

May 5, 2017

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: EPCOR Southern Bruce Gas Inc.  
Applications for Approval of Franchise Agreements and CPCNs  
Board File Nos. EB-2016-0137, EB-2016-0138, EB-2016-0139**

We are counsel to Union Gas Limited in the above-noted proceedings. We are writing in response to an issue raised in the April 27, 2017 submission of EPCOR Southern Bruce Gas Inc.

In its submission, EPCOR states that should the Ontario Energy Board conduct a competitive process to award a Certificate of Public Convenience and Necessity against the wishes of a municipality when the municipality has already conducted a competitive process and selected a gas franchisee, the Board oversteps its statutory authority contained in the *Municipal Franchises Act*.

In Union's view, the Board has confirmed its jurisdiction under the *Municipal Franchises Act* in the Generic Proceeding on Community Expansion (EB-2016-0004) and in the preliminary stages of the current proceedings.

In its November 17, 2016 Decision with Reasons in the Generic Proceeding on Community Expansion, the Board states that before a utility can provide gas distribution service, it must comply with the provisions of the *Municipal Franchises Act* which include the entering into of a franchise agreement with the municipality and having it approved by the Board, and obtaining a Certificate of Public Convenience and Necessity for the construction of facilities from the Board.

In its Notice for these proceedings, the Board states that it will consider issues regarding how franchise agreements and Certificates of Public Convenience and Necessity will be considered within the broader framework of natural gas expansion, given the findings from the decision on the Generic Proceeding on Community Expansion.

In a January 12, 2017 letter to the Board in these proceedings, the Southern Bruce Municipalities stated that 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.

