



EB-2015-0179

Union Gas Limited

Application for approval to expand natural gas service to certain rural and remote communities in Ontario; for certain exemptions to meet revenue recovery requirements that apply to pipeline projects and approval to construct facilities to serve the communities of Milverton, Prince Township and the Chippewas of Kettle and Stony Point and Lambton Shores

PROCEDURAL ORDER NO. 5 March 21, 2017

Union Gas Limited (Union) filed an application with the Ontario Energy Board (OEB) on July 23, 2015, seeking approval to provide natural gas service to certain rural and remote communities in Ontario.

In a letter dated January 20, 2016, the OEB informed all parties that it intended to proceed with a generic hearing on its own motion as the issues raised by all the parties in Union's application were common to all gas distributors and new entrants seeking to provide gas distribution services in communities that do not have access to natural gas. The OEB also noted in that letter that Union's application would be put on hold until the completion of the generic hearing. On November 17, 2016, the OEB issued its Decision on the generic community expansion proceeding (EB-2016-0004).

In Procedural Order No. 4 issued on November 17, 2016 (EB-2015-0179), the OEB determined that it would resume Union's application that had been put on hold and directed Union to advise the OEB on how it proposes to proceed with its application in light of the OEB's Decision on Community Expansion (EB-2016-0004). In a letter dated December 22, 2016, Union advised the OEB that it intended to file a revised application by the end of March 2017.

Union further filed a letter dated February 13, 2017 requesting the OEB to confirm Union's view that that a request for the interest of other parties to serve the four

communities identified in Union's application and any process arising from that request was not required in respect of its application to serve the four communities. The OEB in response issued a letter dated March 3, 2017 noting that it would follow the decision of the generic community expansion proceeding and this included allowing other parties an opportunity to notify the OEB of their interest in serving an area that is the subject of a community expansion application.

On March 15, 2017, Union filed a letter in response seeking clarity on the intended process to adjudicate Union's EB-2015-0179 application. Union asked the OEB to reconsider its intended process expressed in the March 3, 2017 letter and allow Union to proceed with its application as requested in its letter dated February 13, 2017.

Union noted in its letter that it holds Certificates of Public Convenience and Necessity for the communities and in the case of Milverton and Prince Township, Union already has existing franchise agreements in place. For the two remaining communities identified in Union's application, Union informed the OEB that it was in the process of obtaining the necessary permits under the Indian Act and had the support of the Kettle and Stony Point and Moraviantown leadership. Since Union already holds a certificate for each of the communities in question, Union was of the opinion that the OEB's decision on community expansion is not applicable to its pending application.

Union further noted that it had filed its original application almost a year before EPCOR submitted the unrelated South Bruce franchise applications. Union submitted that since it was legally entitled to serve the communities through its Certificate, it was unfair to both Union and the communities that Union's application should be put on hold again until a decision on phase one of the EPCOR Application is rendered.

The OEB has already found in its community expansion decision that franchise agreements and Certificates of Public Convenience and Necessity are not exclusive. The Municipal Franchises Act does not appear to prevent the Board from issuing multiple Certificates for the same municipality. Union's suggestion that it is legally entitled to serve the communities through its Certificate and the OEB should therefore not entertain interest from other parties that may want to provide service in these communities, is inconsistent with this finding.

Regarding Union's claim that the OEB is somehow giving preference to EPCOR's application, the OEB reminds Union that it is now an equal party in the South Bruce application, as Union will be competing for the South Bruce franchise with EPCOR.

The OEB has determined that it will consider interest from other parties that wish to serve the four communities identified by Union's application. However, any party that wishes to express an interest in serving the areas identified by Union must demonstrate that it has already explored the opportunity to provide service in these communities and is in a position to file complete applications. This is not an opportunity to begin to explore potential service to these communities.

In its letter dated March 3, 2017, the OEB noted that in Procedural Order No. 2 issued in the EPCOR Southern Bruce proceeding, there were a number of preliminary threshold issues that would benefit from the submissions of parties. Several of these threshold issues will apply to Union's EB-2015-0179 application, even if there is no expression of interest from other parties. For example, threshold issues 2, 3 and 6 noted in Procedural Order No. 2 dated March 3, 2017 (EB-2016-0137/38/39) could also apply to community expansion applications that have only one proponent. The OEB expects that Union will satisfy any findings from the OEB related to these threshold issues in its updated evidence.

IT IS ORDERED THAT:

1. Any party that wishes to express an interest in serving the communities identified by Union in its application (Town of Milverton, the Chippewas of Kettle and Stony Point First Nation and Lambton Shores, Prince Township and the Delaware Nation of Moraviantown First Nation) shall advise the OEB and all parties to this proceeding and the generic proceeding (EB-2016-0004) by March 28, 2016. Any responding party must indicate the date it would be ready to file complete applications to provide gas distribution services in the communities, and briefly describe the work already undertaken by the party that would support its applications.

All filings to the OEB must quote the file number, EB-2015-0179 and be made electronically in searchable / unrestricted PDF format through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two

paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS

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

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, March 21, 2017

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary