

BY COURIER & RESS

June 13, 2017

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Suite 2700, 2300 Yonge Street  
Toronto, Ontario  
M4P 1E4

**RE: EB-2015-0179 – Union Gas Limited (“Union”) – Updated Community Expansion Proposal – Argument in Chief**

Dear Ms. Walli,

Pursuant to Procedural Order No. 9, please find enclosed Union’s Argument in Chief in the above-noted proceeding. It will be filed in RESS and copies will be sent to the Ontario Energy Board (“the Board”).

If you have any questions with respect to this submission please contact me at 519-436-5473.

Yours truly,

*[Original signed by]*

Karen Hockin  
Manager, Regulatory Initiatives

Encl.

cc: C. Keizer, Torys  
EB-2015-0179 Intervenors

## ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Schedule B), and in particular S. 36 thereof;

**AND IN THE MATTER OF** the Ontario Energy Board Act, 1998, c.15, Schedule B, and in particular S. 90 thereof;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an Order or Orders for approval of Union's Distribution System Expansion Project proposals;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities required to serve the communities of Milverton, Prince Township and, the Chippewas of Kettle and Stony Point First Nation and Lambton Shores.

### ARGUMENT IN CHIEF OF UNION GAS LIMITED

#### Overview

1. This is the Argument in Chief of Union Gas Limited ("Union") related to its expansion of natural gas distribution services to four communities for which rate and leave to construct approval is required. Through this application, Union requests certain relief arising from its Updated Community Expansion proposal<sup>1</sup>, as described in greater detail below.

2. ***Context for the application:*** Union filed its original EB-2015-0179 application and evidence with the Ontario Energy Board ("the Board") on July 23, 2015. Following interrogatories and a technical conference, the Board in a letter dated January 20, 2016 informed parties that it intended to proceed with a generic hearing (EB-2016-0004) on its own motion as

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<sup>1</sup> EB-2015-0179 Updated Application and Evidence dated March 31, 2017

the issues raised by parties in EB-2015-0179 were common to all gas distributors and new entrants seeking to provide gas distribution service to unserved communities. The Board also made a determination that Union's EB-2015-0179 application would be put on hold until the completion of EB-2016-0004.

3. In response to the Board's direction<sup>2</sup> Union filed its EB-2016-0004 evidence in March 2016. Following a lengthy procedural process, the Board issued its Generic Community Expansion Decision on November 17, 2016 (the "EB-2016-0004 Decision").

4. In the EB-2016-0004 Decision, the Board found that rates applicable to an expansion of natural gas services to a community would be stand-alone and designed to cover the cost of the proposed expansion such that a proposed expansion would be self-financing and the existing customers will be held harmless.<sup>3</sup> As a result, Union modified its original EB-2015-0179 Community Expansion application and on March 31, 2017 filed an updated application and evidence (the "Addendum"). In addition to including a new rate treatment, the scope was more focused than the original application with only four communities being the subject of expansion. As stated in evidence (Exhibit A, Tab 1, Addendum p. 2) and further discussed at Exhibit C.Staff.1, with stand-alone rates and other sources of direct funding, the number of economically feasible communities were "significantly reduced".

5. Union's updated proposal focuses on the following communities: i) Kettle and Stony Point First Nation/Lambton Shores; ii) Milverton, Rostock and Wartburg; iii) Delaware Nation of Moraviantown First Nation; and, iv) Prince Township (collectively the "Community Expansion Projects"). As part of the update to set a stand-alone rate, Union has proposed a rate surcharge structure specific to each of the expansion projects noted above.

6. In an effort to resolve any issues specific to Union's updated proposal, the Board convened a Settlement Conference on May 29, 2017. Parties involved were not able to settle. The Board determined the hearing in this matter would proceed as a written hearing, pursuant to the Board's Procedural Order No. 9 dated June 7, 2017.

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<sup>2</sup> EB-2016-0004 Procedural Order No. 2 dated March 9, 2016

<sup>3</sup> EB-2016-0004, p.19

7. **Requested relief:** Union seeks the following relief in connection with its updated Community Expansion Proposal, pursuant to the *Ontario Energy Board Act, 1998*:

- 1) Section 36 approval for a System Expansion Surcharge (“SES”) rate for each of the four Community Expansion Projects; and
- 2) Section 90 Leave to Construct (“LTC”) approvals for facilities required to serve the Kettle and Stony Point First Nation/Lambton Shores, Milverton and Prince Township project areas.

Pursuant to Procedural Order No. 9, although referenced, the LTC application to serve the area of Prince Township is not the focus of these submissions. However, it is Union’s understanding that the rate approval related to Union’s SES charge applicable to Prince Township will be determined in this proceeding and is a focus of these submissions. As noted, Union is planning to extend service to the Delaware Nation of Moraviantown First Nation community. Although this project does not require LTC approval, Union included detailed information for this project.

8. Union submits that its Community Expansion rate proposal for each Community Expansion Project is consistent with the findings issued as part of the Board’s EB-2016-0004 Decision and should be approved by the Board. Furthermore, the Community Expansion Projects each have a P.I. greater than 1.0, subject to the SES surcharge and satisfy all other aspects for a project that requires LTC. The Board should, in the public interest, approve the LTC facilities required to serve the Kettle and Stony Point First Nation/Lambton Shores and Milverton project areas.

9. **Organization of the argument:** The balance of the Argument in Chief is organized in accordance with the main topics identified in Union’s Updated EB-2015-0179 (Exhibit A, Tab 1 Addendum). The topics are as follows:

- A. Community Expansion Project Proposal
- B. Tracking and Reporting
- C. Government Funding
- D. Project Proposal Summary

## A. Community Expansion Project Proposal

### *System Expansion Surcharge*

10. Union's updated proposal includes a proposed SES designed to enable new general service customers in the expansion community to financially contribute to the economic feasibility of each project by funding the costs which exceed amounts funded from existing rates. Stand-alone rates result in self-financing projects over the 40-year term of the economic analysis. In the EB-2016-0004 Decision the Board indicated that "There is no need to modify the parameters or depart from the principles embodied in E.B.O. 188<sup>4</sup>". E.B.O. 188 requires the use of a discounted cash flow analysis ("DCF") to demonstrate that a project meets the minimum required P.I. over the period of the DCF. Each of the four Community Expansion Projects meets this requirement with a minimum P.I. of 1.0 over a 40 year period. A project P.I. of 1.0 indicates that the project is self-financing and that existing customers will not incur a rate increase over the long term as a result of the project<sup>5</sup>.

11. As detailed at Exhibit C.Staff.3, customers served by the four Community Expansion Projects will pay a consistent SES amount of \$0.23/m<sup>3</sup> for a defined term not to exceed 40 years as a contribution toward recovery of the cost of the project. Once established, this SES amount will not change throughout the entire term in which it applies. Union believes that this approach meets the Board requirement for "*a minimum rate stability period of 10 years (for example)*"<sup>6</sup>.

12. The SES term will begin when the project goes into service, and expire at the end of the calendar year required for the specific project to meet a P.I. of 1.0. The SES term will vary from project to project based on the period of time required to reach the minimum P.I. of 1.0 for each project. For the most part the defined term of the SES for a specific project will not be extended by Union. However, the term may be reduced on receipt of incremental funding (i.e. municipal and government) as described below. During the 10 year forecast period underpinning customer attachments, any variance in SES revenue from that forecasted would be attributed to the utility and Union will ensure there is no risk for current ratepayers in that period.

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<sup>4</sup> EB-2016-0004 Decision with Reasons, p. 18.

<sup>5</sup> Exhibit C.Staff.3d)

<sup>6</sup> EB-2016-0004 Decision with Reasons, p. 20.

13. The proposed SES amount and term, together form the stand alone SES rate, and will apply to all general service customers (Rates M1, M2, 01 and 10) who attach to mains installed as part of the four Community Expansion Projects until the SES term for the project expires. Union's proposal does not include contract customers.<sup>7</sup> Union submits the proposed SES is consistent with the Board's view that "*An incumbent utility with existing rates may still propose to collect a surcharge over and above those rates to make up for the shortfall in revenues to cover the cost of expansion.*"<sup>8</sup>

14. To the extent there are any future extensions to the pipeline systems to serve the project areas, the SES applicable to the proposed project would be applied to customers attaching to those future extensions. As noted at Exhibit C.Staff.3 f) and further reiterated in Union's "Settlement Status" letter to the Board dated June 6, 2017 (the "Settlement Status Letter"), the term for future extension customers may be extended beyond the initial term if necessary for the future extension to meet the minimum P.I. of 1.0. If an SES term of the extension is greater than the remaining term for the area the project is being connected to, Union would apply to the Board for a new SES term for the extension project.

15. In addition to the SES, Union's updated proposal also includes the possibility of a voluntary financial contribution from the applicable municipality or First Nation for each project. Such voluntary contributions are included in the project economics. To the extent a municipality or First Nation makes an up-front financial contribution, Union proposes to treat this as an Aid-to-Construct whereas ongoing financial support to a project in the form of an annual payment for an agreed upon term will be treated as an offset to the annual cost of owning and operating the assets<sup>9</sup>.

#### *Community Expansion Projects*

16. As noted above, Union's Community Expansion proposal includes four projects to serve the communities of: Kettle and Stony Point First Nation/Lambton Shores; Milverton, Rostock and Wartburg; Delaware Nation of Moraviantown First Nation; and, Prince Township. Union is

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<sup>7</sup> Exhibit C.CCC.3

<sup>8</sup> EB-2016-0004 Decision, p. 21

<sup>9</sup> Settlement Status Letter dated June 6, 2017, Q7i, ii

proposing that the Board approve the SES amount and term for each of the communities as shown in the table below.

**Rate Approvals**

| <b>Project</b>   | <b>SES Rate</b>       | <b>SES Term Expiry<sup>10</sup></b> |
|--|-----------------------|-------------------------------------|
| Kettle and Stony Point First Nation and Lambton Shores | \$0.23/m <sup>3</sup> | December 31, 2029                   |
| Milverton, Rostock and Wartburg                        | \$0.23/m <sup>3</sup> | December 31, 2032                   |
| Delaware Nation of Moraviantown First Nation           | \$0.23/m <sup>3</sup> | December 31, 2057                   |
| Prince Township  | \$0.23/m <sup>3</sup> | December 31, 2039                   |

**B. Tracking and Reporting**

17. As described at Exhibit A, Tab 1, Addendum, p.12, Union will track the four Community Expansion Projects on a project-by-project basis. As part of Union’s annual stakeholder meeting, Union will provide a report, by project, which outlines the following:

- Budgeted and actual capital costs, both at a gross level, and net of any Aid-to-Construct, as at the date the project is in-service, and
- Cumulative forecasted customer and actual customer attachment rates for the duration of the forecast (10 years).

18. In its original EB-2015-0179 proposal Union proposed more extensive reporting. However, given that proposals for a capital pass-through and deferral accounts were withdrawn as a result of the EB-2016-0004 Decision, more extensive reporting is no longer required.

**C. Government Funding**

19. Union submits that its position on Natural Gas Grant Program (“NGGP”) funding is that to the extent NGGP funding is available for any of the four Community Expansion Projects, the funding will be first used to reduce any necessary Aid-to-Construct for the project, and any

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<sup>10</sup> SES Term Expiry dates are contingent on projects being constructed in 2017.

residual grant funding would be used to reduce the SES term. Union submits that should funding be made available for any of the projects, this would result in either less Aid-to-Construct being required or a reduced SES term. In both cases the impact to the project area customers is “either neutral or beneficial”.<sup>11</sup>

**D. Project Proposal Summary**

20. Union’s Community Expansion proposal includes four projects to service the following communities:

- i. Kettle and Stony Point First Nation and Lambton Shores (Tab 2, Section A Updated)
- ii. Milverton, Rostock and Wartburg (Tab 2, Section B Updated)
- iii. Delaware Nation of Moraviantown First Nation (Tab 2, Section C Updated)
- iv. Prince Township (Tab 2, Section D Updated)

21. i) **Lambton Shores and Kettle and Stony Point First Nations Project:** Kettle Point, Ontario is the home of the Chippewas of Kettle and Stony Point First Nation, located along the southern shores of Lake Huron and approximately 35 km east of Sarnia. The First Nation Community also borders the Municipality of Lambton Shores. There is a mix of Band-owned commercial and residential properties within the Community.

22. Lambton Shores, Ontario is a municipality in Lambton County that was established when the Towns of Bosanquet and Forest, and the villages of Thedford, Arkona, and Grand Bend amalgamated in 2001. Lambton Shores has an area of approximately 331 square kilometers and a total population of approximately 10,650. The area of Lambton Shores that is proposed to receive natural gas service is the Ipperwash Beach area which is a combination of year-round and seasonal homes.

23. A map showing the proposed facilities from a starting point on Union’s system to Kettle Point and Ipperwash Beach can be found at Exhibit A, Tab 2, Section, A Schedule 1, Updated.

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<sup>11</sup> Exhibit C.CPA.5

24. ii) **Milverton Project**: The project area includes the communities of Milverton, Rostock, and Wartburg as well as the residents and businesses between Sebringville and Milverton. The community of Milverton is located in southwestern Ontario, in the County of Perth, approximately 27 kilometres north of the City of Stratford and 43 kilometres west of Kitchener-Waterloo. According to the 2011 census, Milverton has a population of 1,519.

25. A map showing the proposed facilities from a starting point on Union's Goderich pipeline system to the town of Milverton and surrounding area can be found at Exhibit A, Tab 2, Section B, Schedule 1, Updated.

26. iii) **Moraviantown Project**: Delaware Nation of Moraviantown is a First Nation community located along the Thames River near Thamesville, Ontario covering an area of approximately 13 square kilometers. Moraviantown is inhabited by the Lenape (Lunaapeew) People of the Delaware First Nation. This project does not require a LTC approval. However Union has provided information about this project to the Board as Union is seeking an order from the Board related to Section 36 as described earlier.

27. This project is contingent upon approval of a grant from the province or the payment of an Aid-to-Construct from another party

28. A map showing the location of the Delaware Nation of Moraviantown can be found at Exhibit A, Tab 2, Section C, Schedule 1, Updated.

29. iv) **Prince Township Project**: Prince Township is located to the west and north of the City of Sault Ste. Marie. The Township is on the shores of Lake Superior and the St. Mary's River. The Township has 455 residential dwellings and a population of 1010. The Township has several farms, and a significant amount of forested areas. The largest number of residents can be found in Gross Cap, which is located at the extreme west end of Second Line. As noted earlier in this submission, Union has applied for LTC approval for facilities required to serve the Township and is providing this information for completeness, subject to the separate process related to consultation for this project per the Board's Procedural Order No. 9.

30. A map showing the location of Prince Township can be found at Exhibit A, Tab 2, Section D, Schedule 1, Updated.

31. **Public Interest:** There is demonstrated need for each of the proposed Community Expansion Projects and the projects are in the public interest. As evidenced by the numerous letters of support filed by municipalities and Indigenous communities<sup>12</sup>, the residents in the project areas have been asking for access to the natural gas as an energy option for more than two years. They have identified the value and opportunity they see for growth and development in their communities once they have access to natural gas as a reliable, affordable and stable energy source.

32. The Board has also recognized there are significant potential energy savings for these customers if gas is expanded into their areas. The Board notes significant savings in their EB-2016-0004 Decision stating “*The potential savings to the residents of the proposed expansion areas that would result from using natural gas for home heating are substantial.*”<sup>13</sup> And, “*Even with no subsidy at all there are substantial savings over a 40-year period.*”<sup>14</sup>

33. **The Community Expansion Projects are economic:** The capital costs of each of the projects, the projected total attachments and the results of the DCF analysis for each of the projects were summarized in Table 3 at p.15 of the Addendum, as inserted below. With the SES charge for a term specified by project, each project meets a minimum P.I. of 1.0.

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<sup>12</sup> EB-2015-0179 Exhibit A, Tab 2, Section A, B, D, Schedule 3, Exhibit B.CCC.10.

<sup>13</sup> EB-2016-0004 Decision, p.17

<sup>14</sup> EB-2016-0004 Decision, p. 18

**Proposed Community Expansion Projects**

| <b>Project</b>                                 | <b>Maximum Potential Customers</b> | <b>Forecast Customers</b> | <b>Gross Capital</b> | <b>Aid to Construction</b> | <b>Net Capital</b> | <b>SES Term (Years)</b> | <b>P.I.</b> |
|--|------------------------------------|---------------------------|----------------------|----------------------------|--------------------|-------------------------|-------------|
| Kettle and Stony Point F.N. and Lambton Shores | 512                                | 364                       | \$2.10               | \$0.00                     | \$2.10             | 12                      | 1.03        |
| Milverton, Rostock, Wartburg                   | 961                                | 739                       | \$5.98               | \$0.00                     | \$5.98             | 15                      | 1.01        |
| Delaware Nation of Moraviantown                | 71                                 | 38                        | \$0.56               | \$0.31                     | \$0.25             | 40                      | 1.00        |
| Prince Township                                | 395                                | 291                       | \$2.72               | \$0.00                     | \$2.72             | 22                      | 1.00        |
| <b>TOTAL</b>                                   | <b>1,939</b>                       | <b>1,432</b>              | <b>\$11.36</b>       | <b>\$0.31</b>              | <b>\$11.05</b>     |                         |             |

(Note: All dollars are in millions.)

34. ***Community Expansion Project Facility Requirements*** : Union holds a Certificate of Public Convenience and Necessity for each of the project areas, existing Franchise Agreements for Lambton Shores, Milverton and Prince Township and, is in the process of obtaining necessary permits under the *Indian Act*<sup>15</sup> for Kettle and Stony Point First Nation and Delaware Nation of Moraviantown First Nation. Union has the support of the Kettle and Stony Point and Moraviantown First Nations' leadership. Union is prepared to initiate construction of the four Community Expansion Projects in August 2017 in order to have the projects in service before the end of 2017. To meet this timeline, Union is requesting the Board issue a Decision by June 30, 2017.<sup>16</sup>

35. Details for each of the four Community Expansion Projects are filed in Exhibit A, Tab 2, Updated. The information provided includes market profile and customer attachment forecast; project costs and economic feasibility; design and construction; environmental and land matters; and, Indigenous and Métis consultation. There were limited interrogatories on these issues.

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<sup>15</sup> *Indian Act* Section 28(2) Permit

<sup>16</sup> Exhibit C.Staff.19

36. As stated in evidence, design and pipe specifications utilized for each of the proposed projects will be in accordance with applicable government regulations.<sup>17</sup> In addition, Union will use its standard construction practices and procedures to construct the proposed facilities.

37. As noted in the Exhibit A, Tab 2, Updated evidence, an update to the original Environmental Protection Plan (“EPP”) was completed for each of the four Community Expansion Projects. Similar to the original EPP, the update concluded that with the implementation of the recommendations in the EPP, on-going consultation and adherence to permit, regulatory and legislative requirements, any residual potential adverse environmental and socio-economic effects of the projects are not anticipated to be significant.

38. Union’s standard environmental inspection program will also be used to ensure that the recommendations in the EPP are followed and that all activities comply with whatever Conditions of Approval are mandated by the Board.

39. With respect to land matters, as stated at Exhibit C.Staff.21 land acquisition is not an issue for the four Community Expansion Projects. In fact, there are no land rights required for the Prince Township and Moraviantown projects. For the Kettle and Stony Point/Lambton Shores project, Union has acquired in fee simple a small property for a proposed station. For the Milverton project, Union has an agreement in principle for the purchase of the fee simple rights for proposed station facilities. In addition, there are no locations along the proposed pipeline routes for each of the four Community Expansion Projects that require permanent easement rights.

40. Union has a longstanding practice of consulting with Métis and First Nations and has programs in place whereby Union works with Métis and First Nations to ensure that they are aware of Union’s projects and have the opportunity to participate in both the planning and construction phases of facility projects. While the projects were initiated under the 2011 version of the Environmental Guidelines, Union has conducted its Indigenous Consultation efforts to comply with the intent of the 2016 guidelines.<sup>18</sup>

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<sup>17</sup> EB-2015-0179 Exhibit A, Tab 2 Updated

<sup>18</sup> Exhibit C.Staff.17 a)

41. Batchewana First Nation of Ojibways (“Batchewana”) has raised an issue that is specific to the proposed Prince Township LTC and is being dealt with in a parallel process in this proceeding.<sup>19</sup> This issue has no impact on the other proposed projects or the Section 36 rate surcharge proposal for Prince Township. Per the Board’s P.O. No. 9, it will be excluded from this submission.

42. In addition to the consultation efforts to date between Union and Batchewana (see Exhibit C.Staff.17), Union remains committed to ongoing discussions with Batchewana and is optimistic a timely resolution can be attained that is satisfactory to Union, Batchewana and the Board.

43. Union submits that the Board’s standard Conditions of Approval should apply to the proposed projects.

**Conclusion**

44. Union submits its updated EB-2015-0179 proposal to support the expansion of natural gas service to remote areas is aligned with the intent of the Board’s EB-2016-0004 Decision. The terms of the proposed SES are appropriate to ensure expansion projects meet the financial parameters as outlined in EB-2016-0004. Union maintains the expansion of natural gas infrastructure to these areas will create benefits not only for customers who choose to convert to natural gas but to the community itself, as a whole.

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45. Union therefore respectfully requests that the relief it seeks in this application be granted.

**All of which is respectfully submitted this 13<sup>th</sup> day of June, 2017**

*(Original signed by)*

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Charles Keizer  
Torys LLP  
Legal counsel for Union Gas Limited

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<sup>19</sup> EB-2015-0179 Application for Intervenor Status by Batchewana First Nation dated May 18, 2017; Exhibit C.Staff.17