



Ontario
Energy
Board

Commission
de l'énergie
de l'Ontario

DECISION AND ORDER

EB-2020-0232

EPCOR NATURAL GAS LIMITED PARTNERSHIP

**Application for a new certificate of public convenience and necessity for the
Township of South-West Oxford**

By Delegation, before: Pascale Duguay

February 11, 2021

INTRODUCTION AND SUMMARY

This Decision and Order approves an application filed by EPCOR Natural Gas Limited Partnership (ENGLP) for a new certificate of public convenience and necessity (certificate) for the Township of South-West Oxford (Township). The new certificate authorizes ENGLP to extend natural gas service to areas around Mount Elgin Road and McBeth Road (Mount Elgin-McBeth Areas), as described herein.

THE PROCESS

ENGLP filed an application with the Ontario Energy Board (OEB) on October 29, 2020, under section 8 of the *Municipal Franchises Act*. The application was for an order of the OEB amending ENGLP's existing certificate for the Township to authorize ENGLP to construct, connect, and provide natural gas service to the Mount Elgin-McBeth Areas.

The OEB held a written hearing. A notice of hearing was published in the local newspaper on November 26, 2020. Enbridge Gas Inc. (Enbridge Gas) applied for, and was granted, intervenor status.

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

THE APPLICATION

ENGLP is a corporation incorporated under the laws of the Province of Ontario, with offices in the Town of Aylmer and the Municipality of Kincardine.

The Township is a municipal corporation incorporated under the laws of the Province of Ontario, and is a lower-tier municipality in the County of Oxford. ENGLP holds municipal franchise agreements with the Township¹ and with the County of Oxford².

¹ EB-2012-0447

² EB-2017-0232

ENGLP's current certificate authorizes ENGLP to construct works and supply natural gas in certain areas in the Township.³ The certificate does not include the Mount Elgin-McBeth Areas, as the Mount Elgin-McBeth Areas are currently included in Enbridge Gas's certificate for the Township.⁴

ENGLP stated it received requests from Burgessville Grain & Feed Inc. (Burgessville) and the Salford Group Inc. (Salford Group) to provide natural gas service in the Mount Elgin-McBeth Areas. As the Mount Elgin-McBeth Areas are located essentially adjacent to ENGLP's service area in South-West Oxford, ENGLP believes it is best positioned to economically provide natural gas service to these locations.

ENGLP requested authorization, under the *Municipal Franchises Act*, to serve the Mount Elgin-McBeth Areas. ENGLP proposed that its current certificate for the Township be cancelled, and that the OEB issue a new certificate that, in addition to ENGLP's current service territory in the Township, also includes the Mount Elgin-McBeth Areas, specifically:

- Concession 2: the south half of Lots 12-14;
- Concession 3: the north half of Lots 12-14; and
- Concession 4: the south half of Lots 13-14

The OEB notes that in the application as originally filed, ENGLP also sought authorization to serve the south half of Lot 11, Concession 2 and the north half of Lot 11, Concession 3. However, through the interrogatory process, this request was withdrawn.

ENGLP proposed to construct approximately 4,150 metres of 4-inch polyethylene pipe (exclusive of the service laterals to individual customers) on Mount Elgin Road in order to connect Burgessville. ENGLP stated that the total capital costs to provide service on

³ EB-2019-0232-A

⁴ EB-2019-0232-B

Mount Elgin Road, including service laterals, tracer wire, meters, regulators and associated fittings, are estimated to be \$411,690. The total contribution in aid of construction (CIAC) for Burgessville was calculated to be \$227,688.

ENGLP initially also proposed to construct approximately 1,400 metres of 2-inch polyethylene pipe (exclusive of the service laterals to individual customers) on McBeth Road in order to connect the Salford Group. In its interrogatory responses, ENGLP stated that it was contacted by the Salford Group after Procedural Order No. 1 was issued to discuss the possibility of increasing the proposed pipeline servicing their facility from a 2-inch polyethylene pipe to a 4-inch polyethylene pipe in order to accommodate future expansion plans. ENGLP revised its proposal to instead construct approximately 5,400 metres of 4-inch polyethylene pipe (exclusive of the service laterals to individual customers) on McBeth Road in order to connect the Salford Group. With the increase in pipeline length and size, ENGLP stated that the estimated total capital costs to provide service on McBeth Road, including service laterals, tracer wire, meters, regulators and associated fittings, increased from \$57,674 to \$420,912. The total CIAC calculated for the Salford Group also increased from \$30,520 to \$219,698. ENGLP confirmed that the Salford Group continues to support the project, and that it has received verbal acceptance of the revised CIAC.

ENGLP stated that the CIAC for Burgessville and the Salford Group would be reduced if additional customers are connected to the proposed pipeline based on their prorated contribution to the asset capacity. ENGLP also stated that any capital contributions from its customers would be limited to portions of service pipeline exceeding 20 metres from the planned distribution mains.

ENGLP submitted that the proposed connection to the Mount Elgin-McBeth Areas does not require leave to construct from the OEB. ENGLP proposed an in-service date of May 1, 2021 (based on receiving OEB approval prior to February 1, 2021).

OEB staff submitted that the Burgessville and the Salford Group had clearly expressed an interest in ENGLP providing natural gas service to the Mount Elgin-McBeth Areas, and agreed that ENGLP could do so more economically than Enbridge Gas. OEB staff

submitted that leave to construct is not required for the project, and proposed draft certificates for each of ENGLP and Enbridge Gas for the Township. OEB staff also submitted that ENGLP should clarify what capital contributions other potential customers (including residential customers) in the Mount Elgin-McBeth Areas may be required to pay.

In its reply submission, ENGLP submitted that additional customers would be subject to two separate contributions. ENGLP submitted that in addition to a payment related to a customer's pro-rated contribution to the asset capacity, a customer would also be subject to a \$10 per metre charge for any additional length in excess of 20 metres. ENGLP also submitted that it anticipates connecting seven potential new residential customers in the Mount Elgin-McBeth Areas and that the average cost of the contribution of these residential customers has not yet been calculated.

Enbridge Gas stated that while it would like to connect the nine customers identified in the application, Enbridge Gas believes that it would be more economic for ENGLP to attach these customers to ENGLP's system. Enbridge Gas submitted that one of the key considerations in determining whether a bypass approval is appropriate is whether there will be harm to existing ratepayers of the "by-passed" utility. Enbridge Gas stated that as long as ENGLP's expanded certificate rights are limited to the lots required to provide service to the Salford Group and Burgessville, there should be limited impact on Enbridge Gas's existing ratepayers. Enbridge Gas also noted that ENGLP has not obtained written commitments or signed contracts with the potential farms or residential customers noted in the application and, as such, reiterated that any extension of ENGLP's certificate rights should be limited to the areas required to provide service to the Salford Group and Burgessville. Enbridge Gas also proposed that the OEB consider, as a condition of approval, a time limit of 18 months by which ENGLP would need to complete proposed services to the Salford Group and Burgessville.

In its reply submission, ENGLP submitted that the application should be granted as filed, and that it can economically meet service requests from other customers in the Mount Elgin-McBeth Areas that may not be in a position to be served economically by another utility. ENGLP also argued that granting the application as filed will allow

ENGLP to meet its future obligation to serve the area, as stated under section 42(2) of the *Ontario Energy Board Act, 1998* that "...a gas distributor shall provide gas distribution services to any building along the line of any of the gas distributor's pipelines upon the request in writing of the owner, occupant or other person in charge of the building."

ENGLP also submitted that prescribing a time limit as a condition of approval is unnecessary, as it has an interest, and will be proactive, in connecting the potential customers. ENGLP submitted that although ENGLP will endeavor to connect customers in as timely a manner as possible, there are several factors to consider when prioritizing and scheduling capital projects, including system integrity and safety. ENGLP stated that it can and will continue to responsibly implement new connections with due consideration for other important priorities such as system critical planned expenditures and emergent and unplanned safety-related capital expenditures.

OEB FINDINGS

I find that it is in the public interest to approve the application. The application is consistent with the OEB's findings in the Generic Proceeding on Community Expansion⁵ where the OEB indicated that certificates are not exclusive in the sense that 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. As such, I do not consider this application as a bypass to Enbridge Gas's distribution system. In any event, there is no revenue loss for Enbridge Gas as the load is incremental and the notional cost shift on its existing customers, even with the inclusion of surrounding farms and residential customers, would also be expected to be limited. I also note that Enbridge Gas did not contest the application stating that, based on its own analysis, it would be more economical for ENGLP to attach customers in the Mount Elgin-McBeth

⁵ EB-2016-0004

Areas to ENGLP's distribution system as they are in closer proximity to its existing facilities.

As a matter of economic and regulatory efficiency and expediency, I find that Enbridge Gas's proposals to 1) limit ENGLP's certificate rights to the areas required to provide service to the Salford Group and Burgessville and 2) impose as a condition of approval, a time limit of 18 months by which ENGLP would need to connect customers, are not warranted. From an economic standpoint, it is unlikely that Enbridge Gas would be in a better position to serve the Salford Group and Burgessville more economically in 18 months. The same applies for surrounding potential farms and residential customers (for which ENGLP has received verbal acceptance to receive natural gas distribution service) either now or after 18 months. Limiting the certificate rights to the areas required to solely provide service to the Salford Group and Burgessville would also be counter to regulatory efficiency and expediency and may impede the opportunity for the Salford Group and Burgessville customers to reduce their CIAC were additional customers to be connected to the proposed pipeline. I also agree with ENGLP that no further incentive is required for EPCOR to provide service in a timely matter as it would be mutually beneficial to provide service as soon as possible.

I agree with ENGLP and OEB staff that leave to construct is not required for ENGLP's project to service the Mount Elgin-McBeth Areas, as the project does not meet the criteria under the *Ontario Energy Board Act, 1998* that would trigger the need for leave to construct.

The OEB is issuing a new certificate (attached as Schedule A) that, in addition to ENGLP's current service territory in the Township, includes the Mount Elgin-McBeth Areas. The attached certificate of public convenience and necessity granted to ENGLP cancels and supersedes EB-2019-0232-A.

A new certificate, attached as Schedule B to this Decision and Order, is also granted to Enbridge Gas to construct works or supply natural gas in the Township, excluding the areas granted to ENGLP. The attached certificate of public convenience and necessity granted to Enbridge Gas cancels and supersedes EB-2019-0232-B.

IT IS ORDERED THAT:

1. A certificate of public convenience and necessity, attached as Schedule A to this Decision and Order, is granted to EPCOR Natural Gas Limited Partnership to construct works or supply natural gas in the Township of South-West Oxford for certain concessions and lots. This new certificate of public convenience and necessity cancels and supersedes EB-2019-0232-A. A map of the Township of South-West Oxford is attached as Schedule C.
2. A certificate of public convenience and necessity, attached as Schedule B to this Decision and Order, is granted to Enbridge Gas Inc. to construct works or supply natural gas in the Township of South-West Oxford except for certain concessions and lots granted to EPCOR Natural Gas Limited Partnership. This new certificate of public convenience and necessity cancels and supersedes EB-2019-0232-B.
3. 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 February 11, 2021

ONTARIO ENERGY BOARD

Original Signed By

Pascale Duguay
Manager, Natural Gas

SCHEDULE A

**Certificate of Public Convenience and Necessity for the
Township of South-West Oxford**

EPCOR Natural Gas Limited Partnership

EB-2020-0232

February 11, 2021

EB-2020-0232-A

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 natural 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 Lot 12, all of Lots 13 to 28 (Inclusive)
- Concession 3 – The north half of Lots 12-14, all of Lots 15 to 28 (Inclusive)
- Concession 4 – The south half of Lots 13-14, all of Lots 15 to 28 (Inclusive)
- Concession 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, February 11, 2021

ONTARIO ENERGY BOARD

Original Signed By

Pascale Duguay
Manager, Natural Gas

SCHEDULE B

**Certificate of Public Convenience and Necessity for the
Township of South-West Oxford**

Enbridge Gas Inc.

EB-2020-0232

February 11, 2021

EB-2020-0232-B

Certificate of Public Convenience and Necessity

The Ontario Energy Board grants

Enbridge Gas Inc.

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

Township of South-West Oxford

as it is constituted on the date of this Decision and Order, except for 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 Lot 12, all of Lots 13 to 28 (Inclusive)
- Concession 3 – The north half of Lots 12-14, all of Lots 15 to 28 (Inclusive)
- Concession 4 – The south half of Lots 13-14, all of Lots 15 to 28 (Inclusive)
- Concession 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, February 11, 2021

ONTARIO ENERGY BOARD

Original Signed By

Pascale Duguay

SCHEDULE C

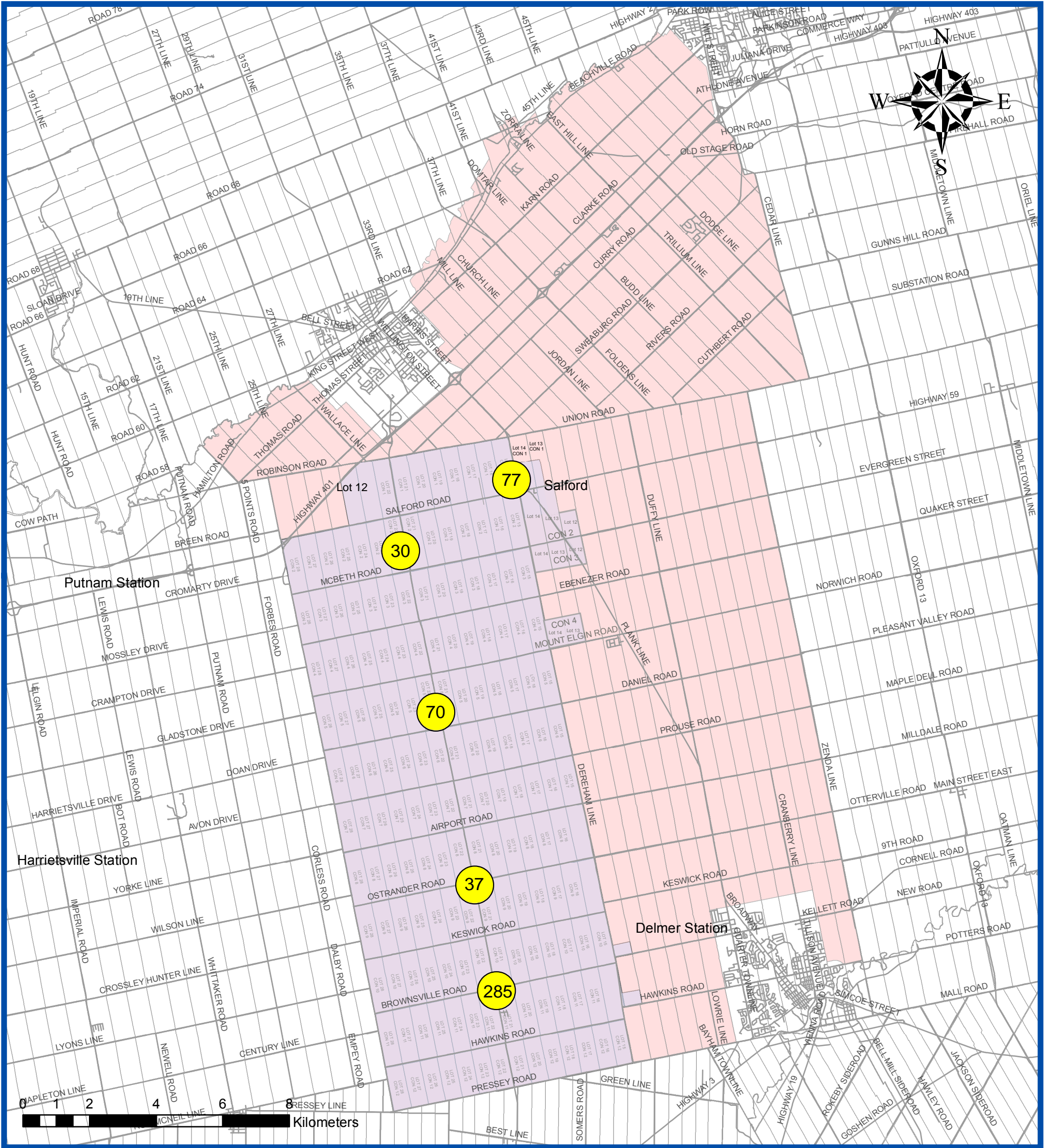
Map of the Township of South-West Oxford

EPCOR Natural Gas Limited Partnership

EB-2020-0232

February 11, 2021

Municipality of South-West Oxford, Certificate Map



Legend

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

