

January 16, 2020

Christine Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Toronto, Ontario
M4P 1E4

Dear Ms. Long

Re: EB-2019-0255 – Potential Projects to Expand Access to Natural Gas Distribution – Draft Guidelines

Please find, attached, the Submissions of the Consumers Council of Canada regarding the Ontario Energy Board's Draft Guidelines pursuant to the above-referenced consultation process.

Yours truly,

Julie E. Girvan

Julie E. Girvan

CC: All parties

ONTARIO ENERGY BOARD CONSULTATION PROCESS

RE: POTENTIAL PROJECTS TO EXPAND ACCESS TO NATURAL GAS DISTRIBUTION – DRAFT GUIDELINES

EB-2019-0255

SUBMISSIONS OF THE CONSUMERS COUNCIL OF CANADA

INTRODUCTION:

On December 12, 2019, the Ontario Energy Board (OEB) received a letter from the Minister of Energy, Northern Development and Mines and the Associate Minister of Energy under section 35 of the Ontario Energy Board Act, 1988 asking the OEB to examine and report back with information on potential projects to expand access to natural gas to communities that are currently have no access to natural gas (Section 35 letter).

The Minister has asked the OEB to develop information to be filed by potential project proponents. The OEB has, in response to this request, developed draft Guidelines for Potential Projects to Expand Access to Natural Gas Distribution (Draft Guidelines) for stakeholder comment. These are the submissions of the Consumers Council of Canada (Council) regarding the Draft Guidelines.

BACKGROUND:

On July 1, 2019, section 36.2 of the OEB Act came in to force establishing a framework for the funding of natural gas expansion projects by natural gas ratepayers. Ontario Regulation 24/19 (Regulation) sets out nine projects that are eligible for financial support subject to receiving any necessary OEB approvals, the mechanism by which funding would be collected from ratepayers and distributed to the proponents, and related matters. Under the Regulation rate-regulated natural gas distributors will be required to charge their customers a rate of \$1/month to help support the eligible expansion projects.

The Ontario Government is making approximately \$130 million available to support new projects that can reasonably be expected to commence between 2021 and 2023. The funding is limited to potential natural gas expansion projects that would otherwise be considered uneconomic.

The Section 35 letter sets out a list of the matters to be considered by the OEB. The OEB has established the Draft Guidelines on the basis of the information contained in the Section 35 letter. The OEB has noted that once the Draft Guidelines are finalized they will be used to govern the filings to be provided to the OEB by interested project proponents.

SUBMISSIONS:

General Comments:

The Council recognizes that the OEB is seeking submissions on the Draft Guidelines, but believes it is important at this time to make the following general points with respect natural gas system expansion:

- In its Decision with Reasons, dated November 17, 2016 the OEB established a sound framework within which natural gas service could be expanded to communities in Ontario that are not currently served through a generic hearing process. The OEB allowed for utilities to charge “stand alone” rates to new expansion communities as a higher distribution rate would be more than off-set by the savings these customers would realized over time by converting to natural gas. In its Decision the OEB rejected proposals for existing customers to subsidize expansion to new communities on the basis that the economic benefits of expansion to many communities are much greater than the costs. In addition, the OEB concluded that this approach would distort the market to the detriment of existing energy services that compete with gas, such as propane, and new gas distributors who do not have an existing customer base to pay for a portion of any expansion. The OEB determined that communities that receive the benefit are the ones paying the costs;¹
- The Council supported the development of a new framework that did not allow for subsidies from existing customers and continues to believe that approach to natural gas system expansion is appropriate. The customers that will benefit from the expansion should bear the costs of that expansion;
- The Section 35 letter sets out a proposal that has existing natural gas customers funding \$130 million of natural gas community expansion and identifies nine projects that are eligible for financial support, subject to receiving any necessary OEB approvals. It is not at all clear how the level of financial support to be recovered from existing customers was established or what criteria will be used to select the projects eligible for the subsidies going forward. It is also not clear if the OEB or the Ministry will be making those selections;
- It is also not clear how long existing customers will be required to fund natural gas expansions, and if the funds will exceed \$130 million.

¹ EB-2016-0004 - Decision with Reasons, dated November 17, 2016, pp. 3-4

- Ontario Regulation 24/19 provides a list of the 9 projects and the maximum amount of rate reduction (or subsidy) available to each project. It is not clear how those numbers were derived;
- If ratepayer funds are used to support projects how can ratepayers be assured that the OEB is applying those funds in the most cost-effective way possible? Do projects with higher profitability indices (P.I.) get a higher priority than those with lower P.I.s? It will be critical for the OEB to be clear about how it will ensure the most prudent use of ratepayer funds;
- The Council also questions how this policy, and the decisions of the Ontario Government to implement it, align with the need to address climate change. Natural gas customers are currently subject to a federal carbon charge in an effort to reduce emissions, while at the same time are being asked to fund the expansion of natural gas usage;
- Consumers in Ontario should be informed of the Government of Ontario's overall policy objectives with respect to the expansion of natural gas to communities that would, under existing policies, be considered uneconomic, the decision to fund natural gas expansions through rates paid by existing natural gas customers, and how this initiative fits into Ontario's climate change policy.
- The Council assumes that once the Guidelines are finalized proponents must follow the standard OEB approval processes in order to obtain Certificates, Municipal Franchise Agreements and Leave to Construct. The Council also assumes that there will be an opportunity for intervenors to participate in the Leave to Construct (LTC) proceedings on the same basis as they do today. This will ensure that the evidence filed in support of any LTC application can be thoroughly reviewed and tested;
- The Council has concerns about the use of ratepayer funds to subsidize uneconomic expansions but acknowledges that the legislation has been enacted, and the OEB is now required to develop requirements for project proponents and report back to the Minister as set out in the Section 35 letter.

Guidelines:

In the OEB's letter establishing the consultation process, it asked parties to comment on the Draft Guidelines. The OEB specifically noted that the Section 35 letter requires that a proponent be the Certificate holder unless the Certificate holder does not propose a project for the area. It indicated that it would be assisted by comments from interested parties of which of the following two approaches is preferred in order to address this issue:

1. Require Certificate holders to confirm in writing, immediately following finalization of the Guidelines, the Certificate areas for which they intend to bring forward a proposed project in response to the OEB's call for information;
2. Allow interested project proponents to bring forward proposed projects in areas where they do not have a Certificate, on the understanding that if the Certificate holder brings forward a proposed project for that area the OEB will not include the project proposed by the non-Certificate holder in its review unless the project proposed by the Certificate holder does not comply with the Guidelines. In that case, information filed by the non-Certificate holder will not be posted on the OEB's website.²

The Council supports option 1. It would be better from an administrative perspective to have the Certificate holders identify the areas for which they intend to bring forward a proposed project. Once the Certificate holders have identified the areas for which they were proposing projects, other proponents could then propose projects in the areas where there were no Certificates.

Specific Comments:

The Minister's letter sets out a number of considerations for the OEB in developing a process to solicit information from project proponents. The OEB has largely incorporated those in the Draft Guidelines. The Council has the following specific comments on the Draft Guidelines:

- The Minister's letter stated, "I expect the Board to apply its expertise in developing a process to solicit information from proponents about proposed natural gas expansion projects, and to analyze the proposed projects with a focus on assessing whether they can be implemented substantially as proposed. This should include a call for a demonstrated commitment by the proponent that it would be willing to be held to the project cost, timelines and forecasts as set out in their project proposal." The Council submits that the Guidelines should include a requirement that proponents must make a commitment to live by the project cost, timelines and forecasts. There must be assurances that ratepayers will not be responsible for cost overruns or revenue shortfalls;
- The Draft Guidelines state at the outset that gas commodity costs and associated upstream transportation costs should be excluded from the costing information provided by the proponents. The Council submits that these costs would be relevant to the information sought in Section 3.4 where

² EB-2019-0255 – Letter dated December 19, 2019, pp. 4-5

there is a requirement to provide the estimated annual costs of existing fuels relative to natural gas, including the annual savings with natural gas;

- The Draft Guidelines refer to the “rate stability period”, but this has not been defined. The OEB’s letter establishing the consultation process refers to a demonstrated commitment to be held to the project cost and volumes in the form of a minimum 10-year rate stability period. The letter does not indicate whether this commitment should go beyond a 10-year period;
- Section 6.1 requires the proponent to provide the estimated amount that the proponent proposes to recover from customers on an annual basis (inclusive of any system expansion surcharge) in the form of an estimated annual distribution charge inclusive of fixed and variable charges over the rate stability period that would be applied to all new customers. The Council submits that rates should be estimated on a rate class basis;
- Under the OEB’s proposals set out in EB-2016-0004 the OEB approved “stand alone” rates. What is not clear is whether the distributor applies its current rates or is still able, under these Guidelines, to propose “stand alone” rates to bring a project P.I. up to 1.0.

Before the OEB finalizes these Guidelines the Council suggests that it hold a one-day stakeholder meeting regarding this new framework for expanding natural gas to new communities. The Council is of the view that such a meeting would allow for the OEB and the Ministry to clarify this new policy and their respective roles in facilitating natural gas expansion. It would also allow stakeholders to ask questions regarding these proposals and provide the OEB and the Ministry with further input.