

February 3, 2015

**RESS, EMAIL & COURIER**

Ontario Energy Board  
P.O. Box 2319, 27th Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

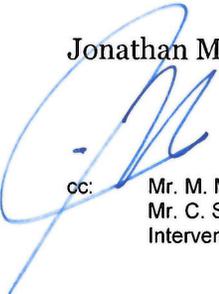
Dear Ms. Walli:

**Re: Union Gas Limited - Application for Authority to Expropriate (EB-2014-0335) - Applicant Reply Submissions**

We are counsel to Union Gas Limited ("Union"), applicant in the above-referenced proceeding. Enclosed please find Union's Reply Submissions, which have been filed on RESS and served on all intervenors in the proceeding.

Yours truly,

Jonathan Myers



cc: Mr. M. Murray, Union Gas  
Mr. C. Smith, Torys  
Intervenors

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Sched. B) as amended (the “**Act**”);

**AND IN THE MATTER OF** an application by Union Gas Limited (“**Union**”) for an Order pursuant to section 99(5) of the Act granting authority to expropriate certain interests in one property for the purposes of constructing, operating and maintaining a natural gas pipeline between Union’s existing Brantford Valve Site and the Kirkwall Custody Transfer Station.

**APPLICANT REPLY SUBMISSIONS****February 3, 2015****Introduction**

1. Union Gas Limited (“**Union**” or the “**Applicant**”) filed an application with the Ontario Energy Board (the “**Board**”), dated October 27, 2014, pursuant to Section 99(1) of the *Ontario Energy Board Act, 1998* (the “**OEB Act**”), for an order under Section 99(5) of the Act granting Union authority to expropriate certain interests in land relating to one property 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**”).
2. In its Argument-in-Chief, filed on January 20, 2015, Union highlighted the key aspects of the Application, including the Board’s approval of the Project in EB-2013-0074, the purposes and public interest benefits of the Project, the need for the requested permanent and temporary easements so as to allow for completion of the Project, Union’s efforts to reach a negotiated agreement with the affected landowner, as well as Union’s efforts to minimize the impacts of the requested easements on the affected landowner and the subject property. Union also noted that the only issues raised by the two intervenors in the proceeding, being the affected landowner and the Ministry of the Attorney General,

by its Civil Remedies for Illicit Activities Office (the “AG”), were in relation to the issue of compensation, which falls outside of the Board’s jurisdiction in considering the Application.

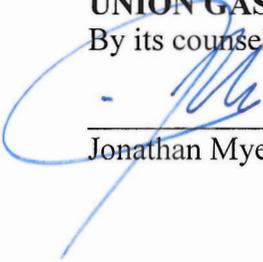
3. No submissions were filed by the affected landowner or the AG.
4. In its submissions, filed on January 30, 2015, Board staff argues that the Board should grant Union authority to expropriate the permanent and temporary easements that have been requested in the Application. Board staff notes that the requested easements are necessary for the construction, operation and maintenance of the Project, which the Board already found to be in the public interest. Board staff also notes Union’s efforts to minimize potential impacts on the affected property, that the landowner has raised no concerns regarding the specifics of the proposed easements, and that the potential impacts on the landowner are minor when evaluated against the overall benefit that will accrue to the public from completion of the Project.
5. In its submission, Board staff agrees with Union that the only issues raised by the intervenors were in respect of compensation, which issues do not fall within the Board’s jurisdiction. As noted by Board staff, to the extent that the parties are unable to agree on compensation, the compensation issues will ultimately be resolved by the Ontario Municipal Board (the “OMB”). For greater clarity, as explained in Union’s responses to interrogatories #2 and #3 from the AG, if the Board grants Union authority to expropriate the relevant interests, Union would then follow the process set out in the *Expropriations Act* to determine the amount of compensation to be paid. This process includes the preparation of an appraisal in order for the parties to reach agreement on the amount of compensation, failing which the matter can be referred for negotiation through the Board of Negotiation and/or arbitration by the OMB. Once the amount of compensation is determined, due to the unique circumstances of the affected property it would be Union’s intention to pay the compensation funds into the Office of the Accountant of the Superior Court of Justice pursuant to s. 38 of the *Expropriations Act*. These compensation funds would thereafter be paid out of court in accordance with the Court’s direction.

6. For the reasons described above, and as set out in the Application and the Applicant's Argument-in-Chief, it is Union's submission that the requested expropriation is in the public interest and should therefore be granted as requested. As no party has opposed the Application and to assist Union in keeping to its Project schedule, Union respectfully requests that the Board issue its decision on an expedited basis.

All of which is respectfully submitted this 3rd day of February, 2015.

**UNION GAS LIMITED**

By its counsel Torys LLP



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Jonathan Myers