



# Ontario Energy Board Commission de l'énergie de l'Ontario

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## DECISION AND ORDER ON COST AWARDS

**EB-2016-0186**

### UNION GAS LIMITED

Application for approval to construct a natural gas pipeline in the Township of Dawn Euphemia, the Township of St. Clair and the Municipality of Chatham-Kent and approval to recover the costs of the pipeline.

**BEFORE: Allison Duff**  
Presiding Member

**Cathy Spoel**  
Member

**Paul Pastirik**  
Member

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**April 19, 2017**

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## INTRODUCTION AND SUMMARY

Union Gas Limited (Union) filed an application with the Ontario Energy Board (OEB) on June 10, 2016 for:

1. leave to construct 40 kilometres of 36 inch diameter pipeline from Union's Dawn Compressor Station in the Township of Dawn-Euphemia to its Dover Transmission Station in the Municipality of Chatham-Kent (the Project) pursuant to section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (Act)
2. approval of the recovery of costs associated with the construction of the Project pursuant to section 36 of the Act
3. approval to calculate the Project's revenue requirement and resulting rates based on a 20 year depreciation term
4. approval of an accounting order to establish a Panhandle Reinforcement Deferral Account pursuant to section 36 of the Act

The OEB granted the following parties intervenor status and cost award eligibility:

- Association of Power Producers of Ontario (APPrO)
- Building Owners and Managers Association, Greater Toronto (BOMA)
- Canadian Association of Energy and Pipeline Landowners Associations (CAEPLA-PLC)<sup>1</sup>
- Canadian Manufacturers and Exporters (CME)
- Consumers Council of Canada (CCC)
- Federation of Rental-housing Providers of Ontario (FRPO)
- Industrial Gas Users Association (IGUA)
- London Property Management Association (LPMA)
- Ontario Greenhouse Vegetable Growers (OGVG)
- School Energy Coalition (SEC)
- Vulnerable Energy Consumers Coalition (VECC)

On February 23, 2017, the OEB issued its Decision and Order, in which it set out the process for intervenors to file their cost claims, for Union to object to the claims and for intervenors to respond to any objection raised by Union.

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<sup>1</sup> CAEPLA-PLC was an active intervenor in this proceeding until it withdrew on December 2, 2016 as an intervenor following a comprehensive settlement agreement with Union. CAEPLA-PLC did not file cost claim for any participation in the proceeding prior to its withdrawal.

The OEB received cost claims from APPrO, BOMA, CME, CCC, FRPO, IGUA, LPMA, OGVG, SEC and VECC. On March 24, 2017, Union filed a response to the cost claims and noted that it had no specific concerns with the cost claims with the exception of FRPO. Union noted that the process as defined by the OEB in Procedural Order No. 1 dated August 11, 2016 and Procedural Order No. 2 dated September 26, 2016 was not followed by FRPO. Union further noted that FRPO never advised the OEB whether it would be filing expert evidence or the scope of any evidence, nor did it identify the costs associated with their expert to allow the OEB to provide guidance on cost eligibility. Union also noted that FRPO did not file any evidence to assist the OEB.

In its response to Union's objections, FRPO determined that it could not generate expert evidence on viability of alternatives because an evaluation and test of viable infrastructure and non-infrastructure solutions required data from Union that was not available.

FRPO explained that Ms. Cheung was retained to assist with discovery and an assessment of whether expert evidence could be prepared that would demonstrate the viability of alternative approaches to meet additional demand on the Panhandle system.

FRPO argued that it was a lead intervenor on technical matters associated with system capabilities and the feasibility of alternatives and acted responsibly and in the public interest. FRPO submitted that therefore it was not appropriate to compare its claim with claims of other parties which had lower levels of involvement in the proceeding.

## Findings

The OEB has reviewed all cost claims to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*.

The panel will approve the filed cost claims with one exception. The panel has decided to reduce the number of hours FRPO spent on preparing for the Motion (51 hours in the "Other Conference" category) to 36 hours.

The OEB finds the number of hours claimed by FRPO to prepare the Motion and the Motion hearing to be excessive. The Motion requested Union answer two questions, questions that had already been asked during the Technical Conference. The Motion requested that the OEB direct Union to provide answers to those questions. Filing a motion is a common, well-defined procedural option in OEB hearings, known to an intervenor with 29 years of relevant experience. The OEB reduces the 51 hours claimed at a rate of \$330 per hour to 36 hours.

The OEB found the answers provided as a result of the Motion's approval changed the course of the proceeding. This reduction in hours awarded should not be regarded critically as an indication of FRPO's work or effort. In fact, the OEB found FRPO's participation in the proceeding overall to be very useful in identifying possible supply alternatives that could be considered as Ontario's natural gas industry evolves.

The OEB approves the billed hours of Ms. Cheung included in FRPO's cost claim. The OEB disagrees with Union's objections to Ms. Cheung's involvement and participation in the proceeding. Ms. Cheung was hired as a consultant to FRPO and the OEB does not find it excessive for an intervenor to hire two consultants for a case of this size and complexity. The OEB acknowledges that Ms. Cheung has appeared before the OEB to provide expert evidence and testimony in prior OEB proceedings, yet was retained as a consultant in this proceeding.

The claim of BOMA requires a minor reduction due to extra 10% reimbursement charge on courier receipt.

The claim of CME requires a minor reduction to comply with the government's *Travel, Meal and Hospitality Expenses Directive*.

The claim of IGUA requires a minor reduction due to missing courier receipt.

The claim of APPrO requires a reduction of \$192.10. Ms. Ferguson claimed 21.6 hours. According to the OEB's calculation, the total number of hours is 20.98 hours. Ms. Ferguson's total hours are reduced by 0.62 hours (\$119.10 which includes HST). Mr. McGillvray claimed 9.7 hours. According to the OEB's calculation, the total number of hours is 9.32 hours. McGillvray's total number of hours is reduced by 0.38 hours (\$73 which includes HST).

The OEB finds that the claims of CCC, LPMA, OGVG, SEC and VECC and the adjusted claims of APPrO, BOMA, CME, IGUA and FRPO are reasonable and each of these claims shall be reimbursed by Union.

#### **THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union shall immediately pay the following amounts to the intervenors for their costs:

- Association of Power Producers of Ontario \$45,269.41

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• Building Owners and Managers Association, Greater Toronto	\$23,734.53
• Canadian Manufacturers and Exporters	\$13,339.95
• Consumers Council of Canada	\$ 5,966.40
• Federation of Rental-housing Providers of Ontario	\$89,228.43
• Industrial Gas Users Association	\$43,350.75
• London Property Management Association	\$17,259.11
• Ontario Greenhouse Vegetable Growers	\$20,546.79
• School Energy Coalition	\$16,962.43
• Vulnerable Energy Consumers Coalition	\$23,906.63

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

**DATED** at Toronto April 19, 2017

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary