



EB-2013-0407

IN THE MATTER OF the Ontario Energy Board Act,
1998, Schedule B;

AND IN THE MATTER OF an Application by Union
Gas Limited, under section 95 of the *Ontario Energy
Board Act, 1998*, requesting exemption from the
requirements of section 90(1) for an Order granting
leave to construct natural gas distribution pipeline in
the Municipality of Chatham-Kent.

BEFORE: Cynthia Chaplin
Vice-Chair and Presiding Member

DECISION AND ORDER
February 6, 2014

Union Gas Limited has requested an exemption from the requirement for prior approval to construct a short section of pipeline in the Municipality of Chatham-Kent. Union proposes to replace approximately 340 metres of the Panhandle NPS16 pipeline in the vicinity of St. Clair Road (Highway 40) near Green Valley Line and Bush Line. Union filed the application with the Ontario Energy Board on November 26, 2013, and the application is made under section 95 of the *Ontario Energy Board Act, 1998*.

The affected section of pipeline was constructed in 1951. Results of pipeline integrity inspections in 2011 identified integrity issues (metal loss) which could pose safety and security of supply concerns if not addressed. The section of pipeline with metal loss is under the road and therefore inaccessible for direct inspection. Union has concluded that the integrity of the pipeline section under the Highway 40 is compromised and that action to address the integrity concerns is required.

Replacement of the pipeline would not require leave to construct approval if the existing pipe was removed and a new pipeline was constructed in the existing easement. However, as the section of the pipeline to be replaced is under the Highway 40, Union proposes to abandon the existing pipeline in place and obtain a new

easement for the replacement pipeline directly adjacent to the existing pipeline. Because new land rights are required, leave to construct approval under section 90(1) would be required. Union is seeking an exemption, however, from that requirement.

Union intends to begin construction in spring 2014 and be completed by August 2014. The estimated cost of the project is \$847,000.

Union stated that temporary easements were required from the landowners to the west of Provincial Highway 40 and these have been obtained. Union noted that it would not require any fee simple purchases of land to complete the project. Union stated that it required crossing permits or agreements from the Ministry of Transportation (“MTO”) and that the MTO had provided a letter stating that it has no objection to the proposed project.

Union retained Azimuth Environmental Consulting Inc. (“Azimuth”) to review the route of the proposed pipeline and identify any environmental impacts. The results of Azimuth’s review indicate that if the proposed mitigation measures are followed there will be no long term significant environmental impacts; Union has committed to implementing the recommendations.

Union sent letters in June 2013 and e-mails in October 2103 to First Nation and Metis organizations regarding the proposed pipeline. No issues have been raised by any of the contacted First Nation and Metis organizations.

Board Findings

Section 95 of the Act provides that “the Board may, if in its opinion special circumstances of a particular case so require, exempt any person from the requirements of section 90 or 92 without a hearing”. Without the exemption, Union would be required to have the Board’s approval under section 90(1) of the Act before undertaking the project. The Board will grant Union’s request for an exemption from the requirements of section 90(1) of the Act without a hearing.

Section 95 provides the Board with the discretion to exempt Union from the requirements of section 90(1) if there are special circumstances. The Board finds that special circumstances exist in this case. If Union were to replace the existing line in the same location it would not require a section 90(1) approval. However, because the pipeline is located under a highway, this alternative would be highly disruptive which would not be in the public interest. In addition, Union has acquired the necessary land rights, which indicates that the landowners have no objection to the project. The MTO has also indicated that it has no objection. Further, there is no indication of any concerns from the First Nations or Metis organizations that Union has contacted. Finally, Union has committed to adhering to the recommendations of the environmental analysis. The Board concludes that an exemption is warranted in these circumstances.

The Board's conclusions are based on the information and representations in Union's application, including Union's commitment to adhere to the recommendations in the Environmental Report and the relevant design specifications. The Board will therefore condition the exemption on Union adhering to the commitments and representations in its application.

THE BOARD ORDERS THAT:

Union Gas Limited is exempt from the requirements of section 90(1) of the Act for the construction of approximately 340 metres of NPS 16 natural gas pipeline to replace a portion of the Panhandle NPS16 pipeline in the Municipality of Chatham-Kent. This exemption is conditional on Union adhering to the commitments and representations contained in its application.

DATED at Toronto, February 6, 2014

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary