

Barry R. Scott, LL.B., ACCI., FCCI.

Jeffrey A. Bell, B.A.(Hons.), B.Ed., LL.B.

E. Glenn Hines, B.Sc., LL.B.

Wayne A. Petrie, B.A., LL.B. (Associated)

Ian S. Wright, B.A., LL.B.

John D. Goudy, B.A.(Hons.), LL.B., B.C.L.

Erin M. Naylor, B.PAPM., LL.B.

A. David Brander, B.A., LL.B. (1953-2011)

Suite 200 - 252 Pall Mall Street

London, Ontario N6A 5P6

Telephone: 519 433-5310

Facsimile: 519 433-7909

Ext 236

e-mail: jgoudy@scottpetrie.com

February 4, 2015

VIA RESS ELECTRONIC FILING

Attention: Kirsten Walli, Board Secretary

Ontario Energy Board

2300 Yonge Street

27th Floor

Toronto, ON M4P 1E4

Dear Madam Secretary:

**RE: Union Gas Ltd. – Dawn Parkway 2016 Expansion Project – OEB File No. EB-2014-0261
GAPLO Comments on the Draft Issues List**

We are the lawyers for the Gas Pipeline Landowners of Ontario ("GAPLO") in the above noted proceeding. Further to Procedural Order No. 2, the following are GAPLO's comments on the Board's Draft Issues List.

As set out in GAPLO's response to Board Staff Interrogatory 1(b), GAPLO is requesting that the Board address the following five very specific issues at the hearing in this proceeding, subject to any of these issues being resolved at the upcoming settlement conference:

1. Whether Union Gas Ltd.'s form of easement agreement for the Hamilton to Milton NPS 48 pipeline should be amended as set out in paragraph 5(a) of GAPLO's written evidence statement;
2. Whether Union Gas Ltd.'s form of easement agreement for the Hamilton to Milton NPS 48 pipeline should be amended as set out in paragraph 5(b) of GAPLO's written evidence statement;
3. Whether Union Gas Ltd. should use the form of Letter of Understanding filed by Union Gas Ltd. with the Board in EB-2005-0550 for the Hamilton to Milton NPS 48 pipeline, including provision for the appointment of an independent construction monitor for the construction;

4. Whether Union Gas Ltd. should be required to complete and file in this proceeding a cumulative effects assessment that includes consideration of adjacent pipelines (including residual soil damage and crop yield loss) and the overall impact of the further expansion of the Hamilton to Milton Corridor, including the effect that multiple pipelines within the corridor will have on future abandonment activities; and,
5. Whether Union Gas Ltd. should be required to prepare and file in this proceeding its proposed Standard Operating Practice for depth of cover.

GAPLO's proposed issues 1 and 2 do not appear to be covered by the Draft Issues List, although the Board's approval of the form of agreement offered by or to be offered by Union is required by Section 97 of the OEB Act. GAPLO's proposed issue 4 is likely encompassed within Board Draft Issue 5. It is not clear to GAPLO whether its proposed issues 3 and 5 are covered by the Board's Draft Issues List.

For the sake of clarity and completeness, GAPLO would propose that the Board insert the following additional issues, which are taken directly from the Board's Issues List in EB-2005-0550 (see enclosed Schedule "A") except as set out in bold font and underlined:

- a. Has Union completed an environmental assessment and route selection including public review and the OPCC review according to the Board's environmental guidelines?
- b. In the context of the environmental assessment, has Union adequately identified and assessed biophysical and socioeconomic cumulative impacts resulting from the construction of successive pipelines and the incremental increase of easement width?
- c. Is the proposed pipeline route acceptable?
- d. Are the proposed land restoration and construction impact mitigation measures acceptable?
- e. **Are the forms** of easement agreement **and temporary land use agreement** offered to all directly affected landowners acceptable?
- f. What is the status of the required permanent and temporary land rights?

GAPLO submits that these additional proposed issues (a-f) are sufficient to cover the five specific issues (1-5) set out by GAPLO in its interrogatory response to Board Staff. GAPLO further submits that all of the proposed additional issues (a-f) are issues that should properly be considered by the Board as part of any leave to construct review under Section 92 of the OEB Act and agreement review under Section 97 of the OEB Act, irrespective of GAPLO's involvement in the proceeding and of the specific issues GAPLO has proposed.

Please also note that, as set out in GAPLO's response to Board Staff Interrogatory 1(b), GAPLO is not proposing that the Board address the compensation components of Union's Letter of Understanding. Rather, GAPLO is concerned with Union's proposed land restoration and construction impact mitigation measures and is requesting that the Board require Union to implement those measures contained in its EB-2005-0550 Letter of Understanding, including the provision of an independent construction monitor.

Enclosed as Schedule "B" to this letter is an updated copy of the Board's Draft Issues List incorporating GAPLO's proposed additional issues. GAPLO respectfully requests that the Board adopt this revised issues list for this proceeding.

We trust this is satisfactory.

Yours truly,

SCOTT PETRIE LLP
LAW FIRM

A handwritten signature in black ink, reading "John D. Goudy". The signature is written in a cursive, flowing style with a large initial "J" and "G".

John D. Goudy

Encl.

**EB-2005-0550
Union Gas Limited
TFEP 2007**

Issues List

1. Is the need for the expansion supported by the awarded contracts?
2. Is the facility design appropriate for the forecast demand?
3. Is the need for the new compression capacity supported by the proposed expansion?
4. Are design specifications in accordance with the CSA safety and design requirements?
5. Did Union consider viable alternatives to the proposed expansion?
6. Is the proposed expansion economically feasible?
7. Are the estimated costs of the expansion reasonable?
8. What will be the impacts on Union's rate payers?
9. Has Union completed an environmental assessment and route selection including public review and the OPCC review according to the Board's environmental guidelines?
- 9.1 In the context of the environmental assessment, has Union adequately identified and assess biophysical and socioeconomic cumulative impacts resulting from the construction of successive pipelines and the incremental increase of easement width?
10. Is the proposed pipeline route acceptable?
11. Are the proposed land restoration and construction impact mitigation measures acceptable?
12. Is the form of easement agreement offered to all directly affected landowners acceptable?
13. What is the status of the required permanent and temporary land rights?
14. Is Union committed to obtaining all permits required to construct, operate and maintain the proposed pipeline?

Appendix A

DRAFT ISSUES LIST

1. Are the proposed facilities needed?
2. Do the proposed facilities meet the Board's economic tests as outlined in the Filing Guidelines on the Economic Tests for Transmission Pipeline Applications, dated February 21, 2013, as applicable?
3. What are the potential short-term and long-term rate impacts to customers? Are these costs and rate impacts to customers appropriate?
4. What are the facilities and non-facilities alternatives to the proposed facilities? Have these alternatives been adequately assessed and are any preferable to the proposed facilities, in whole or in part?
5. Do the facilities address the OEB Environmental Guidelines for Hydrocarbon Pipelines as applicable?
6. Has Union completed an environmental assessment and route selection including public review and the OPCC review according to the Board's environmental guidelines?
7. In the context of the environmental assessment, has Union adequately identified and assessed biophysical and socioeconomic cumulative impacts resulting from the construction of successive pipelines and the incremental increase of easement width?
8. Is the proposed pipeline route acceptable?
9. Are there any outstanding landowner matters for the proposed facilities with respect to routing and construction matters? For greater clarity, landowners include parties from whom permits, crossing agreements and other approvals are required.
10. Are the proposed land restoration and construction impact mitigation measures acceptable?
11. Are the proposed facilities designed in accordance with current technical and safety requirements?
12. Has there been adequate consultation with other potentially affected parties?
13. Are the forms of easement agreement and temporary land use agreement offered to all directly affected landowners acceptable?

14. What is the status of the required permanent and temporary land rights?
15. Does the project meet the capital pass-through mechanism criteria for pre-approval to recover the cost consequences of the proposed facilities?
16. If the Board approves the proposed facilities, what conditions, if any, are appropriate?