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**BY EMAIL**

January 30, 2015

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
27th Floor  
2300 Yonge Street  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Union Gas Limited  
Application for Authority to Expropriate Land in the City of Hamilton  
Board File No. EB-2014-0335**

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Please find attached OEB staff's submission in regard to the above noted proceeding.

Yours truly,

*Original Signed By*

Lawrie Gluck  
Case Manager

Enclosure



# **ONTARIO ENERGY BOARD**

## **OEB STAFF SUBMISSION**

### **UNION GAS LIMITED**

#### **APPLICATION FOR AUTHORITY TO EXPROPRIATE LAND IN THE CITY OF HAMILTON**

**EB-2014-0335**

**January 30, 2015**

## Introduction

Union Gas Limited (Union) filed an application dated October 27, 2014, pursuant to Section 99(1) of the *Ontario Energy Board Act, 1998* (the Act), for an order or orders under Section 99(5) of the Act granting Union authority to expropriate certain interests in land in the City of Hamilton for the purposes of constructing, operating and maintaining a natural gas pipeline as part of Union's Brantford-Kirkwall / Parkway D Project (the Project).

The OEB granted Union approval for the Project on January 30, 2014 pursuant to its Decision and Order in EB-2013-0074.

Union requires permanent easements over a total of 36.18 hectares of land and temporary easements over 25.58 hectares of land (for construction and top soil storage purposes) for the Brantford-Kirkwall pipeline (which is part of the Project). Union has secured all of the permanent and temporary easements required for the pipeline on a voluntary basis through negotiations with the affected landowners with the exception of a permanent easement over 1.2 hectares and a temporary easement over 0.43 hectares. The easements that Union still requires are located on a single property.

In accordance with Procedural Order No. 1, dated December 18, 2014, the following is OEB staff's submission with regard to Union's request for approval to expropriate land on a single property in the City of Hamilton.

## OEB Staff Submission

OEB staff submits that the OEB should grant Union authority to expropriate the necessary permanent and temporary easements, as requested by Union in its application, for the purposes of constructing, operating and maintaining a natural gas pipeline as part of the Project for the following reasons.

As set out by Union in its argument-in-chief, subsection 99(5) of the Act establishes the test for approving an application brought under subsection 99(1). Subsection 99(5) states:

"If after the hearing the Board is of the opinion that the expropriation of the land is in the public interest, it may make an order authorizing the applicant to expropriate the land."<sup>1</sup>

OEB staff submits that the requested easements are necessary for the construction, operation and maintenance of a new natural gas pipeline, which is part of the Project. The OEB, in its January 30, 2014, Decision and Order in EB-2013-0074 already found

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<sup>1</sup> *Ontario Energy Board Act, 1998* at Subsection 99(5).

that the Project itself is in the public interest. OEB staff notes that for the benefits of the Project to accrue to the public, the construction of the Brantford-Kirkwall Pipeline needs to be completed. As such, the OEB should grant Union authority to expropriate the requested easements as it will allow the pipeline to be constructed and the Project to move forward.

OEB staff also notes that Union has attempted to minimize potential impacts on the landowner of the property that is subject to Union's expropriation request (the Landowner) by proposing to construct the new pipeline on easements that are located immediately next to two existing pipelines that are already installed on the Landowner's property. The landowners have raised no complaints concerning the details of the proposed easements. OEB staff submits that the potential impacts on the Landowner are minor when evaluated against the overall benefit that will accrue to the public with the completion of the Project.

Finally, OEB staff notes that the Landowner filed a letter of comment dated December 3, 2014. In addition, the Civil Remedies for Illicit Activities Office of the Ministry of the Attorney General filed an intervention request (and interrogatories) on January 9, 2015. OEB staff submits that all of the issues raised in the above noted filings were related to compensation issues, and do not relate directly to the issue of whether the proposed expropriation itself is in the public interest. No party appears to have questioned whether the expropriation itself is in the public interest. OEB staff submits that compensation issues do not fall within the Board's jurisdiction under section 99 of the Act. Board staff submits that to the extent that the parties are unable to agree on compensation, the compensation issues will ultimately be resolved by the Ontario Municipal Board. Therefore, none of the issues raised in the noted materials impact OEB staff's position that the requested expropriation is in the public interest and should be granted by the OEB.

All of which is respectfully submitted.