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January 15, 2020

***Sent by Electronic Mail, RESS E-filing, and Courier***

Ms. Christine E. Long  
Registrar and Board Secretary  
Ontario Energy Board  
27-2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: Potential Projects to Expand Access to Natural Gas Distribution  
EPCOR Natural Gas Limited Partnership ("EPCOR") Submissions  
File No. EB-2019-0255**

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Please find attached submissions of EPCOR with respect to the above noted proceeding.

Please feel free to contact me if you have any questions.

Sincerely,

*[Original signed by]*

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Enclosure (1)

CC: All parties to proceeding EB-2019-0255



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Ms. Christine E. Long  
Registrar and Board Secretary  
Ontario Energy Board  
27-2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: EB-2019-0255 – Potential Projects to Expand Access to Natural Gas Distribution in Ontario - EPCOR Submissions in response to Ontario Energy Board (“OEB”) letter of December 19, 2019**

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### **Background and Overview**

This letter is filed by EPCOR Natural Gas Limited Partnership (“EPCOR”) to provide comments in response to OEB Staff’s December 19, 2019 letter, wherein the OEB elaborates on its responsibility for collecting and analyzing information about possible natural gas expansion projects (“December 19 Letter”) and in which OEB Staff have requested feedback on its draft *Guidelines for Potential Projects to Expand Access to Natural Gas Distribution* (“Draft Guidelines”).

EPCOR submits that through a streamlined framework, a competitive OEB process presents an opportunity for ratepayers in Ontario to continue to experience the benefits that competition can bring. These benefits include ensuring that:

- a) Capital costs reflect the impact of competitive process, resulting in lower costs for ratepayers and maximizing the number of new areas that receive natural gas through grant funding;
- b) Ratepayers benefit from a risk sharing framework not typical in the utility business, including wherein successful proponents assume the risks included in that framework; and

- c) Communities receive access to natural gas in a timely manner by implementing a streamlined competitive process.

EPCOR has grouped its comments as follows:

1. Approach for submission of proposals in areas where there is an existing Certificate of Public Convenience and Necessity (“CPCN”) holder
2. The Draft Guidelines – specific comments with respect to each section
3. Comparison Metrics and Common Assumptions – the metrics and common assumptions that should be included with all project proposals to allow for streamlined, meaningful comparison

#### **1. Approach for Submission of Proposals Where there is an Existing CPCN Holder**

There are substantial numbers of potential customers in areas where CPCNs have been issued but where there is no natural gas infrastructure in place. EPCOR submits it is within these *unserved communities* where an OEB framework that enables the benefits of competition (while maintaining expediency of approvals and timely construction) will ensure there is the greatest potential benefit from the program to provide affordable energy to new consumers.

EPCOR is concerned that the two approaches<sup>1</sup> with respect to addressing community expansion into areas in which CPCNs have previously been issued as outlined in the December 19 Letter, would not achieve the benefits to the ratepayer that a streamlined competitive process would.

EPCOR is concerned that implementation of either of these approaches would result in CPCNs becoming *de facto* exclusive, as it provides the CPCN holder with preferential access to grant funding to complete an expansion project and without access to this grant funding the utility would be unable to meet the OEB’s Profitability Index requirements. The OEB has previously confirmed that CPCN rights are in fact non-exclusive.<sup>2</sup> The OEB reiterated this principle in 2018, stating, “the OEB notes that certificates do not grant exclusive rights to provide future service to an area. Where there is no distribution service, another utility can apply for a certificate to serve that

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<sup>1</sup> EB-2019-0255, December 19, 2019 letter, at page 5, bullets 1 and 2.

<sup>2</sup> EB-2016-0004, Generic Proceeding on Community Expansion, Decision, dated November 17, 2016, “The OEB notes that neither Franchise Agreements nor Certificates are exclusive”.

area. This view is consistent with the OEB's past practice."<sup>3</sup> In addition, there appears to be instances where potential expansion communities are only partially covered by an existing CPCN. In those instances it is not clear whether an existing CPCN holder can claim exclusivity over an area larger than its existing CPCN, in effect expanding the boundaries of its CPCN without having triggered any regulatory process.

EPCOR's concerns specific to the first approach<sup>4</sup> include the following:

- a) Given the large number of potential community expansions<sup>5</sup>, CPCN holders may not be able to confirm which of those they will be submitting proposals for, within the established timelines. Furthermore, as there does not appear to be any material penalty for not following through on a declaration to file a proposal, CPCN holders may decide to declare they will be submitting proposals for all potential expansions in order to maintain "exclusivity" in the area. If the CPCN holder subsequently determines they will not be submitting a proposal, it may be too late for a competitor to submit a proposal;
- b) If a CPCN holder follows through on a declaration to file a proposal, it appears that they will not be subjected to any competitive pressures regarding capital costs, number of customers served, or timelines;

EPCOR's concern with the second approach<sup>6</sup> is that such a process will tend to directly reduce the number of active participants and proposals that the OEB will receive. Given that a strong proposal for a community expansion will require the expenditure of significant resources, it is unclear that potential proponents will invest the time and financial resources necessary if they do not have assurance that a compliant proposal would receive due consideration by the OEB and/or the Government.

EPCOR proposes to address the direction in the December 12, 2019 Section 35 Letter that it "should consider" that if a proposed project is in an area where a CPCN exists, the proponent must be the CPCN holder. This direction could still be satisfied by allowing multiple proponents to file a proposal, with one of those being an existing

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<sup>3</sup> EB-2017-0147, Application for a Certificate of Public Convenience and Necessity for the City of Kawartha Lakes, Decision and Order, dated March 1, 2018

<sup>4</sup> Whereby proponents would confirm immediately following finalization of the Guidelines whether they intend to bring forward a proposed project in an area they hold a CPCN

<sup>5</sup> EB-2016-0004, Ontario Energy Board Generic Proceeding on Community Expansion, Decision with Reasons, November 17, 2016, Section 5 Proposals and Other Evidence, pages 11 – 12, Union identified 29 community expansion projects with a PI of 0.4 or greater and Enbridge identified 39 with a PI of 0.5 or greater for a total of 68 projects

<sup>6</sup> Whereby interested project proponents can bring forward projects in areas in which they do not hold a CPCN, but such a proposal will only be considered if the CPCN holder does not submit a proposal

CPCN holder. The OEB would then post all compliant proposals on its website and include them in its report back to the Ministry. This would ensure that any proposal which is ultimately accepted by the Government will reflect the benefits of competition as listed above. The OEB and Government would rely on the contents, including mandated metrics and common assumptions<sup>7</sup>, of the initial proposal to determine which proponent would be successful. As a result, there would be no additional rounds of submissions or process. Such a competitive submission process would therefore not endanger the August 31, 2020 date by which the OEB is to report back to the Ministry nor delay the ultimate date that service is provided to the customer. EPCOR's proposed approach is also aligned with the OEB's decisions that CPCNs do not grant the holder with exclusive access to an area.

## **2. Comments on Specific Sections of the Draft Guidelines**

### **PART I – Name of Proponent**

EPCOR has no submissions on the proposed wording in this section.

### **PART II – Description of Proponent's Technical Expertise and Financial Capability**

2.1 No comment.

2.2 EPCOR assumes that the requirement for financial statements can be satisfied by providing the audited statements of any entity upon which the proponent is relying on for financial / technical support. If so, the wording of this section should be clarified. If that is not the intent, EPCOR would propose that the noted audited statements be acceptable as they would serve to support the proponent's financial capability.

### **PART III – Description of and Support for Project**

3.1) EPCOR submits that as part of the general project overview, agricultural customers be included in the customer breakdown of each community in addition to residential, commercial/institutional, and industrial sectors.

3.2) EPCOR proposes that the agricultural sector be included in the annual and cumulative forecast of customer attachment over the rate stability period.

3.3) EPCOR proposes that the agricultural sector be included as part of the annual and cumulative forecast of customer attachments over the rate stability period.

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<sup>7</sup> See late in this submission for proposals regarding criteria and common assumptions that would increase the transparency of all proposals and increase efficiency of any selection process.

Furthermore, in addition to a common assumption for mass market segment average consumption level, the OEB should include common assumptions for commercial / institutional and agricultural. Volumes for industrial customers, if there are any in a proposed project area, could be proposal specific, with the proponent taking the risk that those volumes are achieved.

3.4) In order to increase transparency and simplify comparison of competing proposals, EPCOR submits that the costs to convert each existing heating type should be provided as a common assumption.

3.5) EPCOR submits that common assumptions related to milestones should include timing of project award and regulatory approval. Project proponents would then be at risk for achieving project specific schedule items including construction, in service date as well as customer connection forecasts.

The OEB should also confirm that a proponent is committing the necessary resources to meet the proposed schedule for all the projects that it has submitted proposals. If a schedule is not met as a result of delays in areas that proponents are taking the risk (other than timing of project award and regulatory approvals) there should be material penalties to ensure that commitments are achieved and customers are able to connect to the system as originally scheduled.

3.6) EPCOR agrees that local band council and/or local government support (including commitments to financial support such as tax holidays) is a key consideration with respect to community expansion projects.

3.7) EPCOR submits that when including a copy of any CPCN, the proponent should specify whether the boundaries of the existing CPCN encompasses the entire area which would be supplied with natural gas.

#### **PART IV – Cost of Project**

4.1) EPCOR proposes a minimum 10-year rate stability period for all project proposals as an appropriate sharing of the risk, between customers and the utility, of construction costs and customer connection forecasts.

In order that customers are able to take full advantage of a rate stability period, EPCOR proposes that the entire distribution charge, as included in Section 6.1 of the Draft Guidelines, be subject to rate stability. As an example, if a distribution charge is composed of a utility's existing rate (i.e. an existing residential rate) plus an expansion

surcharge, both the existing rate and surcharge should be subject to whatever assumptions are incorporated into the revenue requirement detailed in Section 4.4. As a result, even if the underlying existing (residential) rate that is included in the distribution charge is changed as the result of an IRM or rate case unrelated to this community expansion, it would not change for the customers in this project. If a proponent is allowed to flow rate increases associated with existing rates directly into the distribution charge for a community expansion, de facto there would be no rate stability period as new customers would be subject to rates increases in the normal course.

4.2) EPCOR agrees with the requirement to include annual and total forecast costs during the rate stability period and that the proponent should take the risk that these costs are not as forecast (either higher or lower). Regarding inclusion of upstream reinforcement costs, EPCOR notes that there is currently an application being adjudicated by the OEB in which the treatment of transportation reinforcement costs for community expansions are being considered<sup>8</sup>. If the OEB determines that these costs must be borne solely by the expansion community then, while they would be equal for competing projects, they must be available in order that the OEB and Government can assess the portion of funding necessary to bring a project to a PI of 1.0 and the total grant funding being awarded for all successful projects.

However, in the case of competing proposals, costs related to upstream reinforcement, should be made available by the respective service provider within a reasonable timeframe, and be considered a common assumption amongst the submitted offers. For non-competing proposals, the upstream service provider should be required to provide costing within a reasonable timeframe. The most competitively neutral way of accomplishing this would be for any existing service provider that is submitting a proposal for a community expansion to provide the costs that they would incur for upstream reinforcement to the OEB in a timely manner. This would allow all proponents to access that data and incorporate it into competing proposals. It would also ensure that competitive tension is maintained on all proposals as entities would not be aware of whether competing proposals would be submitted.

4.3) EPCOR supports the use of fully allocated forecast of OM&A costs. Use of fully allocated OM&A costs have been approved for use by the OEB in previous competitions and ensures that there is no cross subsidization of OM&A expenses between existing customers and customers of community expansions.

4.4) EPCOR agrees with the breakout of the revenue requirement as proposed in this section. EPCOR is also of the view that the proposed revenue requirement should be at

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<sup>8</sup> EB-2019-0183 Owen Sound Reinforcement Project Leave to Construct & Rate M17 Application

the risk of the successful proponent during the rate stability period. See below for EPCOR's comments on the use of common assumptions for depreciation and tax expense.

With respect to the capital components of Cost of Capital, EPCOR proposes that a simplifying assumption would be that all proponents use the OEB's regulated cost of capital.

#### **PART V – Section 36.2 Funding**

5.1) EPCOR has no comments.

5.2) In order to simplify the review of competing projects, EPCOR recommends a 10-year rate stability period for all applications.

5.3) The funding amount per volume (m<sup>3</sup>) over the 10-year rate stability period should be for the throughput volume and not capacity.

#### **PART VI – Distribution Charge**

6.1) See comments in 4.1 above regarding the components of the distribution charge during the rate stability period.

#### **PART VII – Profitability Index (P.I.) / Benefit to Cost Ratio**

EPCOR supports that each individual project should have a PI of 1.0 with grant funding. The OEB should not allow submission of a "portfolio" of projects in which the overall PI of a portfolio is 1.0 but individual projects may have a PI of greater or lesser than 1.0. This would ensure that there is no cross subsidization in addition to grant funding and that each project is viable on its own.

#### **PART VIII – OEB Approvals**

As detailed below, in order to simplify the review process, EPCOR proposes that the timeline for regulatory approvals should be a common assumption.

### **3. Comparison Metrics and Common Assumptions**

EPCOR submits that the finalized Guidelines should include the following metrics to allow for comparison of project proposals in similar or same communities:

- Effective rates and throughput volume (m<sup>3</sup>) forecast;



- Cumulative Revenue Requirement;
- Grant Funding Required/Market Potential of community expansion;
- Support (Band Council(s) and/or local government), including financial contributions such as tax holidays; and
- Other or Intangible Category – inclusion of “Other” or “Intangible” category that would include other benefits including those of a non-financial nature that the OEB and Ministry could take into account. This could include value added services or overall economic development related initiatives.

In order to increase the transparency and simplify comparisons of competitive proposals, the OEB should establish common assumptions for development of project proposals. These common assumptions should include:

- Average consumption for mass market, commercial / institutional and agricultural customers;
- System Conversion costs and customer savings potentials;
- Depreciation rates;
- Capital Structure;
- Federal and provincial taxes;
- Service Levels to meet Gas Distribution Access Rules (GDAR);
- Treatment of Interest During Construction;
- Timing of project award/grant approval;
- Timing for Regulatory approvals;
- Treatment of Gas Commodity Costs; and
- Treatment of Demand Side Management Costs.

The values for a number of these proposed common assumptions were agreed to during the competitive process to provide service to the Southern Bruce region (as an example average consumption for identified customer type<sup>9</sup>). EPCOR would support continued use of these common assumptions.

Sincerely,

*[Original Signed By]*

Daniela O'Callaghan  
 Legal Counsel  
 EPCOR Utilities Inc.  
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Segment/Sub-Segment		Average Annual Consumption (m <sup>3</sup> /year)
Residential		2,200*
Commercial	Small (0 - 1,500 m <sup>3</sup> /year)	4,693
	Medium (15,001 - 50,000 m <sup>3</sup> /year)	26,933
Agricultural	Large (>50,000 m <sup>3</sup> /year)	75,685
	Cash Crop Farm (excl. large grain dryers)	4,720
	Other Agri-Business	4,720

<sup>9</sup> \*Residential consumption as per OEB Phase 2 Draft Guidelines