

November 5, 2018

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.
Application to Transfer Certificates of Public Convenience and Necessity
Ontario Energy Board File No. EB-2018-0247**

Pursuant to Procedural Order No. 2 to the above noted proceeding, Union Gas Limited (“Union”) hereby files its final submissions with respect to the application and evidence of EPCOR Southern Bruce Gas, EPCOR Natural Gas Limited Partnership and EPCOR Utilities Inc. (collectively “EPCOR”).

In its correspondence dated October 31, 2018, EPCOR states that “there is no question that the OEB has the jurisdiction to transfer the Certificates of Public Convenience and Necessity (Certificates) pursuant to section 18 of the *Ontario Energy Board Act, 1998*”. While section 18 of the *Ontario Energy Board Act* states that no authority given by the OEB under this or any other Act shall be transferred or assigned without leave of the OEB, Union questions how the OEB can simply approve the requested certificates transfer without also considering whether an application related to the transfer of assets (including franchise agreements) under section 43 of the *Ontario Energy Board Act* which also appear to be required together with the implications of EPCOR Natural Gas LP assuming responsibility for service to the Southern Bruce municipalities as well as specific conditions or restrictions should be set out in any OEB order providing for the certificates transfer.

Furthermore, EPCOR’s application does not address the entirety of the certificates required to serve the Southern Bruce municipalities. The Certificates for the Municipality of Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss that are part of this application are only 3 of the Certificates that will be required to provide gas service to the Southern Bruce municipalities. There is no evidence on the record of this proceeding related to the Certificates (and franchise agreements) that will be required for areas within the Township of Chatsworth, the Municipality of West Grey, the Municipality of Brockton, the County of Bruce and the County of Grey in which EPCOR will be installing assets. To address only 3 of the 8 required Certificates lacks the comprehensive approach that is required for projects of this magnitude and there is no clear indication on the record of the intention to properly serve the areas that were subject of various community expansion proceedings including the Common Infrastructure Plan (CIP) review process (EB-2016-0137 / EB-2016-0138 / EB-2016-0139).

According to EPCOR's application, subject to OEB approval authorizing the requested transfer of the Certificates, EPCOR Utilities Inc. and EPCOR Natural Gas LP will assume and continue any applicable obligation of EPCOR Southern Bruce Gas related to the April 12, 2018 Decision and Order by the OEB. There is no indication in the application of the commitment by EPCOR Utilities Inc. and EPCOR Natural Gas LP that upon transfer of the Certificates that the commitment by EPCOR Southern Bruce Gas to maintain a cumulative revenue requirement to serve the Southern Bruce municipalities of \$0.2209 per m³ for the 10-year rate stability period would be fulfilled.

In its submissions dated January 25, 2018 in the CIP review process (EB-2016-0137 / EB-2016-0138 / EB-2016-0139), EPCOR Southern Bruce Gas confirmed that implementation of its CIP proposal will not result in cross-subsidization from existing ratepayers and that the principle of standalone OM&A costs will be reflected in its leave to construct application related to providing service to the Southern Bruce municipalities. Again, there is no evidence in the current application that this obligation will be fulfilled.

The OEB's granting of Certificates to EPCOR Southern Bruce Gas for each of the Municipality of Arran-Elderslie (except for the geographic area of the former Township of Arran and the former Village of Tara), the Municipality of Kincardine and the Township of Huron-Kinloss was conditional on the approval of its subsequent leave to construct application. Given that this condition has not yet been met, and the regulatory process to review the leave to construct application to fulfill this condition has not yet begun, it appears premature to consider changes to the conditional Certificates until all conditions are met and the Certificates are validated. Furthermore, without having any evidence related to EPCOR's leave to construct application (EB-2018-0263) on the public record of this or any other proceeding, there is no evidence that these and the foregoing commitments will be kept by EPCOR Utilities Inc. and EPCOR Natural Gas LP. As such, it would be more appropriate for the proposed Certificates transfer to be considered as part of the leave to construct process. There is no evidence on the record indicating when and how EPCOR's leave to construct and rates application will be addressed by the OEB nor how the current abbreviated process to review the proposed Certificates transfer delays the proposed Southern Bruce project.

While EPCOR tries to pass its current application off as simply an administrative issue, the awarding of a certificate, particularly a certificate arising from the CIP review process, should not be approached by the OEB as a "tick the box" exercise. EPCOR remains fully responsible for all obligations that lead to this point in serving the Southern Bruce municipalities and there is no indication on the record of this being the case or due inquiry into those aspects. As such, the OEB should deny the requested Certificates transfer. In the alternative, any consideration of the requested transfer should be deferred until EPCOR appropriately applies under Section 43 of the *Ontario Energy Board Act* and that the consideration of any transfer be combined with the applicable EPCOR leave to construct to understand the full extent of EPCOR's intentions in a comprehensive manner and not in a piecemeal fashion; provided, however, and in any event, the OEB should ensure that

preceding conditions imposed on and obligations of EPCOR Southern Bruce Gas be explicitly part of any Certificates transfer.

Contrary to EPCOR's suggestion that issues and concerns can simply be raised "during a more appropriate proceeding",¹ there is a very real chance that there will not be an opportunity in a future proceeding to consider and challenge specific issues related to implications of EPCOR Natural Gas LP taking over responsibility to provide service to the Southern Bruce municipalities.

Should you have any questions on this submission, please do not hesitate to contact me.

Yours truly,

[Original signed by]

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¹ EB-2018-0247 – EPCOR Letter dated October 31, 2018, page 2