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JUL 05 2019

ONTARIO ENERGY BOARD

July 4, 2019

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**Sent By Electronic Mail and Overnight Courier and Filed Electronically on RESS**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27th Floor, P.O. Box 2319  
Toronto, ON M4P 1E4 ([boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca))

Dear Ms. Walli:

**Re: EB-2018-0263: Leave-to-Construct Application by EPCOR Natural Gas Limited Partnership ("ENGLP")**

**Re: Further Letter of Comment of ENGLP re OEB Staff Submissions and Proposed Conditions of Approval**

Further to our letter of July 3, 2019, ENGLP would like to raise two additional issues for the Ontario Energy Board's ("OEB") consideration based on the submissions of OEB Staff dated June 3, 2019 (the "Staff Submissions"), specifically: (1) OEB Staff's recommendation for functional, rather than geographic, Certificates of Public Convenience and Necessity (a "Certificate") for the "pass-through" lower-tier municipalities; and (2) OEB Staff's proposed Condition of Approval number four regarding the need for a clearance letter from the Ministry of Tourism, Culture and Sport. ENGLP is concerned about the potential for each of these issues to further delay the project and impact ENGLP's ability to provide service to customers by the end of the year. ENGLP has included draft materials and has provided suggested solutions for both of these issues in this letter.

**Draft Functional Certificates**

In the Staff Submissions, OEB Staff considered the issue of Certificates for certain municipalities where ENGLP's proposed pipeline would pass through but not provide distribution services to, namely the Municipalities of West Grey and Brockton and the Township of Chatsworth (the "Pass-through Municipalities"). OEB Staff proposed that these "pass-through" Certificates should be granted to ENGLP but should be "described in such a manner that limits the authorization for ENGLP to traversing the route in [the Pass-through Municipalities], as opposed to being characterized as 'limited to 500 metres on

either side of the route' in these municipalities as proposed by ENGLP."<sup>1</sup> OEB Staff suggested that ENGLP's proposed Certificates be prepared in a format consistent with a Certificate issued by the OEB in EB-2014-0299, "describing the roads the high pressure mains will traverse and specifying the certificates' function (i.e., in order to bring gas to the communities to be served)."<sup>2</sup>

In Reply, ENGLP took no position on whether the most efficient approach to facilitate the passing through of its pipeline is a "functional" Certificate or a "geographic" Certificate and advised that it would prepare and file Certificates responsive to the OEB's determination on the matter.<sup>3</sup>

ENGLP continues to take no position on whether the "geographic" Certificates proposed in ENGLP's Application or the "functional" Certificates proposed by OEB Staff is the optimal form of Certificate, but in the interests of reaching the most expeditious determination by the OEB, ENGLP has prepared draft "functional" Certificates for the Pass-through Municipalities to assist the OEB in the event that the OEB determines that it prefers OEB Staff's suggested approach. These draft Certificates, attached to this letter, are prepared in a manner generally consistent with EB-2014-0299 and also EB-2017-0289 (where a similar "functional" Certificate was granted by the OEB).

#### **Condition of Approval Number 4: Clearance Letter from MTCS**

In the Staff Submissions, OEB Staff stated that leave to construct should be "conditional on ENGLP obtaining, filing with the OEB, and adhering to the Ministry of Tourism, Culture and Sport's (MTCS) Stage 2 Archeological Assessment"<sup>4</sup> OEB Staff then proposed certain "Leave to Construct Conditions of Approval" which included Condition 4 that "Authorization for leave to construct is granted conditional of ENGLP filing with the OEB a final version of the Environmental Protection Plan and a clearance letter from the Ministry of Tourism, Culture and Sport for the project."<sup>5</sup>

ENGLP acknowledges that *certain portions* of the proposed pipeline route require the completion of a Stage 2 Archaeological Assessment to the satisfaction of MTCS. ENGLP is concerned that Condition 4, as drafted, may preclude ENGLP from commencing

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<sup>1</sup> OEB Staff Submissions (June 3, 2019) at p. 13.

<sup>2</sup> OEB Staff Submissions (June 3, 2019) at p. 14.

<sup>3</sup> ENGLP Reply Submissions (June 10, 2019) at para. 71, pp. 27-28.

<sup>4</sup> OEB Staff Submissions (June 3, 2019) at p. 18

<sup>5</sup> OEB Staff Submissions (June 3, 2019) at Appendix A.

construction on the portions of the pipeline route not requiring further archaeological assessment. Consequently, ENGLP proposes that Condition 4 be revised as follows:

4. Authorization for leave to construct is granted conditional of ENGLP filing with the OEB a final version of the Environmental Protection Plan and a clearance letter from the Ministry of Tourism, Culture and Sport for the portions of the project route not requiring further archaeological assessment. Authorization for leave to construct on the portions of the project route requiring further archaeological assessment is granted conditional of ENGLP filing with the OEB a clearance letter from the Ministry of Tourism, Culture and Sport for those portions requiring further assessment.


## Conclusion

As discussed above, ENGLP is concerned about further delays to the project, and its ability to provide service to customers by the end of the year, if it is required to delay construction due to an ambiguity in the proposed Conditions of Approval, or if it is required to provide further draft Certificates for subsequent OEB approval.

ENGLP submits that neither OEB Staff nor any other interested person would be prejudiced by the modification of Condition 4 to require a clearance letter only for the portions of the project requiring further archaeological assessment.

Please do not hesitate to contact me if you have any questions.

Yours very truly,



Patrick G. Welsh

c (email only): Richard King, *Osler, Hoskin & Harcourt LLP*  
Bruce Brandell/Dana Bissoondatt/Daniela O'Callaghan, *EPCOR*  
Azalyn Manzano/Michael Millar, *Ontario Energy Board*  
Intervenors in EB-2018-0263

## 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 pipeline facilities along

- Bruce Road 19 starting at Grey Road 10 and ending at Sideroad 15 South;
- continuing along Brant-Elderslie, starting at Sideroad 15 South and ending at the intersection of Greenock Elderslie and Greenock Brant;
- continuing along Concession 18, starting at the intersection of Greenock Elderslie and Greenock Brant and ending at Bruce Road 1; and
- continuing along Bruce Road 1, starting at Concession 18 and ending at Bruce Road 20, all within the

### Municipality of Brockton

as it is constituted on the date of this Decision and Order, in order to supply gas to the Municipality of Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss.

DATED at Toronto, \_\_\_\_\_, 2019

ONTARIO ENERGY BOARD

*Original Signed By*

Kirsten Walli  
Board Secretary

Draft



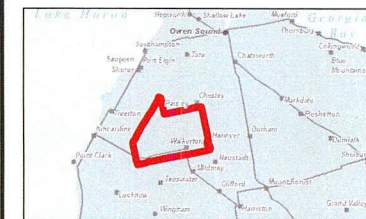
#### Legend

- Pipeline Route
- Expressway / Highway
- Major Road
- Minor Road
- Watercourse
- Municipal Boundary - Lower Tier
- Wooded Area
- Waterbody

0 2.5 5 Kilometers  
1:125,000 (At origin of document size of 11 x 17)

#### Notes

1. Coordinate System: NAD 1983 UTM Zone 17N
2. Base features produced under license with the Ontario Ministry of Natural Resources and Forestry & Queen's Printer for Ontario, 2019.



Project Location: 1s0951129  
Counches Of Bruce, Prepared by SPE on 2019-07-03  
Grey and Huron Technical Review by SCC on 2019-07-03

Client/Project:  
EPCOR NATURAL GAS LIMITED PARTNERSHIP (ENGLP)  
NATURAL GAS SERVICE SOUTHERN BRUCE

Figure No.

1

Title:  
**Municipality Of Brockton-CPCN Map**

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## **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 pipeline facilities along

- Grey Road 25, starting at the Dornoch Meter and Regulator Station and ending at Grey Road 3; and
- continuing along Bentinck Sullivan Townline and ending at Grey Road 10, all within the

### **Township of Chatsworth**

as it is constituted on the date of this Decision and Order, in order to supply gas to the Municipality of Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss.

**DATED** at Toronto, \_\_\_\_\_, 2019

**ONTARIO ENERGY BOARD**

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Kirsten Walli  
Board Secretary

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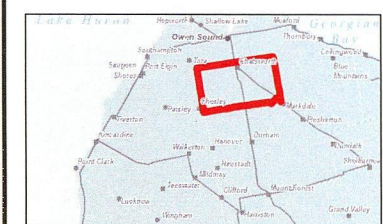


- Legend**
- Dornoch Meter and Regulator Station
  - Pipeline Route
  - Expressway / Highway
  - Major Road
  - Minor Road
  - - - Enbridge Gas Pipeline (Approximately)
  - Watercourse
  - ▭ Municipal Boundary - Lower Tier
  - Wooded Area
  - Waterbody



**Notes**

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**Project Location** 140951129  
 Counties Of Bruce, Prepared by SPE on 2019-07-03  
 Grey and Huron Technical Review by SCC on 2019-07-03

**Client/Project**  
 EPCOR NATURAL GAS LIMITED PARTNERSHIP (ENGLP)  
 NATURAL GAS SERVICE SOUTHERN BRUCE

**Figure No.**  
 1  
**Title**  
 Township of Chatsworth

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- continuing along Bentinck Sullivan Townline and ending at Grey Road 10, all within the

### **Municipality of West Grey**

as it is constituted on the date of this Decision and Order, in order to supply gas to the Municipality of Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss.

DATED at Toronto, \_\_\_\_\_, 2019

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- Legend**
- Dornoch Meter and Regulator Station
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Kilometers  
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Project Location: 160951129  
Counties Of Bruce, Grey and Huron Prepared by SPE on 2019-07-03  
Technical Review by BCC on 2019-07-03

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EPCOR NATURAL GAS LIMITED PARTNERSHIP (ENGLP)  
NATURAL GAS SERVICE SOUTHERN BRUCE

Figure No.  
1  
Title  
Municipality Of West Grey-CPCN Map