



January 12, 2017

VIA EMAIL & RESS

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: EPCOR Southern Bruce Gas Inc. (“EPCOR”)  
Application for Franchise Agreement and Certificate of Public Convenience and  
Necessity for the:  
Municipality of Arran-Elderslie Board File Number EB-2016-0137  
Municipality of Kincardine Board File Number EB-2016-0138  
Township of Huron-Kinloss Board File Number EB-2016-0139  
(collectively, the “EPCOR Applications”)**

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The Municipality of Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss (collectively, the “Southern Bruce Municipalities”) participated as intervenors in the Ontario Energy Board’s (the “Board”) generic proceeding on the expansion of natural gas to unserved communities. That generic proceeding concluded with the Board’s November 17, 2016 Decision.

As intervenors in the generic proceeding, the Southern Bruce Municipalities received a letter from the Board dated November 30, 2016, which states that the Board will now continue processing the EPCOR Applications, which were filed on March 24, 2016. The letter suggests that the Board will consider the issue of “competition amongst distributors to serve new areas” as part of its consideration of the EPCOR Applications, and may require the hearing of a rates case or a leave-to-construct case prior to, or in conjunction with, the hearing of the EPCOR Applications.

On December 21, 2016 we received a copy of the Letter of Direction and Notice from the Board in connection with the EPCOR applications to approve natural gas franchise agreements with the

Southern Bruce Municipalities. EPCOR had originally filed its franchise applications in March 2016. In its Notice the Board states “in this hearing, the OEB will also consider issues regarding how franchise agreements and certificates will be considered within the broader framework of natural gas expansion, given the findings from the decision on the OEB’s generic hearing on natural gas expansion (EB-0216-0004).”

Last week, the Board issued Procedural Order No. 1 (“PO#1) in the EPCOR Applications. In PO#1, the Board advised that it “intends to confirm if there are other parties interested in serving the areas covered by the EPCOR Applications. If the OEB receives indications of interest by January 19, 2017, the OEB will then develop a process for hearing competing applications. If there are no other interested parties, the OEB intends to be guided by the principles set out in the expansion decision. The expansion decision contemplated that the OEB would be in a better position to consider the merits of an applicant’s proposal to serve a new community if it heard the rates application and/or the leave to construct application prior to granting a franchise. The OEB will therefore require EPCOR to submit a proposal regarding the application(s) it intends to file in advance of the OEB’s consideration of the franchise applications.” If there are no other interested parties, EPCOR is to file with the Board by January 26, 2017 a letter indicating what application(s) it intends to file in advance of the Board’s consideration of the franchise application.

The Southern Bruce Municipalities have been exploring natural gas expansion opportunities since 2011. Prior to selecting EPCOR as the preferred proponent to provide natural gas service, the Southern Bruce Municipalities undertook an extensive competitive bid process in 2015 that was open to interested proponents. Multiple parties participated in this competitive process, including EPCOR and Union Gas. The Southern Bruce Municipalities ultimately selected the EPCOR proposal based on a number of criteria, including relevant experience as a utility, financial capability, proposed ownership and capital structure, capital requirements and phasing, load management, profitability expectations, local support and customer conversion strategy. The Southern Bruce Municipalities invested considerable cost, time and effort in order to initiate and complete this competitive bid process. Since the Municipalities’ selection of EPCOR as the preferred proponent, the Municipalities have been highly engaged with EPCOR to deliver natural gas to the Southern Bruce area and have jointly invested extensive resources, including financial resources, to achieve this goal.

Given the extensive competitive bid process that has already been undertaken by the Southern Bruce Municipalities, the Southern Bruce Municipalities are very concerned about further significant delays in the adjudication of EPCOR’s franchise and Leave to Construct applications given the expanded scope of the franchise application process combined with any further work by the Board on the refinement of “the mechanisms and features of the framework described [in the generic Decision] through the adjudication of the initial applications”, including further “submissions from applicants and affected parties on implementation matters within those applications.”

PO#1 essentially establishes a new competitive bidding process. The Board can certainly allow intervenors in the current Applications and those intervenors can make whatever relevant submissions they like. However, the Southern Bruce Municipalities respectfully submit that the Board should not be substituting (and duplicating) a new competitive bidding process for the

lengthy process already undertaken by the Southern Bruce Municipalities. This is of particular concern to the Southern Bruce Municipalities where, under the *Municipal Franchises Act*, it is the municipality that has the exclusive jurisdiction to grant (by by-law) the right to “use or occupy any of the highways of the municipality for a public utility or to construct or operate any part of a public utility in the municipality.” The Southern Bruce Municipalities have chosen EPCOR to expand natural gas service to their respective communities. Once a municipality has selected a franchisee it is the exclusive jurisdiction of the Board whether or not to approve the franchise application.

The Southern Bruce Municipalities and their homeowners, businesses, farms and other consumers are depending on the timely consideration and approval of the EPCOR Applications so that natural gas service can be provided to all three Southern Bruce Municipalities as soon as possible. The EPCOR proposal contemplated construction commencing in the summer of 2016 and the first phase commencing operations in late 2017. As noted above, the EPCOR Applications were submitted to the Board on March 24, 2016 and they have already been delayed by approximately nine months as a result of the Board’s generic proceeding on the expansion of natural gas. Any further delay will significantly prejudice the Southern Bruce Municipalities’ ability to obtain natural gas service in the near term. We believe that the revision to the procedure as requested in the preceding paragraph will result in a more efficient process.

The Southern Bruce Municipalities would like to reiterate to the Board that they remain solidly committed to their original competitive process. The Municipalities are confident that their joint efforts with EPCOR will result in the success of the Southern Bruce project to supply natural gas to the Municipalities.

In the alternative to the foregoing, if the Board is intent on creating a new competitive process, the Southern Bruce Municipalities suggest that it be made clear to prospective distributors that costs related to that process and any leave to construct application are to be borne by the proponent’s shareholder(s) and not by existing customers.

If the Board proceeds with creating a new competitive process, we respectfully request that PO#1 be amended to require that any party who notifies the Board on January 19, 2017 of its interest in serving the areas covered by the EPCOR Applications also be required to submit a letter indicating what application(s) it intends to file in advance of the OEB’s consideration of the franchise application on January 26, 2017, the same date that EPCOR is being directed to provide this information.

In addition, should the Board proceed under PO#1 the Southern Bruce Municipalities also request that the Board set a timeline for the disposition of the EPCOR Applications by way of a written hearing, including dates for the filing of requests for intervenor status, further evidence and interrogatories.

Finally, the Southern Bruce Municipalities request intervenor status in the EPCOR Applications. As the municipalities to be served by the expanded natural gas infrastructure, they have a direct and substantial interest in these applications. The Southern Bruce Municipalities intend to participate actively and responsibly in the proceeding, and may submit evidence, argument or interrogatories and/or cross-examine witnesses.

Please ensure that copies of all material filed in these proceedings are delivered to:

Mayor Paul Eagleson  
Arran-Elderslie  
P.O. Box 70  
1925 Bruce Road #10  
Chesley, ON N0G 1L0  
Phone: 519-934-2210  
Email: [mayor@arran-elderslie.ca](mailto:mayor@arran-elderslie.ca)

Mayor Anne Eadie  
Municipality of Kincardine  
1475 Concession 5, RR5  
Kincardine, ON N2Z 2X6  
Phone: 519-396-3468  
Email: [mayor@kincardine.net](mailto:mayor@kincardine.net)

Mayor Mitch Twolan  
Township of Huron-Kinloss  
21 Queen Street  
P.O. Box 140  
Ripley, ON N0G 2R0  
Phone: 519-395-0717  
Email: [mitch@lakerangerealty.ca](mailto:mitch@lakerangerealty.ca)

Mark Rodger  
Borden Ladner Gervais LLP  
Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON M5H 4E3  
Phone: 416-367-6190  
Email: [mrodger@blg.com](mailto:mrodger@blg.com)

Sincerely,

Mayor Paul Eagleson, Municipality of Arran-Elderslie

Mayor Anne Eadie, Municipality of Kincardine

Mayor Mitch Twolan, Township of Huron-Kinloss

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