

December 15, 2016

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
P.O. Box 2319  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**RE: EB-2016-0186 – Final Argument of the Consumers Council of Canada –Union Gas Limited –  
Panhandle – Leave to Construct**

Please find, attached, the Final Argument of the Consumers Council of Canada in the above-referenced proceeding.

Yours truly,

*Julie E. Girvan*

Julie E. Girvan

CC:

All Parties

**FINAL SUBMISSIONS OF THE CONSUMERS COUNCIL OF CANADA**

**UNION GAS LIMITED – PANHANDLE REINFORCEMENT PROJECT**

**EB-2016-0186**

**I. INTRODUCTION:**

On June 10, 2016 Union Gas Limited (“Union”) applied to the Ontario Energy Board (“OEB” or “Board”) pursuant to Section 90(1) of the Ontario Energy Board Act for an order or orders granting leave to construct approximately 40 kilometers of NPS 36 pipeline from Union’s Dawn Compressor Station in the Township of Dawn-Euphemia to its Dover Station.

The estimated cost of the Panhandle Reinforcement Project (“the Project”) is \$264.5 million<sup>1</sup>. Union is seeking to recover the costs of the project beginning in 2017 subject to Board approval that it meets the capital pass-through criteria established as part of Union 2014-2018 Incentive Regulation Mechanism (“IRM”). The projected impact of the project on the 2017 and 2018 revenue requirements are \$4.8 million and \$25.6 million respectively.<sup>2</sup> Union is also seeking to recover the costs of the project over 20 years through accelerated depreciation.

These are the submissions of the Consumers Council of Canada regarding the Project. The Council did not participate in the oral phase of the proceeding, but has reviewed the evidence and the hearing transcripts. The Council does not intend to take a position on project need other than to make some general observations. The Council does have concerns with Union’s proposals to recover the costs of the Project and questions the extent to which those proposals are consistent with the IRM Settlement Agreement.

The Council will comment on the following issues:

1. Project need;
2. Does the Project qualify for capital pass-through treatment?
3. Are Union’s proposals to allocate the costs of the Project appropriate?
4. Should the proposal to accelerate the depreciation of the Project be accepted?

**II. SUBMISSIONS:**

---

<sup>1</sup> Ex. A/T3/p. 5

<sup>2</sup> E. A/T8/p. 5

**Need:**

Union's evidence is that the Project is required to meet increasing demand from customers served by the Panhandle System. Union has experienced significant growth in the in-franchise markets served by the Panhandle System and has received a significant number of requests for firm service from existing interruptible customers.<sup>3</sup> Union has also indicated that it cannot add any new customers in the area without expanding the capacity on the Panhandle System.<sup>4</sup>

At the same time Union has indicated the Ontario Cap and Trade Program and the introduction of the Ontario Government's Climate Change Action Plan has resulted in significant risk to the return of any capital invested in natural gas infrastructure.<sup>5</sup> There is no doubt the introduction of these programs will impact demand for natural gas over the next several years.

The Council is aware that several intervenors will be advancing proposals for the Board to consider regarding Union's demand forecasts, the need for the Project, and alternatives to meet the demand to the extent it materializes. Union will have an opportunity to comment on those proposals in its Reply Argument. Following the argument phase of the proceeding the Board will have an opportunity to consider the merits of Union's proposal against the alternatives advanced by the intervenors.

With respect to assessing need the Board should consider the following:

- Whether the project should be deferred pending an assessment of the impacts of the Cap and Trade program and the Climate Change Action Plan on Union's demand projections;
- Whether the demand projections are valid given the absence of signed contracts for new capacity;<sup>6</sup> and
- Whether commercial alternatives could be undertaken instead of Union's proposals to build new capacity.

**Capital Pass-Through Treatment:**

In the EB-2013-0202 Settlement Agreement, which was approved by the OEB, there were criteria established for Y-factor treatment of major capital projects. The intent of the capital pass-through mechanism was to capture the associated impacts of

---

<sup>3</sup> Ex. A/T3/p. 2

<sup>4</sup> Tr. Vol. 1, p. 40

<sup>5</sup> Ex. A/T3/p. 5

<sup>6</sup> Tr. Vol. 1, p. 66

significant capital investments made in the IRM term that are not considered “business-as-usual” as the expenditures cannot be considered managed within Union’s Board-approved capital budget.<sup>7</sup>

To the extent the Board approves the Project the Council is of the view that it would qualify for Z-factor treatment as set out in the Settlement Agreement.

**Cost Allocation:**

Union is proposing an interim allocation of the Project costs during the remainder of the IRM term, which is different than the 2013 Board-approved cost allocation methodology used for existing Panhandle System costs.<sup>8</sup> Union is proposing to allocate the Panhandle System demand costs related to the Project in proportion to the firm Union South in-franchise Panhandle System Design Day demands, updated to include the incremental firm Project Design Day demands.<sup>9</sup>

As a signatory to the IRM Settlement Agreement the Council submits that Union’s proposal is contrary to that agreement. If the OEB approves the Project, changes to cost allocation should only be considered upon rebasing.

**Depreciation:**

Union has proposed that this Project, not any other of its current projects, be approved by the Board and depreciated over a 20 year useful life.<sup>10</sup> Union’s rationale is as follows:

The uncertainty created by Cap and Trade and the CCAP has driven the need for Union to calculate the revenue requirement and resulting rate impacts based on an estimated 20-year useful life of the Project assets rather than the weighted average useful life of approximately 50 years based on Board approved depreciation rates.<sup>11</sup>

The Council does not support Union’s proposal. It is not consistent with the IRM Settlement Agreement. That agreement stipulates that 2013 depreciation rates continue throughout the IRM term.

The Council would be supportive of a review of depreciation rates upon rebasing. However, to select one project, at this time for a reconsideration of depreciation rates is not appropriate in the context of a five-year IRM plan.

---

<sup>7</sup> Ex. A/T3/p. 5

<sup>8</sup> Ex. A/T8/p. 1

<sup>9</sup> Ex. A/T8/p. 6

<sup>10</sup> Ex. A/T3/p. 7

The Council finds it ironic that Union is proposing an accelerated depreciation for the Panhandle Project. Union is saying on the one hand that demand is increasing, but at the same time, given Provincial policies, demand may well go down. What is it?

**Costs:**

The Council requests that it be awarded its reasonably incurred costs related to this Application.

All of which is respectfully submitted.