



**EPCOR Natural Gas Limited Partnership**

**Application for leave to construct natural gas pipelines  
in the Municipality of Kincardine, the Township of Arran-  
Elderslie, the Municipality of Brockton and the  
Municipality of West Grey**

**PROCEDURAL ORDER NO. 3**

**November 24, 2023**

EPCOR Natural Gas Limited Partnership (EPCOR) applied to the Ontario Energy Board (OEB) under sections 90 and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (OEB Act), for an order granting leave to construct approximately 34.1 km of Nominal Pipe Size (NPS) 4-inch polyethylene (PE) natural gas distribution pipeline and approximately 46.5 km of NPS 2-inch PE natural gas distribution pipeline in the Municipality of Kincardine, the Township of Arran-Elderslie, the Municipality of Brockton and the Municipality of West Grey (Project). The proposed pipelines would supply natural gas to approximately 423 new customers who currently do not have access to natural gas service. The Project has qualified for financial support under the government of Ontario's Natural Gas Expansion Program.

EPCOR has applied to the OEB for approval of the form of land-use agreements it offers to landowners affected by the routing and construction of the project.

EPCOR is asking the OEB for final approval under section 9 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55 of Franchise Agreements with the Municipality of Brockton, the Municipality of West Grey, and the Township of Chatsworth.

EPCOR is asking the OEB for approval under section 36 of the OEB Act to establish the Brockton Customer Volume Variance Account to capture revenue variances resulting from variances in forecasted and actual average use per customer.

EPCOR intends to charge customers to be served by the proposed project the same rates that it charges its customers in its Southern Bruce rate zone.

The OEB issued the Notice of Hearing on July 24, 2023.

The OEB issued Procedural Order No. 1 on August 30, 2023. Enbridge Gas Inc. (Enbridge Gas) and Environmental Defence (ED) were approved as intervenors, and ED was granted eligibility to apply for an award of costs. The OEB subsequently approved the Municipality of Brockton as an intervenor.<sup>1</sup>

The OEB issued Procedural Order No. 2 on October 24, 2023. The OEB ordered that a one-day, virtual, transcribed technical conference be held on November 14, 2023. The OEB also ordered that written responses to all undertakings from the technical conference be served on all intervenors by November 28, 2023.

The technical conference was held on November 14, 2023.

### **EPCOR's Undertaking Extension Request**

On November 23, 2023, EPCOR filed a letter requesting an extension of the deadline to file its response to undertaking JT1.9 to December 5, 2023 (Extension Request). Undertaking JT1.9 requires EPCOR to provide its views on a rate framework for Brockton that continues the IRM framework that is applied to South Bruce post-2029 until the rate stability period ends for Brockton in 2034, and to provide EPCOR's views on how that could be operationalized and what aspects of the current South Bruce IRM framework would be applicable. EPCOR stated that its other undertaking responses are expected to be filed on the original deadline of November 28, 2023.

In its Extension Request, EPCOR noted that this is a unique circumstance in that OEB staff agreed that EPCOR may consult with OEB staff on the scope of the undertaking and response. EPCOR stated that it requires additional time to coordinate with OEB staff and to prepare its response to what it considers a complex undertaking.

In its Extension Request, EPCOR submitted that its request is reasonable, will not prejudice the other parties to this proceeding, and will not alter any other dates in the procedural order.

Given the complexity of the undertaking, the OEB finds that EPCOR's request is reasonable and therefore grants the extension request.

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<sup>1</sup> Due to a system error, the Municipality of Brockton's intervention request went unnoticed until September 7, 2023, at which time the OEB granted the intervention request by way of a letter issued that same day.

## Abeyance of Proceeding

On September 27, 2023, Environmental Defence filed a motion to review the OEB's decisions (relating to the admissibility of intervenor evidence and merits) in the following proceedings for applications filed by Enbridge Gas (Motion to Review):<sup>2</sup>

- EB-2022-0156 (Selwyn Community Expansion Project)
- EB-2022-0248 (Mohawks of the Bay of Quinte and Shannonville Community Expansion Project)
- EB-2022-0249 (Hidden Valley Community Expansion Project)

In its letter of intervention in the current proceeding, ED stated that it wished to file evidence. In its reply letter, EPCOR noted that ED's intervenor evidence proposal appears to be consistent with its evidence proposals submitted in proceedings for the community expansion projects listed above. EPCOR noted that the OEB denied ED's evidence proposal in these three proceedings and deferred its determination on ED's evidence in a fourth.<sup>3</sup>

In Procedural Order No. 1, the OEB indicated that it would make a determination on ED's request to file evidence in the current proceeding, and any process associated with that request, at a later date.

In the OEB's view, the matters cited in the Motion to Review raise issues that are relevant to this proceeding. Therefore, from the perspective of adjudicative efficiency, the OEB finds it prudent to provide direction on ED's request to file evidence in this proceeding after the OEB has considered the Motion to Review. The OEB will advise parties when it resumes its review of the application.

It is necessary to make provision for the following matters related to this proceeding.

Further procedural orders may be issued by the OEB.

## THE ONTARIO ENERGY BOARD ORDERS THAT:

1. EPCOR shall file with the OEB a complete written responses to undertaking JT1.9 and serve them on all intervenors by **December 5, 2023**.

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<sup>2</sup> EB-2023-0313, Amended Notice of Motion, September 27, 2023

<sup>3</sup> EB-2022-0111, Bobcaygeon Community Expansion Project

2. The OEB is placing this proceeding in abeyance, effective **December 5, 2023**, pending the OEB's determination on the Motion to Review in EB-2023-0313.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0246** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact [registrar@oeb.ca](mailto:registrar@oeb.ca) for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Ritchie Murray at and OEB Counsel, James Sidlofsky at [james.sidlofsky@oeb.ca](mailto:james.sidlofsky@oeb.ca).

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-877-632-2727 (Toll free)

**DATED** at Toronto, **November 24, 2023**

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar