

April 12, 2019

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Certificates of Public Convenience and Necessity
Norfolk County, the County of Elgin and the County of Middlesex
Board File Number: EB-2017-0108**

Following are the submissions of Enbridge Gas Inc. on the March 29, 2019 submission by EPCOR Natural Gas Limited Partnership (EPCOR) of draft Certificates of Public Convenience and Necessity (CPCNs) with accompanying service area maps.¹

Customer Density Maps

In its Decision and Order dated October 11, 2018, the Ontario Energy Board directed Union Gas Limited (now Enbridge Gas Inc.)² and EPCOR to file customer density maps with boundaries delineating each area of authorization for each of the lower-tier municipalities in the County of Elgin and the County of Middlesex in which both EPCOR and Enbridge Gas have infrastructure, and customer density maps for Norfolk County for the areas for which Enbridge and EPCOR currently have authorization, complete with the metes and bounds information in lots and concessions.³

In its Decision and Order dated July 20, 2017 in the EB-2017-0159 proceeding addressing Enbridge Gas Distribution's franchise agreement with the Township of Collingwood, the Ontario Energy Board determined that customer density maps must accurately inform the OEB of the distributor's service boundaries as well as the general location and density of customers served.⁴

In its Decision on Motion and Procedural Order No. 3 dated October 4, 2018 in the EB-2017-0232 proceeding addressing EPCOR's franchise agreement with the County of Oxford, the Ontario Energy Board stated the following⁵:

¹ Based on its review of the March 29, 2019 submissions, Enbridge Gas will submit amended CPCNs and maps for its own service areas with its April 26, 2019 reply submissions to be consistent with the comments made in this submission.

² Effective January 1, 2019, Union Gas Limited and Enbridge Gas Distribution amalgamated to become Enbridge Gas Inc.

³ EB-2017-0108 - Decision and Order dated October 11, 2018, page 19

⁴ EB-2017-0159 - Decision and Order dated July 20, 2017, page 3

⁵ EB-2017-0232 - Decision on Motion and Procedural Order No. 3 dated October 4, 2018, page 3

“I agree with OEB staff and Union Gas that the guidance in the Collingwood Decision was meant to apply to all rate regulated gas distributors in Ontario. In the interest of moving this application forward, EPCOR ought to provide information that would be gleaned from a customer density map. In particular, I expect that EPCOR will provide 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.”

Going forward, EPCOR is expected to abide by the same standards as other natural gas distributors in Ontario. Unless the cost is considered prohibitive or the undertaking so onerous, a customer density map should be provided as part of any application filed for the approval of municipal franchise agreements and certificates. The onus would be on the distributor to justify why a customer density map could not be provided. At a minimum, information that accurately delineates service boundaries and the general location and density of customers ought to be provided to the OEB in proceedings under the Municipal Franchises Act.” [emphasis added]

The customer density maps EPCOR provided for Norfolk County, the Municipality of Bayham, the Municipality of Central Elgin, the Township of Malahide and the Municipality of Thames Centre in its March 29, 2019 submission fall short of the requirement to show the location and density of EPCOR’s customers within these municipalities. As is noted later in this submission, the maps provided do not allow for any determination to be made of where EPCOR’s facilities are located within these municipalities nor the metes and bounds limitations of EPCOR’s CPCNs for these municipalities.

The customer density and CPCN maps submitted by Enbridge Gas for Norfolk County (Schedules A2 and A3 of Enbridge’s March 29, 2019 submission) will be amended to omit any indication that Enbridge has any customers or facilities within Lot 1, Concessions 13 and 14.⁶

Certificates of Public Convenience and Necessity

Without more detailed customer density maps showing lots and concessions as well as the general location of EPCOR’s customers, it is difficult to confirm that the areas identified in EPCOR’s draft CPCNs should be included in EPCOR’s service areas going forward.

As a general comment, the metes and bounds descriptions contained within EPCOR’s CPCNs should avoid references to as many former municipalities and counties as possible since historical knowledge of the details of the boundaries of these former areas is fading.

If a CPCN includes a listing of “included” service areas, it is assumed that all other areas in the municipality are excluded so there is no need to include an “excluded areas” section in EPCOR’s CPCN since this would have to include an extensive description of all areas served by Enbridge Gas as well as all areas not currently serviced by any gas distributor.

EPCOR’s CPCNs should make specific reference to the existing CPCNs that are being superseded in order to establish a more complete and easily referenced regulatory record.

⁶ An amended customer density map for Norfolk County will be included in Enbridge’s April 26, 2019 reply submission.

Norfolk County

The Decision and Order grants a new CPCN to each of Enbridge Gas and EPCOR for Norfolk County, limited to the areas covered by their previous CPCNs in Norfolk County, excluding areas where no gas distribution service is provided.⁷ Enbridge Gas' CPCN for Norfolk County will include areas in which Enbridge currently has infrastructure but no existing CPCN.

Former Township of Houghton

EPCOR's draft CPCN for Norfolk County includes descriptions of areas that are proposed to be included and excluded that refer to the former Township of Norfolk and the former Regional Municipality of Haldimand-Norfolk. The service locations on EPCOR's draft CPCN should reflect more of a metes and bounds description.

The description of EPCOR's service area in the former Township of Houghton would be better described as including only the specific lots and concessions within the area bounded by Elgin County Road 55 and Norfolk County Road 23 where EPCOR currently has infrastructure.

Former Township of Middleton

For simplicity and longer-term relevance, for the area formerly known as the Township of Middleton, EPCOR's service area could simply be described as including:

- The south quarters of Lots 1 and 2 in Concession 1 North of Talbot Road.
- All of Lots 1 and 2 in Concession 1 and all of Lot 1 in Concession 2 South of Talbot Road.

Former Township of North Walsingham

For simplicity and longer-term relevance, for the area formerly known as the Township of North Walsingham, EPCOR's service area could simply be described as including:

- All of Lot 1 in each of Concessions 7, 8, 11, 12, 13 and 14.
- All of Lot 1 in Concession 9, save and except all of the northerly 200 feet of the said lot except the westerly 200 feet of the said northerly 200 feet.
- All of Lot 1 in Concession 10, save and except all of the southerly 200 feet of the said Lot except the westerly 200 feet of the said southerly 200 feet.
- The south halves of each of Lots 2, 3, 4 and 5 in Concession 7.

Former Township of South Walsingham

For simplicity and longer-term relevance, for the area formerly known as the Township of North Walsingham, EPCOR's service area could simply be described as including:

- All of Lots 1, 2, 3, 4 and 5, in each of Concessions 1, 2, 3, 4, 5 and 6.
- All of Lots 1, 2, 3, 4 and 5, in each of Ranges A and B.
- All of Marsh Lots 1, 2, 3, 4 and 5.
- All of Gore Lot E, in Concession 3.
- All of Gore Lot D in Concession 2.
- All of Gore Lot C in Concession 1.
- All of Gore Lot B, in Range A.
- All of Gore Lot A, in Range B.

⁷ EB-2017-0108 - Decision and Order dated October 11, 2018, page 3

Enbridge submits that including “The whole of Marsh Lot in front of Gore Lot A, Range B” is already covered under the “All of Marsh Lots 1, 2, 3, 4 and 5” description.

County of Elgin

According to the Decision and Order⁸:

“This Decision and Order also cancels each of Union Gas’ and EPCOR’s upper-tier certificates for the County of Elgin and the County of Middlesex. Where only one distributor currently serves an entire lower-tier municipality, that distributor is granted (or retains) the lower-tier certificate. For areas where both distributors have gas infrastructure present, each distributor is granted a lower-tier certificate limited to the areas where each distributor currently serves.”

EPCOR was directed to submit draft CPCNs for each of the lower-tier municipalities in the County of Elgin in which both Enbridge Gas and EPCOR have infrastructure, complete with the metes and bounds information in lots and concessions of where this infrastructure is located, and customer density maps with boundaries delineating these areas.

There appears to be agreement between Enbridge Gas and EPCOR that the municipalities within the jurisdictional boundaries of the County of Elgin in which both Enbridge and EPCOR have infrastructure are the Municipality of Central Elgin, the Township of Malahide and the Municipality of Bayham.⁹

Central Elgin – Former Village of Belmont

Given the direction in the Decision and Order to limit CPCN service areas to the areas where each distributor currently serves, the EPCOR service area should not be referenced as “all of the former Village of Belmont”. Before the portion of EPCOR’s CPCN addressing the former Village of Belmont can be finalized, a more detailed customer density map showing lots and concessions is required along with a metes and bounds description of the lots within the former Village of Belmont in which EPCOR currently has facilities and customers.

Central Elgin – Former Township of Yarmouth

Given the direction in the Decision and Order to limit CPCN service areas to the areas where each distributor currently serves, before the portion of EPCOR’s CPCN addressing the former Township of Yarmouth can be finalized, a more detailed customer density map showing lots and concessions is required along with a metes and bounds description of the lots within the former Township of Yarmouth in which EPCOR currently has facilities and customers.

There does not appear to be a need to make references to Catfish Creek in EPCOR’s CPCN if specific lots and concessions are referenced.

⁸ EB-2017-0108 – Decision and Order dated October 11, 2018, page 3

⁹ In its Decision and Order (page 14), the OEB states that Enbridge’s and EPCOR’s current CPCNs for lower-tier municipalities in the County of Elgin and the County of Middlesex where they are the sole distributor in the municipality will continue to be valid, except where the CPCN does not reflect the current municipality’s name (in which case new certificates will be issued with the correct name). Enbridge will submit proposed CPCNs for these municipalities in its April 26, 2019 reply submission.

Enbridge notes that EPCOR includes the following area within its draft CPCN for Central Elgin:

- All those parts of Lots 69, 70, 71, 72 and 73 in Concession 8 lying east of Catfish Creek which runs in a general north-easterly direction through such lots

Enbridge Gas is currently serving customers within Lots 69, 70 and 71 of Concession 8 (or South of Talbot Road East and North of Talbot Road East as it is currently referenced) and there is no evidence that EPCOR actually serves any customers in this specific area.

There is no evidence that EPCOR actually serves any customers in the area they have identified on their draft CPCN as “All of Lots 27 and 28 in Concession 9” in Central Elgin and it is not clear exactly where this area is located within Central Elgin.

Based on the maps that EPCOR provided in its March 29, 2019 submission, there is no evidence on the record of this proceeding that EPCOR actually serves any customers within the areas they have identified on their draft CPCN for Central Elgin.

Township of Malahide

The current Township of Malahide was formed in 1998 through an amalgamation of the original Township of Malahide, the former Township of South Dorchester and the former Village of Springfield.

As was noted in the Decision and Order dated October 11, 2018, neither Enbridge Gas nor EPCOR currently holds a CPCN for any areas within the original Township of Malahide.¹⁰

Since both Enbridge Gas and EPCOR have infrastructure in place within the original Township of Malahide, EPCOR is only entitled to CPCN rights in the lots and concessions in which it currently has infrastructure. Based on the maps that EPCOR provided in its March 29, 2019 submission, there is no evidence on the record of this proceeding showing exactly where EPCOR has infrastructure in place within the Township of Malahide so a blanket granting of “all of the former (original) Township of Malahide” as EPCOR’s service area is not appropriate.

Before finalizing EPCOR’s CPCN service area within the Township of Malahide, EPCOR should be directed to provide more detailed mapping (showing lots and concessions) for the Township of Malahide showing customer density indications of where their customers and facilities are located.

Municipality of Bayham

In 1998, the former Township of Bayham, the former Village of Port Burwell, the former Village of Vienna and the former Village of Eden were amalgamated to form the current Municipality of Bayham in the County of Elgin.

Since both Enbridge Gas and EPCOR have infrastructure in place within the Municipality of Bayham, EPCOR is only entitled to CPCN rights for the lots and concessions in which it currently has infrastructure.

¹⁰ EB-2017-0108 – Decision and Order dated October 11, 2018, Table, page 8

Based on the maps that EPCOR provided in its March 29, 2019 submission, there is no evidence on the record of this proceeding showing exactly where EPCOR has infrastructure in place within the Municipality of Bayham so a blanket granting of “all of the former Village of Vienna”, “all of the former Village of Port Burwell” and “all and singular those certain parcels or tracts of land and premises situate, lying and being in the former Township of Bayham” as EPCOR’s service area is not appropriate.

Before finalizing EPCOR’s CPCN service area within the Municipality of Bayham, EPCOR should be directed to provide more detailed mapping (showing lots and concessions) for the Municipality of Bayham showing customer density indications of where their customers and facilities are located.

Enbridge Gas notes that EPCOR’s proposed CPCN for the Municipality of Bayham refers to “the property of Mr. John Siemens Jr., R.R. 1, Eden, Ontario (part of Lot 23, Concession 8)” remaining a service location for EPCOR. It would be more appropriate referring to this service location as 11319 Ridge Road, Bayham given that tagging a service address to a customer who no longer lives there is not appropriate.

County of Middlesex

EPCOR was directed to submit draft CPCNs for each of the lower-tier municipalities in the County of Middlesex in which both Enbridge Gas and EPCOR have infrastructure, complete with the metes and bounds information in lots and concessions, and customer density maps with boundaries delineating these areas.

There appears to be agreement between Enbridge Gas and EPCOR that the only municipality within the jurisdictional boundaries of the County of Middlesex in which both Enbridge and EPCOR have infrastructure is the Municipality of Thames Centre.

Municipality of Thames Centre

The Municipality of Thames Centre was formed on January 1, 2001 when the former townships of West Nissouri and North Dorchester were amalgamated.

Since both Enbridge Gas and EPCOR have infrastructure in place within the Municipality of Thames Centre, EPCOR is only entitled to CPCN rights in the lots and concessions in which it currently has infrastructure. Based on the maps that EPCOR provided in its March 29, 2019 submission, there is no evidence on the record of this proceeding showing exactly where EPCOR has infrastructure in place within the Municipality of Thames Centre.

Based on our own records, Enbridge Gas agrees that all of the former Township of West Nissouri should be excluded from EPCOR’s CPCN for the Municipality of Thames Centre.

Before finalizing EPCOR’s CPCN service area within the Municipality of Thames Centre, EPCOR should be directed to provide more detailed mapping (showing lots and concessions) for the former Township of North Dorchester showing customer density indications of where their customers and facilities are located.

EBC 111 / 119

In its March 29, 2019 submission, EPCOR noted that substantial portions of the EBC 111 / 119 CPCN have been superceded, leaving only the Town of Aylmer and certain areas within the Township of South-West Oxford and the City of London being covered by the EBC 111 / 119 CPCN. EPCOR has offered to submit draft CPCNs and customer density maps for these areas in order to cancel the EBC 111 / 119 CPCN in its entirety.

Since this current proceeding is related to an application by Enbridge Gas to address CPCN overlap in Norfolk County, the County of Elgin and the County of Middlesex, it may be better to address EPCOR's request to eliminate the EBC 111 / 119 CPCN in a separate proceeding addressing either a stand-alone CPCN application submitted by EPCOR or at the time when EPCOR submits applications to renew its franchise agreements within these municipalities.

Should you have any questions on this submission, please do not hesitate to contact me.

Yours truly,

[Original Signed By]

Patrick McMahon
Specialist, Regulatory Research and Records
pmcmahon@uniongas.com
(519) 436-5325

c.c. (email only):

Azalyn Manzano, Ontario Energy Board
Ritch Murray, Ontario Energy Board
Richard Lanni, Ontario Energy Board
Bruce Brandell, EPCOR Utilities Inc.
Britt Tan, EPCOR Utilities Inc.
Patrick Welsh, Osler Hoskin & Harcourt LLP (EPCOR)
Scott Lewis, OM Limited Partnership
Myriam Seers, Torys