



EB-2006-0237

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

AND IN THE MATTER OF an application by Union Gas Limited pursuant to subsection 90 (1) of the *Ontario Energy Board Act, 1998* for an Order granting leave to construct a natural gas pipeline and ancillary facilities in the Township of St. Clair and in the County of Lambton to supply natural gas to the proposed St. Clair Energy Centre

BEFORE: Gordon Kaiser
Presiding Member and Vice Chair

Paul Vlahos
Member

Cathy Spoel
Member

DECISION AND ORDER

Background

Union Gas Limited (the “Applicant” or “Union Gas” or “Union”) filed an application with the Ontario Energy Board, (the “Board”) dated October 2, 2006, for an Order of the Board granting leave to construct approximately 7.4 kms of steel natural gas pipeline in the County of Lambton.

The Board assigned File Number EB-2006-0237 to the Application. A Notice of Application was published on October 20, 2006 and the final date for filing by Intervenor and Observers was October 30, 2006. No requests for intervention were received. There was one request for observer status and this request was granted.

The Board proceeded by way of written hearing.

St. Clair Power LP is an affiliate of Invenergy LLC, a US based energy Development Company that builds, owns and operates large scale gas fuelled and wind powered energy facilities throughout North America and Europe. Invenergy LLC is based in Chicago, Illinois with offices across the United States as well as in Toronto, Ontario.

Union has existing natural gas transmission, distribution and storage facilities in the Township of St. Clair. In addition, Union holds the necessary franchise and certificate rights to distribute natural gas in the Township of St. Clair and it has a longstanding history of natural gas service to the area.

Board Findings

The Board will address the application under the headings of Project Need and Alternatives, Project Costs and Feasibility, Landowner Matters, and Environmental Assessment and First Nations Issues.

Project Need and Alternatives

In April 2005, as part of the Ontario Ministry of Energy's Clean Energy Supply request for proposal process that sought 2,500 MW of gas-fired electricity generation, the Ontario Government announced that St. Clair Power LP had been selected to develop and construct a 570 MW natural gas combined-cycle generation facility in the Township of St. Clair near Corunna, Ontario to provide electricity. St. Clair Power LP has entered into a 20 year Clean Energy Supply Contract (the "CES Contract") with the Ontario Power Authority ("OPA") to build and operate a gas-fired generation facility.

The primary source of gas for the Sarnia industrial system is a supply from TransCanada Pipelines at Union's Courtright Station. Gas then flows from the Courtright Station to the Sarnia market via Union's existing Sarnia Industrial Line. This line originates at Union's Courtright Station and generally runs in a northerly direction for approximately 18 kms until it reaches the Sarnia Industrial Station. As it is presently configured, the Sarnia Industrial Line consists of a system of parallel circuits of various pipe sizes between its two endpoints so as to provide for the necessary pressure and throughput requirements. With the addition of the St. Clair Energy generating station in

2007, the demand on the Sarnia Industrial System will exceed its current capacity. Therefore, in addition to the lateral to connect the plant to the Sarnia Industrial Line, Union is proposing to add reinforcement to the line to provide adequate system capacity to meet the needs of the St. Clair Energy generating station.

According to Union's application, one section of pipeline (4.5 kms of 20 inch pipeline) will originate at Union's Petrosar Station and then extend north to Union's Dow Valve site. This section of pipeline will generally follow Union's existing 12 inch Sarnia Industrial Line. The proposed facilities will also consist of 2.9 kms of 16 inch pipeline which originates at Union's Dow Valve Site and then extend eastward to the St. Clair Energy generating station. As well as the two sections of pipeline, the project also proposes modifications to Union's Dow Valve Site and Petrosar Station as well as the construction of a new Customer Station at the St. Clair generating station.

Union stated that the peak natural gas demand at the proposed generating station is estimated to be 3,396,000 m³/day but the demand will be highly variable. Therefore on any given day, the generating plant gas requirements could range from 0 to 3,396,000 m³. Union will be providing gas services to the St. Clair Energy generating station predominately through a Firm T-1 service contract. This contract will provide firm and interruptible transportation service to the generating plant as well as firm storage space and firm injection and withdrawal capability into and out of the storage facility.

To meet the additional demands of the St Clair Energy generating plant on its current infrastructure, Union investigated various reinforcement alternatives before selecting the preferred alternative. The Applicant states that paralleling the Sarnia Industrial Line with an additional line and adding a lateral from the Sarnia Industrial Line to the St. Clair Energy generating plant was selected as the preferred general approach for this project. Various sized pipelines and various endpoints were modeled by Union in order to optimize this approach. Union's Environmental Consultant (Stantec Consulting Ltd.) investigated three north/south reinforcement line route alternatives along with three east /west connection line routing options. The overall preferred alternative selected consisted of a north/ south reinforcement line section immediately west of the CNR rail line and an east/west connection portion entering the St. Clair Energy generating plant site at its northern boundary. This combination of facilities was selected as the preferred alternative because:

- the entire route was directly adjacent to an existing electricity transmission line right of way;
- other physical installations were generally avoided;
- locations of environmental sensitivity were generally avoided; and
- it was one of the lowest cost options reviewed.

Union requests that the construction phases of the project start no later than summer 2007.

The Board notes there is a 20-year contract with the OPA under which St. Clair Energy must supply electricity, and gas service is needed for that purpose. The Board finds that new pipeline facilities by Union are necessary to meet the new gas demand. The Board accepts Union's evidence of the alternatives investigated, the chosen configuration, and the route chosen. The Board also finds that Union's request that the construction phases of the project start no later than summer 2007 is reasonable.

Project Costs and Feasibility

Union estimates the total cost of the project to be approximately \$12.1 million. Union employed an economic feasibility test consistent with the Board's recommendations in the E.B.O. 188 report on Natural Gas System Expansion to assess the economics of this project. Union has provided the following information in its evidence:

- when the proposed facilities are included in Union's 2007 new business investment portfolio, the resulting Profitability Index ("P.I.") is 1.51; and
- when a stand-alone Discounted Cash Flow analysis is performed, the proposed facilities have a Net Present Value of \$16.7 million, a P.I. of 2.38 and a pay-back time of less than 6 years.

Union, therefore, states that the distribution of natural gas by Union to the St. Clair Energy generating plant is economically feasible and in the public interest.

The Board accepts Union's evidence regarding the costs and the economic evaluation of the project.

Landowner Matters

While some of the proposed pipeline will be installed in road allowance, most of it is on

easements on privately owned lands. According to Union, the following companies and individuals may be affected by this project: Hydro One Networks Inc.; Robert & Laurie MacPherson; James MacPherson; Thomas Guthrie, Deanna Kerninis & Mark Guthrie; Nova Chemicals (Canada) Ltd.; Dow Chemicals; Canadian National Railway and Praxair Canada Inc. Union's grant of easement form was included in Union's evidence. According to the evidence, Union has initiated individual negotiations with the landowners to obtain the necessary land rights to construct the proposed pipeline.

The Board is satisfied that Union is effectively resolving the landowner issues associated with the project. The Board also approves the form of easement which has been filed by Union.

Environmental Assessment and First Nations Issues

General Environmental Issues

Stantec Consulting Ltd. ("Stantec") prepared an Environmental and Socio-Economic Impact Assessment ("EA") for the proposed project. Stantec states that its assessment was prepared in accordance with the Ontario Energy Board's document "*Environmental Guidelines for Locating, Constructing and Operating Hydrocarbon Pipelines in Ontario*" [May 2003].

A letter was sent on August 23, 2006 to all directly and indirectly affected landowners to inform them of the project. To solicit input from the general public with respect to the project, a project notice was published in three local newspapers and a Public Open House was held. The Open House, which identified the preliminary preferred pipeline route along with potential mitigation measures, was held on September 6, 2006 in Corunna, Ontario. Stantec stated that there were no concerns raised regarding Union's routing proposals from the attendees of this session. Copies of the completed EA were submitted to the Ontario Pipeline Coordinating Committee ("OPCC"). Copies of the EA were also submitted to local municipalities and all interested parties who requested a copy. The results of the EA indicate that the location of the proposed pipeline is environmentally acceptable. In addition, Stantec states that if Union follows its standard construction practices and adheres to the mitigation measures identified in the EA, the construction of this project should have negligible impacts on the environment.

One of the commenting parties, the Ministry of the Environment (“MOE”), expressed an initial concern regarding the proximity (within 600 m) of the proposed route to two waste disposal sites. In response to the MOE concern, Union has committed to the hiring of a consultant who will carry out an exploratory drilling and sampling program of soil and groundwater along the portion of the proposed pipeline route that is adjacent to these disposal sites. As well, this consultant will also provide advice during construction if there is any requirement to deal with contaminated soil and/or water during that phase of the project. The MOE subsequently stated that Union’s approach to these environmental matters was acceptable.

First Nations Consultation

There are two First Nation communities in the general area of Lambton County - Aamjiwnaang First Nation and Walpole Island First Nation. Both communities have been contacted by Stantec and both have received correspondence and documentation with respect to this project at various times. Stantec also indicated in its EA that Indian and Northern Affairs Canada (“INAC”) has a record of Aamjiwnaang First Nation submitting a land claim for 2450 acres in the general area of the proposed facilities. INAC further stated that Aamjiwnaang First Nation may have an interest in the project. Union stated that it had convened various meetings with representatives from Aamjiwnaang First Nation and Walpole Island First Nation and on no occasion had issues regarding the proposed route for the St. Clair Energy generating plant project nor EA issues in general been raised by either First Nation community. Union further stated that although the land claim in the subject area involving the Aamjiwnaang First Nation had not been settled, Aamjiwnaang First Nation had not raised this issue during its discussions involving this project. Union also advised that it has now dedicated a full-time manager to deal with First Nation matters.

The Board finds that Union is dealing appropriately with environmental and First Nations issues.

Conclusion

As a result of the Board’s assessment set out above, the Board finds that it is in the public interest to approve Union’s application, and it does so subject to a set of standard conditions set out in Appendix “A” to this Decision.

IT IS ORDERED THAT:

Union Gas Limited is granted leave pursuant to subsection 90 (1) of the *Ontario Energy Board Act, 1998* to construct 4.5 kilometres of 20 inch diameter steel natural gas pipeline from its Petrosar Station at Lot 26, Concession 8 to its Dow Valve site at Lot 26, Concession 9 and 2.9 kilometres of 16 inch diameter steel natural gas pipeline from its Dow Valve site at Lot 26, Concession 9 to the proposed St. Clair Energy Centre at Lot 22, Concession 9, all in the Township of St. Clair and the County of Lambton subject to the Conditions of Approval set forth in Appendix "A".

Dated at Toronto, March 23, 2007

ONTARIO ENERGY BOARD

Original signed by

Peter H. O' Dell
Assistant Board Secretary

Appendix “A”

To Decision and Order

EB-2006-0237

March 23, 2007

March 23, 2007
Appendix "A"

CONDITIONS OF APPROVAL
EB-2006-0237

Union Gas Limited – St.Clair Energy Centre Project

1 General Requirements

- 1.1 Union Gas Limited shall construct the facilities and restore the land in accordance with its application and evidence, except as modified by this Order and these Conditions of Approval.
- 1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate December 31, 2007, unless construction has commenced prior to then.
- 1.3 Except as modified by this Order, Union Gas shall implement all the recommendations of the Environmental Study Report filed in the pre filed evidence, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee ("OPCC") review.
- 1.4 Union Gas shall advise the Board's designated representative of any proposed material change in construction or restoration procedures and, except in an emergency, Union Gas shall not make such change without prior approval of the Board or its designated representative. In the event of an emergency, the Board shall be informed immediately after the fact.

2 Project and Communications Requirements

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Facilities.
- 2.2 Union Gas shall designate a person as project engineer and shall provide the name of the individual to the Board's designated representative. The project engineer will be responsible for the fulfilment of the Conditions of Approval on the construction site. Union Gas shall provide a copy of the Order and Conditions of Approval to the project engineer, within seven days of the Board's Order being issued.
- 2.3 Union Gas shall give the Board's designated representative and the Chair of the OPCC ten days written notice, in advance of the commencement of the construction.

- 2.4 Union Gas shall furnish the Board's designated representative with all reasonable assistance for ascertaining whether the work is being or has been performed in accordance with the Board's Order.
- 2.5 Union Gas shall file with the Board's designated representative notice of the date on which the installed pipelines were tested, within one month after the final test date.
- 2.6 Union Gas shall furnish the Board's designated representative with five copies of written confirmation of the completion of construction. A copy of the confirmation shall be provided to the Chair of the OPCC.

3 Monitoring and Reporting Requirements

- 3.1 Both during and after construction, Union Gas shall monitor the impacts of construction, and shall file four copies of both an interim and a final monitoring report with the Board. The interim monitoring report shall be filed within six months of the in-service date, and the final monitoring report shall be filed within eighteen months of the in-service date. Union Gas shall attach a log of all complaints that have been received to the interim and final monitoring reports. The log shall record the times of all complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.
- 3.2 The interim monitoring report shall confirm Union Gas' adherence to Condition 1.1 and shall include a description of the impacts noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction. This report shall describe any outstanding concerns identified during construction.
- 3.3 The final monitoring report shall describe the condition of any rehabilitated land and the effectiveness of any mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained.
- 3.4 Within fifteen months of the in-service date, Union shall file with the Board a written Post Construction Financial Report. The Report shall indicate the actual capital costs of the project and shall explain all significant variances from the estimates filed with the Board.

4 Easement Agreements

- 4.1 Union Gas shall offer the form of agreement approved by the Board to each landowner, as may be required, along the route of the proposed work.

5 Other Approvals

- 5.1 Union Gas shall obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project, shall provide a list thereof, and shall provide copies of all such written approvals, permits, licences, and certificates upon the Board's request.