Clean Air Partnership

Re: IE11.8 - Requiring Fair Payment from For-Profit Gas Utilities for Use of City Property

Dear Chair and the members of IEC,

Clean Air Partnership is a charitable organization whose mission is to support municipalities in improving air quality, advancing active transportation, and taking bold climate action through support such as network convening, research, knowledge transfer, and action implementation.

Clean Air Partnership supports the Toronto City Council to request the Province of Ontario to amend subsection 8 of O.Reg. 595/06 under the City of Toronto Act, 2006 and section 9 of Regulation 584/06 under the Municipal Act, 2001 to permit municipalities to charge fair fees to for-profit gas utilities for their use of public property, as municipalities do in most other Canadian provinces.

Many municipalities in Ontario are experiencing unprecedented growth within their communities. The City of Toronto is projected to grow to 3.5 million residents by 2030. The population growth of 16% over a short span of 6 years will lead to significant pressures on municipalities to manage the growth and advance complete communities that address environmental, social, and economic outcomes.

There has been a growing demand regarding access to the municipal right of way, from the municipalities' own infrastructure (sewer, stormwater, water supply), but also from utilities (electrical, fossil fuel and low carbon geo-exchange utilities), 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 as a growing number of new developments opt for geo-exchange systems, sewer waste-heat recovery systems, solar PV panels and other renewable energy systems in order to support Toronto's building decarbonization efforts.

For-profit fossil fuel utilities 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. Currently, gas utilities 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 the use of right-of-way lands as regulated under Subsection 280(1) of the City of Toronto Act, 2006.

Gas infrastructure is also one of the largest private users of underground space because most of its infrastructure is typically located underground and requires setbacks from other services for safety. In contrast, telecom and electric infrastructure often run overhead. Any private equipment in the right of way results in additional time and expense to municipalities.

Most provinces in Canada allow municipalities to charge utilities (including fossil fuel gas utilities) for access to public lands for their infrastructure.
For example:

1. 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. 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 five years. Natural gas utilities contribute about half of Edmonton’s access fee revenues or $60.3 million annually.

2. The City of Regina, through SaskEnergy Act, has been charging a 5% access fee, also called a surcharge, to gas utilities since 2019 and earns $5.6 million annually.

3. Winnipeg, in 1973, passed a municipal bylaw to implement sales taxes on natural gas and electricity sales. 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.

4. In BC, Kelowna, Highlands, Nanaimo, and Nelson all charge operating fees of 3% of all gas revenues.

5. Halifax receives an access fee from natural gas utilities that install gas distribution infrastructure in the public right-of-way. The access fee charged is equivalent to approximately 2% of the total natural gas bill.

Clean Air Partnership supports the City of Toronto in reviewing and amending legislation that may be preventing the City from charging for-profit natural gas utilities under the City's right-of-way. As we shift to decarbonize and move our home and water heating systems from gas to electricity and other low carbon energy sources (such as ground source heat pumps), this step will help level the playing field and equalize the right-of-way costs paid by electricity and low carbon energy utilities and gas utilities.

As Toronto accelerates efforts to mitigate and adapt to climate change and implement a community-wide TransformTO Net Zero Strategy with an estimated implementation cost of $145 billion over the next three decades, these right-of-way charges from for-profit fossil fuel utilities will address a significant fossil-fuel subsidy and support the City in securing much-needed capital for implementing ambitious climate actions.

Kind Regards,

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