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August 15, 2024

Sent by EMAIL, RESS e-filing

Ms. Nancy Marconi
 Registrar
 Ontario Energy Board
 27-2300 Yonge Street
 Toronto, ON M4P 1E4

Dear Ms. Marconi:

Re: EB-2024-0239 - Application by EPCOR Natural Gas Limited Partnership (“ENGLP”) for a Limited Certificate of Public Convenience and Necessity, pursuant to section 8 of the *Municipal Franchises Act*

Please find enclosed a copy of the Application from EPCOR Natural Gas Limited Partnership (“ENGLP”) for a Limited Certificate of Public Convenience and Necessity, restricted to Concession 7 - Lots 2 and 3 (excluding municipal addresses 220 and 230 8th Concession Road) and Concession 7 – North Part of Lot 2 in the Municipality of Norfolk County. ENGLP respectfully requests that this Application be decided by delegated authority, pursuant to sections 6(4) and (8) and section 21(4) of the *Ontario Energy Board Act*, 1988.

In accordance with the *OEB Rules*, ENGLP requests that certain information in this Application be treated as confidential. Pursuant to section 4.1.1 and Appendix B of the *Practice Direction on Confidential Filings*, the redacted information is presumptively confidential as it involves “information that would disclose load profiles, energy usage and billing information of a specific customer that is not personal information.” Per section 5.1.4(b), the following table sets out each piece of information for which confidential treatment is requested:

Page #	Presumptive Confidentiality
5	The redacted information fits within a presumptive confidential category included in Appendix B of the <i>Practice Direction on Confidential Filings</i> since the information includes the load profiles and energy usage for EZ Grow.
6	The redacted information fits within a presumptive confidential category included in Appendix B of the <i>Practice Direction on Confidential Filings</i> since the information includes the load profiles and energy usage for EZ Grow.

Copies of the confidential, un-redacted version and non-confidential, redacted version of this

Application are enclosed herein.

Please serve all documents in relation to the Application on ENGLP and its counsel as follows:

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

Yours truly,

Tim Hesselink

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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 for a Limited Certificate of Public Convenience and Necessity to supply natural gas in the Municipality of Norfolk;

APPLICATION OF EPCOR NATURAL GAS LIMITED PARTNERSHIP

Overview

1. EPCOR Natural Gas Limited Partnership (“**ENGLP**”), a wholly-owned indirect subsidiary of EPCOR Utilities Inc., seeks a geographically limited Certificate of Public Convenience and Necessity (“**CPCN**”) under section 8(1) of the *Municipal Franchises Act* to enable ENGLP to supply additional natural gas to its existing large greenhouse customer, 100516320 Ontario Inc. carrying on business as EZ Grow Farms Ltd. (“**EZ Grow**”).
2. EZ Grow’s facilities are located within Norfolk County (“**Norfolk County**”) at 230 Walsingham Townline Rd, Langton ON N0E 1G0 (the “**EZ Grow Facility**”), which is within ENGLP’s franchise and CPCN territory.¹ EZ Grow requires additional volumes of natural gas, and in order to meet this demand, ENGLP is proposing to supply the required natural gas by using Clearbeach Resources Inc. (“**Clearbeach**”) to construct a new pipeline at Concession 7 -

¹ Insert CPCN citation.

Lots 2 and 3 (excluding municipal addresses 220 and 230 8th Concession Road) and Concession 7 – North Part of Lot 2 in Norfolk County (the “**New Pipeline**”), which would traverse Enbridge’s CPCN territory.²

3. As such, ENGLP hereby applies to the Ontario Energy Board (the “**OEB**”) for an order granting a Limited CPCN to ENGLP for the areas that are currently within Enbridge’s service territory (specifically at Concession 7 - Lots 2 and 3, excluding municipal addresses 220 and 230 8th Concession Road, and Concession 7 – North Part of Lot 2) to enable ENGLP to provide the additional volumes of natural gas required by EZ Grow.

4. ENGLP further requests that the OEB’s streamlined process for applications of this nature be followed in light of the anticipated construction schedule and EZ Grow’s needs as described in more detail in this Application. Since the elements included in this Limited CPCN Application are largely mechanistic, and further to the OEB’s authority under sections 6(4) and (8) and section 21(4) of the *OEB Act*, ENGLP respectfully requests this Application be decided by delegated authority without a hearing.

Background

EZ Grow’s Natural Gas Requirements

5. EZ Grow requires additional supply of [REDACTED] m³/hr of natural gas to the EZ Grow Facility by November 1, 2024 for the winter growing season, but ENGLP’s current infrastructure is unable to supply this requested volume. In order to meet this request, on February 14, 2024,

² EB-2017-0108 and EB-2021-0238-H

ENGLP completed an upgrade to a [REDACTED]" pipeline to allow for an intermediary amount of [REDACTED] m³/hr. However, to reach the [REDACTED] m³/hr demand, ENGLP has determined that the most economical and efficient solution from a timing and supply perspective is to construct the New Pipeline and subsequently supply the natural gas to EZ Grow from ENGLP's existing natural gas distribution infrastructure. A letter of support from EZ Grow is included in **Appendix "A"**.

6. Although the EZ Grow Facility is located within both ENGLP's Franchise Area and CPCN territory, undertaking upgrades to assets within ENGLP's CPCN territory would be much more costly and time-consuming than the New Pipeline option. However, Enbridge currently holds a CPCN over an area where part of the New Pipeline will be located.³ Enbridge has advised that it would take several months to evaluate whether it can supply EZ Grow's requested gas volumes, making this unviable to meet EZ Grow's 2024 requirements. As a result, this application is necessary to meet the needs of ENGLP's existing customer in the most timely, cost-effective manner.

7. Under ENGLP's proposed plan, Clearbeach will construct and sell the New Pipeline to ENGLP in order to supply the additional volumes of natural gas to EZ Grow. Clearbeach will construct approximately 2.5 km of [REDACTED]" polyethylene pipe from its existing gas infrastructure through to EZ Grow. A regulating station will be installed at the EZ Grow Facility to reduce pressure to serve the customer, and provide the necessary information from a billing and gas supply perspective. No OEB approvals are needed for this regulating station, as it is located within ENGLP's Franchise Area and CPCN territory. ENGLP and Clearbeach will have

³ See EB-2017-0108 and EB-2021-0238-H.

agreements in place regarding construction and quality specifications/standards for the New Pipeline.

8. Clearbeach has indicated that it has an excess capacity of natural gas for which it will enter into a System Gas Supply Agreement with ENGLP to supply the additional gas volumes to EZ Grow. This increase in peak demand is referenced in ENGLP's Gas Supply Plan in EB-2024-0139, filed May 31, 2024.

Existing Franchise Agreement & CPCNs

9. ENGLP holds a Franchise Agreement with the Municipality of Norfolk, which is included as **Appendix "B"**.⁴ ENGLP does not require additional franchise agreements in order to supply the additional natural gas to EZ Grow as the EZ Grow Facility is located within Norfolk County.

10. ENGLP, Enbridge, and Six Nations Natural Gas Limited ("**Six Nations**") each have CPCNs for Norfolk.⁵ In the decision and order for EB-2017-0108, dated October 17, 2019, the OEB granted Enbridge and ENGLP new CPCNs for limited areas within Norfolk County, along with several other municipalities (the "**2019 CPCN**"). The 2019 CPCN, included as **Appendix "C"**, replaced and/or superseded previous CPCNs.

11. Enbridge's 2019 CPCN was re-issued in EB-2021-0238 when the OEB granted Six

⁴ See EB-2014-0207.

⁵ See EB-2017-0108 and EB-2021-0238

Nations a limited CPCN within Enbridge's service territory in Norfolk County in order to supply natural gas to Off-Reserve Customers due to gaps in Enbridge's geographic service area (the "2021 CPCN").⁶ The 2021 CPCN reflects Enbridge's and Six Nations' new service territories within their respective CPCNs, and replaces Enbridge's 2019 CPCN. A copy of the 2021 CPCN is included as **Appendix "D"**.

Application

12. ENGLP hereby applies to the OEB for a limited CPCN covering the area of the New Pipeline. ENGLP proposes that the OEB follow the same process as in proceeding EB-2021-0238 when issuing a new CPCN for the New Pipeline. In EB-2021-0238, the OEB issued Six Nations a new certificate for the expanded service area within Enbridge's CPCN territory, which cancelled and superseded Six Nations' and Enbridge's prior certificates. A new certificate excluding Six Nations' new service areas was also granted to Enbridge, which cancelled and superseded Enbridge's prior certificate.⁷

13. ENGLP proposes that the portions of the 2019 CPCN and 2021 CPCN covering the area for the New Pipeline be superseded and replaced by a new CPCN.

14. ENGLP's request aligns with section 3.1 of the OEB's Natural Gas Facilities Handbook, which states:

"The OEB can issue multiple certificates to different persons for different areas within a single municipality. The OEB generally will not, however, issue certificates with

⁶ See EB-2021-0238. Six Nation's CPCN is not within ENGLP's requested limited CPCN territory.

⁷ Six Nations Natural Gas Limited Application for Certificates of Public Convenience and Necessity for and Municipal Franchise Agreements with the County of Brant and Norfolk County, Proceeding EB-2021-0238, Decision and Order dated December 16, 2021, pages 5-7.

overlapping areas as a precaution against creating confusion among utilities, consumers, emergency responders and other authorities. An exception may be a utility have a certificate for a ‘traversing pipeline’ that crosses another utility’s service area.”

15. The current limited CPCN amendment request mirrors the scenario described above: Enbridge was granted a CPCN covering Norfolk (other than the portions covered by ENGLP’s CPCN), but there is presently no economically viable option for ENGLP to supply the additional requested volumes of natural gas required by EZ Grow without installing the New Pipeline through the territory included in Enbridge’s CPCN.

16. The New Pipeline and the additional resulting gas supply to the EZ Grow Facility is in the public interest, and consistent with the Board’s statutory objectives regarding natural gas (specifically, paragraphs 2 and 3 of section 2 of the *OEB Act*). The New Pipeline will allow EZ Grow to access the volumes of gas it requires to expand and operate its facilities. Although the New Pipeline would traverse through Enbridge’s current CPCN territory, ENGLP has no intention of supplying any customers in Enbridge’s existing CPCN area. ENGLP has already consulted Enbridge about the New Pipeline and Enbridge does not object the proposal.

17. ENGLP confirms that: no contribution in aid of construction is required; none of the leave-to-construct thresholds in subsection 90(1) of the *OEB Act* are triggered by the New Pipeline construction; and that Clearbeach is a competent builder and operator. In addition to this CPCN approval, ENGLP and Clearbeach will obtain all requisite approvals required under all applicable laws to construct the New Pipeline and facilitate the transfer of the asset to ENGLP to supply gas to EZ Grow.

Territorial and Mapping Information

18. In accordance with OEB's direction for proceedings brought under the *Municipal Franchises Act*,⁸ ENGLP has included 4 maps with its draft CPCN, found at **Appendix "E"**. The first and second maps include the general Certificate Area in the Norfolk Township, and the third and fourth maps show the New Pipeline's proposed route.

19. ENGLP has also included a draft CPCN as **Appendix "F"**, which includes the following lots and concessions in Norfolk County representing the New Pipeline to the EZ Grow Facility: Concession 7: Lots 2 and 3 (excluding municipal addresses 220 and 230 8th Concession Road); and, Concession 7: North Part of Lot 2.

Conclusion

20. Expanding natural gas service for the EZ Grow Facility is a high priority for EZ Grow and ENGLP. ENGLP is best positioned to provide additional natural gas service to its existing customer, as the EZ Grow Facility is already within ENGLP's franchise and CPCN territory, and has distribution infrastructure located in close proximity to the New Pipeline.

21. ENGLP submits that the requested CPCN amendment is reasonable and serves the public interest by allowing for a timely customer connection, while aligning with the OEB's intent to resolve overlapping certificate rights within Municipalities. Indeed, the requested CPCN is limited to the New Pipeline, and would not interfere with any of Enbridge's interests within its service territory.

22. ENGLP welcomes any questions from the OEB.

⁸ EB-2017-0232, Decision on Motion and Procedural Order No. 3 (October 4, 2018) at p. 3.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

August 15, 2024