

October 11, 2022

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: Enbridge Gas Inc.
Renewal of Franchise Agreement with the United Counties of Prescott and Russell
Ontario Energy Board File No. EB-2022-0237**

Further to the question submitted by Ontario Energy Board Staff related to the above-noted application, Enbridge Gas provides the following response.

Staff Question-1

Reference: (i) Application, paragraph 3

Preamble:

Enbridge Gas applied for the renewal of its franchise agreement with the United Counties of Prescott and Russell.

The United Counties of Prescott and Russell is an upper-tier municipality. Enbridge Gas states that it has a franchise agreement and certificate of public convenience and necessity for all of the lower-tier municipalities within the United Counties of Prescott and Russell except for the Township of East Hawkesbury.

Question:

- a) Please explain Enbridge Gas's rationale for having a franchise agreement in place with the United Counties of Prescott and Russell when Enbridge Gas has franchise agreements with all of the lower-tier municipalities within the United Counties of Prescott, with the exception of the Township of East Hawkesbury.

Response:

- a) When the current Model Franchise Agreement was approved for use through the RP-1999-0048 proceeding, the Ontario Energy Board approved two versions of the provision of service clause (clause 2 under Part II) – one for upper-tier municipalities and one for lower- / single-tier municipalities. In the Model Franchise Agreement that was attached to the RP-1999-0048 Report adopted by the OEB¹, it was indicated that a choice would need to be made regarding which provision of gas clause would be used depending on whether the municipality was lower- or single-tier or upper-tier:

¹ RP-1999-0048 – Report to the Board, December 29, 2000, Appendix B

“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.

or

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.

** Footnote: Choose one only.”*

This was a change from the previous (1987) Model Franchise Agreement which contained the following provision of service clause for all municipalities:

“To provide gas service.

The consent of the Corporation is hereby given and granted to the Gas Company to supply gas in the Municipality to the Corporation and to the inhabitants of the Municipality.”

Enbridge Gas currently provides gas distribution services from pipelines located along county / regional roads under the jurisdiction of upper-tier governments in several municipalities so the provision of service clause in the franchise agreements with the upper-tier municipalities provides Enbridge Gas with the authority to provide those services. As can be seen in the map and descriptions submitted confidentially under separate cover, Enbridge Gas has pipelines located along and across several roads under the jurisdiction of the United Counties of Prescott and Russell.

Gas franchise agreements with upper-tier municipalities cover both the use of their arterial road allowances by gas pipelines in order to supply local municipalities both within and outside of its municipal boundaries and to distribute gas directly to consumers. With respect to the current application, Enbridge Gas’ pipelines cross between the United Counties of Prescott and Russell and the United Counties of Stormont, Dundas and Glengarry where roadways cross the municipal boundaries of these municipalities.

Enbridge Gas and its predecessors have been using both the upper and lower- / single-tier versions of the Model Franchise Agreement for several years and currently Enbridge Gas has franchise agreements in place with 26 upper-tier municipalities, each of which include the upper-tier specific clause 2.

Upper-tier municipalities administer matters related to upper-tier highways, albeit with non-exclusive jurisdiction, meaning they share their jurisdiction over these highways with the applicable lower-tier municipalities. Enbridge Gas’ experience has been that upper-tier as well as lower- / single-tier municipalities have a direct interest in the use by gas works of their respective road allowances.

Enbridge Gas' experience has been that lower-tier municipalities and upper-tier municipalities have separate areas of jurisdiction and separate concerns to be dealt with respect to franchise agreements and other permits. Even among the lower-tier municipalities, there are varying interests and concerns depending on whether the municipality is, for instance, urban or rural.

On January 7, 2020, Enbridge Gas filed an application² (amended January 9, 2020) for an order authorizing it to make a correction to its municipal franchise agreements with six upper-tier municipalities (because these upper-tier franchise agreements contained the incorrect clause 2 under Part II of the 2000 Model Franchise Agreement). On January 14, 2020, the OEB approved Enbridge Gas' application without a hearing and authorized the amendment to these upper-tier franchise agreements. Enbridge Gas considered this an endorsement of the continued need for and use of franchise agreements with upper-tier municipalities.

In accordance with the OEB's *Practice Direction on Confidential Filings*, Enbridge Gas is requesting confidential treatment of the map that will be provided under separate cover. Public disclosure of specific locations of existing and proposed gas distribution and transmission facilities poses both a safety and a security risk. Public access to this kind of information may allow third parties to determine gas system configurations and points of sensitivity or vulnerability that may expose Enbridge Gas to security risks. Further, persons planning developments or excavation projects may attempt to use the facilities information obtained from other sources in substitution for required facilities locates, notwithstanding the fact that obtaining locates is required by law.

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

Yours truly,

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² EB-2020-0069