

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

AND IN THE MATTER OF an application by EPCOR
Natural Gas Limited Partnership for approval to change gas
distribution rates and other charges to be effective January
1, 2023.

NOTICE OF MOTION

EPCOR Natural Gas Limited Partnership (“ENGLP”)

EB-2022-0184 (Phase 2)

April 20, 2023

ENGLP WILL MAKE A MOTION to the Ontario Energy Board (the “**Board**” or the “**OEB**”) at its hearing rooms at 2300 Yonge Street, Toronto, Ontario on a date and time to be fixed by the Board.

PROPOSED METHOD OF HEARING: ENGLP respectfully requests that the Motion be heard in writing.

RELIEF REQUESTED:

1. This Motion is for:
 - (a) An Order pursuant to Rule 7 of the OEB’s Rules of Practice and Procedure (the “**Board’s Rules**”) extending the time to May 10, 2023, for ENGLP to file a motion pursuant to Rules 40, 42 and 43 of the Board’s Rules requesting that the Board review and vary the Decision of the Board in the above-noted proceeding dated April 6, 2023 (the “**Decision**”); and
 - (b) Such further and other relief as ENGLP may request and the Board may grant.

THE GROUNDS OF THE MOTION ARE:

2. On July 18, 2022, ENGLP filed an incentive rate-setting mechanism application with the Board seeking approval for changes to rates that ENGLP charges for natural gas distribution in its Southern Bruce service area, effective January 1, 2023 (the “**Application**”). In the Application

ENGLP requested a price cap adjustment and disposition of certain deferral and variance account balances, as well as approval to establish a Customer Volume Variance Account (the “CVVA”).

3. The Board bifurcated the Application into two phases. Phase 1 would address the price cap adjustment and request for deferral and variance account disposition and Phase 2 would address the CVVA issue.

4. In regards to Phase 2 of the Application, ENGLP requested that the CVVA be established to track revenue shortfalls resulting from the difference between the average customer volume forecast based on the common assumptions set out in the common infrastructure plan and the actual average customer volumes from January 1, 2021 to December 31, 2028. ENGLP sought to recover 100% of amounts recordable in the CVVA and to have it apply to new expansion projects where the Southern Bruce rates apply.

5. On April 6, 2023, the Board issued the Decision, which, *inter alia*, approved the establishment of the CVVA, effective January 1, 2023 until December 31, 2028. However, the Board modified the approved CVVA compared to the account proposed by ENGLP and determined that any accumulated balance would be shared on a 50/50 basis between ENGLP’s shareholders and its customers. In addition, ENGLP is only eligible for recovery of 50% of the annual balance from its customers in the CVVA until such point that ENGLP’s actual earnings reach 300 basis points below a target ROE. Further, the variance account will only apply to the Southern Bruce distribution system within the scope of ENGLP’s approved 2019-2028 Custom IR framework.

6. ENGLP intends to bring a motion pursuant to Rules 40, 42 and 43 of the Board’s Rules to review and vary the OEB’s decision to limit ENGLP’s recovery of the CVVA balance on the basis that the Board committed errors of fact and law that raise doubts as to the correctness of the Decision.

7. Rule 40.03 of the Board's Rules requires ENGLP to bring its motion to review and vary the Decision within 20 calendar days of the date of the Decision (i.e., by April 26, 2023).

8. ENGLP brings the within Motion pursuant to Rule 7 of the Board's Rules requesting that the Board extend the time for ENGLP to bring its motion to review and vary the Decision until May 10, 2023.

9. In support of this request, ENGLP can advise that prior to proceeding with a motion to review, which is a significant regulatory development for this utility, it was necessary to first inform and obtain input from the Board of Directors of EPCOR Ontario Utilities Inc., (EOUI) who were convened on April 19, 2023. EOUI is the general partner of ENGLP.

10. Given the proximity between this reporting pre-requisite (April 19) and the deadline to file a motion to review and vary the Decision (April 26), ENGLP respectfully requests that the Board grant the within Motion extending the time to file ENGLP's motion to review and vary the Decision until May 10, 2023.

11. In addition, we note that ENGLP is in the process of transition with respect to key members of its senior leadership team. This includes an imminent change to the Financial Controller (effective April 24) as well as the assigned Senior Vice President (effective May 5). These personnel changes have created additional internal reporting steps following the Board's issuance of the Decision.

12. Finally, ENGLP's 20-day timeframe to file a motion to review and vary the Decision included two statutory holidays (and a total of eight non-business days). In light of the above-noted reporting requirements and senior leadership changes, these non-business days were a contributing factor to the availability of ENGLP's key decision-making personnel.

13. ENGLP respectfully submits that granting the requested relief is reasonable and no other party will be prejudiced by the delay in filing.

14. ENGLP relies on Board Rules 7, 8, 40, 42 and 43.
15. Such further and other grounds as counsel may advise and this Board may accept.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

April 20, 2023

EPCOR Natural Gas Limited Partnership
Per: Tim Hesselink, CPA
Senior Manager, Regulatory Affairs