filed an application with the OEB for an order approving EPCOR's proposed franchise agreement with the County of Oxford.¹ The OEB issued a Notice of Hearing on February 2, 2018. Union Gas and OEB staff are also parties to the proceeding.

On April 19, 2018, the OEB issued Procedural Order No. 1 (P.O. 1), which set the schedule for the written hearing. In accordance with P.O. 1, EPCOR filed its responses to interrogatories from OEB staff and Union Gas on May 17, 2018.

On May 25, 2018, Union Gas filed a motion with the OEB to compel EPCOR to provide full and adequate responses to Union Gas' interrogatories 1(c) and 2(d) (the Motion). These interrogatories, together with EPCOR's responses to them, are provided below for ease of reference:

Intervenor Interrogatory 1

Reference: EPCOR Application, page 1

"All of NRG's customers in Oxford are located within lower-tier municipalities with valid franchise agreements. NRG's natural gas distribution facilities exclusively within Oxford's jurisdiction relate to three county roads (specifically, Culloden Line, Prouse Road and Brownsville Road), as shown in a diagram attached as Schedule "B"."

Questions:

... c) Please provide a customer density map showing the location of EPCOR's customers and facilities within the Township of South-West Oxford.

Response:

Please see EPCOR's response to Board Staff's Interrogatory #3

¹ The application was filed by Natural Resource Gas Limited (NRG) on August 24, 2017. NRG was subsequently acquired by EPCOR in November 2017.

Intervenor Interrogatory 2**Reference: EPCOR Application, page 3**

“At Oxford’s request, NRG agreed to remove a reference to the Drainage Act in the Proposed Franchise Agreement and provided Oxford with a revised Proposed Franchise Agreement (the “Revised Franchise Agreement”).”

Questions:

... (d) Please explain the harm to either the County of Oxford or EPCOR’s customers of leaving the clause related to the Drainage Act within the franchise agreement.

Response:

Please see EPCOR’s response to Board Staff’s Interrogatory #1.

In Union Gas’ view, EPCOR has not provided an adequate response to Union Gas’ Interrogatories 1(c) and 2(d).

On May 28, 2018, EPCOR filed a letter in response to the Motion, providing further information and ultimately stating that the Motion is unnecessary to resolve these matters.

On May 30, 2018, the OEB issued Procedural Order No. 2 (P.O. 2) giving notice of the Motion and setting the timeline for filing additional evidence and written submissions on the merits of the Motion.

OEB Staff Submission**Customer Density Map**

Union Gas submits that EPCOR should be required to provide a “customer density map”. In Union Gas’ view, OEB staff has requested, and the OEB has since expected, gas distributors to file customer density maps following the proceeding that approved Enbridge Gas Distribution Inc.’s franchise agreement with the Township of Collingwood in the EB-2017-0159 proceeding (the Collingwood Decision)², for the purpose of allowing the OEB to identify what service is being provided in the area, and the extent of the service.

² Decision and Order, EB-2017-0159, July 20, 2017

EPCOR has not filed a customer density map on the record of this proceeding. EPCOR states that OEB staff has not requested a customer density map for the County of Oxford, and that such a map is irrelevant for renewing its franchise agreement with the County of Oxford. EPCOR submits that there is relatively low density in the County of Oxford, that it does not currently have a customer density map prepared, and cannot quickly prepare one.

As stated by the OEB in the Collingwood Decision, the “OEB requires a clear understanding of where customers are being served by rate-regulated natural gas distributors within the Province.” OEB staff notes that EPCOR has filed two maps with its application: a map showing the location of the County of Oxford within southern Ontario (Schedule “A”); and, a map showing that the location of EPCOR’s facilities within the County of Oxford related to three county roads (Schedule “B”). In OEB staff’s view, these maps do not satisfy the needs of the OEB with respect to an application brought under the *Municipal Franchises Act* as articulated in the Collingwood Decision.

In OEB staff’s view, while there is no official requirement to file a “customer density map”, *per se*, EPCOR should still be responsive to the OEB’s guidance made in the Collingwood Decision. That is to say, EPCOR should file information that accurately delineates its service boundaries, as well as the general location and density of the customers it serves, in the County of Oxford. OEB staff submits that the information contained in a customer density map is relevant to this proceeding and it is not unreasonable to expect that EPCOR provide it. However, the information need not necessarily be provided in the form of a customer density map, but the required information that would be gleaned from a customer density map should be filed on the record.

Proposed Deviation from the MFA

EPCOR proposes a municipal franchise agreement that varies from the MFA in both form and substance. Substantively, the proposed deviation from the MFA concerns the removal of Paragraph 5. (g), which states:

Where the gas system may affect a municipal drain, the Gas Company shall also file a copy of the Plan with the Corporation’s Drainage Superintendent for the purposes of the *Drainage Act*, or such other person designated by the Corporation as responsible for the drain.

Union Gas states that the OEB rarely approves deviations from the MFA, and only

does so only when there are “exceptional and unique circumstances” particular to the municipality that would warrant such a deviation. This is because the MFA is the result of extensive consultations between gas distributors and municipalities and is meant, as stated by Union Gas in the Motion, to prevent unfairness in its “...uniform application to all municipal franchises relating to the provision of natural gas”. Union Gas is concerned that the removal of this clause might set a precedent for other franchise agreements. Union Gas states that EPCOR should explain what harm will ensue if Paragraph 5. (g) is left in intact in order to allow the OEB to determine whether such a deviation is justified in this case.

In its May 28, 2018 letter in response to the Motion, EPCOR reiterates its prior submissions that the proposed deletion of the *Drainage Act* clause is at the County of Oxford’s request, despite numerous explanations by EPCOR to the municipality that such deviations are rarely approved. EPCOR does not appear to have an overriding interest in keeping the clause in, or out, of its franchise agreement for the County of Oxford. To this point, EPCOR also submits that it is willing to either bring back to the County of Oxford a franchise agreement with the *Drainage Act* clause intact, or accept an order of the OEB granting a franchise agreement on whatever terms the OEB deems to be just.

In OEB staff’s view, EPCOR should provide a response to the specific question set out in Union Gas Interrogatory 2(d). That is, providing an explanation of the harm to either the County of Oxford or EPCOR’s customers if the clause related to the *Drainage Act* is left in the franchise agreement. OEB staff believe an understanding of the rationale for changes to the franchise agreement would be helpful in considering whether the changes should be approved. As part of this response, OEB staff would appreciate EPCOR’s explanation as to why any of the formatting changes (i.e. the proposed changes to headings, subheadings, paragraph numbering, etc.) are required because in OEB staff’s view, there is overall benefit in having municipal franchise agreements remain as consistent as possible with the MFA.

All of which is respectfully submitted.