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December 1, 2021

Sent by EMAIL, RESS e-filing

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

Dear Ms. Long:

**Re: EB-2021-0216: EPCOR Natural Gas Limited Partnership's ("ENGLP") 2022
Incentive Rate Adjustment Application - Southern Bruce**

Further to Procedural Order 2, received November 30, 2021, please find enclosed ENGLP's reply submission which addresses issues raised in the OEB Staff submission regarding the Municipal Tax Variance Account.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Hesselink", with a stylized flourish at the end.

Tim Hesselink
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EPCOR Natural Gas Limited Partnership
(705) 445-1800 ext. 2274
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Encl.

cc. Arturo Lau, Case Manager, OEB Staff

Michael Millar, OEB Counsel

Daniela O'Callaghan, Susannah Robinson, EPCOR Utilities Inc.

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

AND IN THE MATTER OF an application by EPCOR Natural Gas Limited Partnership pursuant to section 36(1) of the OEB Act for an order or orders approving or fixing just and reasonable rates and other charges for the sale and distribution of gas to be effective January 1, 2022 for the EPCOR Natural Gas Limited Partnership gas distribution system to serve the Municipality of Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss.

**REPLY SUBMISSION OF
EPCOR NATURAL GAS LIMITED PARTNERSHIP (“ENGLP”)
2022 IRM Application for natural gas distribution rates and other
charges effective January 1, 2022**

**EB-2021-0216
December 1, 2021**

Overview of Reply Submission

This reply submission will address OEB Staff comments regarding the disposition and treatment of the Municipal Tax Variance Account (MTVA).

1. Municipal Tax Variance Account (MTVA)

As stated on page 8 of the OEB Staff Submission:

OEB staff is of the opinion that the intent of the MTVA as approved by the OEB was to ensure that the utility is kept whole and is not liable for municipal taxes that were not known at that time. At the same time, the MTVA ensures that ratepayers are responsible for the actual municipal taxes. OEB staff submits that the OEB's findings are clear that it established the MTVA to true-up the difference between forecast municipal taxes (i.e. the amounts in revenue requirement) and the actual municipal taxes paid. This finding ensures that only the actual municipal taxes paid by EPCOR are recovered from ratepayers.

EPCOR, through the proposed revised wording, aims to reduce the scope of the MTVA to capturing only the impacts from changes in municipal tax rates, or the introduction of new taxes, which was not the intent of the OEB. This would not be fair to ratepayers and is contrary to the original objective of the account that intends to keep all parties (ratepayers and utility) whole. OEB staff submits that the symmetrical treatment of the account is appropriate and ratepayers should receive the appropriate benefit for any excess tax amounts that are currently recovered through rates.

ENGLP Response:

ENGLP agrees with OEB staff that the objective of the MTVA as approved is intended to keep all parties, the ratepayers and utility, whole. However, this outcome will not be achieved by calculating the variance using the exact wording in the approved accounting order. Should the wording of the approved accounting order remain as is, ENGLP will be required to return to ratepayers revenue that it never billed to them, which was never the intended result when the MTVA was approved.

Accordingly, ENGLP is requesting that the OEB approve the following:

1. ENGLP's proposed methodology for calculating the net municipal taxes included in the annual revenue requirement for the purposes of determining the MTVA balance, as set out below;

2. The attached draft accounting order which amends the wording of the order to reflect the proposed calculation; and
3. The postponement of the disposal of the MTVA balance (calculated in accordance with the methodology proposed herein) until 2023 which EPCOR will bring forward for approval as part of its Custom IR application for rates effective January 1, 2023.

ENGLP anticipates that OEB Staff may require time to review this reply submission and may wish to respond. While such next steps may be necessary, ENGLP is concerned about the timing of a Board decision on this application and continues to request the issuance of a Decision and Order to ensure the implementation of 2022 rates by January 1, 2022. Therefore, if additional procedural steps are required to address issues arising from this reply submission, ENGLP proposes that a Decision and Order could still be made in respect of all other issues in this IRM application and that the outstanding MTVA issue could be addressed in a Phase 2 proceeding.

The Current MTVA Accounting Order

Southern Bruce is a greenfield utility that has not achieved full build out and has experienced delayed placement of the assessment base along with delayed connections resulting in the utility not yet recovering the full approved revenue requirement. ENGLP acknowledges that the risk of collecting certain expenses included in the revenue requirement regarding the build out of the utility was accepted as part of the CIP process. However, property taxes was not one of those expenses.¹

The current accounting order provides for a calculation that converts the collection of property taxes from a flow through expense to one for which the utility is taking on a risk that was not contemplated in the CIP process through requiring the utility to pay to ratepayers the variance between the municipal taxes calculated based on full assessment base and the actual taxed paid, which clearly does not align with the objective of keeping the utility and rate payers whole. Put more simply, calculating the variance account balance based on the total dollar value of the actual municipal taxes paid compared to the total dollar value of the municipal taxes in the approved revenue requirement would result in ENGLP 'returning' to its ratepayers revenue that it never billed to them. This outcome would be punitive and would adversely impact the financial position of the utility.

The information provided below serves to illustrate this issue and the proposed solution.

¹ See EB-2018-0264, EPCOR Interrogatory Responses, 9.Staff.36 and 9.Staff.39.

Variance Account Calculation

The approved accounting order states in part²:

The Municipal Tax Variance Account ("MTVA") is to record the difference between the actual annual municipal taxes paid, net of municipal contributions related to municipal taxes, and the net municipal taxes included in the annual revenue requirement for EPCOR's Southern Bruce operations as approved in EB- 2018-0264 for each year of the rate stability period. The effective date of this account is January 1, 2019.

The audited balance in this account, together with carrying charges, will brought forward for approval for disposition on an annual basis. The manner in which the account will be disposed of will be proposed at the time the account is brought forward for disposition.

Applying the exact wording of the approved accounting order, being "the difference between the actual annual municipal taxes paid, net of municipal contributions related to municipal taxes, and the net municipal taxes included in the annual revenue requirement" results in a projected payable balance to ratepayers of approximately \$797,000.00 by the end of 2021, as illustrated as Scenario 1 in Table 4-1 below.

Further, it is important to note that the amounts in the "CIP Municipal Taxes" row in Table 4-1 are the costs included in the full revenue requirement and are not representative of the municipal taxes ENGLP has actually billed to customers given that it has not billed the full revenue requirement.

Table 4-1 - Scenario 1 - Delayed Project - Reassessment

Scenario 1	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	Total
CIP Municipal Taxes	(214)	(377)	(547)	(565)	(582)	(590)	(624)	(626)	(629)	(630)	(5,383)
Actual Municipal Taxes	=	<u>2</u>	<u>339</u>	<u>800</u>	<u>582</u>	<u>590</u>	<u>624</u>	<u>626</u>	<u>629</u>	<u>630</u>	<u>4,587</u>
Balance	(214)	(375)	(208)	235	-	-	-	-	-	-	(562)

The delays to the Southern Bruce project have been noted in the annual update to the Gas Supply Plan (EB-2021-0146), where a revised demand forecast has been presented³ along with comments in this hearing⁴. The balance in the MTVA under Scenario 1 presented above are a result of these delays, as the distribution assets have not maintained the same installation schedule (and tax assessment) as projected in the CIP. However, what is not factored into the calculation of the variance using the wording in the approved accounting

² EB-2018-0264 Draft Rate Order Addendum, December 11, 2019, Page 16 of 21

³ EB-2021-0146, page 32 of 88, table 7-2.

⁴ ENGLP_IRR_OEB Staff_2022IRM_SouthernBruce_20211112 - page 3 of 12

order is that there is a corresponding permanent shortfall in the billing of the revenue requirement, of which the taxes were a part.

Applying the wording of the approved accounting order as illustrated in Scenario 1 assumes that ENGLP will be recovering \$5.4M in municipal taxes over the rate stability period and does not account for differences in the amount of municipal taxes billed to customers as a result of the timing of installation of the assessment base. The 'Actual Municipal Taxes' line by its nature of being actuals does factor in the delay in build out. Comparing these two misaligned inputs to derive the MTVA balance results in ENGLP refunding amounts to customers that it never collected in the first place. Simply put, the company is not paying the forecast amount of taxes but is also not collecting revenue from customers associated with the forecast amount of taxes. Asking the utility to return revenues that were never collected from customers is inconsistent with the intended symmetrical treatment of the variance account which is supposed to hold the both the ratepayers and the utility whole for the over or under collection of amounts associated with actual municipal tax expenses. Further, this would be highly punitive and would have a significant negative impact on the utility. As illustrated by Table 4-1 this calculation would have ENGLP paying to ratepayers \$214,000.00 for 2019 when there was \$0 revenue billed for that year and \$377,000.00 for 2020 which is 105% of the revenue billed for that year (see Table 4-4 for the revenue collected).

To illustrate that the wording of the approved accounting order does not achieve the intended objective for either the utility or the ratepayers, Scenario 2 in Table 4-2 below applies the same calculation methodology but it assumes that rather than being delayed, the construction schedule was escalated and the projected was largely completed in 2019. If this had occurred, ratepayers would have a liability of \$0.6M to the utility over the rate stability period. However, recovering this total amount from ratepayers through recovery of an MTVA balance would not be fair given the utility, due to more expedient connection of customers, would have collected incremental revenues to offset the incremental taxes.

Table 4-2 - Scenario 2 - Construction Schedule Escalation

Scenario 2	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	Total
CIP Municipal Taxes	(214)	(377)	(547)	(565)	(582)	(590)	(624)	(626)	(629)	(630)	(5,383)
Actual Municipal Taxes	<u>565</u>	<u>565</u>	<u>565</u>	<u>565</u>	<u>582</u>	<u>590</u>	<u>624</u>	<u>626</u>	<u>629</u>	<u>630</u>	<u>5,940</u>
Balance	351	188	18	0	-	-	-	-	-	-	557

While precise application of the wording in the approved accounting order to calculate the MTVA balance would likely be more appropriate for an established utility with a relatively stable assessment base and number of customer connections, the reality of this being a greenfield utility requires that, in order to achieve the intended objective of keeping both the

ratepayers and the utility whole in respect of municipal taxes, the calculation be adjusted to account for the amount of municipal taxes collected from ratepayers.

It was on this basis that ENGLP originally brought forward its proposed calculation and revised wording for the MTVA accounting order in this Custom IR application. However, upon further review and taking into account OEB Staff’s Submission, ENGLP now proposes an alternate calculation and associated revised accounting order, to achieve the objective of this account.

To ensure that the actual municipal taxes paid by ENGLP are recovered from ratepayers, the calculation of the MTVA needs to be such that the input of ‘net municipal taxes in the annual revenue requirement’ is replaced by the “net municipal taxes billed by ENGLP” for the year.

ENGLP proposes that the ‘net municipal taxes billed by ENGLP” be determined by first calculating the percentage that the forecasted municipal taxes in the CIP represented of the CIP revenue requirement for the year as illustrated by Table 4-3 below.

Table 4-3 – 2019 - 2021 Proportion of CIP Revenue Requirement made up by Municipal Taxes (\$000’s)

	2019	2020	2021	Total
CIP Revenue Requirement	32	1,835	3,928	5,795
CIP Municipal Taxes	(214)	(377)	(547)	(1,138)
CIP Municipal Taxes as a % of Revenue Requirement	669%	21%	14%	

The percentage would then be applied to the actual revenue collected for the year to calculate net municipal taxes billed by ENGLP as illustrated by Table 4-4 below,

Table 4-4 – 2019 to 2021 Net Municipal Taxes Billed (\$000’s)

	2019	2020	2021 ¹	Total
Actual Revenue Collected	-	360	1,946	2,306
CIP Municipal Taxes as a % of Revenue Requirement	669%	21%	14%	
Net Municipal Taxes Billed	-	76	272	

¹ 2021 distribution revenues are forecasted to the end of the year

The amount to be recorded in the MTVA for the year would be the difference between the net municipal taxes billed for the year and the actual net municipal taxes paid for the year as illustrated by Table 4-5.

Table 4-5 – 2019 to 2021 Calculation of MTVA Amount (\$000's)

	2019	2020	2021	Total
Net Municipal Taxes Billed	-	(76)	(272)	(348)
Net Municipal Taxes Paid	-	2	339	341
MTVA Amount	-	(74)	67	(7)

Proposal for Calculation, Disposition and Accounting Order:

For the reasons outlined herein, ENGLP proposes to calculate the net municipal taxes billed and the annual amount to record in the MTVA on the basis outlined above and demonstrated through Tables 4-3 through 4-5. This methodology would result in ENGLP recording a credit (refund to customers) of \$74,000.00 for 2020 and based on current estimates, a debit (collection from customers) of \$67,000.00 for 2021 for a net estimate payable balance of \$7,000.00.

As the balances recorded in this account will need to be audited prior to disposition, ENGLP proposes to bring the cumulative to date balance at December 31, 2021 forward for disposition in its Custom IR filing for rates effective January 1, 2023.

To align the wording in the accounting order with the methodology proposed, ENGLP requests the approval of the draft accounting order provided herein.

All of which is respectfully submitted.

**Appendix A - Draft MTVA Accounting
Order**

**EPCOR NATURAL GAS LIMITED PARTNERSHIP
 ACCOUNTING ORDER
 MUNICIPAL TAX VARIANCE ACCOUNT (“MTVA”)**

The Municipal Tax Variance Account (“MTVA”) is to record the difference between the actual annual municipal taxes paid, net of municipal contributions related to municipal taxes, and the net municipal taxes billed to customers by ENGLP. The effective date of this account is January 1, 2019.

Net municipal taxes billed to customers by ENGLP is calculated by multiplying the annual distribution revenues billed to customers and accrued for the year by the proportion of annual municipal taxes included in the annual revenue requirement for EPCOR’s Southern Bruce operations as approved in EB-2018-0264 for each year of the rate stability period.

CIP Municipal Taxes as a Percentage of CIP Revenue Requirement (\$000’s)

	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10	Col. 11
Description	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	Cumulative
CIP Revenue Requirement	32	1,835	3,928	5,818	6,646	7,190	7,455	7,594	7,727	7,846	56,070
CIP Municipal Taxes	(214)	(377)	(547)	(565)	(582)	(590)	(624)	(626)	(629)	(630)	(5,383)
% of Revenue Requirement	669%	21%	14%	10%	9%	8%	8%	8%	8%	8%	10%

For example if in 2022 ENGLP bills \$6,000 of distribution revenues to customers and pays \$565 in municipal taxes, the net municipal taxes billed to customer would be calculated as:

$$Net\ municipal\ taxes\ billed\ to\ customers = Billed\ Distribution\ Revenues * \frac{CIP\ Municipal\ Taxes}{CIP\ Revenue\ Requirement}$$

$$Net\ municipal\ taxes\ billed\ to\ customers = \$6,000 * \frac{\$565}{\$5,818} = \$583$$

The amount recorded in the MTVA for 2022 would be the variance between the calculated net municipal taxes of \$583 and the actual municipal taxes paid of \$565 for an amount owing to customers of \$18.

The audited balance in this account, together with carrying charges, will brought forward for approval for disposition on an annual basis. The manner in which the account will be disposed of will be proposed at the time the account is brought forward for disposition.

Simple interest is to be calculated monthly on the opening balance of this account in accordance with the methodology approved by the Board in EB-2006-0117.

Accounting Entries

- i. To record the difference between actual annual net municipal taxes paid and net municipal taxes billed to customers by ENGLP:

Debit/Credit Account No. 179.15 Municipal Tax Variance Account ("MTVA")

Credit/Debit Account No. 305 Municipal Tax

- ii. To record simple interest on the opening monthly balance of the MTVA:

Debit/Credit Account No.179.16 Interest on Municipal Tax Variance Account

Credit/Debit Account No. 323 Other Interest Expense