

**Ontario Energy  
Board**

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**Commission de l'énergie  
de l'Ontario**

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**BY E-MAIL**

January 17, 2017

Mayor Paul Eagleson  
Municipality of Arran-Elderslie

Mayor Anne Eadie  
Municipality of Kincardine

Mayor Mitch Twolan  
Township of Huron-Kinloss

Dear Mayors Eagleson, Eadie and Twolan:

**Re: EPCOR Southern Bruce Gas Inc.  
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**

Thank you for your letter dated January 12, 2017.

The OEB appreciates that the Southern Bruce Municipalities are anxious to proceed with the current applications, and will endeavor to keep the process moving as expeditiously as possible.

The OEB would like to take this opportunity to clarify some of the issues raised in your letter. On page 3, the letter includes a discussion of the process outlines in Procedural Order #1. The OEB would like to ensure that it is understood that the January 19 deadline for expressions of interest from distributors other than EPCOR will mark a “fork” in the procedural path. If no other parties are interested in serving the area, then EPCOR shall file with the OEB a letter indicating what further applications it intends to file by January 26. If one or more parties do file by January 19<sup>th</sup> expressing an interest in serving the area, then the OEB will consider these letters and then issue fresh guidance to all parties to the proceeding. Under this scenario EPCOR need not file its letter by January 26.

Further, the OEB notes your assertion that a municipality has exclusive jurisdiction to select a franchisee and grant through 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 or to construct or operate and part of a public utility in the municipality. The OEB is cognizant of the efforts expended in the pursuit of natural gas distribution systems by your three municipalities and your stated support for EPCOR as your selected service provider. As an outcome of the recent generic hearing reviewing these matters, the OEB is of the view that it has both the authority and the responsibility to conduct a process designed to identify the entity best suited to serve the public need when more than one entity wishes to do so. The *Municipal Franchises Act* is clear that the ultimate authority to approve a Certificate of Public Convenience and Necessity (section 8) and a gas franchise by-law (section 9, and typically in the form of the Model Franchise Agreement), rests with the OEB.

Yours truly,

*Original signed by*

Kirsten Walli  
Board Secretary

c: All parties in EB-2016-0004