



43 Stewart Road
Collingwood, Ontario
L9Y 4M7 Canada
epcor.com

January 19, 2022

Sent by EMAIL, RESS e-filing

Ms. Nancy Marconi
Acting Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@OEB.ca

Dear Ms. Marconi

Re: EB-2021-0269- Application for an Order Amending Certificates of Public Convenience and Necessity for the Municipality of Brockton, the Municipality of West Grey, and the Township of Chatsworth – EPCOR Natural Gas Limited Partnership (“ENGLP”) Reply Submissions

Pursuant to procedural order 1 in the above noted hearing, please find enclosed ENGLP’s reply submission in response to the submissions filed by OEB Staff and Enbridge Gas Inc. on January 12, 2022.

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
Senior Manager, Regulatory Affairs
EPCOR Natural Gas Limited Partnership
(705) 445-1800 ext. 2247
thesselink@epcor.com

Encl.

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF the *Municipal Franchises Act*, R.S.O. 1990, c. M.44, as amended (the “MF Act”);

AND IN THE MATTER OF an Application by EPCOR Natural Gas Limited Partnership for an Order amending its Certificate of Public Convenience and Necessity (“CPCN”) to construct works to supply natural gas in the Municipality of Brockton, the Township of Chatsworth and the Municipality of West Grey.

**REPLY SUBMISSION OF
EPCOR NATURAL GAS LIMITED PARTNERSHIP (“ENGLP”)**

**EB-2021-0269
January 19, 2022**

Overview of Reply Submission

In accordance with EB-2021-0269 Procedural Order 1, ENGLP is filing this submission in response to both the Ontario Energy Board staff submission (the “OEB Staff Submission”) and the Enbridge Gas Inc. Submission (the “Enbridge Submission”) filed January 12, 2022. No submissions were filed by JAKO Developments Inc. or the Municipality of Brockton, who were also on the list of registered interveners.

ENGLP agrees with OEB staff’s view of the issues the application raises¹ and accordingly this response submission focuses on specific items raised by OEB staff and Enbridge related to those issues. Accordingly, the following topics are addressed in this submission:

1. CPCN’s
 - a. Minor Revisions to ENGLP’s Draft Certificates and Service Territory Maps
 - b. Proposed Condition on CPCN Approval
 - c. Reply to Enbridge’s Submission on By-pass Approvals
 - d. Reply to JAKO Developments Request for Service Mulock Road Expansion
2. Franchise Agreements
 - a. The Applicability of Paragraph 4(a) or (b) of the Model Franchise Agreement

Overall, in respect of the CPCN’s, ENGLP notes that OEB staff submitted that the OEB should grant ENGLP’s proposed certificates as filed in draft as part of its application, subject to certain minor modifications proposed by OEB staff². As outlined in more detail below, ENGLP agrees with OEB staff’s recommended edits and has provided revised CPCN’s with this submission. Accordingly, ENGLP respectfully submits that the revised CPCN’s filed in this submission, reflecting the amendments proposed by OEB staff, should be approved by the OEB as part of this application.

With respect to the franchise agreements, ENGLP notes that OEB staff submitted that the OEB should grant ENGLP’s requests relating to the franchise agreements with the municipalities insofar as they are made effective on the date of the OEB’s decision³. ENGLP agrees with OEB staff’s comments.

¹ EB-2021-0269 OEB Staff Submission, January 12, 2022, page 2-3

² EB-2021-0269 OEB Staff Submission, January 12, 2022, page 3

³ EB-2021-0269 OEB Staff Submission, January 12, 2022, page 4

Issue 1a – Minor Revisions to Draft Certificates and Service Territory Maps

Reference: OEB Staff Submission, Page 4:

OEB staff submits that ENGLP may have inadvertently omitted portions of the area in which ENGLP is currently authorized to construct pipeline facilities in the Municipality of West Grey and the Township of Chatsworth. Specifically, the area starting at Grey Road 3 continuing east on Grey Road 25 and ending at the Dornoch Meter and Regulator Station within each municipality and township.

OEB staff submits that ENGLP should confirm OEB staff's observation and correct the draft certificates for the Municipality of West Grey and the Township of Chatsworth to include the missing portions of its current authorization in the municipality and township, in its Reply Submission, if applicable. OEB staff notes that, if confirmed, the pipeline route starting at Grey Road 3 continuing east on Grey Road 25 and ending at the Dornoch Meter and Regulator Station remain limited to traversing the Township of Chatsworth and the Municipality of West Grey. OEB staff also submits that ENGLP should file revised service territory maps for the Municipality of West Grey and the Township of Chatsworth in its Reply Submission, as applicable.

ENGLP Response: ENGLP confirms that OEB staff's observation is accurate and has revised the proposed CPCNs for the Municipality of West Grey and the Township of Chatsworth accordingly. Revised service territory maps have also been included. No changes have been made to the proposed CPCN for the Municipality of Brockton, but the previously submitted version has been included in this submission in order to provide a complete record.

Refer to Appendices:

- Appendix A: Revised Municipality of West Grey CPCN
- Appendix B: Revised Township of Chatsworth CPCN
- Appendix C: Previously submitted Municipality of Brockton CPCN
- Appendix D: Revised consolidated map

Issue 1b – Agreement to Conditional CPCN Approval

Reference: OEB Staff Submission, Page 6:

ENGLP's proposal for the Brockton Project submitted as part of Phase 2 of Ontario's NGEF, includes the technical and financial details of the Brockton Project. OEB staff submits that the OEB has the necessary information to grant ENGLP's requests for certificate and franchise agreements. However, OEB staff also submits that the OEB's approval of the certificates should be conditional upon approval of ENGLP's leave to construct application for the Brockton Project. OEB staff submits that including a condition of approval with any OEB order will help ensure that any awarded certificates

are not unused.

ENGLP Response: ENGLP respectfully agrees with OEB staff's submission that, given ENGLP's Phase 2 proposal for the project, the OEB has the necessary information to grant ENGLP's requests for certificate and franchise agreements. Further, ENGLP is agreeable to the OEB's approval of the certificates being conditional upon approval of ENGLP's leave to construct application for the Brockton Project.

Issue 1c – By-pass Approval

Reference: Enbridge Submission, Page 10:

One of the key considerations in determining whether a by-pass approval is appropriate is whether there will be harm to existing ratepayers of the "by-passed" utility – i.e., Enbridge Gas. As long as EPCOR's expanded CPCN rights within the Municipalities are limited to providing service to specific customers within specific lots and concessions for which EPCOR has OEB approval to serve, there should be limited impact on Enbridge Gas' existing ratepayers given the nature of the Enbridge Gas' facilities in these areas.

...

The OEB should deny EPCOR's CPCN request for the Municipality of Brockton at this time and reconsider the request as part of a future leave to construct application by EPCOR so that the specific service areas (described using metes and bounds or some other suitable method) can be properly identified.

ENGLP Response: ENGLP does not consider this application to be a by-pass of Enbridge's service territory, but instead an expansion of the provincial natural gas network. The information provided by ENGLP regarding the details and location of its proposed facilities is sufficient and as stated in its prior submissions, further details will be provided in the subsequent leave to construct application.

Accordingly, Enbridge's proposed approach to deny EPCOR's CPCN request for the Municipality of Brockton and to reconsider this request as part of a future leave to construct application is unreasonable and unnecessary.

Issue 1d – JAKO Developments - Mulock Road Expansion

Reference: OEB Submission, Page 5:

OEB staff submits that the OEB should not expand the boundaries of ENGLP's proposed certificate for the Municipality of West Grey east to Mulock Road as part of

the current proceeding. OEB staff submits that the OEB should confirm in its decision that any expansion of service outside of the Brockton Project area will require an application for an amended certificate under the Municipal Franchises Act upon completion of a financial feasibility analysis and confirmation that ENGLP is in the best position to serve the additional area.

Reference: OEB Submission, Page 3:

Any service to the JAKO Developments subdivision or any other areas should be based on a review of the costs to supply this area by each utility able to provide service and should not be determined by the OEB as part of this application.

Enbridge Gas believes that, subject to gathering further information and conducting the appropriate feasibility analysis, it would be competitive to provide the service needed for this or any other development in this area.

ENGLP Response: ENGLP agrees that a financial feasibility analysis should be completed for additional service areas not part of ENGLP's application and accepts that this additional expansion should be excluded from the CPCNs at this time and, accordingly, have not amended the draft CPCN included in this reply submission to include these areas.

Issue 2 –The Applicability of Paragraph 4(a) or (b) of the Franchise Agreement

Reference: Enbridge Submission, Page 2:

Enbridge Gas believes that paragraph 4(b) of the Model Franchise Agreement is applicable for each of the proposed franchise agreements and the provisions for allowing amendments on the 7th anniversary and on the 14th anniversary of the date of the passing of the bylaw should be part of EPCOR's franchise agreements approved for these municipalities so that they are consistent with the franchise agreements held by Enbridge Gas for the Municipalities.

ENGLP Response:

ENGLP interpreted paragraph 4(b) of the Model Franchise Agreement to be applicable only if the impacted municipality had previously received gas distribution service from ENGLP. As this was not the case, the utility deemed paragraph 4(b) as inapplicable and therefore included paragraph 4(a) in its franchise agreements with the Municipalities. However, if the OEB determines that paragraph 4(b) in fact applies, then ENGLP will work with the Municipalities to amend the franchise agreements accordingly.

Therefore, ENGLP respectfully submits that the OEB approve the franchise agreements

as filed. In the alternative, if paragraph 4(b) is necessary, then ENGLP submits that the franchise agreements can nonetheless be approved on the condition that the parties will amend their agreements to replace paragraph 4(a) with 4(b) and thereafter filing the amended agreements with the OEB.

Appendix A – Revised CPCN & Franchise Map

The Municipality of West Grey

Certificate of Public Convenience and Necessity

The Ontario Energy Board grants

EPCOR Natural Gas Limited Partnership

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55, as amended, to construct works to supply gas to the areas within

- Bruce Road 10 starting at Bentinck-Sullivan Townline and ending at Concession Road 6
- East down Concession road 6 ending at Grey Road 3
- Continuing North on Grey Road 3 and ending at Bentinck-Sullivan Townline, all within the

and

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55, as amended, limited to constructing pipeline facilities along

- Grey Road 25, starting at the Dornoch Meter and Regulator Station and ending at Grey Road 3

The Municipality of West Grey

This certificate replaces the parts of the Certificate of Public Necessity and Need currently held by Enbridge Gas Inc. (under the name of Union Gas Limited) that is associated with the Municipality of West Grey.

DATED at Toronto, XXX XXX XXX

ONTARIO ENERGY BOARD



Key Map



Township of West Grey

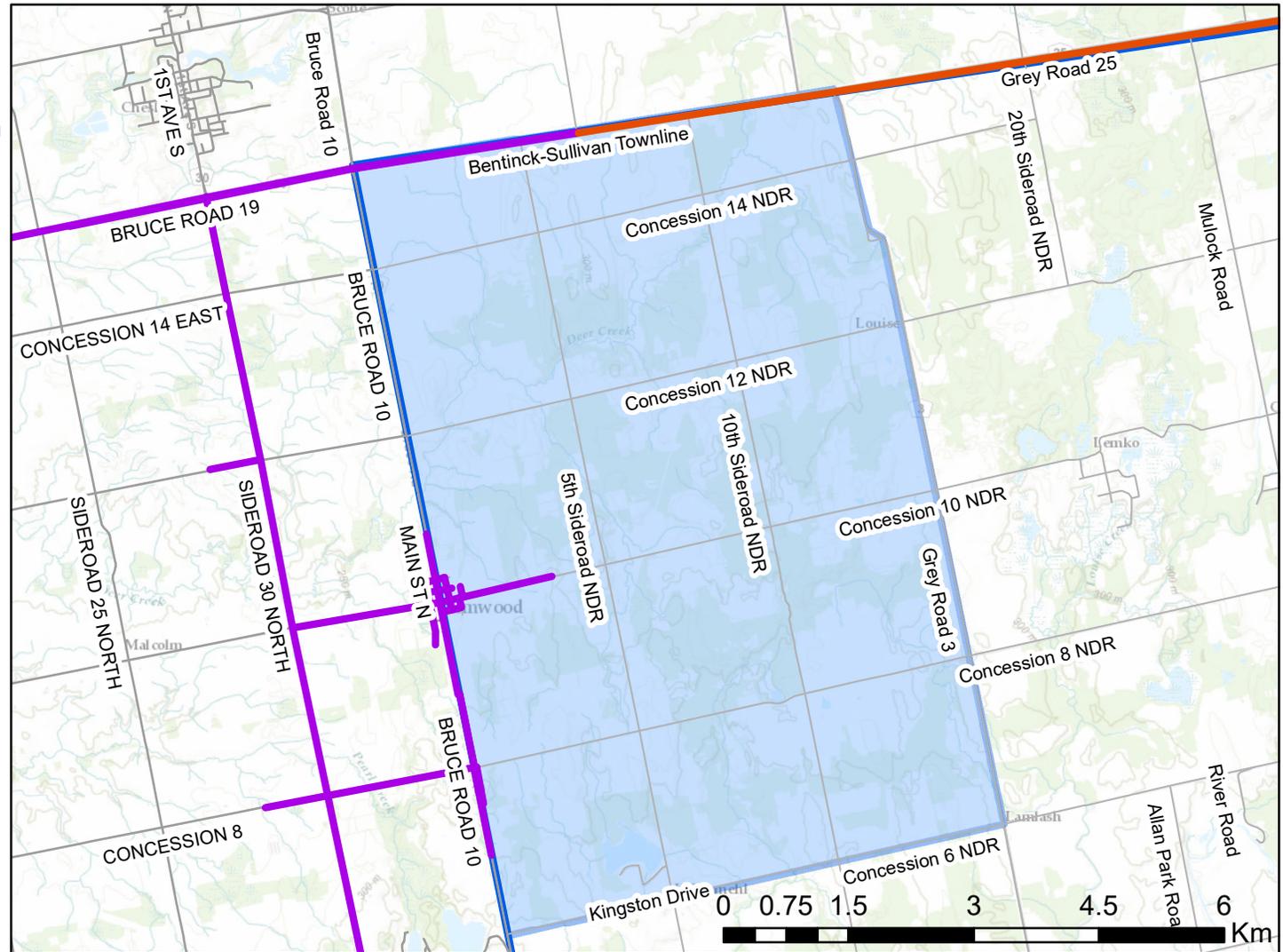


CPCN Request West Grey

- Proposed Brockton System Expansion
- Proposed West Grey CPCN
- Limited CPCN (EB-2018-0263)
- West Grey Boundary



Requested Area



Service Layer Credits: Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Appendix B – Revised CPCN & Franchise Map

The Township of Chatsworth

Certificate of Public Convenience and Necessity

The Ontario Energy Board grants

EPCOR Natural Gas Limited Partnership

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55, as amended, to construct works to supply gas to the areas within

- Bruce Road 10 starting at Bentinck-Sullivan Townline and ending at Sideroad 7
- Continuing East on Sideroad 7 ending at Grey Road 3
- Continuing South on Grey Road 3 and ending at Bentinck-Sullivan Townline, all within the

and

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55, as amended, limited to constructing pipeline facilities along

- Grey Road 25, starting at the Dornoch Meter and Regulator Station and ending at Grey Road 3

The Township of Chatsworth

This certificate replaces the parts of the Certificate of Public Necessity and Need currently held by Enbridge Gas Inc. (under the name of Union Gas Limited) that is associated with the Township of Chatsworth.

DATED at Toronto, XXX XXX XXX

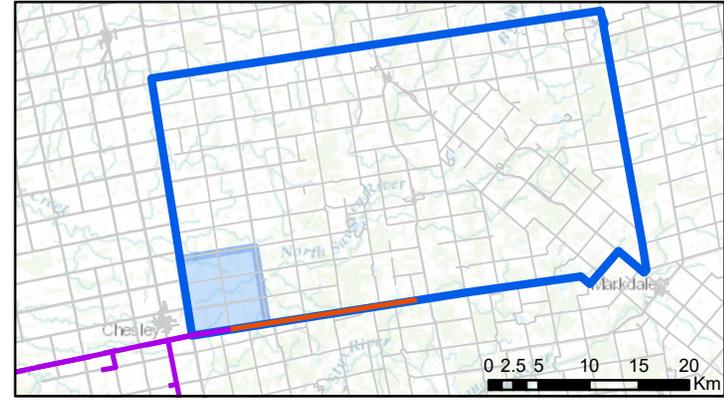
ONTARIO ENERGY BOARD



Key Map



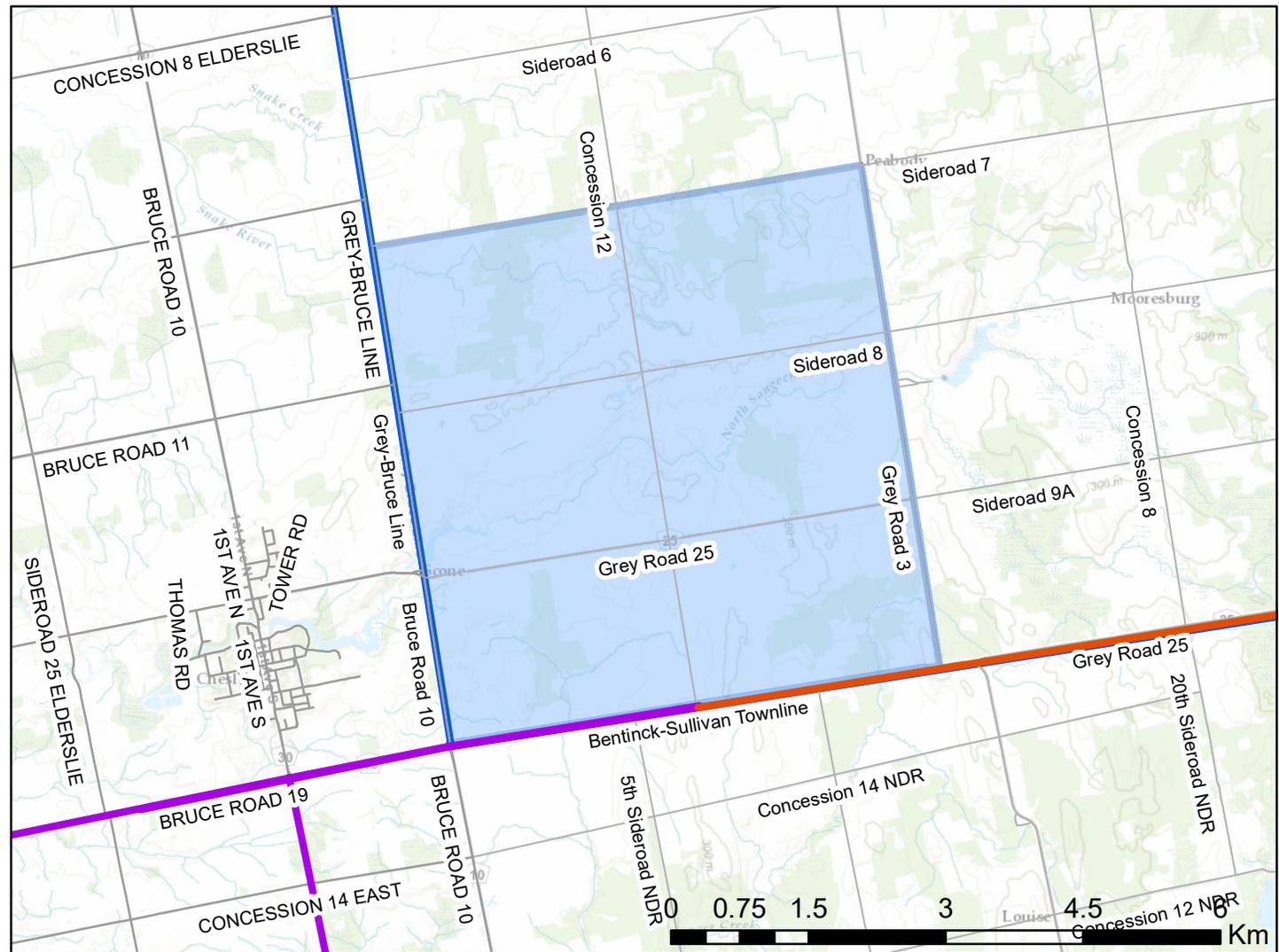
Township of Chatsworth



CPCN Request Chatsworth

- Proposed Brockton System Expansion
- Proposed Chatsworth CPCN
- Limited CPCN (EB-2018-0263)
- Township of Chatsworth Boundary

Requested Area



Service Layer Credits: Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Appendix C – Previously Submitted CPCN & Franchise Map

The Municipality of Brockton

Certificate of Public Convenience and Necessity

The Ontario Energy Board grants

EPCOR Natural Gas Limited Partnership

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55, as amended, to construct works to supply gas to the areas within

The Municipality of Brockton

excluding areas within the Municipality located East of Bruce Road 3 and South of Concession Rd 4 West.

This certificate replaces the parts of the Certificate of Public Necessity and Need currently held by Enbridge Gas Inc. (under the name of Union Gas Limited) that is associated with the Municipality of Brockton.

DATED at Toronto, XXX XXX XXX

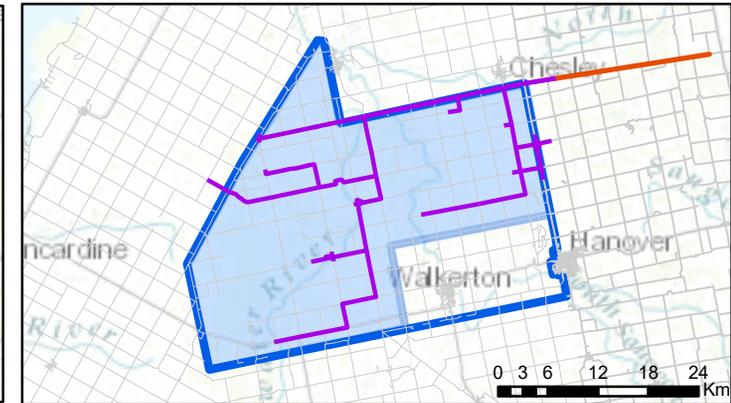
ONTARIO ENERGY BOARD



Key Map



Municipality of Brockton

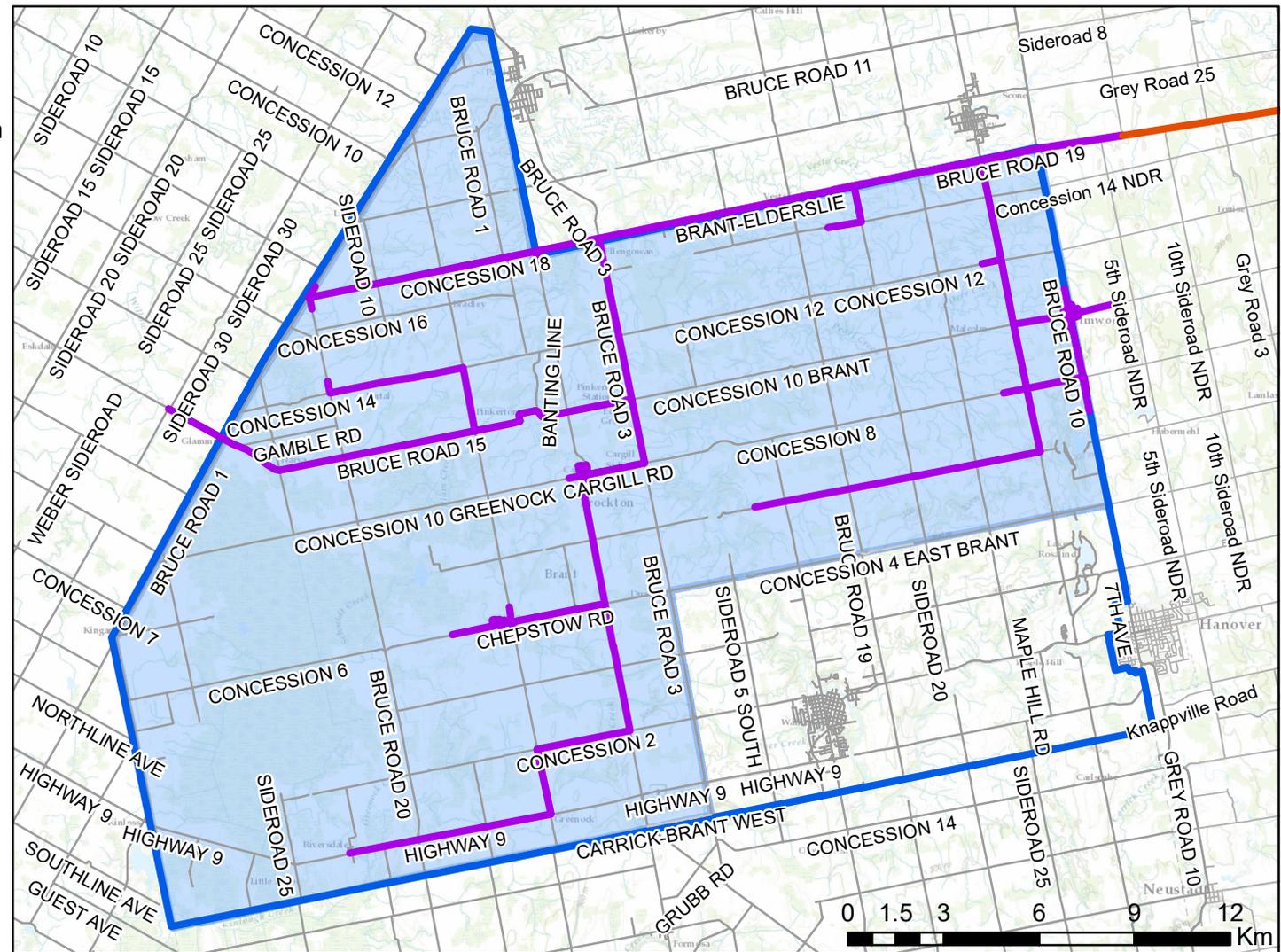


CPCN Request Brockton

- Proposed Brockton System Expansion
- Proposed Brockton CPCN
- Limited CPCN (EB-2018-0263)
- Brockton Municipal Boundary



Requested Area

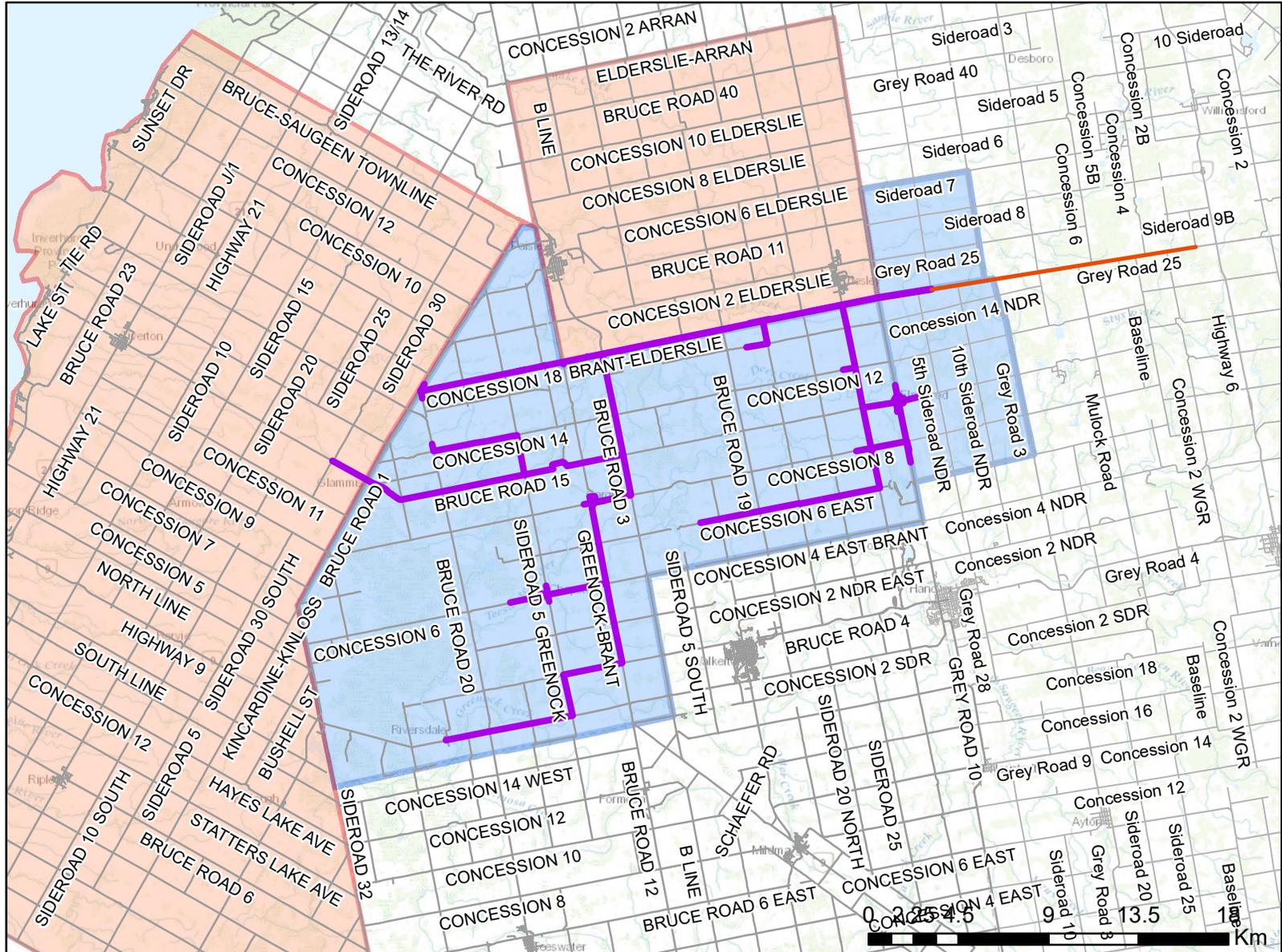


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Appendix D – Consolidated Map

CPCN Request

-  Proposed Brockton System Expansion
-  Proposed CPCN
-  EPCOR Existing CPCN
-  Limited CPCN (EB-2018-0263)



Service Layer Credits: Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community