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January 26th, 2022

The Hon. Todd Smith
Minister of Energy
10th Floor, 77 Grenville St.
Toronto, ON M7A 2C1
MinisterEnergy@ontario.ca

RE: Support for Ottawa Energy Evolution Strategy

Dear Minister Smith,

Climate change is the biggest threat facing our generation, and ambitious action to fight it presents significant economic opportunities for all Canadians. The urgency of reducing greenhouse gas (GHG) emissions and implementing climate adaptation measures is well-understood scientifically and documented by the 2021 International Panel on Climate Change "Code Red" report. The latest science shows—and our residents are demanding—that we do more to fight climate change and protect their health, and on a faster timeline.

Municipalities realize the importance of their position to catalyze climate action. In October 2020, Ottawa City Council unanimously approved the Energy Evolution Strategy, an ambitious plan to reduce greenhouse gas emissions in Ottawa to zero by 2050. Reaching this target will require unprecedented action and investment. It also estimates a yield of $12 billion in net returns to the community over the life of the investments, along with health and resiliency benefits. This colossal work cannot be done without support from senior governments.

To realize the committed GHG reductions, the City of Ottawa urges the Ministry of Energy to:

1. **Encourage movement to a zero-emissions electricity grid;**
2. **Work with the Ontario Energy Board (OEB) to further align their regulatory approach with Provincial GHG targets;**
3. **Set a standard for 5% renewable natural gas by 2024 and explore a 10% standard by 2028; and**
4. **Work with the OEB to implement a general review of the model franchise agreement to include payments for the use of municipal right of way.**
5. **Encourage movement to a zero-emission electricity grid**

I would like to thank you for your thorough letter of December 3rd regarding a phase out of natural gas electricity generation. Your letter correctly points out that Ontarians have an electricity system which comes from 94% non-emitting sources, which is encouraging. The concern being expressed by many is the worsening trajectory of the emissions as revealed in

both the 2020 and the 2021 Annual Planning Outlook. The 2021 Annual Planning Outlook shows an alarming 24% increase in GHG emissions from electricity generation by 2041. The City of

Ottawa relies on the Province's bulk transmission grid for over 90% of our electrical needs and our Energy Evolution Strategy projects a steep increase in electrical demand for heating and transportation needs. This increased GHG intensity of electricity makes it more challenging for us to meet Council's GHG targets.

To meet increased capacity needs, the City of Ottawa suggests exploring the addition of new renewable energy resources and re-powering existing renewable energy projects.

Recent developments in Alberta demonstrate that renewable generation projects are being preferred based on their cost competitiveness with existing generation while re-powering, particularly of wind generation, is a field of increasing interest as existing resources age and wind energy technology continues to advance.

The City of Ottawa suggests that low emissions electricity resources be invited to compete in the medium-term request for proposals. The City also suggests amending the Bulk System Planning Process to include a turn-over of generation resources based on price and emissions performance rather than waiting until the current assets are inadequate.

1.1 Moratorium on new combustion-based electricity generation

The Council of Ottawa passed a motion in October 2021 requesting a moratorium be placed on the procurement of new natural gas generation, which we suggest go into effect immediately, given that the most recent reliability report raised no concerns about resource adequacy. Such a moratorium should include generation on the bulk transmission system, the distribution system, and, with the exception of back-up power systems, behind the meter. This will avoid the need to retire generation assets prematurely due to emissions concerns.

1.2 Allow LDCs to purchase renewable electricity

The City of Ottawa suggests that the IESO report apply the same assumptions as the gas phase out study regarding imports of electricity from Quebec, namely that Quebec imports can act as a source of both energy and capacity. Given that, Hydro Quebec has recently issued a call for the procurement of more renewable resources, the IESO should assume that Quebec's renewable generation capacity will increase.

Finally with respect to Hydro Quebec, it is of note that a proposal to develop a 1200 MW export line from Quebec to Maine failed to win required public approval in the State of Maine. This export opportunity from Hydro Quebec may be a potential opportunity for Ontario and the City of Ottawa suggests that the IESO be directed to pursue it.

1.3 Enable virtual net metering

A procurement mechanism for renewable electricity generation is needed in Ontario to encourage movement to a zero-emissions grid. Through approval of the Energy Evolution Strategy in October 2020, the City of Ottawa's Council supported the development of a virtual net metering (VNM) policy in Ontario. Ottawa takes marked exception to the parallels the letter of December 3rd makes between community net metering (CNM) and virtual net metering (VNM) as we believe the CNM policy is not scalable the way VNM can be.

Further, limiting access to the distribution grid will favour solar generation over other forms of renewable generation. This does not align with the City of Ottawa's Energy Evolution Strategy, which foresees a need of a mix of renewable resources including significant amounts of wind generation to adequately meet projected winter demand. As an example, an August 2021 study study found that a VNM policy can, by 2030, generate $244 million in savings to the electricity system, GHG reductions, and economic development benefits.

1.4 Distributed Energy Resources

The City of Ottawa is encouraged that the Minister recognizes the potential benefits of many aspects of Distributed Energy Resources (DER) and suggests that climate change mitigation is an additional benefit to be considered.

The IESO is undertaking good initiatives with respect to DERs and we suggest that the timeline for this work be expedited. According to the DER Roadmap, the DER Market Design Project will be complete at the end of Q2 in 2026. Without DER solutions being implemented more quickly; we risk making hundreds of poor grid expansion or reinforcement choices. We suggest more urgency is required around non-wires alternatives such as fast-tracking key findings in the Roadmap's various studies.

1. **Work with the OEB to further align their regulatory approach with Provincial GHG targets**

The OEB is a highly effective steward of the province's regulated energy sector and its recent collaborative work with the IESO is laudable. The OEB's role, however, would be enhanced by adding reduction of GHG emission as one of its goals in the Ontario Energy Board Act. This change would be analogous to changes in California where delegation of climate responsibility to regulatory agencies, such as the California Air Resources Board has served to spur climate action.

2. **Set a standard for 5% renewable natural gas by 2024 and explore a 10% standard by 2028**

Natural gas consumption is the largest source of community GHG emissions in Ottawa. Renewable natural gas, including green hydrogen, can effectively replace a portion of gas in the pipelines to reduce GHGs. Renewable fuel standards have effectively reduced GHG emissions from transportation fuels in Ontario and the same approach can be used for natural gas. Quebec has developed a renewable natural gas standard that can be used as a model for Ontario. The City of Ottawa is exploring ways to generate sizable volumes of renewable natural gas from its wastewater and solid waste facilities that could be of benefit to meeting a renewable natural gas standard in Ontario.

3. **Work with the OEB to implement a general review of the model franchise agreement to include payments for the use of municipal right of way**

Most provinces across Canada have a provision in which utilities compensate he municipalities for using space in the public right of way. This is not currently done for natural gas utilities in Ontario. A review of the Model Franchise Agreement is requested to consider such an amendment. This will provide a key revenue source for the municipality to offer energy conservation and GHG reduction programs that extend the ones offered by the utility. A more detailed whitepaper on this topic is attached for consideration.

By providing policy leadership, the Ministry of Energy can help municipalities catalyze GHG reductions in their communities while ensuring efficient use of public funds. Steve Willis, our General Manager for Planning, Real Estate and Economic Development, would be pleased to meet with your Deputy Minister to discuss more thoroughly how we can work together to achieve our shared goal of a healthy future.

Sincerely,

Jim Watson

Mayor

City of Ottawa

Attachments:
Whitepaper on Model Franchise Agreement Review

CC: Stephen Rhodes, Deputy Minister, Ontario Ministry of Energy, Northern Development and Mines
Palmer Lockridge, Director, Ministry of Energy
Serge Imbrogno, Deputy Minister, Ontario Ministry of Environment, Conservation and Parks
Andrea Brunetti, Senior Manager, Events and Stakeholder Relations at Ontario Ministry of Environment, Conservation and Parks
Kate Manson-Smith, Deputy Minister, Ontario Ministry of Municipal Affairs and Housing
Arti Persaud, Senior Policy Advisor, at Ontario Ministry of Municipal Affairs and Housing
Azalyn Manzano, Natural Gas Advisor, Ontario Energy Board
Susanna Zagar, Chief Executive Officer, Ontario Energy Board
Lesley Gallinger, President and CEO, IESO
Susan Harrison, Supervisor Regional & Community Engagement, IESO
Bryce Conrad, President and CEO, Hydro Ottawa
Trevor Freeman, Key Accounts, Hydro Ottawa
Mark Poweska, CEO, Hydro One
Ceiran Bishop, Director, Strategy, OEB
Carol Saab, Chief Executive Officer at FCM
Michael Savage, Mayor of Halifax and Chair of BCMC
Jamie McGarvey, Mayor of Parry Sound and President of AMO
Stephen Willis, General Manager, Planning, Infrastructure and Economic Development, City of Ottawa

Model Franchise Agreement Review

Rationale

The Ontario Energy Board's Model Franchise Agreement that governs the relationship between municipalities and utilities is expected to be updated in 2023. Given that Ontario is developing a *Framework for Energy Innovation: Distributed Energy Resources and Utility Incentives* and updating its *Long-Term Energy Plan*, now is an ideal time to ensure a level playing field principle is advanced via the update to the Model Franchise Agreement.

The goal of this letter is to engage with the Province of Ontario to ensure a transparent and equitable framework across different users by including a provision for municipal access fees to be paid to municipalities for use of their right of way for natural gas distribution infrastructure and other associated pipelines that use the municipal right of way.

Many municipalities in Ontario are experiencing unprecedented growth within their communities. The City of Ottawa is projected to increase in population by almost 50% in the coming 30 years. This results in significant pressures on municipalities to manage the growth and advance complete communities that address environmental, social, and economic outcomes.

There has been increased demand regarding access to the municipal right of way, from the municipalities' own infrastructure (sewer, stormwater, water supply), but also from utilities (electrical and natural gas), as well as telecommunications. Increasing opportunities to meet local energy needs with local energy solutions are also likely to place additional pressures on right of way infrastructure.

The City of Ottawa is requesting a review of the arrangements between municipalities and utilities, especially natural gas utilities. They are private entities which use the municipal right of way without accounting financially for the costs borne by the municipality and lost opportunities related to increased demand and limited space in the municipal right of way. This, thereby, results in a subsidy to the fossil fuel sector.

Municipalities across Ontario are developing Community Energy and Emissions Plans[1] to stimulate local economies by keeping energy dollars local, and to meet net zero emissions targets. The City of Ottawa's plan, the Energy Evolution Strategy, aligns with International, Federal, and Provincial GHG reduction targets. It also aligns with the stated goals in the Province's Made in Ontario Climate Plan which looks to "support the clean technology sector as part of our broader economic growth and recovery efforts."[2]

Currently, gas utilities in Ontario pay neither access fees nor payments in lieu of taxes to municipalities. For comparison, municipally-owned utilities pay significant dividends to the municipality, and private electric utilities pay taxes on use of right of way lands as regulated under Ontario Regulation 387/98[3]. That regulation does not authorize municipalities to charge taxes for access to right of way lands to gas utilities.

Most provinces in Canada allow municipalities to charge utilities (including natural gas utilities) for access to public lands for their infrastructure. For example, in Edmonton the gas utility pays 32.9% of delivery charge revenues to the municipality as an access fee for using the municipal right of way. If the Edmonton approach were applied in a city of one million residents, the annual compensation would be approximately $66 million.

We encourage the Ministry of Energy to review any legislation that may be preventing municipalities from charging users such as natural gas distributors for infrastructure encroachments under the City's right of way. Imposing such charges on conventional natural gas distributors will help level the playing field between entities that use the municipal right of way and between fossil fuels and low carbon energy systems that are seeking access to municipal rights of way.

Space in the public right of way is at a premium to support intensification, in particular underground space. As a result, it is in the public interest to protect underground space in the rights of way through market pricing mechanisms.

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[1] In alignment with Ontario's Municipal Energy Plan program which supports comprehensive long-term plans to improve energy efficiency, reduce energy consumption and greenhouse gas emissions, foster green energy solutions and support economic development.

[2] https://www.ontario.ca/page/made-in-ontario-environment-plan#section-5

[3] https://can01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ontario.ca%2Flaws%2Fregulation%2F980387&data=02%7C01%7Cjanice.ashworth%40ottawa.ca%7Cfd74c875347a486de30b08d85e6c05a3%7Cdfcc033ddf874c6ea1b88eaa73f1b72e%7C0%7C0%7C637363165323541139&sdata=Ci6o7UBfcsieUMXCAg8eh4H6Uor3vs8mznqXjsWQSAs%3D&reserved=0

Gas infrastructure is the largest private user of underground space because it is typically located underground and requires setbacks from other services for safety, while telecom and electric infrastructure is often run overhead. Any private equipment in the right of way results in additional time and expense to municipalities.

In order to meet GHG reduction targets, municipalities are facing the need to install district energy systems in dense urban areas. To meet public demands for fast internet, fiber optic cables are also adding to pressure in the right of way. In older parts of many municipalities, separation of storm and sanitary sewers or combined sewage storage tunnels is another right of way demand pressure along with the desire to bury overhead electrical distribution. As telecommunications are under federal jurisdiction, municipalities are collectively engaging with the federal government on the telecommunications sector's use of the right of way.

The natural gas utility, as a regulated utility, earns a fixed 9% return on investment through rates based on their infrastructure assets. This means they are incented to expand their gas grid wherever possible. As the Community Energy and Emissions Plans are achieved, it is predicted that the gas grid infrastructure will be increasingly expensive to maintain, leading to increased abandonment by the utility, as allowed under the Model Franchise Agreement. Increased applications for abandonment of natural gas infrastructure in the municipal right of way have occurred and are concerning considering the increased demand on the municipal right of way and future liability this transfers to municipalities.

Municipal costs to implement the Community Energy and Emissions Plans are in the billions; however, they project a net financial gain to Ontario ratepayers by 2050 due to reduced utility bills. Funding for these strategies is limited, given that municipalities do not have powers to advance carbon pricing.

Municipalities are uniquely positioned to offer programs to reduce energy consumption of buildings through municipal mechanisms such as Local Improvement Charges and Community Improvement Plans. Such programs protect ratepayers from energy and carbon cost increases. Also, tenant residents are not engaged by utility conservation programs because they are not incented to improve their rental home. Municipalities can provide programs to support these residents to reduce their exposure to utility bill increases.

Franchise Agreements in Ontario

In Ontario, 340 municipalities have currently adopted the Model Franchise Agreement as provided by the Ontario Energy Board. Although municipalities theoretically have the ability to negotiate different terms with the natural gas utility, all such requests historically have been denied by the Ontario Energy Board.

These agreements are signed for 20 years, which is longer than the timeframe remaining to meet emissions reduction targets. However, adjustments to the Model Franchise Agreement triggers an adjustment to those that are in place at certain intervals. The Model Franchise Agreement currently in place was last reviewed in 1999. The review prior to that was 1987. Since much has changed since 1999, another review of the agreement is recommended.

The current Model Franchise Agreement allows municipalities to recover expenses related to the natural gas infrastructure in municipal rights of way, but does not include any payment in lieu of taxes, franchise fees, access fees, or land rental fees.

The Model Franchise Agreement includes a provision in section 101 that allows natural gas utilities to abandon old equipment in the right of way without being required to remove it. This equates to a subsidy for the gas utilities. For comparison, telecommunications utilities, which are regulated under the federal Telecommunications Act, are required to cover the cost of old equipment removal.

Natural gas contributed 35 $MTCO_2e$ of GHGs in Ontario in 2020[4]. Currently, the private natural gas utilities in Ontario are granted free access to public land for their gas infrastructure[5]. This equates to a subsidy for the natural gas utility, increased costs on municipalities regarding right of way management and lost potential municipal revenues. This recommendation is in line with the 2009 commitment by the federal government to phase out fossil fuel subsidies by 2025[6].

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[4] https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=2510005501&pickMembers%5B0%5D=1.7&pickMembers%5B1%5D=3.1&cubeTimeFrame.startMonth=01&cubeTimeFrame.startYear=2020&cubeTimeFrame.endMonth=12&cubeTimeFrame.endYear=2020&referencePeriods=20200101%2C20201201

[5] Enbridge owns almost 100% of the gas distribution networks in Ontario, with Epcor owning a small portion

[6] https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/discussion-document-assessment-framework-inefficient-fossil-fuel-subsidies.pdf

Jurisdictional Scan

Fees are structured slightly differently in various provinces, with authorities bridged between the Provinces and Municipalities in most cases. A scan of the largest cities in Canada provides some insight into the various approaches applied across Canada.

British Columbia

Pursuant to section 23(1)(g) of the Utilities Commission Act (UCA), municipalities can elect to charge an operating fee of their choice, subject to approval by Utilities Commission. This is provided for in the Municipal Act. To date, Surrey is the only Lower Mainland municipality to implement an operating fee, while many on Vancouver Island and the rest of mainland BC have implemented an operating fee. For example, Kelowna, Highlands, Nanaimo, and Nelson, all charge operating fees of 3% of all gas revenues.

Alberta - Edmonton

The Alberta Municipal Government Act enables municipalities to enter into access agreements, or franchise agreements, with utilities, in return for exclusive rights to provide a service within the municipality. It allows municipalities to set the fees based on what they believe to be fair. The fees compensate the City for direct costs, restrictions on planning and development due to utility rights of way, as well as inherent risks related to utility access. Access fees and the basis for calculating them differ for municipalities across Alberta.

Edmonton has been charging gas utilities access fees since 1915. They currently charge the natural gas utility an access fee of 32.9% of delivery revenues. Up to 35% was approved by the Alberta Utilities Commission. The maximum 35% rate is consistent with a template developed collaboratively by the gas utility companies and the Alberta Urban Municipalities Association in 2003.

The annual revenues generated by all access fees in Edmonton represent about 5.3% of the City's annual consolidated operating revenues, a rate that has remained stable over the past 5 years. Natural gas utilities contribute about half of Edmonton's access fee revenues, or $60.3 million annually[7] (population 981,280, or $61/capita).

[7] https://www.edmonton.ca/city_government/documents/TWWF_FranchiseFees_WhitePaper.pdf

Saskatchewan – Regina

In 2019 in Saskatchewan, the SaskEnergy Act was amended to give all urban municipalities authority to implement a 5% access fee, also called a surcharge, to gas utilities. The municipal surcharge was put in place to compensate urban municipalities for giving up the right to establish their own natural gas or power distribution systems[8]. Regina opted to implement this fee in 2019 and now earns $5.6 million annually (population of 228,928 or $24/capita).

Manitoba – Winnipeg

Winnipeg has a Charter that authorizes them to implement sales taxes. In 1973, they passed a municipal bylaw to implement sales taxes on natural gas and electricity sales[9]. The rates for these taxes are 2.5% for domestic purposes and 5% for other than domestic purposes. In 2019, they totaled $22 million annually in revenues for the City (population 749,534 or $29/capita).

Nova Scotia – Halifax

Halifax receives an access fee from natural gas utilities who install gas distribution infrastructure in the public right of Way. There is limited natural gas infrastructure in the rest of Nova Scotia, so this provision has limited application elsewhere in the province. The access fee charged by Halifax is equivalent to approximately 2% of the total natural gas bill.

General Review for Ontario

The City of Ottawa supports a review of the Model Franchise Agreement. The City Council of Ottawa endorsed staff in October 2020 to pursue the right to charge access fees to natural gas utilities for accessing the public right of way. An adjustment to the Model Franchise Agreement would be needed to implement that.

Based on the jurisdictional scan, it appears that an access fee of 5% of gas revenues would be in line with other jurisdictions. This would equate to approximately $27 per person per year, which is in line with other Canadian municipalities. Revenues would be used for municipal conservation programs that target vulnerable residents and businesses.

[8] https://sarm.ca/advocacy/resolutions/resolution-full?id=1136
[9] http://clkapps.winnipeg.ca/dmis/docext/ViewDoc.asp?DocumentTypeId=1&DocId=204&DocType=C

To implement changes to the Model Franchise Agreement, the Province would direct the Ontario Energy Board to review the Model Franchise Agreement. Including an access fee equating to 10% of commodity charges, which is approximately equivalent to 5% of gas revenues, would bring Ontario into alignment with other provinces. Applying this charge only to the commodity side would encourage conservation and enable consumer choice.

The City of Ottawa suggests this fee is justified on the basis that municipalities are encumbered and exposed to risk by gas distribution infrastructure in their right of way. Also, municipalities are at the forefront of delivering energy and emissions reduction programs for populations that are not benefiting from utility demand side management programs.

An amendment to section 101 to remove the ability for gas utilities to abandon old equipment in the right of way is also suggested. As demand for space in the right of way increases, these abandoned gas lines will increasingly be a burden on necessary public services.