



Date: May 26, 2025

To: Mayor and Council

Author: Angela Toole, Acting Manager of Municipal Governance & Clerk

RE: Enbridge Gas Inc. Model Franchise Agreement

INFORMATION REPORT

BACKGROUND

Enbridge Gas Inc. ("Enbridge"), formerly known as Union Gas Limited, has provided gas distribution services within the Town of Kingsville ("Town") for many years. In Ontario, natural gas distributors are regulated by the Ontario Energy Board ("OEB"), which operates under the authority of the Ontario Energy Board Act, 1998. The OEB is responsible for the regulation of the natural gas sector in the public interest. Its regulatory authority includes the power to grant exclusive territorial rights to a gas distributor to provide gas service within a municipality.

The Model Franchise Agreement ("MFA") sets out the requirements for the allocation of municipal territories to gas distributors, including a requirement to obtain municipal consent to the construction and operation of gas works in the municipality on terms and conditions approved by the OEB.

The OEB has approved a standardized Model Franchise Agreement with terms and conditions for use between municipalities and natural gas distributors related to the exclusive rights of the distributor to provide gas service within a municipality. It is important to note that the Model Franchise Agreement is virtually the same in every municipality where such an Agreement with Enbridge exists. Many municipalities have tried and failed to negotiate terms that deviate from the Model Franchise Agreement, and case law shows that such deviation is only successful where there is a compelling reason for it.

In 2004, the Town entered into a twenty (20) year Franchise Agreement ("Agreement") with Enbridge, as authorized by the Council of the day. This Agreement has expired, but the terms of the Agreement continue to be in effect until such time that a new Franchise Agreement is entered into.

DISCUSSION

In accordance with the MFA, as a precondition for entering into a new Franchise Agreement, a Council must pass a By-law approving the form of the Agreement. Further, unless dispensed with by the OEB, the By-law must receive the assent of the electors. Following the passing of the By-law by Council, but before the By-law consenting to the gas franchise can be submitted for assent by the municipal electors, the terms, conditions, and duration of the Franchise Agreement must first be approved by the OEB.

To obtain OEB approval of a proposed Model Franchise Agreement, an application is made to the OEB, including a resolution of Council approving the form of Agreement and the draft By-law; requests that the OEB declare and direct that the assent of the electors is not required, and authorizes the submission to the OEB for approval.

Once the OEB makes an Order declaring that the assent of the electors is not required, Administration will advise Council of such Order and place the draft By-law on an Agenda for reading and adoption. The OEB will then approve the Franchise Agreement where public convenience and necessity appear to require it.

Should Council desire to enter into a new Model Franchise Agreement, Administration recommends the following:

*That Council **approve**, in principle, the form of the draft By-law attached hereto and authorizes the submission of the same to the Ontario Energy Board ("OEB") for approval pursuant to Section 9 of the Municipal Franchises Act, 1990 (the "MFA");*

*And that Council **requests** the OEB to make an Order declaring and directing the assent of the municipal electors to the attached draft By-law pertaining to the Corporation of the Town of Kingsville is not necessary, pursuant to Section 9(4) of the MFA*

If Council does not approve the draft By-law and request the OEB to make an order, it is more than likely that Enbridge will unilaterally apply to the OEB to make an Order that the Town and Enbridge enter into a new Model Franchise Agreement, and case law shows that the OEB is more than likely to issue such Order.

FINANCIAL CONSIDERATIONS

There are no new financial implications of a renewed Franchise Agreement with Enbridge Gas Inc.

ENVIRONMENTAL CONSIDERATIONS

None.

CONSULTATIONS

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