

May 29, 2026

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

VIA EMAIL

Dear Ms. Marconi,

Re: EB-2026-0009 – Ontario Energy Board (“OEB”) Generic Proceeding to Review the Model Franchise Agreement (the “Proceeding”) County of Essex Submissions on the Draft Issues List

Pursuant to the OEB’s Procedural Order No. 1, the Corporation of the County of Essex (the “**County**”) is writing to provide submissions on the Draft Issues List on behalf of the County and the municipalities located therein, which are the Town of Amherstburg, Town of Essex, Town of Kingsville, Municipality of Lakeshore, Town of LaSalle, Municipality of Leamington and the Town of Tecumseh, as well as the neighbouring Municipality of Chatham-Kent (the “**Municipal Group**”).

The Municipal Group supports the OEB reviewing the proposed issues identified on the Draft Issues List. In addition, the County requests that the OEB add specific issues related to Section 5 (Approval of Construction), Section 6 (As Built Drawings), Section 12 (Pipeline Relocation), and Section 15 (Disposition of the Gas System) of the Model Franchise Agreement (“**MFA**”) to the Draft Issues List for the Proceeding.

Approval of Construction

Gas utilities are prohibited by Section 5(h) of the MFA from deviating from the approved location for any part of the gas system without prior approval of the Engineer/Road Superintendent. However, there are no consequences set out in the MFA for gas utilities that fail to comply with Section 5(h). In fact, Section 12(d) of the MFA currently provides that municipalities are responsible for 35% of the cost to relocate gas systems, even if they are constructed in locations that are not approved by the Engineer/Road Superintendent, except in limited circumstances.

It is the Municipal Group's position that municipalities and their taxpayers should never incur costs caused by gas utilities failing or refusing to comply with the MFA. Therefore, the Municipal Group is requesting that the OEB review Section 5(h) of the MFA and consider whether to establish consequences for gas utilities that fail or refuse to comply with same including, without limitation, amending Section 12(d) of the MFA to provide that gas utilities are responsible for 100% of the cost to relocate any part of a gas system if the municipality has not approved its location, without exception.

Relocation Costs

The cost of relocating gas systems is a significant component of the overall cost of municipal road works in Southwestern Ontario. It is the Municipal Group's position that gas system relocations are often required for municipal road works and, in those cases, requiring that municipalities pay 35% of the cost of relocating gas systems as a deterrent is not effective or appropriate. Furthermore, the Municipal Group takes issue with the cost of gas system relocations being borne by municipalities and taxpayers, contrary to the 'user pays principle', as they do not necessarily use gas systems. Therefore, the Municipal Group is requesting that the OEB review Section 12(d) of the MFA to consider whether to reduce municipalities' share of the cost of gas system relocations.

Disposition of Gas Systems

The Municipal Group notes that there is limited space in municipal rights of way, which are becoming increasingly congested with the deployment of underground electricity, broadband and telecommunications lines. Due to this congestion, gas utilities deciding not to remove decommissioned gas systems may result in increased health and safety risks and costs for municipalities' road works. These increased costs are currently being borne by municipalities and taxpayers, even though they may not be using gas systems, contrary to the 'user pays principle'.

Therefore, the Municipal Group is requesting that the OEB review Section 15(b) of the MFA to consider whether municipalities should be permitted to require that gas utilities remove decommissioned gas systems where municipalities reasonably require the removal to alter or improve their roads or facilitate construction of utilities or other works, with costs apportioned in accordance with Section 12(d) of the MFA.

Furthermore, there are several legacy gas wells located in Southwestern Ontario, many of which were created by gas utilities or their predecessors. Municipalities have limited information regarding the location of these gas wells, which present considerable health and safety risks. In fact, on August 26, 2021, a legacy gas well exploded in Wheatley, Ontario, causing significant injuries and property damage.

While the Province of Ontario recently provided funding to municipalities for emergency preparedness related to legacy gas wells, municipalities have limited resources to locate, monitor, and remediate same. Furthermore, municipalities and their taxpayers should not be responsible for costs associated with legacy gas wells created and mismanaged by gas utilities or their predecessors. As a result, the Municipal Group is requesting that the OEB consider whether Section 15 should be amended to address legacy gas wells created by gas utilities or their predecessors, including allocating responsibilities and costs associated with locating, monitoring, and remediating same.

Updates and Review

The Municipal Group supports the OEB's efforts to make non-substantive administrative updates to the MFA. In addition, the Municipal Group notes that, with the increased speed at which broadband is being deployed and infrastructure is being built, the OEB should review and consider shortening the timeline for gas utilities to deliver 'as built' drawings after completing the installation of any part of the gas system under Section 6 of the MFA and establishing a timeline under section 15 of the MFA for notifying municipalities when any part of the gas system has been decommissioned.

Finally, the Municipal Group notes that twenty-six (26) years have passed since the OEB last reviewed the MFA. Therefore, in considering whether or how to implement any updates to the MFA arising from this Proceeding, it is the Municipal Group's position that the OEB should consider whether to establish a timeline or mechanism for initiating future reviews of the MFA.

To conclude, the Municipal Group requests that the OEB add the following issues to the Draft Issues List for the Proceeding:

- Whether to establish consequences for gas utilities that fail or refuse to comply with Section 5(h) including, without limitation, amending Section 12(d) to provide that gas utilities are responsible for 100% of the cost to relocate any part of a gas system if the municipality has not approved its location, without exception.
- Whether to reduce municipalities' share of the cost of gas system relocations under section 12(d).
- Whether municipalities should be permitted under Section 15(b) to require that gas utilities remove decommissioned gas systems where municipalities reasonably require the removal to alter or improve their roads or facilitate construction of utilities or other works, with costs apportioned as set out in Section 12(d).

- Whether Section 15 should be amended to specifically address legacy gas wells created by gas utilities or their predecessors, including allocating responsibilities and costs associated with locating, monitoring, and remediating same.
- Whether the timelines for gas utilities to deliver as-built drawings after completing the installation of any part of the gas system under Section 6 should be shortened, and whether a timeline for notifying municipalities that a part of the gas system has been decommissioned should be established under Section 15.
- Whether to establish a timeline or mechanism for initiating future reviews of the MFA.

Please do not hesitate to contact me if you have any questions or concerns related to these submissions.

Thank you,



Claire Bebbington, J.D.
Deputy County Solicitor