

ONTARIO ENERGY BOARD

IN THE MATTER OF a generic proceeding commenced by the Ontario Energy Board to review the natural gas Model Franchise Agreement

SUBMISSIONS OF THE MUNICIPALITY OF TEMAGAMI

To: Ritchie Murray
Registrar
Ontario Energy Board

And LIST OF INTERVENORS

1. The Municipality appreciates the opportunity to provide submissions regarding the draft issues list established in connection with the Ontario Energy Board's ("OEB") review of the Model Franchise Agreement ("MFA"). The Municipality supports the OEB undertaking this review given the increasing operational, financial and infrastructure related impacts experienced by municipalities in relation to utility occupation and use of municipal rights-of-way.
2. Municipalities are stewards of critical public infrastructure, including roads, bridges, drainage systems, and associated municipal assets. Gas utilities benefit from access to municipal highways through franchise agreements approved by the OEB. Accordingly, it is important that the MFA appropriately balance the interests of utilities with statutory responsibilities and financial realities faced by municipalities.
3. The Municipality submits that the review should be interpreted broadly enough to permit meaningful consideration of the practical implications and unintended consequences arising from the current wording of the MFA.

General Comments

4. The Municipality agrees that the issues identified by the OEB reflect recurring areas of dispute and uncertainty in the administration of the MFA. In particular, sections 11, 12, 15 and 16 of the MFA have operational and financial consequences for municipalities.

5. The Municipality further submits that the following points are important to the review:

- a. Municipalities retain primary responsibility for the management, safety, and integrity of municipal highways;
- b. Municipal taxpayers should not disproportionately bear costs associated with utility infrastructure that primarily benefits utility operations and customers;
- c. Franchise agreements should recognize the increasing complexity and cost of municipal infrastructure projects; and
- d. The MFA should reflect modern infrastructure practices including asset management planning and long-term municipal capital forecasting.

6. The Municipality has also reviewed the submissions of the Community Coalition and supports the Coalition's request the Ontario Energy Board amend the draft issues list by replacing the term "required" with "appropriate" and by adding an issue addressing whether the MFA should include provisions governing termination and/or renegotiation of the agreement. The Municipality agrees that these additions would assist in ensuring a comprehensive review of the MFA and provide participants with an opportunity to address issues that may affect municipalities and utilities over the term of a franchise agreement.

7. Further, the Municipality further submits that particular consideration should be given to the realities faced by rural and northern municipalities. In municipalities such as Temagami, natural gas infrastructure is often only available within limited developed areas, while many residents and property owners located outside those service areas have no ability to connect to or benefit from the infrastructure despite contributing to the municipal tax base. In these circumstances, it is particularly unfair to require municipal taxpayers to assume costs associated with utilities, including costs related to the relocation or decommissioning of gas assets. Where infrastructure is owned, operated, and utilized for the benefit of the utility and its customers, the Municipality submits that those costs should generally remain the responsibility of the utility rather than being transferred to taxpayers.

Section 11 – Alternative Easements

8. The Municipality supports the inclusion of Section 11 within the draft issues list and submits that clarification of this provision is necessary.

9. Section 11 currently provides that where a municipality proposes to sell or close a highway containing a gas line, the municipality shall provide reasonable notice to the gas company and “if feasible”, provide easements sufficient to preserve the gas system in its existing location. If easements cannot be provided, relocation costs are shared pursuant to Section 12.

10. The Municipality submits that the phrase “if feasible” may create uncertainty regarding whether municipalities are obligated to preserve utility infrastructure through the granting of easements. The revised MFA should expressly confirm that municipalities retain discretion to determine whether granting an easement is appropriate having regard to future municipal infrastructure needs, public safety, land use planning objectives, liability, redevelopment opportunities, and impact on future municipal operations.

11. Section 11 presently imports the Section 12 relocation cost-sharing formula where easements are not available.

12. The Municipality submits that this may unfairly shift financial burdens onto municipalities and municipal taxpayers. Road closures, realignments, and infrastructure redesigns are often undertaken for public purposes, including road safety improvements, drainage projects, bridge replacements, redevelopment or long-term infrastructure planning.

13. Utilities derive significant long-term benefit from occupation of municipal corridors. The Municipality submits that the OEB should reconsider whether municipalities bear mandatory relocation costs in these circumstances.

Section 12 – Pipeline Relocation

14. The Municipality submits that Section 12 is one of the most operationally significant provisions within the MFA.

15. Section 12(a) requires utilities to relocate infrastructure “within a reasonable period of time”. The Municipality submits that this wording could be problematic for municipal infrastructure planning. Municipal projects frequently involve grant funding deadlines, construction schedules, timing restrictions and the like. Undefined timelines could cause delays, impact timelines and construction. The MFA should include, at a minimum, timelines and obligations.

16. Section 12(c)(v) permits an additional 22.5% charge for engineering and administrative costs. The Municipality submits that the basis for this percentage should be reviewed and municipalities should receive greater cost transparency.

17. Section 12(d) currently requires municipalities to pay 35% of relocation costs in many situations.

18. Municipalities face capital infrastructure pressures and at the same time utilities continue to derive substantial benefit from access to municipal corridors without acquiring independent property rights.

19. The Municipality submits that the OEB should revisit the 35/65 formula, greater utility responsibility should apply and consideration should be given to the project time or infrastructure age.

Section 15 – Disposition of the Gas System & Section 16 Use of Decommissioned Gas System

20. The Municipality submits that Sections 15 & 16 inadequately address long term risks associated with decommissioned infrastructure.

21. Section 15(b) permits utilities to leave decommissioned infrastructure in place unless the municipality requires removal.

22. Municipalities should not inherit long term infrastructure risks. Abandoned or decommissioned infrastructure can create significant long term municipal challenges, including excavation issues, interference with future municipal projects, drainage complications, increased infrastructure costs, and environmental concerns. Municipalities should not effectively inherit indefinite long-term risks associated with infrastructure no longer required for utility operations.

23. The revised MFA should clarify that utilities remain responsible for decommissioned infrastructure costs unless expressly released by the municipality. The current wording creates uncertainty regarding long term ownership, liability, maintenance responsibilities, and removal obligations.

24. The revised MFA should also require utilities to maintain and provide accurate GIS-compatible records respecting all active and decommissioned infrastructure remaining within municipal corridors. Accurate infrastructure information is increasingly critical to municipal asset management and infrastructure planning.

25. Section 16 raises significant governance and infrastructure coordination concerns. It permits third-party use of decommissioned gas infrastructure provided a municipal access agreement is obtained.

26. Municipalities should retain clear authority to approve or reuse repurposing of decommissioned infrastructure based on municipal planning, infrastructure, future municipal needs, and public or environmental concerns.

Non-substantive administrative updates to the MFA

27. The Municipality supports non-substantive administrative updates to the MFA such as updating certain terminologies to reflect current operations.

28. First, the term “Engineer/Road Superintendent” should be updated. Some municipalities no longer use this title, with responsibilities instead assigned to officials such as Directors of Public Works, Infrastructure Managers, or other designated municipal representatives.

29. Second, the MFPA should update references to paper-based plans, drawings, and notices. Sections 5, 6, and 14 continue to reference hard-copy drawings, fax transmission, and registered mail. Electronic communications should be expressly recognized, along with GIS-compatible records, digital infrastructure mapping, and electronic document delivery.

30. Third, terminology relating to geospatial information and decommissioned infrastructure should be updated to reflect modern assessment management and utility coordination practices.

31. The Municipality submits that these updates will improve clarity, consistency, and operational efficiency without materially altering the substantive rights of parties.

Implementation of possible updates to the MFA

32. The Municipality submits that implementation of revised MFA provisions should prioritize certainty, fairness, consistency, and administrative efficiency.

33. Existing MFAs should generally remain in force for the balance of their negotiated terms unless otherwise agreed by the parties or where the agreement expressly incorporates future MFA amendments, including through Section 4(b) of the current MFA.

34. Administrative or terminology-based updates should generally apply across existing agreements without renegotiation. However, substantive changes relating to matters such as cost allocation, relocation obligations, easement rights, liability, or decommissioned infrastructure should generally apply prospectively unless otherwise agreed by the parties.

35. The Municipality further submits that the OEB should provide clear transitional guidance respecting pending applications and ongoing negotiations, including whether revised MFA provisions may or must be incorporated into applications currently before the Board.

36. Finally, municipalities and utilities should be permitted to voluntarily adopt updated MFA provisions where both parties agree.

Conclusion

37. The Municipality supports the OEB's review of the MFA and submits that modernization of the MFA is both necessary and appropriate to reflect current municipal governance structures, infrastructure management practices, and operational realities.

38. The Municipality respectfully submits that any updates to the MFA should improve clarity, consistency, and administrative efficiency while maintaining fairness and contractual certainty for both municipalities and utilities. In particular, the Municipality supports modernization of outdated terminology and administrative processes, together with clear implementation and transition guidance respecting existing agreements, pending applications, and future negotiations.

39. The Municipality appreciates the opportunity to participate in this proceeding and looks forward to continued involvement as the review progresses.

All of which is respectfully submitted on behalf of the Municipality of Temagami this 29th day of May, 2026.



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