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July 11, 2016

Filed on RESS and Sent via Courier

Kirsten Walli
Board Secretary
2300 Yonge Street, Suite 2700
Toronto, ON
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Dear Ms. Walli:

Re: EB-2016-0004 – Generic Proceeding on Natural Gas Expansion

We are counsel to GreenField Specialty Alcohols Inc. (**GreenField**) in the above-mentioned proceeding. Please find attached the reply submissions of GreenField, filed pursuant to Procedural Order No. 3 (May 30, 2016).

Should you have further questions on this matter, please do not hesitate to contact me.

Yours very truly,

Lisa (Elisabeth) DeMarco

Encl.

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Sched. B);

AND IN THE MATTER OF an Application under the Ontario Energy Board's own motion to consider potential alternative approaches to recover costs of expanding natural gas service to communities that are not currently served.

EB-2016-0004

GreenField Specialty Alcohols Inc.

REPLY SUBMISSIONS

July 11, 2016

INTRODUCTION

1. We are counsel to GreenField Specialty Alcohols Inc. (**GreenField**) in this application under the Ontario Energy Board's (the **OEB's** or the **Board's**) own motion to consider potential alternative approaches to recover costs of expanding natural gas service to communities that are not currently served.
2. GreenField's Reply Submissions are made predominantly in reply to the submissions of Board Staff, EPCOR and South Bruce and, to a lesser extent, Union.
3. GreenField makes these Reply Submissions in the context of:
 - (a) The Board's customer-focused statutory objectives outlined in the *Ontario Energy Board Act, 1998* (**OEB Act**), including:
 - (i) s. 2(2), to protect the interests of consumers with respect to **prices** and the reliability and quality of gas service;
 - (ii) s. 2(3), to facilitate the **rational expansion** of transmission and distribution systems; and
 - (iii) s. 2(6), to **promote communication** within the gas industry and the education of **consumers**;
 - (b) the recent Bill 135 and 112 legislative changes that are focused on ensuring that customers are well-informed and can meaningfully participate in decisions that affect them; and

- (c) the fundamental principles of administrative law and the rules of natural justice, which ensure that affected stakeholders have the right to be heard through open, transparent and procedurally-fair processes (*audi alteram partem*).
4. Specifically, throughout this proceeding GreenField has advocated for any and all processes for regulated natural gas expansions to be fair, open and transparent, **and** reflective of the needs of, and impact on, major customers in the service territory.
 5. In contrast, South Bruce appears to be advocating for a natural gas expansion process that is *ad hoc*, closed, confidential, and responsive to the needs of, and benefits for, the municipalities governing the service territory, regardless of customer impacts.¹
 6. GreenField's Reply Submissions are largely focused on: the importance of customers in the natural gas expansion process, through what Board Staff have helpfully grouped as the Issues relating to municipal franchise agreements and new entrants (Issues 6, 8, and 9), and also briefly address the Board's jurisdiction.

REPLY SUBMISSIONS

OEB Jurisdiction (Issues 2 and 3)

7. GreenField generally supports Board Staff's legal assessment and characterization of the Board's jurisdiction to establish rates for community natural gas expansion as set out on pages 7 to 15 of Board Staff's Submission.
8. The Supreme Court of Canada has also recently affirmed a deferential, broad, and purposive approach to the interpretation of the Board's jurisdiction in the context of its

¹ South Bruce Written Submissions at paras 99-100, 111, 113, 115-120, and 127.

statutory mandate in *Ontario (Energy Board) v Ontario Power Generation Inc.*, 2015 SCC

44. GreenField submits that the Board's jurisdiction to facilitate rational natural gas expansion through just and reasonable rates is broad enough to accommodate changes to EBO 188 and related fair, open and transparent **methods** and **processes** for limited surcharges and subsidies. This liberal and purposive approach to the Board's jurisdiction is also consistent with its broader statutory context, and the clear, customer-focused objectives set out in sections 2(1), 2(2), and 2(6) of the OEB Act.

Rates, Processes and Municipal Franchise Agreements

9. Board Staff highlight the need for a more open and transparent process to evaluate natural gas expansion projects and related municipal franchise agreements and certificates of public convenience and necessity (**CPCN**).² Their proposed approach constitutes a marked improvement to *ad hoc*, closed processes that are not reflective of customer needs and input as evidenced by many challenges with the process in South Bruce/EPCOR.
10. Specifically, Board Staff acknowledge the need for both (i) a prequalification process for potential utilities/entrants and (ii) common criteria for potential utilities regarding Requests for Information (**RFIs**) in order to allow for **customers to truly be better served** and for apples-to-apples comparisons of the integral common elements of proposals.³
11. GreenField supports the applicant prequalification criteria used by the Board in the East/West Tie Transmission Line, as expanded upon by Board Staff on page 32 of their submission, with the following additions (underlined):

² Board Staff Submissions at 28-33.

³ Board Staff Submissions at 32-33.

Description	Requirement
<p>1.2 A description of sample projects, and other evidence of experience in Ontario and/or jurisdictions in developing, constructing and operating a distribution system. The evidence should include a description of experience with:</p>	<ul style="list-style-type: none"> • The acquisition of land use rights from private landowners and the Crown; • The acquisition of necessary permits from government agencies; • Environmental assessments; • Landowner, community <u>and major customer</u> consultations; and • Completion of the procedural aspects of Crown consultation with First Nations and Métis communities.
<p>1.4 A description of operational capabilities in:</p>	<ul style="list-style-type: none"> • Customer call handling and emergency response; • Metering, billing system and related processes; • Gas supply procurement; and • Regulatory applications and compliance.
<p>2.0 The applicant must demonstrate that it has the financial capability necessary to develop, construct, operate and maintain the distribution facilities. To that end, the applicant shall provide the following:</p>	<ul style="list-style-type: none"> • 2.1 Evidence of the current credit rating of the applicant, its parent or associated companies; • 2.2 Financial statements for each of the past two fiscal years. This may include audited financial statements, annual reports, prospectuses or other such information; and • 2.3 If the applicants needs to raise additional debt or equity, evidence of the applicant's ability to access the debt and equity markets.

12. Further, Board Staff set out criteria for any RFI that are, in GreenField's submission, **absolutely integral** for customers to be able to provide meaningful and informed feedback and choice. Specifically, GreenField strongly supports Board Staff's proposed minimum, common RFI criteria outlined below with the following addition (underlined):

Proposed Minimum, Common RFI Criteria

- Project overview and system design
- Costs (based on preliminary estimates)
- Consultations conducted to date
- Preliminary, **but informed**, load forecast including penetration rates **based on consultation with major customers and customer groups**
- Pro-forma rates and rate structure (this is critical in GreenField's view)
- Terms and conditions of service

13. This principled approach by Board Staff is **not** aligned with the proposed methods put forward by South Bruce and EPCOR, which GreenField views to be inadequate for customers. While all models propose modest surcharges and rate increases for customers of new communities, any such charges must be evaluated within the proposed risks and obligations associated with proposed terms of service including term and available alternatives.⁴ Therefore the Board Staff model, which requires inclusion of the terms of service, is superior to the proposed alternatives from a customer perspective.
14. Similarly, the South Bruce approach appears to attempt to provide a formulaic conversion between cross subsidies and surcharges. GreenField respectfully submits that there is a marked distinction between true cross subsidies and surcharges, and the two concepts cannot be equated formulaically.⁵
15. GreenField urges the Board to ensure that the approach to any negotiated municipal franchise agreements (**MFAs**) must be reflective of major customer considerations even after any amendments. Customers are entirely left out of the MFA process suggested by South Bruce at paragraphs 89-93 of their Written Submissions and amendments may be made without consideration of customer impacts.

⁴ South Bruce Written Submissions at paras 39 and 65-67.

⁵ EPCOR Argument at 52, para 5; South Bruce Written Submissions at 16, para 67.

16. GreenField cross examined EPCOR and VECC experts on necessary information that must provided for meaningful comparisons and customer choice. GreenField submits that any selection process must mandate common information and elements, **including, without limitation, *pro forma* customer rate information.** The process must also be open, transparent, and reflective of customer feedback that has a major impact on demand. This stands in marked contrast with the confidential, "black box" and potentially sole-sourced process that appears to be preferred by South Bruce at paragraphs 96-104 of their Submissions.
17. Similarly, the RFI criteria and the approach to rates suggested by EPCOR at paragraph 39 of the EPCOR Submissions are not as appropriate as those put forward by Board Staff as outlined in paragraphs 10-13 above. The EPCOR / South Bruce approach illustrates the integral gaps in the South Bruce process for customers, which necessitate that the Board require South Bruce to revisit the process in order to address the requirements that will arise from this generic proceeding.
18. GreenField submits that it is most important that major customers and customer groups decision-makers are provided with reasonably accurate *pro forma* rates as a primary requirement and not as a discretionary, ancillary information filing as suggested by South Bruce.⁶
19. In South Bruce, GreenField understand that virtually no large industrial customers will take the proposed services resulting from the fatally flawed municipal process in that service territory. This stands in sharp contrast with the South Bruce assertion that municipalities

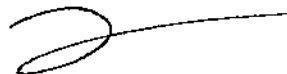
⁶ South Bruce Written Submissions at para 111.

are best placed to protect customers⁷ and the *de minimis* role that South Bruce and EPCOR propose for the Board.⁸

20. Union also highlights the shortcomings of the "competition for competition's sake" approach without a clear view to the impact and opportunities for customers in paragraphs 60-64 of its submission.
21. In conclusion, GreenField respectfully supports the general approach proposed by Board Staff with the above-mentioned additions. GreenField also respectfully requests that all natural gas proceedings, including the South Bruce/EPCOR application, be subject to, and required to adhere to, the generic process and criteria stipulated by the Board through its decision(s) in this proceeding.

ALL OF WHICH IS RESPECTFULLY
SUBMITTED THIS

11th day of July, 2016



Lisa (Elisabeth) DeMarco
DeMarco Allan LLP
Counsel for GreenField

⁷ South Bruce Written Submissions at paras 114-120.

⁸ South Bruce Written Submissions at paras 120-133.