



**uniongas**

A Spectra Energy Company

May 15, 2009

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Certificate of Public Convenience and Necessity  
City of London  
Board File Number EB-2009-0068**

Further to the Board's direction, Union Gas offers its comments on the April 23, 2009 submission of Natural Resource Gas regarding the specifics of Union's Certificate application.

It appears that part of the confusion over Certificate rights is caused by (a) the Board granting Certificate rights to NRG in 1982 that Union submits were already conveyed to Union in 1959; and (b) changes in site references caused by the development of Highway 401 after Union's Certificate rights were granted in 1959. Union's position is that the rights granted by the 1959 Certificate have not been amended.

To allow for easier comparison, Union's comments follow the structure and language used in NRG's submission.

### **Former Township of Westminster**

#### **A. Portions that are on NRG's Certificate and Excluded from Union's Certificate**

- The whole of Lots 3, 4, and 5 in Concession 8 – Union agrees
- The whole of Lots 1, 2, 3, 4, and 5 in Concession 7 – Union agrees
- The whole of Lots 1,2 and 3 in each of Concessions 3, 4, 5 and 6 – Union agrees
- The north half of Lot 1 in Concession 1 – Union agrees
  
- Those parts of Lots 2, 3 and 4 in Concession 2 lying south of Highway 401

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list these specific lots so Union was granted Certificate rights to these lots in 1959. It should be noted that Union is already serving customers in Lot 4 in Concession 2.

B. Portions that are on NRG's Certificate But Not In Union Gas' Certificate

- Whole of Lot 6 in Concession 8

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list this specific lot so Union was granted Certificate rights to this lot in 1959.

- Whole of Lot 6 in Concession 7.

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list this specific lot so Union was granted Certificate rights to this lot in 1959.

- South halves of Lots 4, 5 and 6 in Concession 6.

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list these specific lots so Union was granted Certificate rights to these lots in 1959.

- That part of the east half of Lot 5 in Concession 2 lying south of Highway 401.

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list this specific lot so Union was granted Certificate rights to these lots in 1959. It should be noted that Union is already serving customers in Lot 5 in Concession 2.

C. Portions that are Exempt from Union Gas' Certificate But Not In NRG's Certificate

- All of Lot 1 in Concession B.

Union disagrees with NRG's implication that this specific area is not covered under any Certificate. The Certificate granted to NRG in an Order dated May 5, 1982 lists "the whole of Lot 1 in the Broken Front Concession". Union submits that this is the same lot referred to as "all of Lot 1 in Concession B" that is listed on Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959.

D. Unclear

- Those parts of Lots 1, 2, 3 and 4 in Concession 2 lying south of Highway 401.

Union agrees that "the south half of Lot 1 in Concession 2" (i.e., south of Highway 401) is included in Schedule A to the Certificate granted to Union by the

Board in an Order dated March 17, 1959 and so is not included under Union's Certificate rights.

Union disagrees that Lots 2, 3 and 4 in Concession 2 are unique to NRG's Certificate. These lots are not specifically listed in Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 and so are already included under Union's Certificate rights.

- Those customers on the west side of Highway 74 to a depth of 200 feet from the said Highway, from the dividing line between the north and south halves of Lot 1 in Concession 1 to Highway 401 lying in Lot 1 in Concession 2.

Union disagrees that this area should be included under NRG's Certificate. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 states that the exception to Union's Certificate rights pertains to "those persons in the south half of Lot 1 in Concession 1 and in the north half of Lot 1 in the Concession 2 receiving natural gas from any person other than Union Gas Company of Canada, Limited on the Date of this Certificate" (emphasis added). Union is not aware of any natural gas distributor in this specific area in 1959 so Union has the Certificate rights to all of the south half of Lot 1 in Concession 1 and all of the north half of Lot 1 in Concession 2.

It should be noted that Union is already serving customers in this specific area described in NRG's Certificate.

### **Former Township of North Dorchester**

#### **A. Portions that are on NRG's Certificate and Excluded from Union's Certificate**

- The whole of Lot 24 in Concession A – Union agrees
- The north half of Lot 24, in Concession B – Union agrees
- The whole of Lots 21, 22, 23 and 24 in each of Concessions 2, 3, 4, 5 and 6 – Union agrees
- The whole of Lots 6, 7, 8, 9 and 10 in each of Concessions 2, 3, 4, 5 and 6 – Union agrees

#### **B. Portions that are on NRG's Certificate But Not In Union Gas' Certificate**

- West half of the southerly quarter of Lot 20 in Concession 5.

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list this specific lot so Union was granted Certificate rights to this lot in 1959.

- Whole of Lot 20, in Concession 6, save and except the northeasterly quarter thereof.

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list this specific lot so Union was granted Certificate rights to this lot in 1959.

- South halves of Lots 11, 12, 13, 14, 15, 16, 17, 18 and 19, in Concession 6.

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list these specific lots so Union was granted Certificate rights to these lots in 1959.

- South halves of Lots B, 1, 2, 3, 4 and 5, in Concession 6.

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list these specific lots so Union was granted Certificate rights to these lots in 1959.

- The whole of Lot A in each of Concessions 2, 3, 4, 5 and 6.

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list these specific lots so Union was granted Certificate rights to these lots in 1959. It should be noted that Union is already serving customers in this specific area of Concessions 4 and 5.

- That part of Lot A, in Concession 1 lying south of Highway 401.

Union disagrees. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 does not list this specific lot so Union was granted Certificate rights to this lot in 1959.

C. Portions that are Exempt from Union Gas' Certificate But Not In NRG's Certificate

- Those persons in the south halves of Lots 8 and 9 in Concession B and in the north halves of Lots 8 and 9 in Concession 1 from receiving natural gas from any other person than Union Gas Company of Canada, Limited on the date of this certificate.

Union disagrees with NRG's implication that these specific areas are not covered under any Certificate. As noted in the specific wording, the exception to Union's Certificate rights pertains to those persons "receiving natural gas from any person other than Union Gas Company of Canada, Limited on the date of this Certificate" (emphasis added). Union is not aware of any natural gas distributor in this specific area in 1959 so Union has the Certificate rights to these specific areas.

D. Unclear

- Those parts of Lots 21, 22, 23 and 24, in Concession 1 lying south of Highway 401.

Union agrees that “the south halves of Lots 21, 22, 23 and 24 in Concession 1” (i.e., south of Highway 401) are included in Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 and so are not included under Union’s Certificate rights.

- Those parts of Lots 6, 7, 8, 9 and 10 in Concession 1 lying South of Highway 401.

Union agrees that “the south halves of Lots 6, 7, 8, 9 and 10 in Concession 1” (i.e., south of Highway 401) are included in Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 and so are not included under Union’s Certificate rights.

- Those customers along the east side of Highway 74 to a depth of 200 feet from the said Highway, from the dividing line between the north and south halves of Lot 24, in Concession B to Highway 401 lying in Lot 24, in Concession 1.

Union disagrees that this area should be included under NRG’s Certificate. Schedule A to the Certificate granted to Union by the Board in an Order dated March 17, 1959 states that the exception to Union’s Certificate rights pertains to “those persons in the south half of Lot 24 in Concession B and in the north half of Lot 24 in the Concession 1 receiving natural gas from any person other than Union Gas Company of Canada, Limited on the date of this Certificate” (emphasis added). Union is not aware of any natural gas distributor in this specific area in 1959 so Union has the Certificate rights to all of the south half of Lot 24 in Concession B and all of the north half of Lot 24 in Concession 1.

Union has attached a map of the specific areas under discussion to assist the Board in its deliberations. The shaded “bubbles” on the map highlight the areas in question. As indicated on the map’s legend, these bubbles have been labelled by township (i.e., W for Westminster and ND for North Dorchester), by section in NRG’s submission (A, B, C, and D) and numbered to correspond to the bullet points identified under each section.

For example, the bubble labelled “WD2” refers to Westminster Township, Section D (i.e., Unclear), bullet 2 (i.e., those parts of Lots 6, 7, 8, 9 and 10 in Concession 1 lying South of Highway 401).

To clarify Union's application with respect to Certificate rights, Union is applying for an Order cancelling and superseding Union's existing Certificate of Public Convenience and Necessity for the City of London (F.B.C. 270) and those parts of F.B.C. 259, P.F.M. 582 and F.B.C. 99 related to the areas of former municipalities annexed by the City of London and replacing them with a single Certificate of Public Convenience and Necessity for the Corporation of the City of London except for those portions of areas covered by Certificate of Public Convenience and Necessity E.B.C. 111, 119 held by Natural Resource Gas Limited where, pursuant to Union's submissions herein, NRG is entitled to Certificate rights.

Should you have any questions, please do not hesitate to contact me. I look forward to receipt of your instructions.

Yours truly,

*[Original signed by]*

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