



EB-2016-0137
EB-2016-0138
EB-2016-0139

South Bruce Expansion Applications

**Applications to serve the Municipality of Arran-Elderslie,
the Municipality of Kincardine and the Township of
Huron-Kinloss with natural gas distribution services**

PROCEDURAL ORDER NO. 5 April 20, 2017

EPCOR Southern Bruce Gas Inc. (EPCOR) filed applications with the Ontario Energy Board (OEB) on March 24, 2016 under sections 8 and 9 of the Municipal Franchises Act, R.S.O. 1990, c. M.55, seeking approval for its franchise agreements with and Certificates of Public Convenience and Necessity for the Municipality of Arran-Elderslie, Municipality of Kincardine and the Township of Huron-Kinloss (“the South Bruce Expansion Applications”). Procedural Order No. 1, which was issued on January 5, 2017, directed other parties interested in serving the areas covered by the South Bruce Expansion Applications to notify the OEB of their interest. Union Gas Limited (Union) filed a letter dated January 19, 2017 notifying the OEB of their interest in serving the areas covered by the South Bruce Expansion Applications.

Following the issuance of Procedural Order No. 2 on March 3, 2017, the OEB received letters from Anwaatin Inc., Building Owners and Managers Association, Greater Toronto and School Energy Coalition requesting that the OEB reconsider its determination that costs would not be awarded to intervenor groups for phase one of this proceeding. The OEB issued Procedural No. 3 on March 23, 2017, stating that it would now consider applications for intervenor status for phase two and cost eligibility for both phase one and phase two of the proceeding.

The OEB received intervention requests from the following parties:

- Anwaatin Inc. (Anwaatin)
- Building Owners and Managers Association, Greater Toronto (BOMA)
- Consumers Council of Canada (CCC)
- GreenField Specialty Alcohols Inc. (GreenField)
- London Property Management Association (LPMA)
- Northeast Midstream LP (Northeast Midstream)
- Parkland Fuel Corporation (Parkland)
- School Energy Coalition (SEC)

Each of Anwaatin, BOMA, CCC, GreenField, LPMA and SEC also applied for cost award eligibility for both phase one and phase two of the proceeding.

On April 6, 2017, EPCOR filed objections to the intervention requests for phase two of the proceeding by Anwaatin, LPMA, Northeast Midstream and Parkland. The OEB issued Procedural Order No. 4 instructing parties to respond to EPCOR's objection by April 12, 2017. Anwaatin, LPMA, Northeast Midstream and Parkland each filed responses.

On April 11, 2017, the Vulnerable Energy Consumers Coalition (VECC) filed a late intervention request for phase two of the proceeding, as well as for cost award eligibility.

EPCOR filed a letter on April 11, 2017 retracting its objection to Anwaatin's participation in phase two, after recognizing that the Saugeen Ojibway First Nation and the Chippewas of Nawash Unceded First Nation, which were participating in the proceeding as members of Anwaatin, have directly affected interests in the Southern Bruce natural gas franchise area.

The OEB stated that it will be granting intervenor status to parties whose constituencies are directly affected by the outcomes of phase two of the proceeding. Intervenor status is granted to each of Anwaatin, CCC, GreenField, Northeast Midstream, SEC and VECC, as these parties have a direct interest in the outcome of the hearing and the OEB anticipates their contributions to be of assistance in making its determinations. The CCC, Greenfield, SEC and VECC represent the interests of clearly defined consumers which will be served by the successful applicant. Northeast Midstream is accepted as an intervenor as it has an interest as a potential gas service provider in other underserved parts of Ontario. The OEB expects Northeast Midstream may be able to add some value to the creation of the selection criteria. The OEB also notes that Northeast Midstream is not seeking costs.

Each of Anwaatin, CCC, GreenField, SEC and VECC are eligible for an award of costs under the OEB's *Practice Direction on Cost Awards*. Cost award eligibility has been granted to Greenfield on the basis that it is a ratepayer, and that it will be coordinating the interests of other ratepayers: Bruce Power, 7 Acres and Snobelen Farms. The list of parties in phase two of this proceeding is attached as Schedule A to this Procedural Order. However, the OEB finds that BOMA, LPMA and Parkland will not be granted intervenor status for phase 2 of the proceeding.

BOMA cited two main reasons for its interest in the proceeding: the fact that some of BOMA's members own commercial rental properties in the area covered by the applications, and that the potential introduction of a new utility to Ontario raises an important public interest issue. The OEB understands, from its letters of representation, that BOMA is essentially a Toronto-based organization speaking on behalf of a collective interest. The OEB does not accept that ownership of rental properties in the geographic area of the South Bruce Expansion Applications by some of its members expands BOMA's representation of that collective interest to that area. Further, the OEB does not consider it necessary to obtain BOMA's views on the introduction of a new utility entity to Ontario. That subject matter was adequately canvassed in the generic hearing on natural gas expansion ("Generic Hearing") and to the extent that some implementation issues remain, the OEB is satisfied that OEB staff and those entities that have been granted intervenor status will be able to assist the OEB's determination of these issues.

LPMA indicated that it would limit its intervention to ensuring that the current ratepayers of Union Gas will not be adversely impacted by any proposals of Union Gas in their application to serve the South Bruce communities. The OEB does not consider it necessary to obtain LPMA's specific views in order to ensure the Generic Hearing findings related to cross-subsidization are upheld. LPMA's stated interest will be examined in this case, but the OEB anticipates that the matter can be adequately covered by OEB staff and those that have been granted intervenor status. The OEB also notes that the impact of any possible cross-subsidy can be raised in Union's next rates case, as this application will not affect current rates paid by Union's other customers.

Parkland's interest as a competitive supplier of fuel and energy services was recognized in the Generic Hearing. The OEB recognizes the validity of Parkland's stated interest in this proceeding, which is a concern regarding unfair competition and the potential adverse effect of the outcome of this proceeding on Parkland's ability to compete with the selected distributor on a level playing field. However, the OEB has determined in the Generic Hearing that the best remedy for Parkland's concern is stand-alone rates

absent of any cross-subsidies from existing customers. In the absence of cross-subsidies, the gas distribution proponents and their potential customers are the only entities with interests in the outcome of the OEB's determinations. The OEB does not require the participation of Parkland to ensure that the OEB's previous decisions are upheld.

The OEB expects that intervenors will combine their interventions with those of similarly interested parties, will co-operate with all other parties to the extent possible and will be mindful of avoidable duplication.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. Parties that wish to file submissions regarding the draft Issues List and the draft Filing Requirements identified in Procedural Order No. 2, and attached as Schedule B and C respectively to this Procedural Order No. 5, must file their submissions with the OEB and deliver it to all other parties on or before April 27, 2017.

All filings to the OEB must quote the file numbers, EB-2016-0137 | EB-2016-0138 | EB-2016-0139, be made in searchable / unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.oeb.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Registrar at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Azalyn Manzano at azalyn.manzano@oeb.ca and OEB Counsel, Jennifer Lea at jennifer.lea@oeb.ca

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DATED at Toronto, **April 20, 2017**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

SCHEDULE A

EB-2016-0137 | EB-2016-0138 | EB-2016-0139

South Bruce Expansion Applications

DATED: April 20, 2017

List of Applicants and Intervenors – Phase II

**South Bruce Expansion Applications
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APPLICANTS & LIST OF INTERVENORS – PHASE II

April 24, 2017

APPLICANT

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APPLICANTS & LIST OF INTERVENORS – PHASE II

April 24, 2017

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APPLICANTS & LIST OF INTERVENORS – PHASE II

April 24, 2017

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APPLICANTS & LIST OF INTERVENORS – PHASE II

April 24, 2017

**GreenField Specialty
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APPLICANTS & LIST OF INTERVENORS – PHASE II

April 24, 2017

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**South Bruce Expansion Applications
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APPLICANTS & LIST OF INTERVENORS – PHASE II

April 24, 2017

Southern Bruce

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APPLICANTS & LIST OF INTERVENORS – PHASE II

April 24, 2017

Southern Bruce

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SCHEDULE B

EB-2016-0137 | EB-2016-0138 | EB-2016-0139

South Bruce Expansion Applications

DATED: April 20, 2017

Draft Issues List

**Preliminary Issues for Feedback in EB-2016-0137, EB-2016-0138, EB-2016-0139 -
EPCOR Southern Bruce Gas Application**

1. Keeping in mind the principles set out in the Decision with Reasons for the generic community expansion proceeding (EB-2016-0004), what should the process for selecting a proponent look like when there are competing proposals for serving a community?
2. Should the funding of this process be treated as a business development cost or a regulatory expense, recoverable from future ratepayers? What other approaches should the OEB consider?
3. In its Decision with Reasons for the generic community expansion proceeding (EB-2016-0004), the OEB introduced the idea of a rate stability feature for its framework for natural gas expansion:

A minimum rate stability period of 10 years (for example) would ensure that rates applied for are representative of the actual underpinning long-term costs. The utility would bear the risk for that 10-year period if the customers they forecast did not attach to the system.

- How should a rate stability period be implemented for the South Bruce areas?
 - Is a 10-year rate stability period too long or too short?
 - Should proponents have the opportunity to update costs during the rate stability period? If so, what types of costs?
4. In expanding natural gas service to new areas, the OEB expects to approve franchise agreements following the results of a certificate competition. The selection process is primarily about finding the best value for consumers over the long term, after analyzing the supply plans and associated costs.
 - Is there a need for a common format for applications to be able to appropriately assess and compare the value propositions of different proponents – for example through establishing filing requirements?
 - If so, please provide comments on the draft filing requirements attached at Schedule C.
 - Should the OEB use a Reference Plan based on a set of working assumptions such as long term system demand? What other parameters should be set in a Reference Plan?

- Should applicants have the opportunity to create their own proposals by applying their own demand forecasts, construction phasing, etc. as opposed to a Reference Plan?
5. How should the costs of proposals be compared? (e.g. \$/month, \$/system capacity, use of demand day, delivery capacity of the system for comparison)
 6. Should measures be put in place to ensure completion of the proposed projects, and if so, what should these measures be?

SCHEDULE C

EB-2016-0137 | EB-2016-0138 | EB-2016-0139

South Bruce Expansion Applications

DATED: April 20, 2017

Draft Filing Requirements

DRAFT FILING REQUIREMENTS
FOR
COMPETITIVE FRANCHISE/CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY APPLICATIONS

When there are multiple parties' interested in being granted the same franchise agreement and Certificate of Public Convenience and Necessity to serve an area, the OEB will apply the following decision criteria:

- Organization
- Financial capacity
- Proposed community supply
- Schedule
- Costs - construction and administration/support costs
- Other factors

The OEB will require the following information to be filed as part of an applicant's filing. The requirements are separated into three main sections:

- (A) The capability of the applicant to serve the area;
- (B) The applicant's Plan for serving the area; and
- (C) Other factors to support the expansion.

(A) CAPABILITY OF THE APPLICANT

1. Background Information

The applicant must provide the following information:

1.1 Contact information for each of the following persons:

- a) the applicant;
- b) primary representative for the applicant;
- c) any legal representative;
- d) any affiliates of the applicant.

Contact information includes the name, postal address, telephone number, and, where available, the email address and fax number of the persons listed above.

1.2 Confirmation that the applicant has not previously had a licence or permit revoked and is not currently under investigation by any regulatory body

Draft Filing Requirements

2. Organization

- 2.1** An overview of the applicant's relevant utility experience - construction and operations
- 2.2** A description of the applicant's organizational structure and ownership, and a chart to illustrate the structure
- 2.3** Identification and description of the role of any third parties to be used in the applicant's ongoing operations
- 2.4** Evidence that the applicant's business practices are consistent with good utility practices and that it possesses or can obtain all the required licenses and permits to function as a gas distribution utility

3. Financial Capacity

The applicant must demonstrate that it has the financial capability necessary to develop, construct, operate and maintain safe and reliable service to customers in the proposed area. To that end, the applicant shall provide the following:

- 3.1** Evidence that it has capital resources that are sufficient to develop, finance, construct, operate and maintain safe and reliable service to the proposed area
- 3.2** Evidence of the current credit rating of the applicant, its parent or associated companies
- 3.3** Evidence that the financing, construction, operation, and maintenance of safe and reliable service to the proposed area will not have a significant adverse effect on the applicant's creditworthiness or financial condition

(B) PLAN FOR SERVING THE AREA

4. Proposed Community Supply

The applicant must provide an overview of its proposed supply to the area, including:

- 4.1** A description of the specific areas to be served
- 4.2** A description of the infrastructure that will be required to serve the area, including the interconnection of any new infrastructure with the existing gas distribution system

Draft Filing Requirements

- 4.3** A description of the lands that will be impacted by infrastructure and plans to obtain control of this land through an easement, lease, planned purchase, or other agreement
- 4.4** A description of any significant issues anticipated in land acquisition or permitting and a plan to mitigate them
- 4.5** A description of all permits and approvals required, including Environmental Assessments, any Duty to Consult, and regulatory approvals
- 4.6** A map illustrating the planned infrastructure and areas to be served

5. Costs of Supply and Customer Rates

- 5.1** Evidence of the underlying long term cost structure expected for serving the area
- 5.2** A description of any major assumptions underlying the expected cost structure
- 5.3** A description of the tariffs and proposed rates

6. Schedule

- 6.1** The applicant must file a schedule that describes milestones and estimated dates
- 6.2** Proposed reporting requirements

(C) OTHER FACTORS

The applicant should provide any other information that it considers relevant to its application to serve the area.