



Enbridge Gas Inc.
50 Keil Drive North
Chatham, Ontario, Canada
N7M 5M1

May 21, 2019

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

Dear Ms. Walli:

**Re: OM Limited Partnership
Application for Approval of Franchise Agreement with Norfolk County
Ontario Energy Board File No. EB-2019-0104**

Pursuant to Procedural Order No. 1 to the above noted proceeding, Enbridge Gas Inc. hereby files its final submissions with respect to the application and evidence of OM Limited Partnership.

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

Yours truly,

[Original Signed By]

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Encl.

c.c. (email only): Scott Lewis, OMLP
Peter Budd, OMLP

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 an application by OM Limited Partnership for an Order approving the terms and conditions upon which, and the period for which, the Corporation of Norfolk County has, by by-law, granted to OMLP 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 Norfolk County.

SUBMISSIONS OF ENBRIDGE GAS INC.

1. These are the submissions of Enbridge Gas Inc. ("Enbridge") regarding the application by OM Limited Partnership ("OMLP") for an order approving a franchise agreement between OMLP and Norfolk County.
2. From a regulatory perspective, any company regulated by the Ontario Energy Board ("OEB") should be required to follow the same legislated requirements as other regulated utilities.
3. As is confirmed in OMLP's response to Enbridge IR #1(f), sub-clause 4(b) of the Duration of Agreement and Renewal Procedures clause of the franchise agreement is applicable to OMLP thus allowing for automatic updates to the franchise agreement on the 7th and 14th anniversaries of the effective date. Enbridge believes that this clause automatically applies given that Enbridge has been providing gas distribution services within Norfolk County for many years.
4. OMLP's proposed franchise agreement with Norfolk County has been dated and "executed" prior to OEB approval. OEB directions to other gas distributors have been clear that municipalities are only supposed to put proposed franchise agreements through 1st and 2nd readings prior to submitting them to the OEB so that the municipality is finalizing its bylaw and executing the final approved version of the franchise agreement. This process was specifically identified in the EBO 125 Report of the Board dated May 21, 1986 in section 2.11. The effective date triggers when OMLP will be allowed to commence work within the municipality. The guidelines followed by gas distributors in Ontario have been that the effective date of franchise agreements is the later of the OEB Decision and Order approving the franchise agreement or the date of the 3rd and final reading of the municipal bylaw approving the franchise agreement.
5. As agreed by OMLP in response to Enbridge IR #1(c), the effective date of the franchise agreement approved for OMLP should be the later of the date of the OEB Decision and Order approving the franchise agreement or the date of the 3rd and final reading of the municipal bylaw approving the franchise agreement.
6. While OMLP states in response to Enbridge IR #1(g) that it has applied for the an Order directing and declaring that the assent of the municipal electors of Norfolk County is not necessary for the franchise by-law, there is no evidence (typically a municipal resolution) on the record of this proceeding that Norfolk County has made or agrees with that request.

7. OMLP states in response to Enbridge IR #1(h) that approvals were obtained by Norfolk County prior to OMLP constructing facilities on the 8th Concession Road and that OMLP pursued a franchise agreement as soon as it became aware of the need for a franchise agreement. It is not clear what approvals were obtained by the municipality nor why this is pertinent to the question regarding OMLP requiring OEB approvals to be in place prior to constructing any facilities.
8. In response to an interrogatory from Enbridge in the EB-2018-0234 proceeding reviewing OMLP's rate application, OMLP stated that it did not have any franchise agreements in place with lower-tier and upper-tier municipalities in which it had assets for distribution of gas but it was in the process of obtaining one¹. OMLP indicated at that time that it intended to file a Model Franchise Agreement application within 2 weeks². It is assumed that in October 2018, OMLP understood that it required an OEB-approved franchise agreement prior to constructing any facilities within Norfolk County to serve an end-use customer. It is unclear when OMLP constructed facilities within Norfolk County prior to submitting its current application on March 3, 2019 but it appears as though OMLP has moved forward with its construction activity prior to getting a franchise agreement approved by the OEB.
9. Given that it is not a party to the franchise agreement, the Ontario Energy Board's coat of arms should not appear on the franchise agreement between OMLP and Norfolk County.

¹ EB-2018-0234 – OMLP Response to Union Gas IR #1, October 16, 2018

² EB-2018-0234 – OMLP Response to OEB Staff IR #9, October 16, 2018