



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

---

## DECISION AND ORDER

EB-2018-0003

### UNION GAS LIMITED

Oxford Reinforcement Project

**BEFORE:**        Emad Elsayed  
                      Presiding Member

---

May 17, 2018

## 1 INTRODUCTION

On January 16, 2018, Union Gas Limited (Union) applied to the Ontario Energy Board (OEB) under s. 90(1) of the *Ontario Energy Board Act, 1998* (OEB Act) for an order granting leave to construct approximately 5.2 kilometres of Nominal Pipe Size (NPS) 8 inch extra-high pressure (XHP) steel natural gas pipeline in the Counties of Oxford and Norfolk (Oxford Reinforcement Project or Project). The purpose of this Project is the reinforcement of Union's Eastern Transmission System.

A map of the Project location is attached as Schedule A to this Decision and Order.

Construction of the Project is scheduled to start in the beginning of summer 2018 in order to meet an in-service date of November 1, 2018.

For the reasons set out below, the OEB finds that the construction of the Project is in the public interest. The OEB grants Union leave to construct the Project, subject to the Conditions of Approval attached as Schedule B to this Decision and Order (Conditions of Approval).

## 2 THE PROCESS

The OEB issued a Notice of Hearing (Notice) on February 7, 2018. Union served and published the Notice as directed. No one requested intervenor status. The OEB proceeded by way of a written hearing. In accordance with the procedural order issued on March 22, 2018, the interrogatory phase was completed on April 19, 2018. OEB staff filed a written submission on May 3, 2018 in support of Union's application. In its submission, OEB staff provided its recommended Conditions of Approval. Union filed its reply submission on May 8, 2016 confirming its acceptance of the Conditions of Approval proposed by OEB staff.

### 3 THE PUBLIC INTEREST TEST

This is an application under section 90 of the OEB Act seeking an order for leave to construct a natural gas pipeline. Section 96 of the OEB Act provides that the OEB shall make an order granting leave if the OEB finds that “the construction, expansion or reinforcement of the proposed work is in the public interest”. When determining whether a project is in the public interest, the OEB typically examines the need for the project, the project cost and economics, the environmental impacts (including consultation with potentially affected parties, and compliance with technical and safety requirements), Aboriginal consultation, and impacts on landowners. Each of these issues is addressed below.

## 4 NEED FOR THE PROJECT

The need for the Oxford Reinforcement Project is driven by market growth in the counties of Oxford, Norfolk, Brant and Haldimand. The gas supply for these counties is provided by Union's Eastern Transmission System. Residential customers in these counties are forecasted to increase by 4,718 attachments between 2018 and 2024. Over this same period, commercial customers are forecasted to increase by 350 attachments and industrial customers are forecasted to increase by 42 attachments.

Union performed and filed a computer simulation of the Eastern Transmission System for Winter 2018/2019 using the forecasted market demand. The results demonstrate that the system in its current state (i.e., in the absence of the Oxford Reinforcement Project) is forecasted to be fully utilized with no excess capacity available as of 2018.

Union filed a report titled *System Design Criteria for Reinforcement on the Eastern Transmission Gas Delivery System* that documents Union's efforts to identify and evaluate alternative solutions to meet the forecasted demand.

### Findings

The OEB accepts Union's market growth forecast, and finds that Union reviewed a reasonable range of alternatives and considered the advantages and disadvantages of each. The OEB finds that the Oxford Reinforcement Project is needed to supply gas to the counties of Oxford, Norfolk, Brant and Haldimand.

## 5 PROJECT COST AND ECONOMICS

The estimated capital cost of the Oxford Reinforcement Project is \$7.4 million. Union calculated the economic feasibility of the Project by discounting the estimated incremental cash flows over a 40-year time horizon by the costs associated with the forecasted customer additions. Union determined the profitability index (PI) to be 0.85. Including the proposed Oxford Reinforcement Project in Union's rolling portfolio results in a PI of 1.15.

### Findings

The OEB finds that economic feasibility of the Oxford Reinforcement Project meets the requirements of the OEB's guidelines for assessing and reporting on natural gas system expansion in Ontario.<sup>1</sup>

---

<sup>1</sup> E.B.O. 188, Final Report of the Board, January 30, 1998.

## 6 ENVIRONMENTAL ASSESSMENT

Union followed the OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario, 2016* (OEB Environmental Guidelines) to assess the environmental impact of the Project. The environmental assessment, with proposed mitigation measures, was documented in an initial Environmental Report (ER) and subsequent addendum – both of which were completed by Neegan Burnside Ltd. on behalf of Union.

### 6.1 Consultation with Affected Parties

As part of the project planning, environmental assessment and route selection process, Union conducted public and agency engagement as well as consultation with potentially affected First Nations and Métis communities (the OEB will address consultation with Indigenous communities in section 7 of this Decision). The engagement included newspaper notices, written communication, and a public information session. In October 2015, Union held a public information session in the study area to consult potentially affected parties. The engagement informed the stakeholders about the Project and sought comments so that concerns and issues could be addressed and resolved.

Copies of the ER and addendum were submitted to the Ontario Pipeline Coordination Committee (OPCC), the Long Point Region Conservation Authority, Oxford County, Norfolk County, relevant federal agencies, potentially affected First Nations and the Métis Nation of Ontario. There were no outstanding issues or concerns that were raised during the review of the ER and addendum.

### 6.2 Adherence with Technical and Safety Requirements

Union's evidence is that the Project meets current design and safety requirements in accordance with Ontario Regulation 210/01, Oil and Gas Pipeline Systems under the *Technical Standards and Safety Act, 2000* and the Canadian Standards Association Z662-15 Standard (CSA Z662-15).

The provincial authority overseeing pipeline technical and safety requirements is the Technical Standards and Safety Authority (TSSA). The TSSA is a member of the OPCC. The TSSA did not express any concerns with the proposed pipeline design safety.

## Findings

The OEB finds that Union will adequately address the environmental issues by implementing the mitigation recommendations identified in the ER and the recommendations made in the OPCC review, as well as by adhering to the Conditions of Approval for this Decision and Order relating to mitigation and construction monitoring and reporting (addressed in section 9 of this Decision and Order).

The OEB finds that Union has adequately engaged with potentially affected parties, and there do not appear to be any outstanding concerns.

The OEB finds that Union has provided adequate evidence to confirm that the proposed facilities have been designed in accordance with current technical and safety requirements.

## 7 ABORIGINAL CONSULTATION

In a letter dated August 29, 2017, Union contacted the Ministry of Energy (MOE) with respect to the Crown's duty to consult. Union received a letter from the MOE dated October 20, 2017, indicating that the procedural aspects of the duty to consult were delegated to Union.

Union prepared an Indigenous Consultation Report (ICR) and filed the ICR with the MOE. In a letter dated March 19, 2018, the MOE stated that the procedural aspects undertaken by Union to date were satisfactory for the purposes of Union's application to the OEB.

Union noted that during construction, it will have inspectors in the field who will be available to First Nations and Métis communities as a primary contact to discuss and review any issues that may arise during construction.

### Findings

The OEB finds that the procedural aspects of the Crown's duty to consult have been met for the purposes this application. The OEB expects Union to continue to consult proactively with affected First Nations and Métis communities, as appropriate, throughout the construction phase of the Project to address any concerns that may arise.

## 8 LAND MATTERS

The proposed pipeline route is located along road allowances on and between Lot 1, Concession 12 (Norwich) in Oxford County; and, Lots 45 and 48, Concession 2 North Talbot Road East (Middleton); Lots 188 and 189, Talbot Road East North Side (Middleton); Lots 21, 22, 23, and 24, Concession 10 (Windham); and Lots 21, 22, 23, and 24, Concession 11 (Windham) in Norfolk County. Union holds municipal franchise agreements (MFAs) with Oxford County and Norfolk County.

Union has signed Option Agreements for two fee simple land right purchases required for the tie-in facilities to existing pipelines at both ends of the new pipeline. No permanent easement requirements are anticipated. Union has signed Option Agreements for seven out of the eight temporary easements required for material and equipment staging areas. The eighth landowner has agreed to sign a temporary easement; however, the agreement has yet to be finalized.

### Findings

Section 97 of the OEB Act requires Union to satisfy the OEB that it has offered or will offer to each owner of land affected by the pipeline route an agreement in a form approved by the OEB. The form of agreement was provided in evidence.<sup>2</sup> The OEB approves the form of easement agreement filed by Union. The OEB notes that this form of easement agreement is the same as the form that the OEB approved in Union's Panhandle Reinforcement Project.<sup>3</sup>

The OEB has no concerns regarding landowner matters. The OEB notes that conditions 6a) ii-iv and 6b) v. of this Decision and Order require post-construction reports that demonstrate and describe how routing and construction matters and issues were monitored, addressed, and resolved.

---

<sup>2</sup> Union's response to OEB staff IR 3, EB-2018-0003

<sup>3</sup> EB-2016-0186

## 9 STANDARD CONDITIONS OF APPROVAL

OEB staff asked Union to comment on the OEB's standard leave to construct conditions of approval. Union noted that Condition 5, as currently worded, would require that Union submit a post construction financial report at its next rebasing.<sup>4</sup> As Union's next rebasing may be deferred to as late as 2028 as a result of its potential amalgamation with Enbridge Gas Distribution Inc. (Enbridge), Union suggested that the post construction financial report be filed at the same time as the final environmental monitoring report.<sup>5</sup>

OEB staff agreed that a revision to Condition 5 is advisable, but noted that Union's suggestion presupposes that the OEB will approve Union's amalgamation with Enbridge and allow for an incremental capital mechanism in the subsequent rate regime.<sup>6</sup> OEB staff proposed a revised condition that would require Union to file its post construction financial report both,

- a) Concurrent with the final environmental monitoring report, and
- b) In the proceeding where the actual capital costs of the project are proposed to be included in rate base or any proceeding where Union proposes to start collecting revenues associated with the project - whichever is earlier.

In its May 8, 2018 reply submission, Union advised that it has no issues with Condition 5 being revised as proposed by OEB staff, and that it has no other concerns with the proposed conditions of approval and can accept the proposed conditions.

### Findings

The OEB agrees with Union and OEB staff that a revision to Condition 5 is advisable. The OEB will adopt the wording proposed by OEB staff. The approved Conditions of Approval are attached as Schedule B to this Decision and Order.

The OEB finds that Union's compliance with the Conditions of Approval will ensure that the requirements of other approvals, permits, licences, and certificates are fully addressed.

---

<sup>4</sup> Union's response to OEB staff IR 9, EB-2018-0003.

<sup>5</sup> Idid.

<sup>6</sup> OEB staff submission, EB-2018-0003.

## 10 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Union Gas Limited is granted leave, pursuant to subsection 90(1) of the OEB Act, to construct a section of approximately 5.2 kilometres of Nominal Pipe Size 8 inch extra-high pressure steel natural gas pipeline in the Counties of Oxford and Norfolk, as described in its application in this proceeding. Leave to construct is subject to Union Gas Limited complying with the Conditions of Approval set forth in Schedule B.
2. Union Gas Limited shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

**DATED** at Toronto May 17, 2018

**ONTARIO ENERGY BOARD**

*Original Signed By*

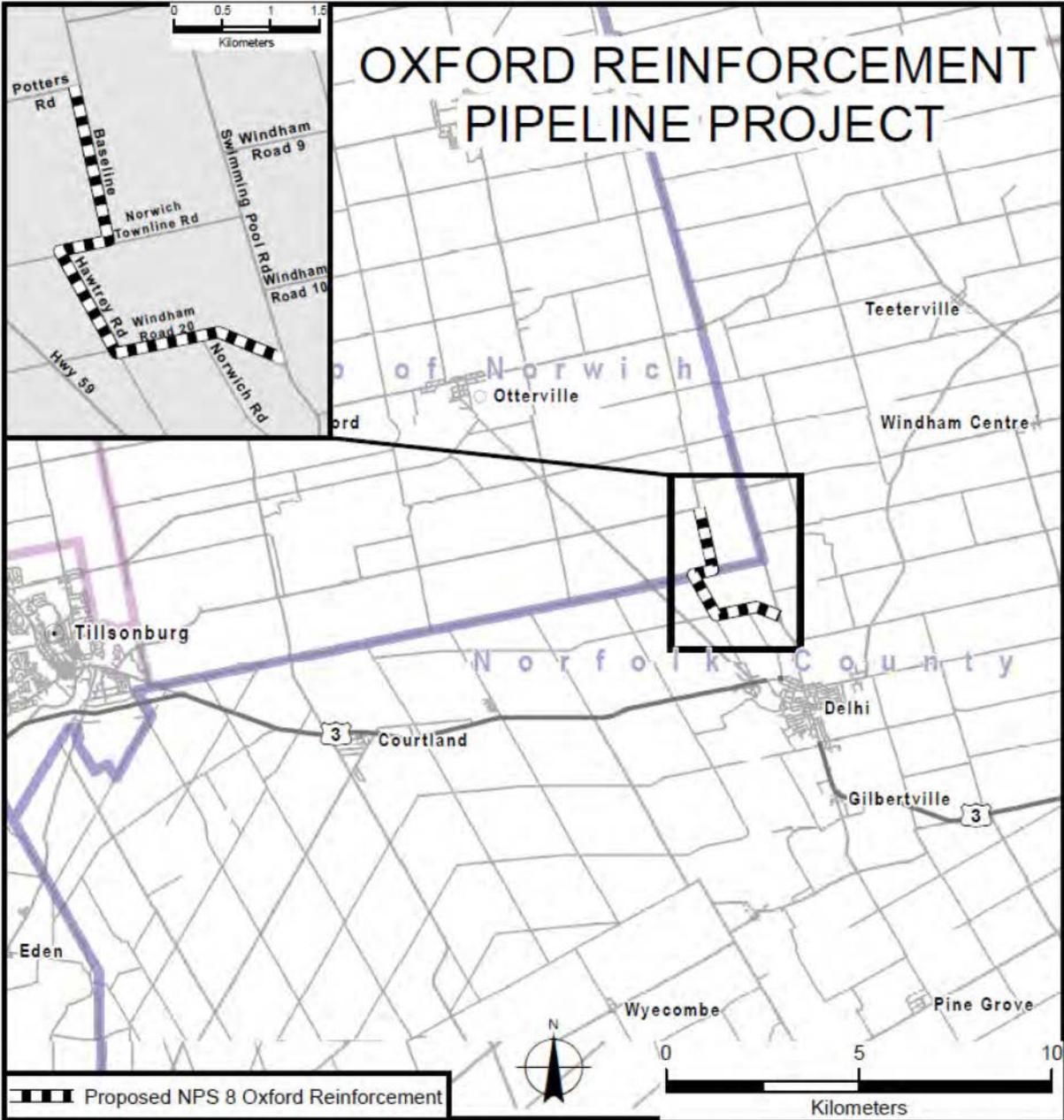
Kirsten Walli  
Board Secretary

**SCHEDULE A**

**MAP OF THE PROJECT LOCATION**

**Union Gas Limited**

**EB-2018-0003**



**SCHEDULE B**

**CONDITIONS OF APPROVAL**

**Union Gas Limited  
EB-2018-0003**

**Leave to Construct Conditions of Approval**  
**Application under Section 90 of the OEB Act**  
**Union Gas Limited**  
**EB-2018-0003**

1. Union Gas Limited (Union) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2018-0003 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 12 months after the decision is issued, unless construction has commenced prior to that date.  
  
(b) Union shall give the OEB notice in writing:
  - i. of the commencement of construction, at least ten days prior to the date construction commences;
  - ii. of the planned in-service date, at least ten days prior to the date the facilities go into service;
  - iii. of the date on which construction was completed, no later than 10 days following the completion of construction; and
  - iv. of the in-service date, no later than 10 days after the facilities go into service.
3. Union shall implement all the recommendations of the Environmental Report filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
4. Union shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Union shall not make any such change without prior notice to and written approval of the OEB. In the event of an emergency, the OEB shall be informed immediately after the fact.
5. Concurrent with the final monitoring report referred to in Condition 6(b), Union shall file a Post Construction Financial Report, which shall indicate the actual capital costs of the project and shall provide an explanation for any significant variances from the cost estimates filed in this proceeding. Union shall also file a copy of the Post Construction Financial Report in the proceeding where the actual capital costs of the project are proposed to be included in rate base or any proceeding where Union proposes to start collecting revenues associated with the project - whichever is earlier.

6. Both during and after construction, Union shall monitor the impacts of construction, and shall file with the OEB one paper copy and one electronic (searchable PDF) version of each of the following reports:
  - a) a post construction report, within three months of the in-service date, which shall:
    - i. provide a certification, by a senior executive of the company, of Union's adherence to Condition 1;
    - ii. describe any impacts and outstanding concerns identified during construction;
    - iii. describe the actions taken or planned to be taken to prevent or mitigate any identified impacts of construction;
    - iv. include a log of all complaints received by Union, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions; and
    - v. provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project.
  - b) a final monitoring report, no later than fifteen months after the in-service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:
    - i. provide a certification, by a senior executive of the company, of Union's adherence to Condition 3;
    - ii. describe the condition of any rehabilitated land;
    - iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts of construction;
    - iv. include the results of analyses and monitoring programs and any recommendations arising therefrom; and
    - v. include a log of all complaints received by Union, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions.