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

April 29, 2016

**Re: EB-2016-0004**

**GENERIC PROCEEDING ON NATURAL GAS EXPANSION IN COMMUNITIES THAT ARE NOT SERVED**

Dear Ms. Walli,

In response to the Ontario Energy Board's (Board) direction at the pre-hearing conference held on April 26, 2016, EPCOR Utilities Inc. (EPCOR) provides its response to the requests for further information relating to the evidence of Dr. Adonis Yatchew filed with the Board on March 21, 2016. The further requests have come from the School Energy Coalition (SEC), Union Gas Limited (Union), Enbridge Gas Distribution (Enbridge) and Greenfield Specialty Alcohols Inc. (GreenField). The requests from Enbridge and GreenField, in substance, repeat the requests from SEC and Union.

In addition, these submissions address the request by Union on April 27, 2016 that EPCOR provide a company representative as an additional witness.

**Preliminary Points**

In the Pre-Hearing on April 26, 2016, the Board confirmed that information requests must be relevant to the scope of the generic proceeding, namely attempting to establish a common framework for policy matters and not delve into the granularity of a particular project.

Thus, the Board, in considering these requests must distinguish between the information that is necessary in a generic hearing, and the information that is necessary to address the franchise applications that EPCOR has filed for specific markets, namely the three municipalities of South Bruce. Those applications were filed by EPCOR on March 24, 2016 and have been assigned Board docket numbers EB-2016-0137 (Arran-Elderslie Franchise Agreement and CPCN), EB-2016-0138 (Kincardine Franchise Agreement and CPCN) and EB-2016-0139 (Huron-Kinloss Franchise Agreement and CPCN).

Clearly, there are important differences between a generic proceeding and a market specific application. The Board previously suspended Union's applications for specific markets. Likewise, the Board should not in this generic hearing address matters that are more properly addressed in EPCOR's specific market applications. EPCOR is quite prepared to address market specific issues when its three franchise applications and its future leave to construct applications are heard. However, productions in response to the interrogatories in the generic hearing should be limited to those requests that are truly generic in nature.

In EPCOR's submission, a question that is generic in nature and should be answered for the purpose of the generic hearing is a question where the answer has relevance to all potential natural gas expansion territories, not just to a specific market.

While the issues list has not yet been developed for the market specific applications, an issues list has been determined by the Board in the generic proceeding and is attached here as Schedule A. EPCOR acknowledges that there is, in limited cases, an overlap and has accordingly amended its response to certain questions presented by SEC and Union that EPCOR previously declined to answer. These answers are set out in Schedule B.

#### **Additional Witnesses**

Union in its letter of April 27, 2016 requests that EPCOR make available a corporate witness in addition to Dr. Yatchew as the company's expert witness. An EPCOR witness could provide very little evidence in respect of the generic issues in this proceeding.

Union further states that if a witness is not made available by Friday April 29, the EPCOR evidence should be struck. EPCOR has provided an expert witness which EPCOR believes is an independent neutral economist, experienced in these policy matters that will be very helpful to the Board in a generic proceeding. It would not be helpful to strike this evidence, nor is there any legal basis recognized in the Province of Ontario for doing so. The standard for striking evidence in Ontario is that the evidence is either clearly irrelevant or "frivolous, vexatious or an abuse of process" (Rule 25.11). EPCOR submits that the evidence of Dr. Yatchew evidence does not meet that standard.

It is EPCOR's objective to assist the Board in whatever fashion it can and EPCOR will be open to any suggestion the Board offers. It is, however, premature to determine whether further evidence is required until the scope of this proceeding is finally determined. That will depend on the Board's decision scheduled to be released on Monday May 2, 2016.

Yours truly,

Gordon E. Kaiser

## Issues List

### EB-2016-0004

1. What is considered a community in the context of this proceeding?
2. Does the OEB have the legal authority to establish a framework whereby the customers of one utility subsidize the expansion undertaken by another distributor into communities that do not have natural gas service?
3. Based on a premise that the OEB has the legal authority described in Issue #1, what are the merits of this approach? How should these contributions be treated for ratemaking purposes?
4. Should the OEB consider exemptions or changes to the EBO 188 guidelines for rural, remote and First Nation community expansion projects?
  - a) Should the OEB consider projects that have a portfolio profitability index (PI) less than 1.0 and individual projects within a portfolio that have a PI lower than 0.8?
  - b) What costs should be included in the economic assessment for providing natural gas service to communities and how are they to be determined and calculated.
  - c) What, if any, amendments to the EBO 188 and EBO 134 guidelines would be required as a result of the inclusion of any costs identified above?
  - d) What would be the criteria for the projects/communities that would be eligible for such exemptions? What, if any, other public interest factors should be included as part of this criteria? How are they to be determined?
  - e) Should there be exemptions to certain costs being included in the economic assessment for providing natural gas service to communities that are not served? If so, what are those exemptions and how should the OEB consider them in assessing to approve specific community expansion projects?

- f) Should the economic, environmental and public interest components in not expanding natural gas service to a specific community be considered? If so how?
5. Should the OEB allow natural gas distributors to establish surcharges from customers of new communities to improve the feasibility of potential community expansion projects? If so, what approaches are appropriate and over what period of time?
  6. Are there other ratemaking or rate recovery approaches that the OEB should consider?
  7. Should the OEB allow for the recovery of the revenue requirement associated with community expansion costs in rates that are outside the OEB approved incentive ratemaking framework prior to the end of any incentive regulation plan term once the assets are used and useful?
  8. Should the OEB consider imposing conditions or making other changes to Municipal Franchise Agreements and Certificates of Public Convenience and Necessity to reduce barriers to natural gas expansion?
  9. What types of processes could be implemented to facilitate the introduction of new entrants to provide service to communities that do not have access to natural gas. What are the merits of these processes and what are the existing barriers to implementation? (e.g. Issuance of Request for Proposals to enter into franchise agreements)
  10. How will the Ontario Government's proposed cap and trade program impact an alternative framework that the OEB may establish to facilitate the provision of natural gas services in communities that do not currently have access?
  11. What is the impact of the Ontario Government's proposed cap and trade program on the estimated savings to switch from other alternative fuels to natural gas and the resulting impact on conversion rates?
  12. How should the OEB incorporate the Ontario Government's recently announced loan and grant programs into the economic feasibility analysis?

## **SCHEDULE B**

### **School Energy Coalition**

#### **“Exhibit S4.EPCOR.SEC.7**

##### **Request:**

Did EPCOR’s successful proposal to the South Bruce municipalities include any proposal for subsidization or a shareholder contributions? If so, please provide details.

##### **Response:**

EPCOR’s Franchise Applications regarding the South Bruce municipalities have been filed with the Board and have been assigned their own docket numbers. The Applications will be addressed by the Board in a manner that it deems appropriate, in future proceedings. EPCOR’s Applications are not at issue in the current generic proceeding, and the requested Application-specific information is well beyond the scope of the issues defined by the Board for this generic proceeding. In addition, the information sought is beyond both the scope of Dr. Yatchew’s written evidence and the matters he is appearing before the Board to address. As such, Dr. Yatchew respectfully declines to provide the requested information.”

##### **Supplementary Response:**

EPCOR previously declined to answer this question. On review EPCOR finds that the answer may be relevant to the generic hearing. The specific answer is no. EPCOR did not propose any subsidization by other ratepayers or shareholder contributions.

**“Exhibit S4.EPCOR.SEC.8**

**Reference:** South Bruce evidence, Municipalities Report, p.9

**Request:**

Please provide a copy of the responses provided by EPCOR to South Bruce’s initial RFI and second phase of the RFI.

**Response:**

Dr. Yatchew understands that EPCOR’s responses to the South Bruce RFI resulted in the franchise agreements which are the subject of the Applications referenced in the response to EUI-SEC-007. Dr. Yatchew respectfully declines to provide the requested information for reasons outlined in the response to that interrogatory.”

**Supplementary Response:**

EPCOR previously declined to answer this interrogatory. It remains EPCOR’s view that this information and bids submitted by other entities, such as Union, are not relevant to a generic proceeding. The evidence of Dr. Yatchew simply states that a competitive bidding process represents an improvement in the manner in which municipalities qualify and obtain proposals from potential gas distributors to serve their jurisdiction.

Union asserts that EPCOR (and South Bruce) are holding out the competitive process, the selection of EPCOR and the franchise agreements as examples that the OEB should consider or endorse. However, at no point does Dr. Yatchew dwell on the specifics of any bid nor does he assert that the process followed should necessarily be endorsed by the Board or specifically followed by anyone else. It is not necessary to know the specifics of one bid or another in order to form an opinion as to whether competitiveness generally is desirable or not.

Furthermore the municipalities have the right to enter into franchise agreements and the Board has the authority and responsibility to approve such agreements. The information submitted in a competitive process was done on a confidential basis by a number of potential suppliers, including Union. EPCOR

may have to compete with Union on similar selection in the future. EPCOR is sensitive that its production will reduce the scope of the competition going forward and will disadvantage EPCOR going forward.



**“Exhibit S4.EPCOR.SEC.12**

**Reference: EB-2016-0137/138/139, Franchise Agreement, section 5**

**Request:**

EPCOR has filed applications for approval of its Franchise Agreements with the Municipalities of Arran-Elderslie, Kincardine and Huron-Kinloss. In each of those Franchise Agreements, EPCOR has agreed to pay each municipality an annual fee equivalent to 1% of the gross revenue derived by it for natural gas supplied for consumption within the municipality net of the commodity costs of supply. Will EPCOR seek to recover that that annual free from ratepayers or will that be a shareholder expense?

**Response:**

See the response to Exhibit.S4.EPCOR.SEC.7. ”

**Supplementary Response:**

Previously EPCOR declined to answer this question for the reasons expressed. On further review, EPCOR believes this question is relevant to the generic hearing. The answer is that EPCOR intends to apply to the Board to recover the cost of the franchise fee in rates.

**“Exhibit S4.EPCOR.SEC.13**

**Reference: EB-2016-0137/138/139, Franchise Agreement, section 6**

**Request:**

EPCOR’s proposed Franchise Agreements with the Municipalities of Arran-Elderslie, Kincardine and Huron-Kinloss include an ITE for 10 years each. Please explain why EPCOR believes that is the appropriate term length.

**Response:**

See the response to Exhibit S4.EPCOR.SEC.7.”

**Supplementary Response:**

EPCOR previously declined for reasons expressed. On review, EPCOR believes this question has some relevance to the generic hearing. The response is that the term of the ITE of 10 years was simply a result of discussion between the parties. In large part, the concession that the Municipalities provided through a tax holiday was related to the concession on EPCOR’s part to pay a franchise fee to the Municipalities. The parties believe that this arrangement is likely to result in a net benefit to the rate payers in this specific market. This outcome will be confirmed and shared as part of the “Leave to Construct” application once the final business plan is established.

**“Exhibit S4.EPCOR.SEC.14**

**Request:**

Please provide any report or analysis conducted by EPCOR regarding potential rates for South Bruce customers.

**Response:**

See the response to Exhibit S4.EPCOR.SEC.7.”

**Supplementary Response:**

EPCOR previously declined to respond to this interrogatory for reasons expressed. EPCOR does not believe that a response to this question is relevant to the generic hearing. The response relates to specific rates for specific customers in a specific municipality. Rates in expansion territories will vary depending on various factors and costs that relate to those markets and conditions found there.

In many cases, the rates in expansion territories cannot be determined in advance because there are no concrete answers as yet from both the Government and the Board with respect to potential contributions from existing customers, new customers as well as loans and grants from governments. The project cost implications with respect to the EIA requirements and most importantly the gas supply costs and pipe reinforcement impact remain unconfirmed. In these circumstances, the derivation of rates before a franchise has been granted, and before a leave to construct has been filed with detailed capital cost calculations, is at best speculative.

On the other hand, prospective natural gas distributors can and do provide estimates of costs which impact rates, as well as contract terms such as termination rights which allow municipalities to make meaningful decisions. Speculation on rates, which require regulatory approval, would add little.

**Exhibit S4.EPCOR.SEC.15**

**Request:**

What is EPCOR's estimated PI for the each for its expected natural gas expansion into each of the Municipalities of Arran-Elderslie, Kinkcardine and Huron-Kinloss. Please provide all calculations.

**Response:**

See the response to Exhibit S4.EPCOR.SEC.7.”

**Supplementary Response:**

EPCOR continues to believe that this information is not relevant to a generic hearing. It will of course be a central part of a Leave to Construct application for specific markets and should be addressed by the Board at that time.

## Union

**“Exhibit S4.EPCOR.Union.2**

**Reference:** EB-2016-0137 – Arran-Elderslie Franchise Agreement and CPCN EB-2016-0138 – Kincardine Franchise Agreement and CPCN EB-2016-0139 – Huron-Kinloss Franchise Agreement and CPCN

**Preamble:** Paragraph 16 of each of the referenced Applications refers to recently signed Franchise Agreements between Bruce County municipalities and EPCOR.

**Request:**

Please provide copies of the applications filed by EPCOR Southern Bruce Gas Inc. with the Ontario Energy Board under docket numbers EB-2016-0137, EB-2016-0138 and EB-2016-0139.

**Response:**

The referenced Applications have been filed with the Board and have been assigned their own docket numbers. The Applications will be addressed by the Board as it determines to be appropriate in future regulatory approval proceedings. Many of Union’s interrogatories seek specific details relating to the subject matter of those Applications. EPCOR’s Applications are not at issue in this generic proceeding, and the requested Application-specific information is well beyond the scope of the issues defined by the Board for this generic proceeding. In addition, the information sought is beyond both the scope of Dr. Yatchew’s written evidence in this generic proceeding and the matters he is appearing before the Board to address. As such, Dr. Yatchew respectfully declines to provide the requested information.”

**Supplementary Response**

Copies of the Applications are available on the Board’s website as a matter of public record.

EPCOR will address specific issues relating to the franchise applications when its three franchise applications are heard by the Board.

**“Exhibit S4.EPCOR.Union.3**

**Reference:** EB-2016-0137 – Arran-Elderslie Franchise Agreement and CPCN EB-2016-0138 – Kincardine Franchise Agreement and CPCN EB-2016-0139 – Huron-Kinloss Franchise Agreement and CPCN

**Preamble:** Paragraph 16(a) of each of the referenced Applications states that Section 4 of Part II of the proposed Franchise Agreement contains termination provisions.

**Request:**

(b) Please confirm that EPCOR Utilities is requesting that paragraph 4(a) and (b) of the Model Franchise Agreement approved by the Ontario Energy Board be replaced by paragraphs 4(a), (c), (d), (e), (f), (g), (h) and (i) of the proposed franchise agreements with each of the South Bruce Municipalities.

**Response:**

(b) See the response to Exhibit S4.EPCOR.Union.2.

**Supplementary Response:**

EPCOR previously declined to answer this interrogatory for the reasons stated. On review, EPCOR believes the interrogatory is relevant to a generic hearing. The provisions in paragraphs 4 (a), (c), (d), (e), (f), (g), (h) and (i) of the franchise agreements are unique to the agreements EPCOR has negotiated with each of the South Bruce municipalities. It is EPCOR’s view that the Board has the authority to approve agreements that vary from the model agreement where both the municipality and the gas distributor can demonstrate that it is in the public interest. EPCOR is not suggesting or recommending that the Board develop a new model agreement in this proceeding. Rather it is EPCOR’s view that in addressing issues 8 and 9 on the issues list in the generic hearing, the Board will want to consider the logic and rationale for these new provisions and determine whether they will meet the public interest in expanding natural gas service to unserved markets.

**“Exhibit S4.EPCOR.Union.5**

**Reference:** EB-2016-0137 – Arran-Elderslie Franchise Agreement and CPCN EB-2016-0138 – Kincardine Franchise Agreement and CPCN EB-2016-0139 – Huron-Kinloss Franchise Agreement and CPCN

**Preamble:** Paragraph 26 of the EB-2016-0137 Application and Paragraph 23 of both of the EB-2016-0138 and EB-2016-0139 Applications states that EPCOR has committed over \$2 million to date on external experts that have assisted in pipeline development activities including design, routing, stakeholder engagement, and gas supply and demand analysis for EPCOR’s proposed franchise areas; modeled preliminary tariffs based on costing to date and designed to encourage customer conversion; and made substantial progress on the regulatory work necessary to become the natural gas supplier in Arran-Elderslie and the other proposed franchise areas.

**Request:**

- (a) Please provide details of the gas supply and demand analyses for each of EPCOR’s proposed franchise areas.
- (b) Please provide details of the preliminary tariffs and costs to be recovered in each of the proposed franchise areas.

**Response:**

- (a) See the response to Exhibit.S4.EPCOR.Union.2.
- (b) See the response to Exhibit.S4.EPCOR.Union.2.”

**Supplementary Response:**

EPCOR previously declined to answer for the reasons stated. EPCOR continues to believe the answers are not relevant to a generic hearing.

More importantly for the reasons stated previously (under Exhibit S4.EPCOR.SEC.14 ) the EPCOR business plan is work in progress with many cost components yet to be finalized and the work effort to finalize can only commence in earnest post the award of the CPCN.



**“Exhibit S4.EPCOR.Union.8**

**Reference:** EB-2016-0004 – EPCOR Utilities / Adonis Yatchew Evidence

**Preamble:** Paragraph 18 of the evidence states that the recently signed franchise agreements between two municipalities and a township in Bruce County, and EPCOR provides a clear indication of the feasibility of competition in Ontario.

**Request:**

- (a) Please provide copies of any customer rate information provided by EPCOR to the South Bruce municipalities for their evaluation of RFI respondents.”
- (c) Please provide copies of all reports and business case analyses that were provided to the South Bruce municipalities which were used to support the approval provided to EPCOR Utilities.

**Response:**

- (a) See the response to Exhibit.S4.EPCOR.Union.2.
- (c) See the response to Exhibit.S4.EPCOR.Union.2.

**Supplementary Response:**

EPCOR previously declined to answer for the reasons stated. EPCOR continues to believe the answers are not relevant to a generic hearing.

### **Enbridge**

Enbridge supports the request by Union for a full answer to Interrogatory S4.EPCOR.Union.2

#### **Supplementary Response:**

Copies of the Applications are available on the Board's website as a matter of public record.

### **Greenfield**

Greenfield has repeated all the information requests put forth by SEC and Union. Those answers are provided above.