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**BY EMAIL**

March 27, 2025

Tim Hesselink  
Senior Manager, Regulatory  
EPCOR Natural Gas Limited Partnership  
43 Stewart Road  
Collingwood ON L9Y 4M7  
[THesselk@epcor.com](mailto:THesselk@epcor.com)

Dear Tim Hesselink:

**Re: EPCOR Natural Gas Limited Partnership  
Application for a Limited Certificate of Public Convenience and Necessity  
for Norfolk County  
Ontario Energy Board File Number: EB-2024-0239**

EPCOR Natural Gas Limited Partnership (EPCOR) applied to the Ontario Energy Board (OEB) on August 15, 2024, under section 8 of the *Municipal Franchises Act* for an order granting EPCOR a limited certificate of public convenience and necessity (Certificate) giving it the right to construct facilities to enable EPCOR to supply additional natural gas to its existing large greenhouse customer carrying on business as EZ Grow Farms LTD. within its franchise service area at 230 Walsingham Townline Road in Langton, in Norfolk County. Part of the pipeline route falls within Enbridge Gas's service area.

On November 22, 2024, the OEB issued Procedural Order No.1 which, among other things, set the dates for the filing of interrogatories, interrogatory responses, written submissions and a reply submission. OEB Staff filed interrogatories and a written submission, Enbridge Gas filed interrogatories and a submission and EPCOR filed interrogatory responses and a reply submission in accordance with the dates established in Procedural Order No.1.

In its reply submission, EPCOR stated the following in regard to the commencement of construction of the pipeline prior to OEB approval of a Certificate:

Section 8(1) of the *Municipal Franchise Act* provides that “no person shall construct any works to supply ... natural gas in any municipality ... without the approval of the Ontario Energy Board”. There are two criteria necessary for this subsection to become operative: (a) it applies to the constructor of the pipeline; and (b) it applies in the case of assets that are supplying customers. Importantly, Clearbeach built and currently owns the asset, and this pipeline was not built to supply any new customer. ENGLP is committed to not supplying customers apart from its existing customer (EZ Grow) once it acquires the new asset. While ENGLP’s position is that section 8(1) of the *Municipal Franchise Act* accordingly does not apply, ENGLP nevertheless applied for the CPCN prior to Clearbeach starting construction for transparency purposes to the benefit of the regulator and Enbridge. Accordingly, this ensures that the Board and Enbridge understand the arrangement being entered into and is aware of the assets being constructed.”

In light of the aforementioned statement by EPCOR that section 8(1) of the *Municipal Franchises Act* does not apply, the OEB requires more information about the approvals that EPCOR requested in this proceeding under section 8(1):

- 1) To whom is EPCOR suggesting section 8(1) does not apply, i.e. is it to EPCOR; to Clearbeach; or to both?
- 2) If it is EPCOR’s submission that section 8(1) does not apply to it, please explain the basis upon which an application may be made for a Certificate, and the OEB may grant a Certificate, under a provision of the *Municipal Franchises Act* which does not apply. Please explain further whether EPCOR intends to withdraw its application for a Certificate and, if so: (i) the grounds on which the OEB should permit EPCOR to withdraw its application; and (ii) the basis for a conclusion that EPCOR may own and operate a gas distribution pipeline in an area of Ontario for which no Certificate has ever been granted to EPCOR.
- 3) If EPCOR decides to proceed with the application, please explain why EPCOR considers a Certificate necessary at this time.

The OEB requests that EPCOR file responses to the above-listed questions by April 8, 2025.

Yours truly,

Nancy Marconi  
Registrar