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**October 29, 2020**

**Sent by EMAIL, RESS e-filing**

Ms. Christine E. Long  
Registrar and Board Secretary  
Ontario Energy Board  
27-2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: EB-2020-0232 - Application for an Order amending Certificate of Public Convenience and Necessity – EPCOR Natural Gas Limited Partnership (“ENGLP”)**

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Please find enclosed an application for an order amending ENGLP's Certificate of Public Convenience and Necessity to construct works to supply natural gas in the Township of South-West Oxford.

ENGLP respectfully requests that all documents in relation to the Application be served on ENGLP and its counsel as follows:

Daniela O'Callaghan  
Legal Counsel  
EPCOR Utilities Inc.  
2000-10423 101 St. NW  
Edmonton, AB T5H 0E8  
Tel: 780-412-4081  
Email: [DOcallaghan@epcor.com](mailto:DOcallaghan@epcor.com)

Tim Hesselink  
Senior Manager, Regulatory  
EPCOR Natural Gas Limited Partnership  
43 Stewart Road  
Collingwood, ON L9Y 4M7  
Tel: 705-445-1800 ext. 2247  
Email: [THesselink@epcor.com](mailto:THesselink@epcor.com)

Please do not hesitate to contact me if you have any questions.

Yours truly,

Tim Hesselink

## ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, as amended (the “OEB Act”);

**AND IN THE MATTER OF** the *Municipal Franchises Act*, R.S.O. 1990, c. M.44, as amended (the “MF Act”);

**AND IN THE MATTER OF** an Application by EPCOR Natural Gas Limited Partnership for an Order amending its Certificate of Public Convenience and Necessity to construct works to supply natural gas in the Township of South-West Oxford.

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### APPLICATION OF EPCOR NATURAL GAS LIMITED PARTNERSHIP

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#### **Overview**

1. This year, EPCOR Natural Gas Limited Partnership (“**ENGLP**”) received requests to expand its natural gas service within the Township of South-West Oxford (“**Township**” or “**South West Oxford**”) in order to serve a large farm equipment supplier, agricultural and residential customers. These areas are nearby the utility’s natural gas distribution infrastructure.
2. ENGLP holds a franchise agreement with South-West Oxford. ENGLP also has a Certificate of Public Convenience and Necessity (a “**CPCN**”) granting it the right to construct works to supply natural gas in certain areas of South-West Oxford. In early 2020, ENGLP was granted an amendment to their CPCN to include additional areas within the South-West Oxford in order to serve the Village of Salford.<sup>1</sup> However, the current CPCN does not include the areas

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<sup>1</sup> EB-2019-0232, Ontario Energy Board Decision and Order dated January 16, 2020.

that are the subject of the expansion requests which ENGLP received in 2020.

3. ENGLP believes that it can economically extend its nearby natural gas distribution infrastructure to accommodate requests for connections on Mount Elgin Road and McBeth Road in South-West Oxford (the “**Mount Elgin-McBeth Areas**”).

4. Therefore, ENGLP hereby applies to the Ontario Energy Board (the “**OEB**”) to amend its CPCN to include these areas so as to authorize ENGLP to construct, connect, and provide natural gas service to the businesses and residential areas identified further in this application.

### **Background**

#### ***Service Request on Behalf of the Salford Group***

5. On October 17, 2019, ENGLP applied for a CPCN amendment to provide natural gas services to the Village Of Salford (EB-2019-0232) and received approval on January 16, 2020 (the “**2019 CPCN Amendment Proceeding**”). In February 2020, during a meeting with ENGLP, the Mayor of South-West Oxford requested natural gas service on behalf of the Salford Group, a large farm equipment supplier located south of the Village of Salford, but within the Township. The Salford Group is one of the largest employers in the Township and plays a large role in the community.

6. Enbridge Gas Inc. (“**Enbridge**”), currently holds a CPCN over areas where the Salford Group is located. ENGLP has been advised that the Salford Group received an estimate for construction from Enbridge which was not seen as a feasible solution for them. As a result, local officials reached out to ENGLP. The Salford Group was previously referenced in the 2019

CPCN Amendment Proceeding, as a customer, that “is also looking for a natural gas connection”<sup>2</sup>. However, as the Salford Group is located outside of the Village of Salford, it was not contemplated as part of that application.

7. On September 14, 2020, ENGLP received a letter directly from the Salford Group requesting natural gas services to their facility and citing operational benefits as well as feasible construction costs. A copy of this letter has been included in Appendix “A”.

8. On September 16, 2020, The Chief Administrative Officer of the Township provided a letter expressing the importance of providing natural gas service to the Salford Group stating that the initiative of natural gas conversion was underway for a number of years. The Township also stated that the current relationship with ENGLP was positive and they were looking for ENGLP to provide a more affordable solution. A copy of this letter has also been included in Appendix “A”.

***Service Request by Burgessville Grain and Feed***

9. On August 13, 2020, ENGLP was contacted by Bart Veldhuizen on behalf of Burgessville Grain & Feed Inc. (“**Burgessville**”), in request to provide natural gas service to their facility located on Mount Elgin Road, approximately 5km south of the Village of Salford. Mr. Veldhuizen also reached out to OEB Board staff to initiate next steps. Enbridge currently holds a CPCN over areas where Burgessville is located. ENGLP has been advised that Burgessville had been in contact with Enbridge to discuss construction, and were provided a

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<sup>2</sup> EB-2019-0232, ENGLP CPCN Amendment Application dated October 17, 2019, Page 2 of 12.

quote for service that was beyond their budgeted amounts and as a result not feasible. A copy of the email correspondence with Board Staff along with a letter of support have been included in Appendix “A”.

### **Regulatory Context**

10. ENGLP is an Ontario limited partnership with offices in the Town of Aylmer and Kincardine. It carries on the business of selling and distributing natural gas within the province of Ontario.

11. The Mount Elgin-McBeth Areas are located within South-West Oxford and within Oxford County, Ontario. These are areas over which ENGLP has an existing Franchise Agreement but are not included in the current CPCN.

### ***ENGLP’s Franchise Agreements with South-West Oxford and Oxford County***

12. In March 2014, ENGLP’s predecessor, Natural Resource Gas Limited (“NRG”), entered into a franchise agreement with South-West Oxford based on the OEB’s Model Franchise Agreement.<sup>3</sup> A copy of the OEB’s Decision and Order approving ENGLP’s franchise agreement with South-West Oxford is included as Appendix “B”

13. ENGLP also holds a franchise agreement with Oxford County, which it renewed in December 2018.<sup>4</sup> A copy of the OEB’s Decision and Order approving this franchise agreement

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<sup>3</sup> See EB-2012-0447.

<sup>4</sup> See EB-2017-0232.

is included as Appendix “C”.

14. Because the proposed new service locations in the Mount Elgin-McBeth Areas are located within South-West Oxford County, ENGLP does not require additional franchise agreements in order to construct and operate a natural gas distribution system and to supply natural gas to the noted businesses and nearby residences.

15. ENGLP and Enbridge each have CPCNs for South-West Oxford.

16. ENGLP holds a CPCN, E.B.C. 111 and 119 dated October 15, 1981, known as the “Omnibus CPCN” that grants it the right to construct works to supply and to supply gas in certain areas in South-West Oxford. A copy of the Omnibus CPCN is included as Appendix “D”.

17. Enbridge also holds a CPCN that grants it the right to construct works to supply and to supply gas in South-West Oxford. In EB-2013-0021, the OEB issued Enbridge a new CPCN (replacing and/or superseding parts of historic CPCNs) covering the geographic boundaries of South-West Oxford “except for those areas covered by [the Omnibus CPCN].”<sup>5</sup>

18. Since the Mount Elgin-McBeth Areas are not historically included in the areas of South-West Oxford covered by ENGLP’s Omnibus CPCN, it was captured by Enbridge’s broader CPCN for “the rest of” South-West Oxford. However, the Mount Elgin-McBeth Areas are located essentially adjacent to ENGLP’s service area in South-West Oxford and, as will be outlined in more detail below, ENGLP believes it is best positioned to economically provide

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<sup>5</sup> EB-2013-0021, Decision and Order (April 11, 2013) at p. 5.

natural gas service to these locations.

## **Application**

***Procedurally, ENGLP proposes a new CPCN for South-West Oxford that would enable the utility to serve the Salford Group, Burgessville and additional residential customers.***

19. ENGLP hereby applies to the OEB for an amended CPCN for South-West Oxford that includes the Mount Elgin-McBeth Areas. ENGLP proposes a similar approach to what was done in the 2019 CPCN Amendment Proceeding. ENGLP proposes that the portions of the Omnibus CPCN covering South-West Oxford be superseded and replaced by a new CPCN that also includes the Mount Elgin-McBeth Areas as defined in this Application.

***Substantively, the OEB can issue a CPCN to ENGLP that includes the Mount Elgin-McBeth Areas***

20. Substantively, the OEB is not precluded from amending the Omnibus CPCN to include the Mount Elgin-McBeth Areas even if Enbridge's CPCN ostensibly includes these areas. As the OEB has recently and repeatedly stated, CPCNs are not exclusive:

The OEB notes that neither Franchise Agreements nor Certificates are exclusive. While it would be inappropriate to have more than one gas distribution serve any specific location, there are a number of unserved areas for which Certificates have been issued. The practice in the past appears to have been to issue a Certificate for an entire municipality even if only a portion would be served. In the OEB's view, where a Certificate has been issued for an area but there is currently no distribution service, another distributor can apply for a Certificate to serve that area. This may result in competing bids.<sup>6</sup>

21. As stated in the 2019 CPCN Amendment Proceeding, ENGLP submits that the current

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<sup>6</sup> EB-2016-0004, Ontario Energy Board, Decision with Reasons, Ontario Energy Board Generic Proceeding on Community Expansion, (November 17, 2016) at p. 20.

CPCN amendment request is a “textbook” example of the scenario described in the OEB’s comments above: Enbridge was granted a CPCN covering the entire municipality of South-West Oxford (other than the portions covered by the Omnibus CPCN) but there is presently no natural gas service in the Mount Elgin-McBeth Areas. As demonstrated by the attached letters of support, both the Salford Group and Burgessville have been unserved and have made significant efforts to receive natural gas service by requesting construction quotes, reaching out to the regulator and obtaining the support of their elected officials.

***Technical Information***

22. In EB-2019-0195, OEB Staff asked Enbridge to provide the following technical information regarding Enbridge’s proposed connections to five new subdivisions within the Municipalities of Thames Centre and Central Elgin:

For each of the subdivisions, please provide details regarding the anticipated total length of pipeline required, type of pipeline, volumetric throughput, operating pressure of the pipeline, and estimated project cost. Further, please outline if Enbridge Gas will need to file a leave to construct application for the construction of the pipelines to service any of the subdivisions. Will a system expansion surcharge be required for constructing the pipeline to service any of the subdivisions?

23. As a preliminary matter, ENGLP confirms that none of the leave-to-construct thresholds in subsection 90(1) of the OEB Act are triggered by the proposed connection to the Mount Elgin-McBeth Areas. ENGLP also confirms that no system expansion surcharge is required to construct the infrastructure necessary to connect the Mount Elgin-McBeth Areas.

24. To connect Burgessville, the pipeline infrastructure is 4” diameter polyethylene pipe

measuring a total length of 4150 metres (exclusive of the service laterals to individual customers). The total project cost, inclusive of service laterals, tracer wire, meters, regulators, and associated fittings is \$411,691. The pipeline will be operated at normal operating pressure of 75-80 psi, with pressure regulated down at the regulator at each customer connection. A volumetric throughput of approximately 13,200 m<sup>3</sup> year will enter the expanded system at Mount Elgin Road and Culloden Line.

25. To connect the Salford Group (McBeth Road), the pipeline infrastructure is 2” diameter polyethylene pipe measuring a total length of 1400 metres (exclusive of the service laterals to individual customers). The total project cost, inclusive of service laterals, tracer wire, meters, regulators, and associated fittings is \$57,674. The pipeline will be operated at normal operating pressure of 75-80 psi, with pressure regulated down at the regulator at each customer connection. A volumetric throughput of approximately 56,100 m<sup>3</sup> year will enter the expanded system at McBeth Road and Dereham Line. ENGLP has prepared a map showing the locations of potential customers along McBeth Road with ENGLP’s proposed pipeline infrastructure (see Appendix “E”).

**Table 1 - Length of Pipelines to Connect Commercial Customers**

<b>Description</b>	<b>Length (m)</b>
Along the north side of Mount Elgin Road starting at Culloden Line	4150
Along the south side of McBeth Road starting at Dereham Line	1400
<b>Total</b>	<b>5550</b>

26. ENGLP has prepared a map showing the locations of potential customers in the Mount Elgin-McBeth Areas along with ENGLP's proposed pipeline infrastructure (see Appendix "E").

27. In response to requests for service in Norfolk County, Elgin County and Middlesex County, the OEB established an interim process to connect un-serviced customers in areas of overlapping or adjacent CPCNs. That is, in EB-2017-0108, the OEB directed each of the utilities to respond to a request for service by providing the following information:

- (a) A proposed in-service date for the customer;
- (b) A cost assessment for serving the customer;
- (c) A description and schematic diagram of the infrastructure required to connect the customer to the distribution system including a bill of materials for any required main extension, service line and meter set;
- (d) An annual bill calculation assuming an annual consumption of 2,200 cubic metres using rates currently in effect (as of July 1, 2019); and
- (e) Any final capital contribution required to provide natural gas service.<sup>7</sup>

28. ENGLP provides the following information regarding the Mount Elgin-McBeth Areas:

- (a) **In-service Date:** ENGLP's timeline to connect new customers in the Mount Elgin-McBeth Areas will be largely dependent on the OEB's decision in this Application. If Board approval is received prior to February 1, 2021, ENGLP proposes an in-service date of May 1, 2021.

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<sup>7</sup> EB-2017-0108, Procedural Order No. 11 (July 23, 2019) at p. 3.

- (b) **Cost Assessment:** As noted above, ENGLP has included a map showing the location of prospective customers in the Mount Elgin-McBeth Area (see Appendix “E”). Also as noted above, the total project cost, inclusive of service laterals, tracer wire, metres, regulators, and associated fittings for both locations combined is \$469,365.
- (c) **Technical Connection Information:** As outlined above in paragraphs 23 & 24 and in the diagram included at Appendix “E”, 4” pipeline is required to connect Burgessville Grain and Feed from ENGLP’s distribution line along Mount Elgin Road and Culloden Line. 2” pipeline is required to connect The Salford Group from ENGLP’s distribution line along McBeth Road and Dereham Line.
- (d) **Annual Bill Information:**
- Residential: Assuming an annual natural gas consumption of 2,113 m<sup>3</sup>, the annual bill exclusive of taxes and rate riders, and inclusive of the federal carbon charge would be \$907.18 or \$75.60 monthly; and
  - Commercial: Assuming an annual natural gas consumption of 8700 m<sup>3</sup>, the annual bill exclusive of taxes and rate riders, and inclusive of the federal carbon charge would be \$2,955.11 or \$246.25 monthly; and
  - Industrial (Rate 4): Assuming an annual natural gas consumption of 13,200 m<sup>3</sup>, the annual bill exclusive of taxes and rate riders, and inclusive of the federal carbon charge would be \$4,442.50 or \$370.21 monthly;
  - Calculations are based on approved rates in effect October 1, 2020

- (e) **Final Capital Contribution:** Capital contribution, if any, would be limited to portions of service pipeline exceeding 20 metres in length<sup>8</sup> from the planned distribution mains depicted in Appendix “E”. For Burgessville, the financial contribution has been calculated to an aid to construction of \$227,688. As this pipeline passes several farms and residences on Mount Elgin road, the costs may be reduced based on the number of other connection requests for the same pipeline. These areas are currently in EPCOR’s service territory as they were included as part of ENGLP’s previous CPCN amendment (EB-2019-0234). As of yet, no infrastructure has been built along Mount Elgin Road as there have not been any formal connections requests received. For the Salford Group, the financial contribution has been calculated to be \$30,664, but could be reduced to nil based on the number of other connections requests received.

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<sup>8</sup> This nominal capital contribution is required to avoid cross-subsidization of service mains by existing customers. Beyond 20 metres, additional service pipe is charged to the specific customer at \$10/metre.

***Territorial and Mapping Information***

29. ENGLP has included a draft CPCN as Appendix “F”, which includes the following lots and concessions in South-West Oxford representing the Mount Elgin-McBeth Areas:

- (a) Concession 2: the south half of lots 11-14
- (b) Concession 3: the north half of Lots 11-14
- (c) Concession 4: the south half of Lots 13-14

30. ENGLP also recognizes that the OEB has directed utilities to provide mapping information that “accurately delineates service boundaries and the general location and density of customers” for proceedings brought under the Municipal Franchises Act.<sup>9</sup> ENGLP has included two maps with its draft CPCN, found at Appendix “G”. The first map, the Certificate Map, includes the general location of prospective customers within South-West Oxford, along with a proposed boundary that includes the Mount Elgin-McBeth Areas, for the purposes of the revised CPCN for South-West Oxford. The second map, shows the portions of Lots 11-14 in Concessions 2-4 required to include the Mount Elgin-McBeth Areas in ENGLP’s proposed CPCN for South-West Oxford.

**Conclusion**

31. Obtaining natural gas service for the Mount Elgin-McBeth Areas is a high priority for the Council of South-West Oxford, the Salford Group and Burgessville. ENGLP submits that it is

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<sup>9</sup> EB-2017-0232, Decision on Motion and Procedural Order No. 3 (October 4, 2018) at p. 3.

best positioned to provide natural gas service to these areas, as its infrastructure is “essentially on the doorstep”. ENGLP welcomes any questions from the OEB and looks forward to ultimately providing natural gas to customers in the Mount Elgin-McBeth Areas in the near future.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

October 29, 2020



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## **APPENDIX A - Letters of Support**

September 14, 2020

Susannah K. Robinson, ICD.D  
Vice President Ontario  
EPCOR  
55 University Ave, Suite 710  
Toronto, ON M5J 2H7

Dear Susannah Robinson:

Please accept this letter as a request for EPCOR to bring natural gas to our company Salford Group Inc. (just south of the village of Salford, ON). We understand that Salford Group is located within Union Gas's service territory, however the cost for Union Gas to service Salford Group is cost prohibitive. Since EPCOR has run gas to the village of Salford, it is cost feasible for EPCOR to service Salford Group. Salford Group is a manufacturer of premium farm equipment shipping product all over the world and we employ over 200 people at this site. We look forward to one day having natural gas to our manufacturing site to better manage our costs.

Salford Group asks that the Ontario Energy Board consider granting the necessary approvals and permissions to allow EPCOR to provide service to our company.

Please feel free to contact me if there are any further questions.

Yours truly,



Geof Gray  
President & CEO



312915 Dereham Line  
R. R. # 1, Mount Elgin, ON N0J 1N0  
Phone: (519) 877-2702; (519) 485-0477;  
Fax: (519) 485-2932  
www.swox.org

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September 16, 2020

Susannah K. Robinson, ICD.D  
Vice President Ontario  
EPCOR  
55 University Ave, Suite 710  
Toronto, ON M5J 2H7

Sent via email: [srobinson@epcor.com](mailto:srobinson@epcor.com)

Dear Susannah Robinson:

EPCOR Servicing of The Salford Group

The Salford Group is one of the largest employers in our Township with over 200 employees at the plant. It was founded by a Township resident and has grown over the years as a manufacturer of premium farm equipment shipping product all over the world. The Salford Group is in need of natural gas servicing and the Township has been working with them over the past several years to assist them in meeting this need.

The Salford Group needs this project to be financially feasible; not the case with the costing provided by Enbridge. We are hopeful that EPCOR will take this matter to the OEB to allow a more economical solution for gas servicing to the site.

The Township is very appreciative of the recent servicing of the Village of Salford by EPCOR with natural gas. Area residents are happy with having an affordable option for servicing their homes. In addition, the Township was able to convert the Salford community hall as well.

Thank you for your efforts in helping to build our community.

Yours truly,

A handwritten signature in cursive script that reads 'Mary Ellen Greb'.

Mary Ellen Greb, CAO

Type text here



**Burgessville Grain & Feed Inc.**  
**10 Church St. E - Box 77**  
**Burgessville, ON N0J 1C0**  
P: 519-424-2147  
F: 519-424-2140  
W: [www.burgessville.ca](http://www.burgessville.ca)

September 17, 2020

To: Susannah K. Robinson, ICD.D

Vice President Ontario  
EPCOR Utilities Inc.  
55 University Ave. Suite 710  
Toronto, ON. M5J 2H7

Dear Susannah Robinson:

Please accept this letter as a request for EPCOR to bring natural gas to Burgessville Grain & Feed Inc.'s Mt. Elgin location at 323941 Mt Elgin Road. We understand that Burgessville Grain & Feed Inc.'s Mt Elgin location is located within Union Gas's service territory, however the cost for Union Gas to service Burgessville Grain & Feed Inc. is very cost prohibitive.

Since EPCOR has run gas to the Village of Salford, it is cost feasible for EPCOR to service Burgessville Grain & Feed Inc. from their Mount Elgin road pipeline.

Burgessville Grain & Feed Inc. is a family owned business that is active in the Grain and Feed Sector, receiving, storing, trading and transporting Ingredients to local, regional and international customers. The Mt Elgin site will provide local farmers with the ability to sell, dry, deliver and store Grains grown and harvested in the Mt. Elgin area. We currently have approximately 15 employees and once Mt Elgin has affordable gas we anticipate we will hire 2 additional employees to staff and operate that facility in the short term and over the near and longer term expand the facility and add additional employees as required.

Burgessville Grain & Feed Inc. asks that the Ontario Energy Board consider granting the necessary approvals and permissions to allow EPCOR to provide natural gas service to our grain drying operations.

Please feel free to contact me if there are any further questions.

Best regards,

Bart Veldhuizen

Burgessville Grain & Feed Inc.

## **APPENDIX B - Franchise Agreement, South West Oxford**



**EB-2012-0475**

**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 Natural Resources Gas Limited for an order approving the terms and conditions upon which, and the period for which, the Corporation of the Township of Southwest Oxford is, by by-law, to grant to Natural Resources Gas Limited 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 the Township of Southwest Oxford.

**By delegation, before:** Pascale Duguay

### **DECISION AND ORDER**

March 27, 2014

#### **Background**

Natural Resources Gas Limited (“NRG”) and the Corporation of the Township of Southwest Oxford (the “Corporation”) are party to a municipal franchise agreement whereby NRG has the right to construct and operate works for the distribution of gas, and the right to extend or add to the works, in and through the Township of Southwest Oxford.

NRG also holds a Certificate of Public Convenience and Necessity granting it the right to construct works to supply gas within the former Township of Derehma which now forms part of the Township of Southwest Oxford (E.B.C. 111 and 119, issued May 5, 1982).

The franchise agreement between NRG and the Corporation was set to expire on February 1, 2013. Prior to the franchise agreement expiring, on December 21, 2012,

NRG filed an application with the Board under section 10 of the *Municipal Franchises Act* (the “Act”).

Through that application, NRG sought a Board order renewing the franchise agreement for a further 20-year period and, in the interim, a Board order continuing NRG’s rights under the franchise agreement past its expiry date until the Board makes a final determination on the franchise renewal application.

The Board assigned file number EB-2012-0475 to the application.

### **The Application for Interim Relief**

On January 11, 2013, the Board issued an order continuing NRG’s franchise rights past the expiry date of its franchise agreement with the Corporation. The Board stated that the order would remain in effect until such time that the Board makes a final determination on the franchise renewal application.

### **The Application for Franchise Renewal**

On December 17, 2013, NRG filed an updated application with the Board requesting an order under section 9(3) of the Act approving the terms and conditions, and the period for which, the Township is by by-law, to grant NRG 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.

Together with the application, NRG provided a by-law passed by the Corporation on November 5, 2013, authorizing the renewal of the franchise agreement and which granted the franchise rights described therein to NRG. NRG noted that whereas a municipality would typically seek Board approval pursuant to section 9(1) of the Act prior to passing such a by-law, the Corporation did not do so in this case. NRG submitted that, nevertheless, the Board should still proceed with approving the by-law. In support of its submission, NRG stated that: the proposed franchise agreement is based exclusively on the Board’s 2000 Model Franchise Agreement, including the Board’s recommended 20-year term; that the terms and conditions of the by-law are uncontroversial in that it grants franchise rights under the terms and conditions found in the 2000 Model Franchise Agreement; and that, in any case, the Board can dispense with the requirement for municipal electors’ assent (i.e. section 9(1) of the Act states

that a by-law cannot be submitted to the municipal electors for their assent prior to Board approval, however, section 9(4) allows the Board to dispense with municipal electors' assent). As such, NRG submitted that any impediment caused by section 9(1) of the Act is eliminated if the Board declares and directs that the assent of the electors is not necessary.

NRG also submitted that the intent of the Corporation – to enter into and execute the proposed franchise agreement with NRG – should not be defeated due to a minor departure from the Board's normal process. NRG submitted that it would be inefficient to require the Corporation to repeal the by-law as-is, submit a draft by-law for Board approval, and then pass the exact same by-law a second time. NRG noted that if the Board grants the relief required, NRG and the Township will execute and date a new franchise agreement in the same form.

On January 20, 2014, the Board issued its Notice of Application and Written Hearing. In response to the Notice, Union Gas Limited ("Union") filed a letter of comment on January 28, 2014. Union informed the Board that it also has a franchise agreement in place with the Corporation (as approved in EB-2013-0020, and which expires on April 11, 2033). Union also has a Certificate of Public Convenience and Necessity (EB-2013-0021), issued April 11, 2013, granting Union the right to construct works to supply natural gas within the Township of Southwest Oxford except in those areas covered by the Certificate held by NRG (E.B.C. 111 and 119, issued May, 1982).

### **Board Findings**

The Board finds that it is in the public interest to grant the application. NRG filed a complete application and provided notice to the public in the manner instructed by the Board. No party intervened to object to the application. The proposed franchise agreement is also in the form of the 2000 Model Franchise Agreement.

The Board is satisfied with the by-law passed by the Corporation (notwithstanding that it was passed prior to receiving Board approval). In this regard, the Board finds that it is appropriate to declare and direct that the assent of the electors is not necessary.

The Board notes that the Township of Southwest Oxford is an area where both NRG and Union hold rights to construct and operate works for the distribution, transmission and storage of natural gas and the right to extend and add to the works. The Board

further notes that the utilities' respective service areas within the Township of Southwest Oxford are clearly delineated in their respective Certificates of Public Convenience and Necessity (E.B.C. 111 and 119 for NRG; and EB-2013-0021 for Union).

**IT IS ORDERED THAT:**

1. The terms and conditions upon which, and the period for which, the Corporation of the Township of Southwest Oxford is, by by-law, to grant Natural Resource Gas Limited 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 the Township of Southwest Oxford, as set out in the franchise agreement attached as Appendix A, are approved.
2. The assent of the municipal electors of the Township of Southwest Oxford to the by-law is not necessary.

**DATED** at Toronto, March 27, 2014

**ONTARIO ENERGY BOARD**

*Original Signed By*

Pascale Duguay  
Manager, Natural Gas Applications

**APPENDIX A**

**TO THE BOARD'S DECISION AND ORDER IN**

**EB-2012-0475**

**DATED: March 27, 2014**

**Franchise Agreement**

Osler, Hoskin & Harcourt LLP  
Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8  
416.362.2111 MAIN  
416.862.6666 FACSIMILE

# OSLER

December 17, 2013

Patrick G. Welsh  
Direct Dial: 416.862.5951  
pwelsh@osler.com  
Our Matter Number: 1144688

**Sent By Electronic Mail, Regular Mail and RESS Electronic Filing**

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

Dear Ms. Walli:

**EB-2012-0475 - Franchise Renewal Application - Natural Resource Gas Limited and the Township of South-West Oxford**

Please find enclosed an Application by Natural Resource Gas Limited (NRG) for an Order of the Board with respect to a proposed Franchise Agreement between NRG and the Township of South-West Oxford.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Yours very truly,



Patrick G. Welsh  
PW:fdr

Enclosures (4)

c: Richard King, *Osler*  
Laurie O'Meara, *NRG*  
Diane Gould-Brown, *Township of South-West Oxford*

**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 Natural Resource  
Gas Limited for an Order approving the Township of South-West  
Oxford's By-Law No. 58-2013;

**AND IN THE MATTER OF** an Application by Natural Resource  
Gas Limited for an Order approving the terms and conditions upon  
which, and the period for which, the Township of South-West Oxford  
is, by by-law, to grant to Natural Resource Gas Limited 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  
the Township of South-West Oxford;

**AND IN THE MATTER OF** an Application by Natural Resource  
Gas Limited for an Order directing and declaring that the assent of  
the municipal electors of the Township of South-West Oxford to the  
by-law is not necessary.

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**APPLICATION OF  
NATURAL RESOURCE GAS LIMITED**

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December 17, 2013

**OSLER, HOSKIN & HARCOURT LLP**  
Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8

Richard J. King  
Tel: 416.862.6626

Patrick G. Welsh  
Tel: 416.862.5951  
Fax: 416.862.6666

Counsel for Natural Resource Gas Limited

1. Natural Resource Gas Limited (“NRG”), is an Ontario corporation and carries on the business of, among other things, owning and operating natural gas distribution facilities in the Township of South-West Oxford (the “Township”).

2. The Township is a municipal corporation incorporated under the laws of Ontario. A map showing the location of the Township is attached as Schedule “A”. The Township’s address and contact information is:

*Township of South-West Oxford  
R.R. #1  
Mount Elgin, ON N0J 1N0  
312915 Dereham Line*

*Attention: Dianne Gould-Brown, Deputy Clerk*

3. NRG has a Certificate of Public Convenience and Necessity granting it the right to construct works to supply gas and to supply gas in the Township (E.B.C. 111 and 119, issued May 5, 1982).

4. NRG and the Township have an existing franchise agreement dated February 1, 1983, which granted NRG the right to construct and operate works for the distribution of gas within the Township’s municipal boundaries and to supply gas to the Township’s residents (the “Existing Franchise Agreement”). NRG’s franchise rights were set to expire on February 1, 2013.

5. On December 21, 2012, counsel for NRG requested an interim extension of the Existing Franchise Agreement with the Township. On January 11, 2013, the Ontario Energy Board (the “Board”) granted NRG an interim order continuing NRG’s right to operate in the Township of South-West Oxford pursuant to section 10(4) of the *Municipal Franchises Act*,

R.S.O. 1990, c. M.55 (the “Act”) until such time as the Board makes a final determination on NRG’s franchise renewal application regarding the Township.

6. NRG approached the Township to negotiate the renewal of the Existing Franchise Agreement using a 20-year franchise agreement based exclusively on the Board’s 2000 Model Franchise Agreement, a copy of which is attached as Schedule “B” (the “Proposed Franchise Agreement”).

7. On November 5, 2013, the Council of the Township passed By-Law No. 58-2013 (the “By-Law”):

- (a) Authorizing the Proposed Franchise Agreement and granting the franchise rights described in the Proposed Franchise Agreement to NRG;
- (b) authorizing the Mayor and the CAO to enter into and execute the Proposed Franchise Agreement; and,
- (c) repealing South-West Oxford By-Law No. 5-83 (the February 1, 1983 by-law approving the Existing Franchise Agreement).

8. A copy of the By-Law is attached as Schedule “C”.

9. Shortly after passing the By-Law, the Township executed the Proposed Franchise Agreement.

10. The Township did not seek the Board’s approval pursuant to section 9(1) of the Act prior to passing the By-Law. However, NRG submits that the Board should nonetheless approve the By-Law for the following reasons:

- (a) **The terms, conditions and duration of the Proposed Franchise Agreement are neither novel nor controversial:** the Proposed Franchise Agreement is based exclusively on the Board's 2000 Model Franchise Agreement, including the Board's recommended 20-year term. As such, the requirement in section 9(1) of the Act that the "terms and conditions upon which and the period for which such [franchise] right is to be granted, renewed or extended [first be] approved by the Ontario Energy Board" has effectively been satisfied.
- (b) **The terms and conditions of the By-Law are uncontroversial:** the By-Law (a) authorizes and grants franchise rights under the terms and conditions found in the 2000 Model Franchise Agreement; (b) authorizes the Mayor and CAO to enter into the Proposed Franchise Agreement; and (c) repeals the former by-law approving the Existing Franchise Agreement. There is nothing controversial or untoward in the By-Law.
- (c) **The Board can dispense with the requirement for municipal electors' assent:** the prohibition contained in section 9(1) of the Act is that a by-law cannot be submitted to the municipal electors for their assent prior to Board approval. However, section 9(4) allows the Board to dispense with municipal electors' assent. As such, any impediment caused by section 9(1) of the Act (i.e. the prohibition against submitting a by-law to the municipal electors for their assent prior to Board approval) is eliminated if the Board declares and directs that the assent of the electors is not necessary.

- (d) **Clear intent should trump minor flaw in process:** the Board should be reluctant to defeat the clear intent of the Township of South-West Oxford, which is to enter into and execute the Proposed Franchise Agreement with NRG. It would be a waste of the Township's, the Board's, and NRG's time to require the Township to repeal the By-Law as-is, submit a draft by-law for Board approval, and then pass the exact same by-law a second time.
- (e) **The Board has broad statutory discretion and should attempt to find the most just, expeditious, and efficient result:** the Board has broad discretion under section 9(2) of the Act, and may "exercise jurisdiction and power necessary for the purposes of this section and may give or refuse its approval." Approving the By-Law is consistent with the broad discretion conferred by section 9(2) of the Act, and is consistent with the principle of liberal construction (enshrined in Rule 2.01 of the Board's *Rules of Practice and Procedure*) aimed at securing "the most just, expeditious, and efficient determination on the merits of every proceeding before the Board."

11. If the Board grants the relief requested in section 12 below, NRG and the Township will execute (and date) a new franchise agreement in the same form as that attached as Schedule B (i.e., the Proposed Franchise Agreement).

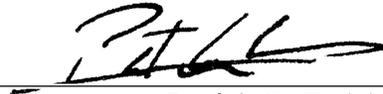
12. NRG now applies to the Board for:

- (a) An Order under section 9(2) of the Act approving the By-Law and permitting the Township and NRG to enter into and execute the Proposed Franchise Agreement;

- (b) An Order under section 9(3) of the Act approving the terms and conditions, and the period for which, the Township is, by by-law, to grant NRG 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; and,
- (c) An Order pursuant to section 9(4) directing and declaring that the assent of the municipal electors of the Township is not necessary for the By-Law under the circumstances.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

December 17, 2013

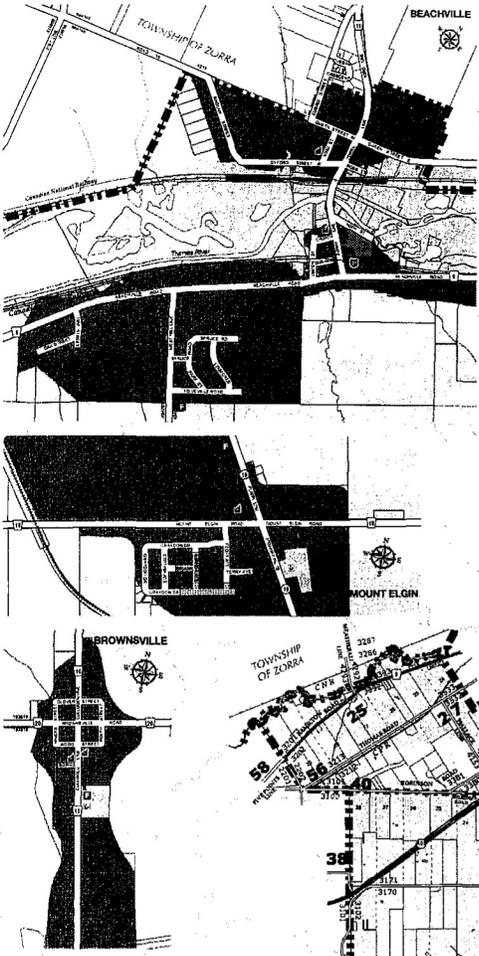
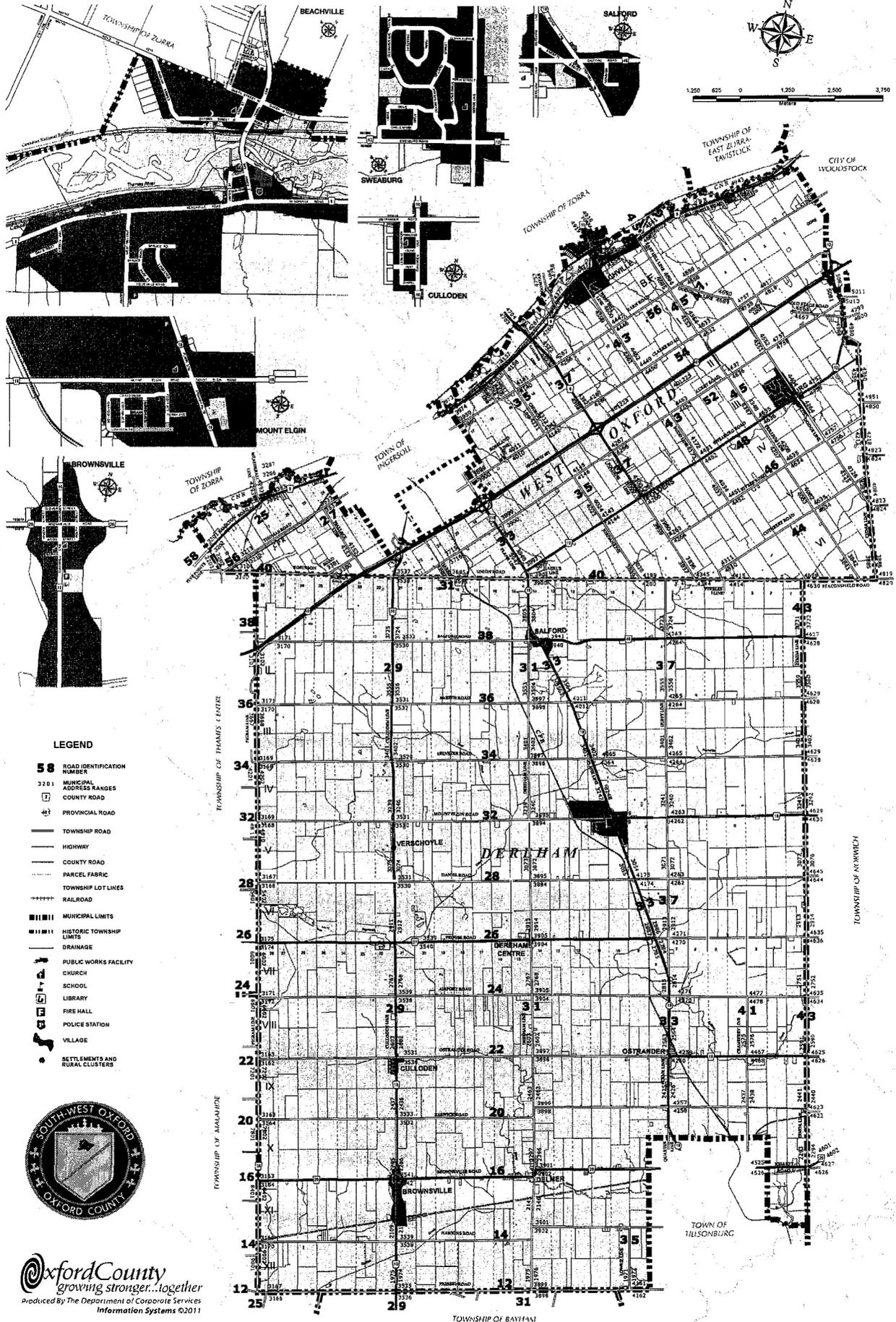


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Patrick G. Welsh

**Schedule "A"**

# TOWNSHIP OF SOUTH-WEST OXFORD



- LEGEND**
- 58 ROAD IDENTIFICATION NUMBER
  - 3201 MUNICIPAL ADDRESS RANGES
  - COUNTY ROAD
  - PROVINCIAL ROAD
  - TOWNSHIP ROAD
  - HIGHWAY
  - COUNTY ROAD
  - PARCEL FABRIC
  - TOWNSHIP LOT LINES
  - +++++ RAILROAD
  - ||||| MUNICIPAL LIMITS
  - ||||| HISTORIC TOWNSHIP LIMITS
  - DRAINAGE
  - PUBLIC WORKS FACILITY
  - CHURCH
  - SCHOOL
  - LIBRARY
  - FIRE HALL
  - POLICE STATION
  - VILLAGE
  - SETTLEMENTS AND RURAL CLUSTERS



**Oxford County**  
*growing stronger...together*  
 Produced by The Department of Corporate Services  
 Information Systems ©2011

TOWNSHIP OF BANTAM

## **Schedule "B"**

## FRANCHISE AGREEMENT

THIS AGREEMENT effective this 15<sup>th</sup> day of August, 2013.

BETWEEN:

**CORPORATION OF THE TOWNSHIP OF SOUTH-WEST OXFORD**  
hereinafter called the "Corporation"

-and -

**NATURAL RESOURCE GAS LIMITED**  
hereinafter called the "Gas Company"

**WHEREAS** the Gas Company desires to distribute, store and transmit gas in the Municipality upon the terms and conditions of this Agreement;

**AND WHEREAS** by by-law passed by the Council of the Corporation (the "By-law"), the duly authorized officers have been authorized and directed to execute this Agreement on behalf of the Corporation;

**THEREFORE** the Corporation and the Gas Company agree as follows:

### ARTICLE 1 – DEFINITIONS

1.1 In this Agreement:

- (a) "decommissioned" and "decommissions" when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term 'abandoned' pipeline for the purposes of the *Assessment Act*;
- (b) "*Engineer/Road Superintendent*" means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;
- (c) "gas" means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;

- (d) “**gas system**” means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;
- (e) “**highway**” means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) “**Model Franchise Agreement**” means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) “**Municipality**” means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) “**Plan**” means the plan described in Paragraph 3.1 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

## ARTICLE 2 – RIGHTS GRANTED

### 2.1 To provide gas service:

The consent of the Corporation is hereby given and granted to the Gas Company to distribute, store and transmit gas in and through the Municipality to the Corporation and to the inhabitants of the Municipality.

### 2.2 To Use Highways.

Subject to the terms and conditions of this Agreement the consent of the Corporation is hereby given and granted to the Gas Company to enter upon all highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the distribution, storage and transmission of gas in and through the Municipality.

2.3 Duration of Agreement and Renewal Procedures.

- (a) The rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20-year term this Agreement, the Model Franchise Agreement is changed, then on the 7<sup>th</sup> anniversary and on the 14<sup>th</sup> anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20-year term.
- (b) At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the *Municipal Franchises Act*.

**ARTICLE 3 – CONDITIONS**

3.1 Approval of Construction

- (a) The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the travelled portion of any highway unless a permit therefor has first been obtained from the Engineer/Road Superintendent and all work done by the Gas Company shall be to his satisfaction.
- (b) Prior to the commencement of work on the gas system, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a Plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy.
- (c) The Plan filed by the Gas Company shall include geodetic information for a particular location:
  - (i) where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the Engineer/Road Superintendent, or
  - (ii) when requested, where the Corporation has geodetic information for its own services and all others at the same location.
- (d) The Engineer/Road Superintendent may require sections of the gas system to be laid at greater depth than required by the latest CSA standard for gas pipeline systems to facilitate known projects or to correct known highway deficiencies.

- (e) Prior to the commencement of work on the gas system, the Engineer/Road Superintendent must approve the location of the work as shown on the Plan filed by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.
- (f) In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the Engineer/Road Superintendent approves this proposal, he may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.
- (g) 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 purposes of the *Drainage Act*, or such other person designated by the Corporation as responsible for the drain.
- (h) The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received.
- (i) The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.
- (j) The approval of the Engineer/Road Superintendent is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

### 3.2 As Built Drawings.

The Gas Company shall, within six months of completing the installation of any part of the gas system, provide two copies of "as built" drawings to the Engineer/Road Superintendent. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the gas system and the ground surface at the time of installation) and distance of the gas system. The "as built" drawings shall be of the same quality as the Plan and, if the approved pre-construction plan included elevations that were geodetically referenced, the "as built" drawings shall similarly include elevations that are geodetically referenced. Upon the request of the Engineer/Road Superintendent, the Gas Company shall provide one copy of the drawings in an electronic format and one copy as a hard copy drawing.

### 3.3 Emergencies

In the event of an emergency involving the gas system, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the Engineer/Road Superintendent is normally required for the work, the Gas Company shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction. The Gas Company shall provide the Engineer/Road Superintendent with at

least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

3.4 Restoration

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Engineer/Road Superintendent, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. If the Gas Company fails at any time to do any work required by this Paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay the Corporation's reasonably incurred costs, as certified by the Engineer/Road Superintendent.

3.5 Indemnification

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its gas system in the Municipality, or utilizing its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

3.6 Insurance

- (a) The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph 3.5. The insurance policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The insurance policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the Gas Company.
- (b) The issuance of an insurance policy as provided in this Paragraph shall not be construed as relieving the Gas Company of liability not covered by such insurance or in excess of the policy limits of such insurance.
- (c) Upon request by the Corporation, the Gas Company shall confirm that premiums for such insurance have been paid and that such insurance is in full force and effect.

3.7 Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if is feasible, to provide the Gas Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 3.8 of this Agreement.

3.8 Pipeline Relocation

- (a) If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.
- (b) Where any part of the gas system relocated in accordance with this Paragraph is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.
- (c) Where any part of the gas system relocated in accordance with this Paragraph is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:
  - (i) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
  - (ii) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
  - (iii) the amount paid by the Gas Company to contractors for work related to the project,
  - (iv) the cost to the Gas Company for materials used in connection with the project, and
  - (v) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.

- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

#### **ARTICLE 4 – PROCEDURAL AND OTHER MATTERS**

##### **4.1 Municipal By-laws of General Application**

The Agreement is subject to the provisions of all regulating statutes and all municipal bylaws of general application, except by-laws which have the effect of amending this Agreement.

##### **4.2 Giving Notice**

Notices may be delivered to, sent by facsimile or mailed by prepaid registered post to the Gas Company at its head office or to the authorized officers of the Corporation at its municipal offices, as the case may be.

##### **4.3 Disposition of Gas System**

- (a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 3.1 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 3.8 applies to the cost of relocation.

##### **4.4 Use of Decommissioned Gas System**

- (a) The Gas Company shall provide promptly to the Corporation, to the extent such information is known:

- (i) the names and addresses of all third parties who use decommissioned parts of the gas system for purposes other than the transmission or distribution of gas; and
  - (ii) the location of all proposed and existing decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas.
- (b) The Gas Company may allow a third party to use a decommissioned part of the gas system for purposes other than the transmission or distribution of gas and may charge a fee for that third party use, provided
- (i) the third party has entered into a municipal access agreement with the Corporation; and
  - (ii) the Gas Company does not charge a fee for the third party's right of access to the highways.
- (c) Decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas are not subject to the provisions of this Agreement. For decommissioned parts of the gas system used for purposes other than the transmission and distribution of gas, issues such as relocation costs will be governed by the relevant municipal access agreement.

#### 4.5 Franchise Handbook

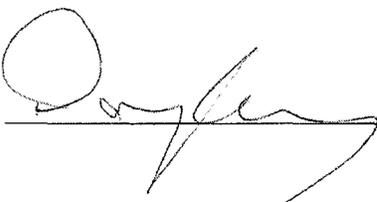
The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. The Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the gas utility companies, as may be amended from time to time.

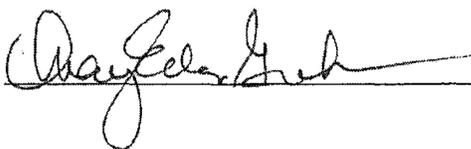
#### 4.6 Agreement Binding Parties

This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

**IN WITNESS WHEREOF** the parties have executed this Agreement effective from the date written above.

**THE CORPORATION OF THE TOWNSHIP  
OF SOUTH-WEST OXFORD**

By:  \_\_\_\_\_

By:  \_\_\_\_\_

**NATURAL RESOURCE GAS LIMITED**

By: \_\_\_\_\_  
J. Robert Cowan, Co-Chair

## Schedule "C"

THE CORPORATION OF THE  
TOWNSHIP OF SOUTH-WEST OXFORD

BY-LAW NO. 58-2013

A BY-LAW TO AUTHORIZE A FRANCHISE AGREEMENT  
BETWEEN  
THE CORPORATION OF THE TOWNSHIP OF SOUTH-WEST OXFORD  
AND  
NATURAL RESOURCE GAS LIMITED

**WHEREAS** the Council of the Corporation of the Township of South-West Oxford deems it expedient to enter into the attached franchise agreement (the "Franchise Agreement") with Natural Resource Gas Limited;

**NOW THEREFORE** the Council of the Corporation of the Township of South-West Oxford enacts as follows:

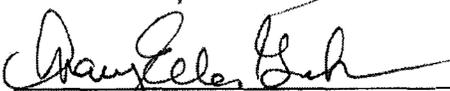
1. **THAT** the Franchise Agreement between the Corporation of the Township of South-West Oxford and Natural Resource Gas Limited attached hereto and forming part of this by-law, is hereby authorized and the franchise provided for therein is hereby granted.
2. **THAT** the Mayor and CAO be and they are hereby authorized and instructed on behalf of the Corporation of the Township of South-West Oxford to enter into and execute under its corporate seal and deliver the Franchise Agreement, which is hereby incorporated into and forming part of this By-Law.
3. **THAT** Township of South-West Oxford By-Law No. 5-83 is hereby repealed in its' entirety.
4. **THAT** this by-law shall come into force and take effect as of the final passing thereof.

Read a first and second time this 5<sup>th</sup> day of November, 2013.

Read a third time and finally passed this 5<sup>th</sup> day of November, 2013.

THE CORPORATION OF THE  
TOWNSHIP OF SOUTH-WEST OXFORD

  
MAYOR: David Mayberry

  
CLERK: Mary Ellen Greb

## **APPENDIX C - Franchise Agreement, Oxford County**



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

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**DECISION AND ORDER**

**EB-2017-0232**

**EPCOR NATURAL GAS LIMITED  
PARTNERSHIP**

**Application for a Municipal Franchise Agreement with the County of Oxford**

**By Delegation, before: Pascale Duguay**

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**December 13, 2018**

## INTRODUCTION AND SUMMARY

This Decision and Order approves the renewal of a municipal franchise agreement between EPCOR Natural Gas Limited Partnership (EPCOR) and the County of Oxford, in the form of the 2000 Model Franchise Agreement (2000 MFA), with no amendments, for a twenty-year term.

## THE PROCESS

EPCOR filed an application with the Ontario Energy Board (OEB) on June 12, 2017, under section 9 of the *Municipal Franchises Act*.<sup>1</sup> The application was for an order of the OEB permitting EPCOR's 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 the County of Oxford. During the course of the proceeding, EPCOR also filed materials requesting relief under section 10 of the *Municipal Franchises Act*.

The OEB held a written hearing. A notice of hearing was published in the local newspaper on February 7 and 14, 2018. The OEB approved Union Gas Limited (Union Gas) as an intervenor. On April 19, 2018, the OEB issued Procedural Order No. 1, which established dates for the filing of interrogatories, responses to interrogatories and written submissions.

On May 25, 2018, Union Gas filed a motion with the OEB to compel EPCOR to answer certain interrogatories posed by Union Gas. The OEB issued Procedural Order No. 2 on May 30, 2018, which gave notice of the motion and made provision for the filing of any additional material and submissions by parties. EPCOR and OEB staff filed submissions on June 15, 2018. Union Gas filed its reply submission on June 22, 2018.

On October 4, 2018, the OEB issued its Decision on Motion and Procedural Order No. 3 (Decision on Motion and P.O. 3), which directed EPCOR to 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. EPCOR was also directed to provide a response to Union Gas' interrogatory 2(d) and address the information requested by the OEB regarding the proposed deviation from the 2000 MFA. The OEB

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<sup>1</sup> The application was originally filed by Natural Resource Gas Limited on June 12, 2017, under section 9 of the *Municipal Franchises Act*. Natural Resource Gas Limited was acquired by EPCOR in November 2017. A reference to EPCOR in this Decision and Order is a reference to EPCOR or its predecessor Natural Resource Gas Limited, as the context requires.

also provided parties with an opportunity to file final written submissions. Union Gas and OEB staff filed submissions on November 1, 2018. EPCOR filed its reply submission on November 15, 2018. On December 11, 2018, EPCOR filed a revised customer density map which delineates its current service area within the County of Oxford.

The County of Oxford did not intervene, or file any letters of comment, in this proceeding.

In this Decision and Order, a reference to the County of Oxford is a reference to the municipal corporation or its geographical area, as the context requires.

## BACKGROUND

EPCOR is a corporation incorporated under the laws of the Province of Ontario, and is a wholly-owned subsidiary of EPCOR Utilities Inc.

The County of Oxford is a municipal corporation incorporated under the laws of the Province of Ontario.

EPCOR held a municipal franchise agreement with the County of Oxford (By-law No. 2931-89) that expired on June 14, 2009. EPCOR also holds a certificate of public convenience and necessity (certificate) for the County of Oxford (E.B.C. 111 and 119, dated May 5, 1982). EPCOR's service area within the County of Oxford is located within the geographic area of the lower-tier municipality of the Township of South-West Oxford. EPCOR also holds a municipal franchise agreement with the Township of South-West Oxford (EB-2012-0475, dated May 9, 2014), and a certificate for certain areas within the Township of South-West Oxford (E.B.C. 111 and 119, dated May 5, 1982).

In 1998, EPCOR applied to the County of Oxford for a municipal franchise agreement in the form of the 2000 MFA, with no amendments, for a term of twenty years. Despite efforts to reach an agreement from 1998 to 2016, the parties were unable to do so. Finally, in response to concerns raised by the County of Oxford regarding drainage issues<sup>2</sup>, EPCOR removed the following reference to the *Drainage Act* in the municipal franchise agreement:

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<sup>2</sup> Email from the County of Oxford to NRG on December 12, 2016, Schedule I, EPCOR Application, EB-2017-0232

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 (*Drainage Act* clause).

On May 24, 2017, the County of Oxford gave its approval to the municipal franchise agreement, subject to the *Drainage Act* clause being removed (proposed franchise agreement).

## THE APPLICATION

With the application, EPCOR filed the County of Oxford's draft by-law granting the proposed franchise agreement and a copy of the proposed franchise agreement. EPCOR also filed a copy of the County of Oxford's resolution approving the form of the proposed franchise agreement and requesting the OEB to direct and declare that the assent of the municipal electors is not necessary (Resolution passed May 24, 2017).

Union Gas primarily objected to two aspects of the proposed franchise agreement. First, the proposed franchise agreement used the form of natural gas supply provision in section 2 meant for lower-tier municipalities, which would allow EPCOR to supply natural gas throughout the County of Oxford, as opposed to only within the lower-tier municipalities that EPCOR had a right to supply natural gas to. Second, the proposed franchise agreement deviated from the 2000 MFA with respect to the removal of the *Drainage Act* clause. Union Gas submitted that EPCOR had not presented any evidence that there were exceptional and unusual circumstances specific to the County of Oxford which would warrant such a deviation, even with the County of Oxford's stated concern that drain-related issues were the responsibility of the lower-tier municipality and not the County of Oxford. Union Gas reiterated that, to its knowledge, the *Drainage Act* clause had not been removed from any franchise agreements with upper-tier municipalities, even though other upper-tier municipalities may also not be responsible for drainage projects. Union Gas also noted that the County of Oxford's concern regarding the cost apportionment of municipal drain-related requests is no longer applicable, given a recent ruling of the Ontario Court of Appeal.<sup>3</sup>

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<sup>3</sup> In *Union Gas Limited v. Norwich (Township)*, 2018 ONCA 11, the Ontario Court of Appeal confirmed that costs associated with gas pipeline relocation at the municipality's request to accommodate drainage works are subject to the apportionment in section 12 of the franchise agreement, as opposed to the cost allocation provisions set out in the *Drainage Act*.

OEB staff submitted that it was not opposed to the deviation of EPCOR's franchise agreement with the County of Oxford from the 2000 MFA, provided that the rationale for it is well-grounded. However, OEB staff also submitted that EPCOR had not been able to provide a clear and satisfactory rationale as to why it is necessary to do so. OEB staff noted that the 2000 MFA was developed by the OEB, with input from municipal leaders and utility representatives, to provide consistency in the terms and conditions of the franchise agreements that municipalities and utilities sign to coordinate the construction, operation and maintenance of the natural gas system. OEB staff argued that it would be more harmful to the public interest to allow EPCOR to delete the *Drainage Act* clause from the updated franchise agreement without providing a compelling rationale, as it could be used as precedent by other municipalities to request deviations from the 2000 MFA.

OEB staff submitted that because of the lengthy period of time since the previous franchise agreement expired in 2009, this application should properly be considered a renewal under section 10 of the *Municipal Franchises Act*. Section 10 of the *Municipal Franchises Act* allows either the municipality or the utility to apply to the OEB to renew or extend the term of the right to operate works or distribute natural gas in a municipality, if the right has already expired (or will expire within a year). OEB staff further submitted that the OEB should use its power under section 10(2) to renew the previous municipal franchise under the terms of the 2000 MFA, without any changes and without any further process.

Both Union Gas and OEB staff also noted that the franchise agreement, as originally proposed by the parties, included certain formatting changes that deviated from the 2000 MFA.

In its October 18, 2018 submission, EPCOR filed an updated franchise agreement. The formatting of the updated franchise agreement was reverted back to that of the 2000 MFA. As well, the updated franchise agreement properly used the form of natural gas supply provision in section 2 meant for an upper-tier municipality (thereby authorizing EPCOR to supply natural gas only to the lower-tier municipalities within the County of Oxford that EPCOR had a right to supply gas to), and contained the *Drainage Act* clause in section 12, Paragraph 5(g).

EPCOR reiterated that it had only removed the *Drainage Act* clause at the request of the County of Oxford, and that it was willing to defer to the OEB's preference in terms of

either removing or keeping the clause in EPCOR's franchise agreement with the County of Oxford. EPCOR stated that it agreed with the OEB's observation in its Decision on Motion and P.O. 3 in that the *Drainage Act* clause allows the County of Oxford to assign the responsibility for drainage to the Township of South-West Oxford. EPCOR submitted that its position with the municipality has always been that the removal of the *Drainage Act* clause is not necessary. EPCOR added that the removal of the *Drainage Act* clause has not, and would not change EPCOR's practice, as EPCOR would submit a copy of the "Plan" to the applicable person responsible for drainage if there was a risk that the natural gas system would affect a municipal drain.

In summary, EPCOR proposed two paths forward. The OEB could approve the updated franchise agreement with the *Drainage Act* clause struck out. Alternatively, the OEB could approve the updated franchise agreement with the *Drainage Act* clause intact, and give EPCOR 60 days from the date of the order to obtain the County of Oxford's consent and approval to the updated franchise agreement. If the County of Oxford did not consent to the updated franchise agreement, EPCOR would then seek an order pursuant to section 10 of the *Municipal Franchises Act* renewing the updated franchise agreement. EPCOR also agreed with OEB staff in that an order by the OEB pursuant to section 10 would be the most expeditious and efficient means to conclude this franchise renewal process.

## OEB FINDINGS

I find that it is in the public interest to renew the municipal franchise agreement between EPCOR and the County of Oxford in the form of the 2000 MFA, with no amendments, and for a term of twenty years.

As the OEB previously determined in its decision with reasons regarding the franchise agreement between Natural Resources Gas and the Town of Aylmer<sup>4</sup>, the OEB can approve a franchise agreement over the objections of the parties, if that agreement, in the OEB's view, meets the test of public convenience and necessity. The 2000 MFA incorporates the standard terms and conditions that the OEB has found in previous cases to meet this test, and has served as the basis for many new and renewed franchise agreements since. In the same decision, the OEB stated:

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<sup>4</sup> EB-2012-0072

The MFA sets out the obligations of the franchise holder in regard to the technical, construction, safety, and operational aspects of the distribution system within the municipality. The Board finds that adherence to the conditions of the 2000 MFA will ensure that these functions are properly carried out.

As noted previously, the purpose of the *Drainage Act* clause contained in the 2000 MFA is for distributors to inform the proper authorities of the works that may affect a municipality's drainage system. I find that there is no compelling reason, on the record of this proceeding, for the OEB to deviate from the standard provisions of the 2000 MFA by removing the *Drainage Act* clause. EPCOR is bound to, and has in fact confirmed that it will continue to, submit a copy of the plan to the applicable person responsible for drainage if there were ever a risk that the natural gas system would affect a municipal drain.

I accept EPCOR's application for a renewal of its existing authorizations within the County of Oxford, under the *Municipal Franchises Act*. Ever since the expiry of the municipal franchise agreement between EPCOR and the County of Oxford in 2009, the parties have continued to carry on business with each other under the same terms.

Pursuant to the authority under section 10 of the *Municipal Franchises Act*, I find that public convenience and necessity require that the OEB issue an order renewing the term of EPCOR's right to to construct and operate works for the distribution, transmission and storage of natural gas, and the right to extend or add to the works, in the County of Oxford. The terms and conditions of the renewal, which also may be prescribed by the OEB under section 10 of the Act, shall be those of the 2000 MFA, for a period of 20 years. Finally, this order is also deemed to be a valid by-law of the County of Oxford, assented to by the municipal electors for the purposes of the *Municipal Franchises Act* and of section 58 of the *Public Utilities Act*.

**IT IS ORDERED THAT:**

EPCOR Natural Gas Limited Partnership is granted 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, within the County of Oxford, pursuant to the terms and conditions, and the period that is set out in the franchise agreement attached in Schedule A. A map of EPCOR's current service area in the County of Oxford is attached as Schedule B.

EPCOR Natural Gas Limited Partnership shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

**DATED** at Toronto, December 13, 2018

**ONTARIO ENERGY BOARD**

*Original Signed By*

Pascale Duguay  
Manager, Application Policy and Climate Change

**SCHEDULE A**

**EB-2017-0232**

**DATED: December 13, 2018**

**Franchise Agreement**

## FRANCHISE AGREEMENT

THIS AGREEMENT effective this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**BETWEEN:**

**THE COUNTY OF OXFORD**  
hereinafter called the “**Corporation**”

- and -

**EPCOR NATURAL GAS LIMITED PARTNERSHIP**  
hereinafter called the “**Gas Company**”

**WHEREAS** the Gas Company desires to distribute, store and transmit gas in the Municipality upon the terms and conditions of this Agreement;

**AND WHEREAS** by by-law passed by the Council of the Corporation (the “By-law”), the duly authorized officers have been authorized and directed to execute this Agreement on behalf of the Corporation;

**THEREFORE** the Corporation and the Gas Company agree as follows:

### PART I – DEFINITIONS

1. In this Agreement:

- (a) “**decommissioned**” and “**decommissions**” when used in connection with parts of the gas system, mean any parts of the gas system taken out of active use and purged in accordance with the applicable CSA standards and in no way affects the use of the term ‘abandoned’ pipeline for the purposes of the *Assessment Act*;
- (b) “**Engineer/Road Superintendent**” means the most senior individual employed by the Corporation with responsibilities for highways within the Municipality or the person designated by such senior employee or such other person as may from time to time be designated by the Council of the Corporation;
- (c) “**gas**” means natural gas, manufactured gas, synthetic natural gas, liquefied petroleum gas or propane-air gas, or a mixture of any of them, but does not include a liquefied petroleum gas that is distributed by means other than a pipeline;

- (d) “**gas system**” means such mains, plants, pipes, conduits, services, valves, regulators, curb boxes, stations, drips or such other equipment as the Gas Company may require or deem desirable for the distribution, storage and transmission of gas in or through the Municipality;
- (e) “**highway**” means all common and public highways and shall include any bridge, viaduct or structure forming part of a highway, and any public square, road allowance or walkway and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the road allowance now or at any time during the term hereof under the jurisdiction of the Corporation;
- (f) “**Model Franchise Agreement**” means the form of agreement which the Ontario Energy Board uses as a standard when considering applications under the *Municipal Franchises Act*. The Model Franchise Agreement may be changed from time to time by the Ontario Energy Board;
- (g) “**Municipality**” means the territorial limits of the Corporation on the date when this Agreement takes effect, and any territory which may thereafter be brought within the jurisdiction of the Corporation;
- (h) “**Plan**” means the plan described in Paragraph 5 of this Agreement required to be filed by the Gas Company with the Engineer/Road Superintendent prior to commencement of work on the gas system; and
- (i) whenever the singular, masculine or feminine is used in this Agreement, it shall be considered as if the plural, feminine or masculine has been used where the context of the Agreement so requires.

## **PART II - RIGHTS GRANTED**

### 2. To provide gas service:

The consent of the Corporation is hereby given and granted to the Gas Company to distribute, store and transmit gas in and through the Corporation and to the inhabitants of those local or lower tier municipalities within the Municipality from which the Gas Company has a valid franchise agreement for that purpose.

### 3. To Use Highways.

Subject to the terms and conditions of this Agreement the consent of the Corporation is hereby given and granted to the Gas Company to enter upon all highways now or at any time hereafter under the jurisdiction of the Corporation and to lay, construct, maintain, replace, remove, operate and repair a gas system for the distribution, storage and transmission of gas in and through the Municipality.

### 4. Duration of Agreement and Renewal Procedures.

- (a) The rights hereby given and granted shall be for a term of 20 years from the date of final passing of the By-law provided that, if during the 20-year term this

Agreement, the Model Franchise Agreement is changed, then on the 7<sup>th</sup> anniversary and on the 14<sup>th</sup> anniversary of the date of the passing of the By-law, this Agreement shall be deemed to be amended to incorporate any changes in the Model Franchise Agreement in effect on such anniversary dates. Such deemed amendments shall not apply to alter the 20-year term.

- (b) At any time within two years prior to the expiration of this Agreement, either party may give notice to the other that it desires to enter into negotiations for a renewed franchise upon such terms and conditions as may be agreed upon. Until such renewal has been settled, the terms and conditions of this Agreement shall continue, notwithstanding the expiration of this Agreement. This shall not preclude either party from applying to the Ontario Energy Board for a renewal of the Agreement pursuant to section 10 of the *Municipal Franchises Act*.

### **PART III – CONDITIONS**

#### **5. Approval of Construction**

- (a) The Gas Company shall not undertake any excavation, opening or work which will disturb or interfere with the surface of the travelled portion of any highway unless a permit therefor has first been obtained from the Engineer/Road Superintendent and all work done by the Gas Company shall be to his satisfaction.
- (b) Prior to the commencement of work on the gas system, or any extensions or changes to it (except service laterals which do not interfere with municipal works in the highway), the Gas Company shall file with the Engineer/Road Superintendent a Plan, satisfactory to the Engineer/Road Superintendent, drawn to scale and of sufficient detail considering the complexity of the specific locations involved, showing the highways in which it proposes to lay its gas system and the particular parts thereof it proposes to occupy.
- (c) The Plan filed by the Gas Company shall include geodetic information for a particular location:
  - (i) where circumstances are complex, in order to facilitate known projects, including projects which are reasonably anticipated by the Engineer/Road Superintendent, or
  - (ii) when requested, where the Corporation has geodetic information for its own services and all others at the same location.
- (d) The Engineer/Road Superintendent may require sections of the gas system to be laid at greater depth than required by the latest CSA standard for gas pipeline systems to facilitate known projects or to correct known highway deficiencies.
- (e) Prior to the commencement of work on the gas system, the Engineer/Road Superintendent must approve the location of the work as shown on the Plan filed

by the Gas Company, the timing of the work and any terms and conditions relating to the installation of the work.

- (f) In addition to the requirements of this Agreement, if the Gas Company proposes to affix any part of the gas system to a bridge, viaduct or other structure, if the Engineer/Road Superintendent approves this proposal, he may require the Gas Company to comply with special conditions or to enter into a separate agreement as a condition of the approval of this part of the construction of the gas system.
- (g) 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 purposes of the *Drainage Act*, or such other person designated by the Corporation as responsible for the drain.
- (h) The Gas Company shall not deviate from the approved location for any part of the gas system unless the prior approval of the Engineer/Road Superintendent to do so is received.
- (i) The Engineer/Road Superintendent's approval, where required throughout this Paragraph, shall not be unreasonably withheld.
- (j) The approval of the Engineer/Road Superintendent is not a representation or warranty as to the state of repair of the highway or the suitability of the highway for the gas system.

6. As Built Drawings.

The Gas Company shall, within six months of completing the installation of any part of the gas system, provide two copies of "as built" drawings to the Engineer/Road Superintendent. These drawings must be sufficient to accurately establish the location, depth (measurement between the top of the gas system and the ground surface at the time of installation) and distance of the gas system. The "as built" drawings shall be of the same quality as the Plan and, if the approved pre-construction plan included elevations that were geodetically referenced, the "as built" drawings shall similarly include elevations that are geodetically referenced. Upon the request of the Engineer/Road Superintendent, the Gas Company shall provide one copy of the drawings in an electronic format and one copy as a hard copy drawing.

7. Emergencies

In the event of an emergency involving the gas system, the Gas Company shall proceed with the work required to deal with the emergency, and in any instance where prior approval of the Engineer/Road Superintendent is normally required for the work, the Gas Company shall use its best efforts to immediately notify the Engineer/Road Superintendent of the location and nature of the emergency and the work being done and, if it deems appropriate, notify the police force, fire or other emergency services having jurisdiction. The Gas Company shall provide the Engineer/Road Superintendent with at least one 24 hour emergency contact for the Gas Company and shall ensure the contacts are current.

8. Restoration

The Gas Company shall well and sufficiently restore, to the reasonable satisfaction of the Engineer/Road Superintendent, all highways, municipal works or improvements which it may excavate or interfere with in the course of laying, constructing, repairing or removing its gas system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. If the Gas Company fails at any time to do any work required by this Paragraph within a reasonable period of time, the Corporation may do or cause such work to be done and the Gas Company shall, on demand, pay the Corporation's reasonably incurred costs, as certified by the Engineer/Road Superintendent.

9. Indemnification

The Gas Company shall, at all times, indemnify and save harmless the Corporation from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the Gas Company operating, constructing, and maintaining its gas system in the Municipality, or utilizing its gas system for the carriage of gas owned by others. Provided that the Gas Company shall not be required to indemnify or save harmless the Corporation from and against claims, including costs related thereto, which it may incur by reason of damages or injuries including death to any person or persons and for damage to any property, resulting from the negligence or wrongful act of the Corporation, its servants, agents or employees.

10. Insurance

- (a) The Gas Company shall maintain Comprehensive General Liability Insurance in sufficient amount and description as shall protect the Gas Company and the Corporation from claims for which the Gas Company is obliged to indemnify the Corporation under Paragraph 9. The insurance policy shall identify the Corporation as an additional named insured, but only with respect to the operation of the named insured (the Gas Company). The insurance policy shall not lapse or be cancelled without sixty (60) days' prior written notice to the Corporation by the Gas Company.
- (b) The issuance of an insurance policy as provided in this Paragraph shall not be construed as relieving the Gas Company of liability not covered by such insurance or in excess of the policy limits of such insurance.
- (c) Upon request by the Corporation, the Gas Company shall confirm that premiums for such insurance have been paid and that such insurance is in full force and effect.

11. Alternative Easement

The Corporation agrees, in the event of the proposed sale or closing of any highway or any part of a highway where there is a gas line in existence, to give the Gas Company reasonable notice of such proposed sale or closing and, if is feasible, to provide the Gas

Company with easements over that part of the highway proposed to be sold or closed sufficient to allow the Gas Company to preserve any part of the gas system in its then existing location. In the event that such easements cannot be provided, the Corporation and the Gas Company shall share the cost of relocating or altering the gas system to facilitate continuity of gas service, as provided for in Paragraph 12 of this Agreement.

12. Pipeline Relocation

- (a) If in the course of constructing, reconstructing, changing, altering or improving any highway or any municipal works, the Corporation deems that it is necessary to take up, remove or change the location of any part of the gas system, the Gas Company shall, upon notice to do so, remove and/or relocate within a reasonable period of time such part of the gas system to a location approved by the Engineer/Road Superintendent.
- (b) Where any part of the gas system relocated in accordance with this Paragraph is located on a bridge, viaduct or structure, the Gas Company shall alter or relocate that part of the gas system at its sole expense.
- (c) Where any part of the gas system relocated in accordance with this Paragraph is located other than on a bridge, viaduct or structure, the costs of relocation shall be shared between the Corporation and the Gas Company on the basis of the total relocation costs, excluding the value of any upgrading of the gas system, and deducting any contribution paid to the Gas Company by others in respect to such relocation; and for these purposes, the total relocation costs shall be the aggregate of the following:
  - (i) the amount paid to Gas Company employees up to and including field supervisors for the hours worked on the project plus the current cost of fringe benefits for these employees,
  - (ii) the amount paid for rental equipment while in use on the project and an amount, charged at the unit rate, for Gas Company equipment while in use on the project,
  - (iii) the amount paid by the Gas Company to contractors for work related to the project,
  - (iv) the cost to the Gas Company for materials used in connection with the project, and
  - (v) a reasonable amount for project engineering and project administrative costs which shall be 22.5% of the aggregate of the amounts determined in items (i), (ii), (iii) and (iv) above.
- (d) The total relocation costs as calculated above shall be paid 35% by the Corporation and 65% by the Gas Company, except where the part of the gas system required to be moved is located in an unassumed road or in an unopened

road allowance and the Corporation has not approved its location, in which case the Gas Company shall pay 100% of the relocation costs.

#### **PART IV – PROCEDURAL AND OTHER MATTERS**

13. Municipal By-laws of General Application

The Agreement is subject to the provisions of all regulating statutes and all municipal by-laws of general application, except by-laws which have the effect of amending this Agreement.

14. Giving Notice

Notices may be delivered to, sent by facsimile or mailed by prepaid registered post to the Gas Company at its head office or to the authorized officers of the Corporation at its municipal offices, as the case may be.

15. Disposition of Gas System

- (a) If the Gas Company decommissions part of its gas system affixed to a bridge, viaduct or structure, the Gas Company shall, at its sole expense, remove the part of its gas system affixed to the bridge, viaduct or structure.
- (b) If the Gas Company decommissions any other part of its gas system, it shall have the right, but is not required, to remove that part of its gas system. It may exercise its right to remove the decommissioned parts of its gas system by giving notice of its intention to do so by filing a Plan as required by Paragraph 5 of this Agreement for approval by the Engineer/Road Superintendent. If the Gas Company does not remove the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in any highway, the Corporation may remove and dispose of so much of the decommissioned gas system as the Corporation may require for such purposes and neither party shall have recourse against the other for any loss, cost, expense or damage occasioned thereby. If the Gas Company has not removed the part of the gas system it has decommissioned and the Corporation requires the removal of all or any part of the decommissioned gas system for the purpose of altering or improving a highway or in order to facilitate the construction of utility or other works in a highway, the Gas Company may elect to relocate the decommissioned gas system and in that event Paragraph 12 applies to the cost of relocation.

16. Use of Decommissioned Gas System

- (a) The Gas Company shall provide promptly to the Corporation, to the extent such information is known:

- (i) the names and addresses of all third parties who use decommissioned parts of the gas system for purposes other than the transmission or distribution of gas; and
  - (ii) the location of all proposed and existing decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas.
- (b) The Gas Company may allow a third party to use a decommissioned part of the gas system for purposes other than the transmission or distribution of gas and may charge a fee for that third party use, provided
  - (i) the third party has entered into a municipal access agreement with the Corporation; and
  - (ii) the Gas Company does not charge a fee for the third party's right of access to the highways.
- (c) Decommissioned parts of the gas system used for purposes other than the transmission or distribution of gas are not subject to the provisions of this Agreement. For decommissioned parts of the gas system used for purposes other than the transmission and distribution of gas, issues such as relocation costs will be governed by the relevant municipal access agreement.

17. Franchise Handbook

The Parties acknowledge that operating decisions sometimes require a greater level of detail than that which is appropriately included in this Agreement. The Parties agree to look for guidance on such matters to the Franchise Handbook prepared by the Association of Municipalities of Ontario and the gas utility companies, as may be amended from time to time.

18. Agreement Binding Parties

This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

**[Signature Page Below]**

**IN WITNESS WHEREOF** the parties have executed this Agreement effective from the date written above.

**THE COUNTY OF OXFORD**

By: \_\_\_\_\_

By: \_\_\_\_\_

**EPCOR Natural Gas Limited  
Partnership by its general partner  
EPCOR Ontario Utilities Inc.**

By: \_\_\_\_\_

**SCHEDULE B**

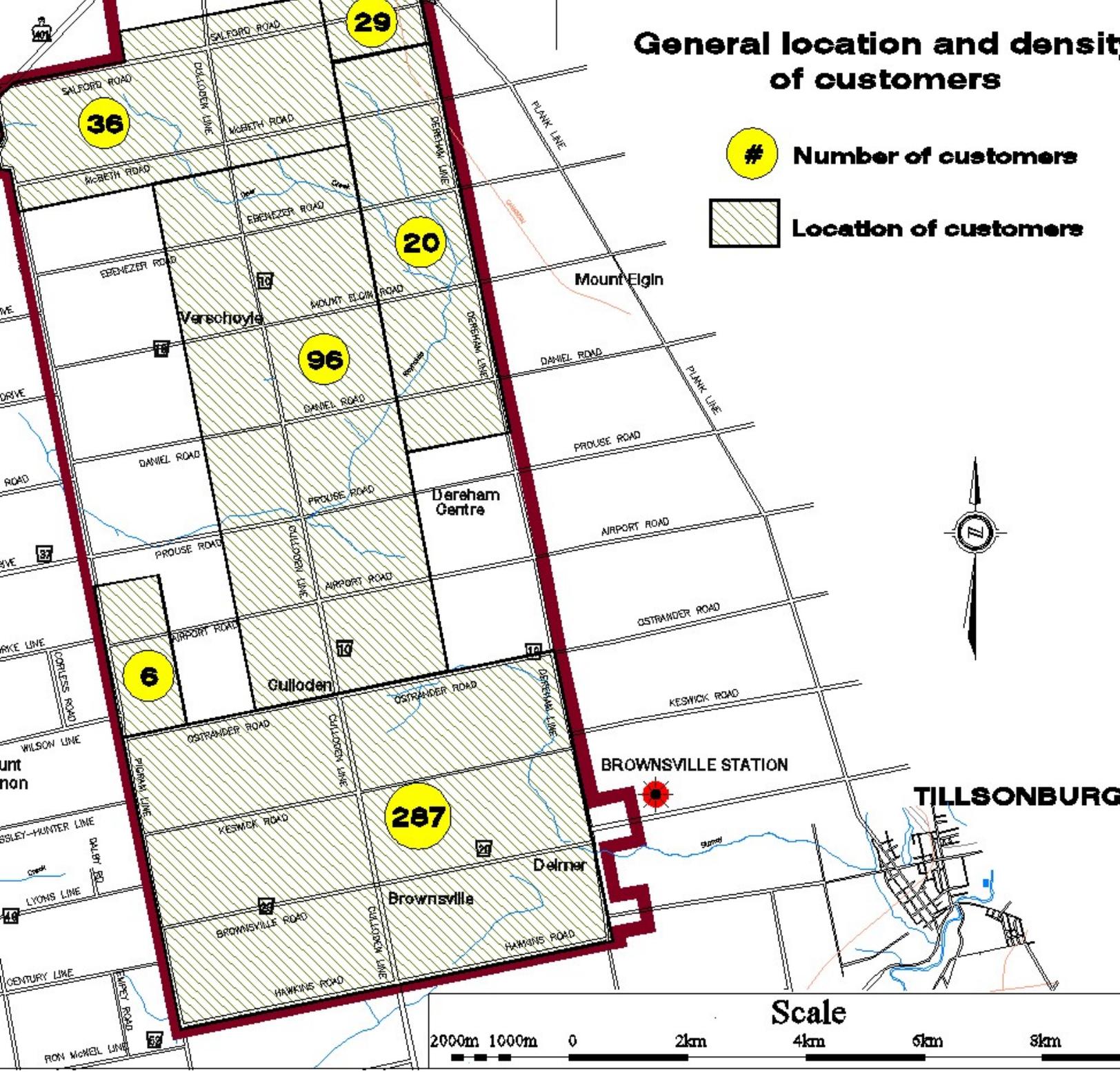
**EB-2017-0232**

**DATED: December 13, 2018**

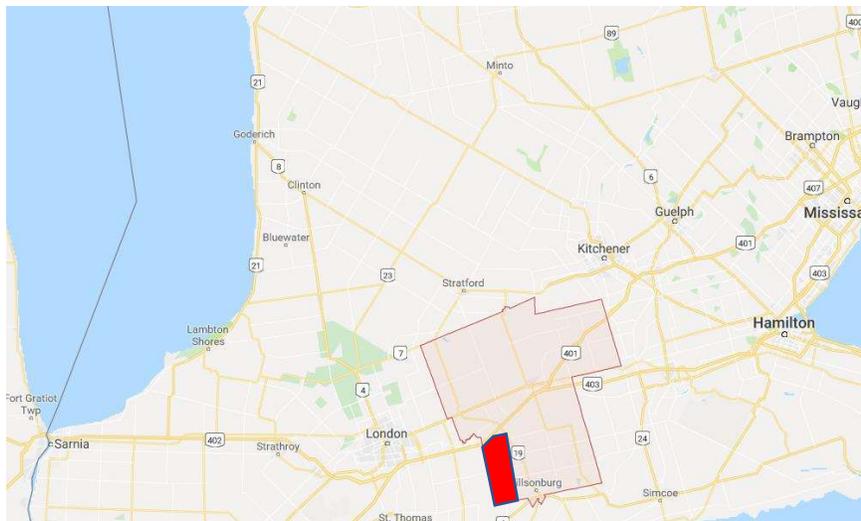
**Map of the County of Oxford**

# General location and density of customers

-  Number of customers
-  Location of customers



**EPCOR NATURAL GAS LIMITED PARTNERSHIP**



## **APPENDIX D - Omnibus CPCN**



IN THE MATTER OF the Municipal  
Franchises Act, R.S.O. 1980, c. 309;

AND IN THE MATTER OF applications by  
Natural Resources Gas Limited for  
certificates of public convenience  
and necessity to construct works to  
supply and to supply gas in the  
Townships of Southwest Oxford, North  
Dorchester, South Dorchester,  
Westminster, Norfolk and Bayham, the  
Villages of Belmont, Port Burwell,  
Springfield and Vienna and the Town  
of Aylmer.

BEFORE:	R. H. Clendining	)	
	Chairman and	)	
	Presiding Member	)	
		)	
	H. R. Chatterson	)	October 15, 1981
	Member	)	
		)	
	R. R. Perdue	)	
	Member	)	

CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY

UPON the applications of Natural Resource Gas  
Limited ("NRG") for certificates of public convenience  
and necessity to construct works to supply gas in the  
municipalities referred to above;

AND UPON the applications having been heard in  
Toronto on September 9, 1981, in the presence of counsel  
for NRG, for Union Gas Limited and for the Board, no one  
else appearing, and Reasons for Decision having been  
delivered on October 15, 1981:

IT IS ORDERED THAT a certificate of public convenience and necessity be and the same is hereby granted to NRG to construct works to supply and to supply gas in:

1. the Village of Belmont
2. the Township of South Dorchester
3. the Village of Port Burwell
4. the Town of Aylmer
5. the Village of Springfield
6. the Village of Vienna
7. those areas of the Townships of Southwest Oxford, North Dorchester, Westminster, Norfolk and Bayham set out in Appendix "A" to this Order.

ISSUED at Toronto this 5th day of May, 1982.

ONTARIO ENERGY BOARD



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Imelda Walker  
Assistant Board Secretary

*Imelda Walker*

Imelda Walker  
Assistant Board Secretary

TOWNSHIP OF WESTMINSTER

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of Westminster, in the Country of Middlesex, and being composed of the following:

1. The whole of Lots 3, 4, 5 and 6 in Concession 8.
2. The whole of Lots 1, 2, 3, 4, 5 and 6, in Concession 7.
3. The whole of Lots 1, 2 and 3 in each of Concessions 3, 4, 5 and 6.
4. The south halves of Lots 4, 5 and 6, in Concession 6.
5. Those parts of Lots 1, 2, 3 and 4 in Concession 2 lying south of Highway 401.
6. That part of the east half of Lot 5 in Concession 2 lying south of Highway 401.
7. Those customers on the west side of Highway 74 to a depth of 200 feet from the said Highway, from the dividing line between the north and south halves of Lot 1 in Concession 1 to Highway 401 lying in Lot 1 in Concession 2.

8. The north half of Lot 1 in Concession 1.
9. The whole of Lot 1 in the Broken Front Concession.

TOWNSHIP OF NORTH DORCHESTER

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of North Dorchester, in the County of Middlesex, and being composed of the following:

1. The whole of Lot 24 in Concession A.
2. The north half of Lot 24, in Concession B.
3. Those customers along the east side of Highway 74 to a depth of 200 feet from the said Highway, from the dividing line between the north and south halves of Lot 24, in Concession B to Highway 401 lying in Lot 24, in Concession 1.
4. Those parts of Lots 21, 22, 23 and 24, in Concession 1 lying south of Highway 401.
5. The whole of Lots 21, 22, 23 and 24 in each of Concessions 2, 3, 4, 5 and 6.
6. The west half of the southerly quarter of Lot 20 in Concession 5.
7. The whole of Lot 20, in Concession 6, save and except the northeasterly quarter thereof.

8. The south halves of Lots 11, 12, 13, 14, 15, 16, 17, 18 and 19, in Concession 6.
9. The whole of Lots 6, 7, 8, 9 and 10 in each of Concessions 2, 3, 4, 5 and 6.
10. Those parts of Lots 6, 7, 8, 9 and 10 in Concession 1 lying South of Highway 401.
11. The south halves of Lots B, 1, 2, 3, 4 and 5, in Concession 6.
12. The whole of Lot A in each of Concessions 2, 3, 4, 5 and 6.
13. That part of Lot A, in Concession 1 lying south of Highway 401.

TOWNSHIP OF SOUTHWEST OXFORD

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of Southwest Oxford in the County of Oxford, formerly in the Township of Dereham in the County of Oxford, and being composed of the following:

1. The whole of Lots 15 to 23, both inclusive, in Concession 1.
2. The whole of Lot 24, in Concession 1, save and except that part of the said Lot lying north of Highway 401.

3. The whole of Lots 15 to 28, both inclusive, in each of Concessions 2 to 12, both inclusive.
4. The southerly quarter of Lot 14, in Concession 10.
5. The southerly quarter of Lot 14, in Concession 11.

TOWNSHIP OF BAYHAM

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Township of Bayham, in the County of Elgin, and being composed of the whole of the said Township of Bayham, saving and excepting therefrom the following:

1. The whole of Lots 15, 16, 17, 18, 19, 20 and 21, in Concession 11.
2. The whole of Lots 20, 21, 22, 23, 24 and 25, in Concession 10.
3. The whole of Lots 20, 21, 22, 23, 24, 25, 26, 27 and 28, in Concession 9.
4. The southerly 200 feet of Lots 17, 18 and 19, in Concession 9.
5. The northerly 200 feet of Lots 17, 18 and 19 in Concession 8.
6. The north half of Lot 20, in Concession 8.

7. Those parts of Lots 21, 22, 23 and 24, in Concession 8 lying north of the road which runs in a generally easterly and westerly direction through such Lots and commonly known as Ridge Road. However, the property of Mr. John Siemens Jr., R.R.1, Eden, Ontario (part of Lot 23, Concession 8) is to continue to be served by Natural Resource Gas Limited.
8. The whole of Lots 26, 27 and 28, in Concession 8.

TOWNSHIP OF NORFOLK

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of Norfolk, in the Regional Municipality of Haldimand-Norfolk (formerly in the Township of Houghton, in the County of Norfolk) and being composed of all of the lands and premises situate, lying and being in the lands formerly known as the Township of Houghton, save and except the following:

1. The whole of Gore Lot A.
2. The north half of Gore Lot B.

(FORMERLY MIDDLETON)

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of

Norfolk, in the Regional Municipality of Haldimand-Norfolk, formerly in the Township of Middleton, in the County of Norfolk, and being composed of the following:

1. The south quarters of Lots 1 and 2, in Concession 1, North of Talbot Road.
2. The whole of Lots 1 and 2, in each of Concessions 1 and 2, South of Talbot Road.

(FORMERLY NORTH WALSINGHAM)

ALL AND SINGULAR those certain parcels of tracts of land and premises situate, lying and being in Township of Norfolk, in the Regional Municipality of Haldimand-Norfolk, formerly in the Township of North Walsingham in the County of Norfolk, and being composed of the following:

1. The whole of Lot 1 in each of Concessions 11, 12, 13 and 14.
2. The whole 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.
3. The whole 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.

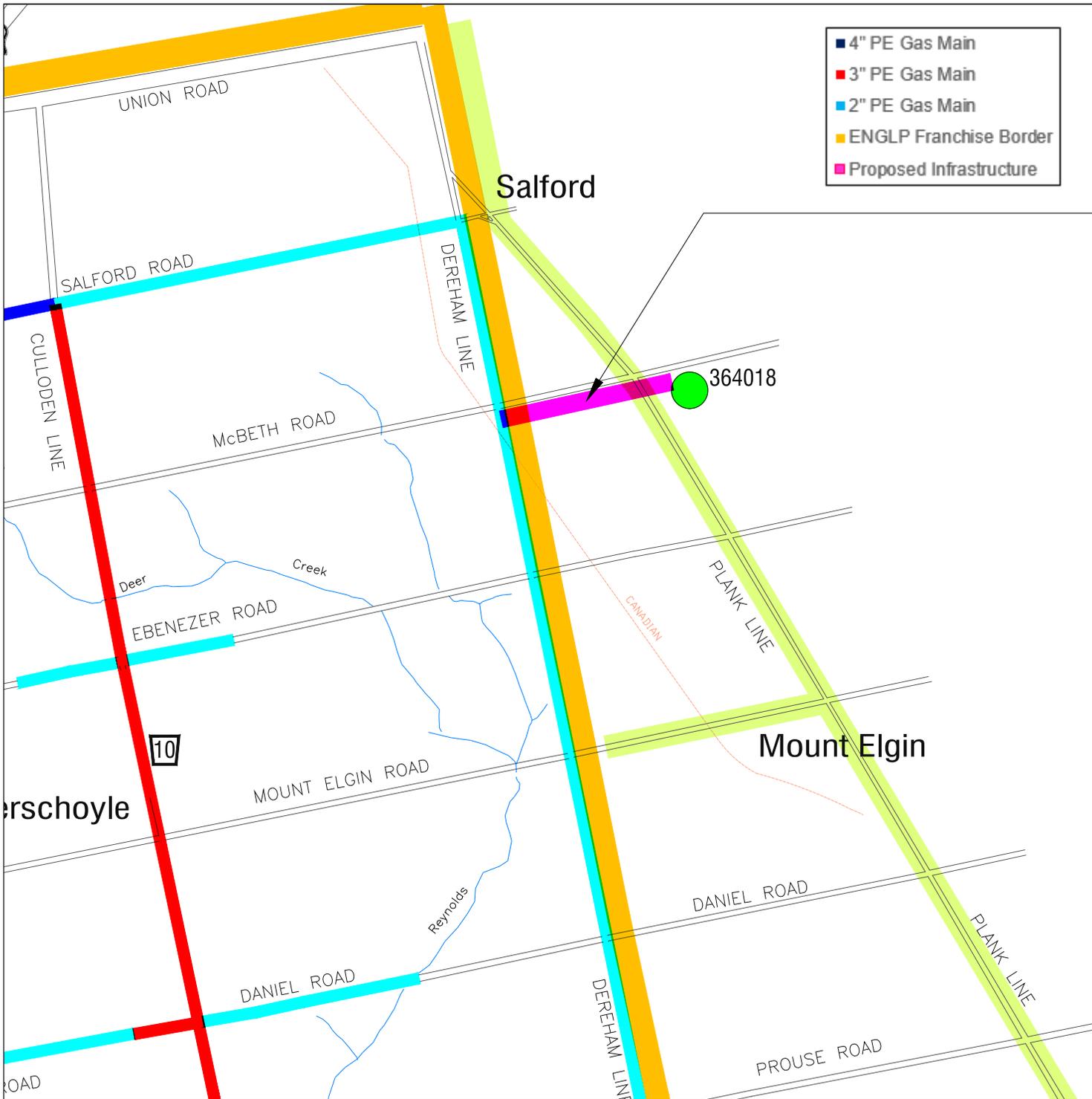
4. The whole of Lots 1 in each of Concessions 7 and 8.
5. The south halves of each of Lots 2, 3, 4 and 5 in Concession 7.

(FORMERLY SOUTH WALSINGHAM)

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of Norfolk, in the Regional Municipality of Haldimand-Norfolk, formerly in the Township of South Walsingham, in the County of Norfolk, and being composed of the following:

1. The whole of Lots 1, 2, 3, 4 and 5, in each of Concessions 1, 2, 3, 4, 5 and 6.
2. The whole of Lots 1, 2, 3, 4 and 5, in each of Ranges A and B.
3. The whole of Marsh Lots 1, 2, 3, 4 and 5.
4. The whole of Gore Lot E, in Concession 3.
5. The whole of Gore Lot D in Concession 2.
6. The whole of Gore Lot C in Concession 1.
7. The whole of Gore Lot B, in Range A.
8. The whole of Gore Lot A, in Range B.
9. The whole of Marsh Lot in front of Gore Lot A, Range B.

## **APPENDIX E - Maps of Potential Customers and Proposed Pipeline Infrastructure**



- 4" PE Gas Main
- 3" PE Gas Main
- 2" PE Gas Main
- ENGLP Franchise Border
- Proposed Infrastructure

**NOTES;**

PROPOSED 2"PE GAS MAIN LINE TO BE INSTALLED AT SOUTH SIDE OF McBETH ROAD APPROXIMATELY 1400m OF LENGTH TO PROPERTY 364018



No.	REVISIONS	DATE	BY



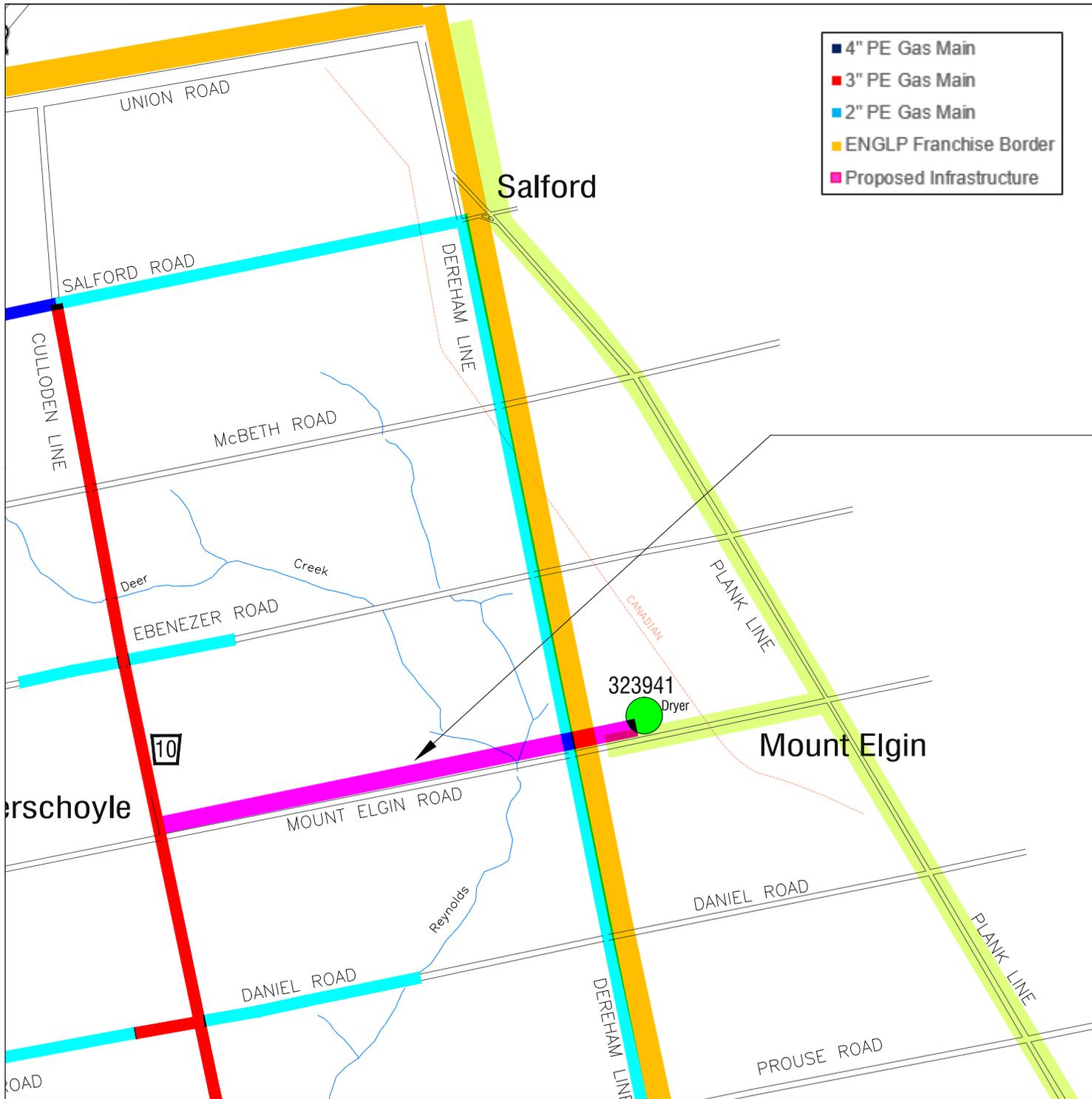
DESIGNED BY:	CHECKED BY:
DRAWN BY:	APPROVED BY:
T.B.	
PROJECT NAME: 364018 SALFORD GROUP	

PROPOSED MAIN LINE INSTALLATION FOR  
 McBETH ROAD to PROPERTY 364018  
 approximately 1400m

PROPOSED START DATE:	2020
NODE No.	XXX
DRAWING No. 2 of 2	

# McBeth Road Expansion - Map of Potential Customers





**NOTES;**  
 PROPOSED 4"PE GAS MAIN LINE TO BE INSTALLED ALONG NORTH SIDE OF MOUNT ELGIN ROAD APPROXIMATELY 4150m OF LENGTH TO PROPERTY 323941

No.	REVISIONS	DATE	BY



DESIGNED BY:	CHECKED BY:
DRAWN BY: T.B.	APPROVED BY:

PROJECT NAME: 323941 MOUNT ELGIN ROAD

PROPOSED MAIN LINE INSTALLATION FOR MOUNT ELGIN RD to PROPERTY 323941 approximately 4150m

PROPOSED START DATE: 2020
NODE No. XXX DRAWING No. 2 of 2

# Mount Elgin Road Expansion - Map of Potential Customers



## **APPENDIX F - Draft CPCN**

## Certificate of Public Convenience and Necessity

The Ontario Energy Board grants

### EPCOR Natural Gas Limited Partnership

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55, as amended, to construct works to supply gas in the

### Township of South-West Oxford

as it is constituted on the date of this Decision and Order, in the following areas:

- Concession 1 – All of Lots 15 to 23 (Inclusive), those portions of Lot 24 lying south of Highway 401, the southwest quarter of Lot 13, and the south half of Lot 14
- Concession 2 – The south half of Lots 11-12, all of Lots 13 to 28 (Inclusive),
- Concession 3 - The north half of Lots 11-14, all of Lots 15 to 28 (Inclusive)
- Concession 4 - The south half of Lots 13-14, all of Lots 15 to 28 (Inclusive)
- Concessions 5 to 9 – All of Lots 15 to 28 (Inclusive)
- Concession 10 – All of Lots 15 to 28 (Inclusive) and the southern quarter of Lot 14
- Concession 11 – All of Lots 15 to 28 (Inclusive) and the southern quarter of Lot 14
- Concession 12 – All of Lots 15 to 28 (Inclusive)

**DATED** at Toronto, \_\_\_\_\_, 2020

**ONTARIO ENERGY BOARD**

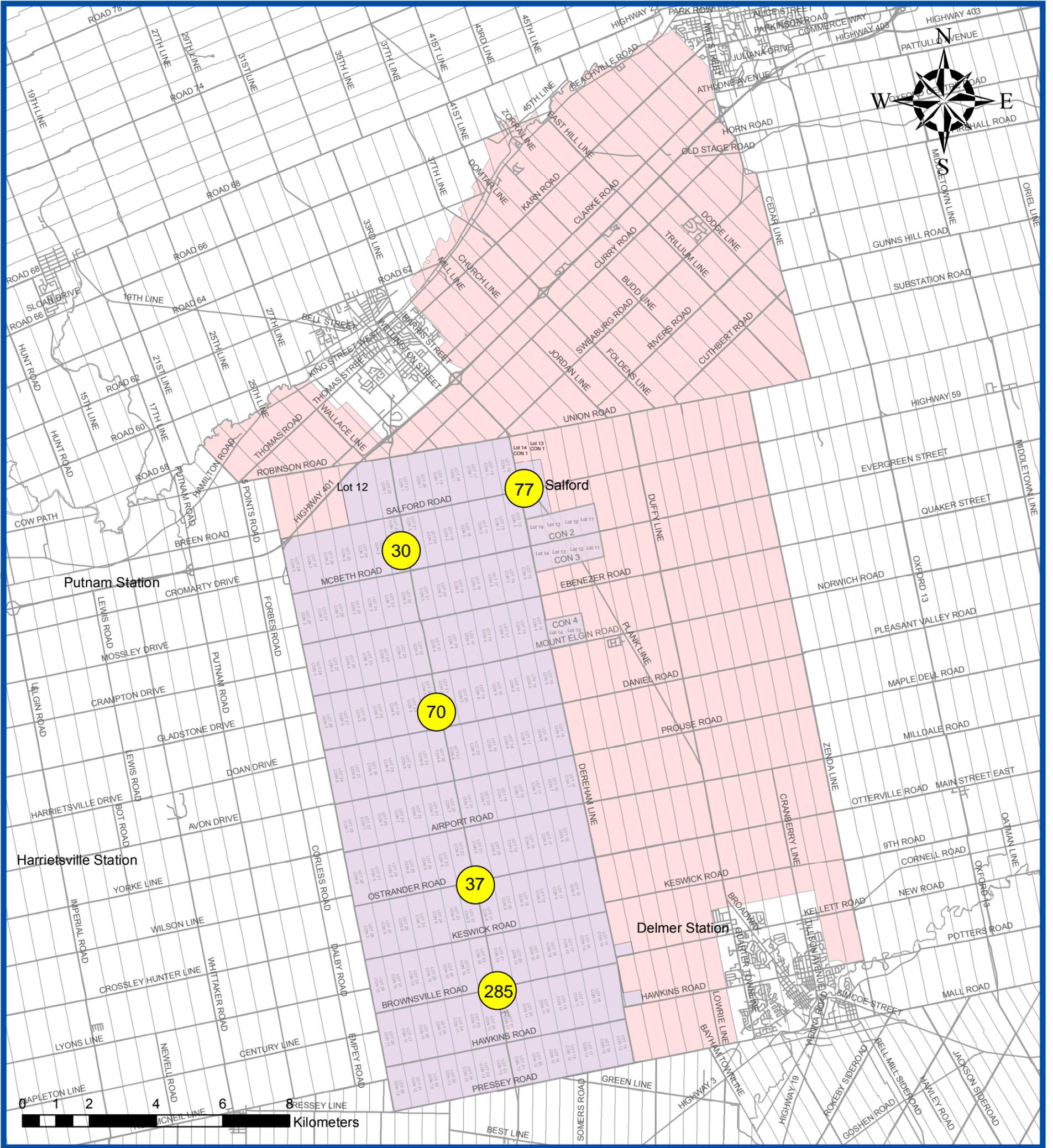
*Original Signed By*

Kirsten Walli  
Board Secretary

Draft

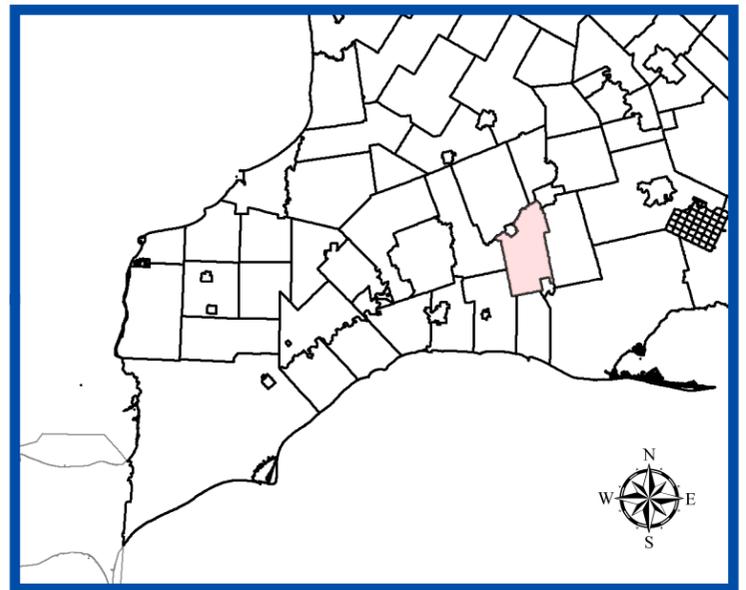
## **APPENDIX G - Certificate Map**

# Municipality of South-West Oxford, Certificate Map

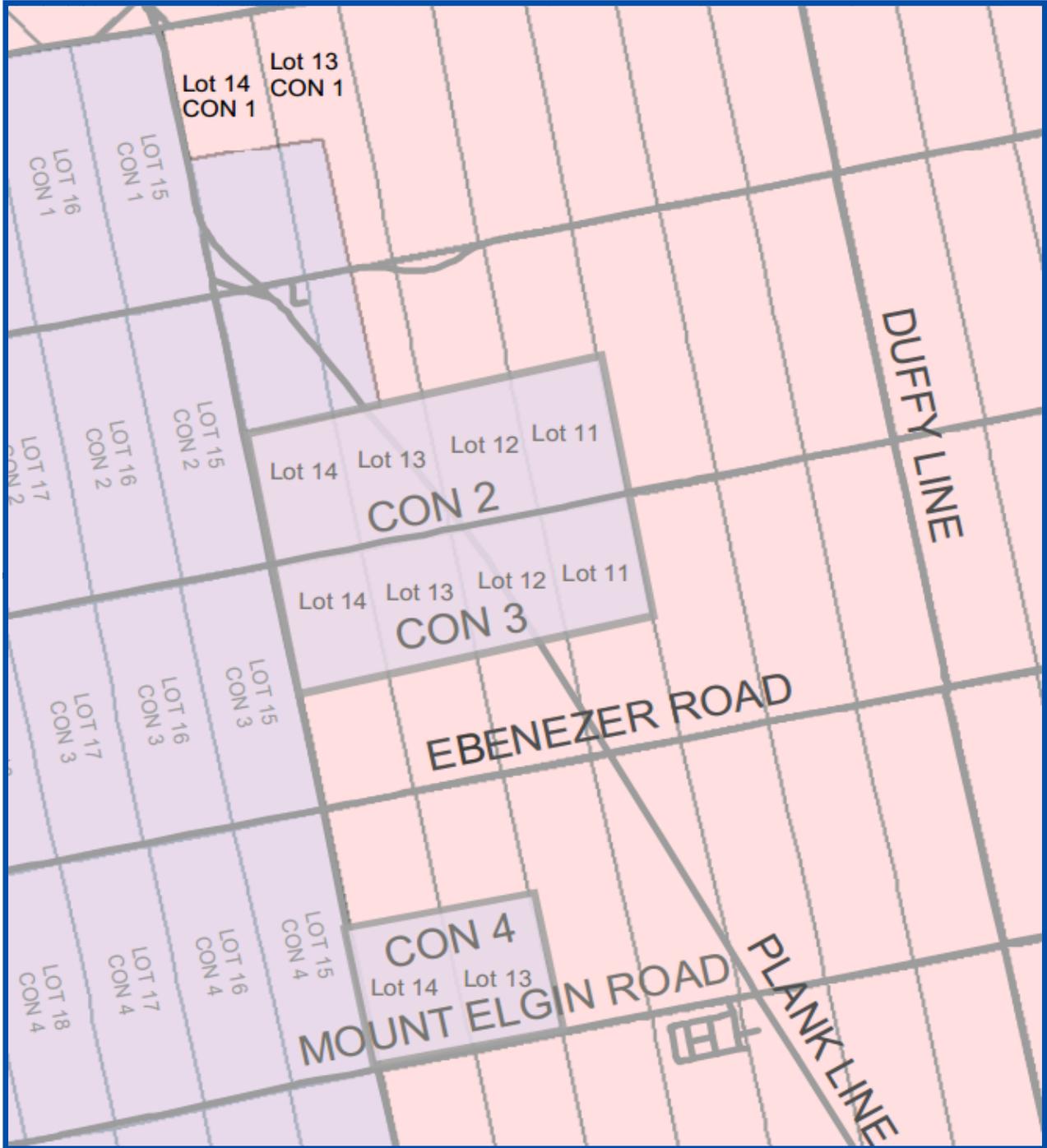


**Legend**

- Number of Customers
- Southwest Oxford EPCOR Boundary
- SW Oxford Boundary



# Salford Lot Map



**Legend**

- Main Infrastructure
- Southwest Oxford EPCOR Boundry
- SW Oxford Boundary

