



# **ONTARIO ENERGY BOARD**

## **OEB STAFF SUBMISSION**

**June 19, 2015**

**Union Gas Limited  
Sudbury Expansion Project  
EB-2015-0120**

## Introduction

Union Gas Limited (Union) applied to the Ontario Energy Board (OEB) on March 11, 2015 under section 90(1) of the *Ontario Energy Board Act, 1998* (the Act) for leave to construct three (3) separate segments of natural gas pipeline (the Project). One segment is approximately 1.55 kilometers of nominal pipe size (NPS) 12 inch pipeline, the second is 2 kilometers of NPS 10 pipeline, and the third is 2.3 kilometers of NPS 6 natural gas pipeline. The Project is located in the City of Greater Sudbury (Sudbury).

Union says the Project will ensure the continued reliable and safe delivery of natural gas, serve the new FNX Victoria Mine site, and meet the projections for the growing demands for natural gas in Sudbury. Union expects to begin construction in the summer of 2015. The in-service date of the pipeline serving the FNX Victoria Mine is planned for September 2015. The in-service date for the other facilities is planned for December 2015.

OEB staff supports Union's application subject to the concerns noted below. OEB staff also recommends that the OEB adopt staff's proposed draft conditions of approval which are attached to this submission.

## Process

The OEB issued its notice of application on April 1, 2015. Union served and published the notice as directed. There were two interventions approved: Energy Probe Research Foundation (Energy Probe) and the Industrial Gas Users Association (IGUA). The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on April 24, 2015, the interrogatory phase was completed on May 27, 2015.

## Need for the Project

The need for the Project was identified by Union as follows:

- (i) FNX Mining Company Inc. (FNX) requires natural gas service at its Victoria Mine project. FNX engages in the exploration, development and production of copper,

nickel, cobalt, platinum, palladium and gold at its various mining properties in the Sudbury basin. FNX has commenced site construction work at the Victoria Mine in preparation for the sinking of an exploration shaft. Natural gas will be required in September 2015 for power generation after which the natural gas usage will shift from power generation to mine air heating along with building heat for various surface buildings.

(ii) Residential and small commercial demand is growing in the Sudbury area. Over the past 10 years, the average growth on the Sudbury system has been a 1.3% annual customer attachment rate and this rate is expected to continue.

(iii) In 2014, Union reviewed its industrial customers' gas consumption and found a system shortfall on a peak day on the Sudbury system indicating that the system is operating below the minimum design specifications. Union explained that its finding on the system operating levels supports the need for reinforcement of the Sudbury system.

OEB staff submits that Union has demonstrated that the Project is needed to ensure the continued reliable and safe delivery of natural gas, meet the growing demand in Sudbury, and satisfy FNX's natural gas requirements at its Victoria Mine project.

### **Project Cost and Economics**

The estimated total cost of the Project is \$10.8 million. Of this amount, \$6.6 million is attributable to the FNX Victoria Mine and \$4.2 million is attributable to system reinforcement and general service growth. The cost of the Project will be included in rates in Union's 2019 rebasing application.

Union's economic analysis indicated that a capital contribution of \$4.7 million is required from FNX meaning that Union's net investment for the FNX Victoria Mine portion of the project will be \$1.9 million. The contribution is needed in order to bring the FNX portion of the project up to a Profitability Index (PI) equal to 1.0. A PI equal to 1.0 is consistent with the OEB's guidance in its E.B.O. 188 Report on Natural Gas System Expansion.

The \$4.2 million portion of the Project attributed to system reinforcement and general distribution growth will be managed within the rolling portfolio in accordance with the

E.B.O. 188 guidance.

Union presented an impact assessment of the Project on its Investment Portfolio. The inclusion of both the FNX Victoria Mine project and the system reinforcement and general service growth projects yielded a PI of 1.20 on Union's new business investment portfolio. For Union's Rolling Project Portfolio, the PI is 1.41 including the Project.

OEB staff has a concern about the contract with FNX. OEB staff observes that Union does not expect to have its Distribution Contract with FNX signed until June 15, 2015.<sup>1</sup> Given the relatively large capital contribution required from FNX, staff is concerned that there is no evidence on the record that the contract has been executed and that FNX is contractually committed to its required share of the capital costs. Staff submits that the OEB needs to be assured that the FNX funding will materialize. OEB staff submits that until such evidence is provided, the OEB should withhold its final approval. OEB staff invites Union to file documentary evidence clearly indicating that the contract has been executed and demonstrating FNX's commitment to providing the necessary funding.

Other than the above concern about the contract, OEB staff has no concerns with the project economics because the calculated profitability indices are within the tolerances set out by the OEB in its EBO 188 Report on Natural Gas System Expansion.

### **The Environmental Assessment**

An Environmental Report (ER) was completed by Azimuth Environmental on behalf of Union. Union submitted the ER to the members of the Ontario Pipeline Coordinating Committee (OPCC), local municipalities, Conservation Sudbury, First Nations and Metis Nations. In response to an OEB staff interrogatory, Union filed a summary of the comments received by the OPCC.<sup>2</sup>

OEB staff notes that the OPCC Review Summary included comments about species at risk (SAR).<sup>3</sup> In emails, Eric Cobb at the Ontario Ministry of Natural Resources and Forestry, Sudbury Branch expressed concerns about measures to protect SARs. The

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<sup>1</sup> Board Staff IRR 5 filed May 27, 2015 EB-2015-0120

<sup>2</sup> Board Staff IRR 6 Schedule 2 filed May 27, 2015 EB-2015-0120

<sup>3</sup> Board Staff IRR 6 Schedule 2 filed May 27, 2015 EB-2015-0120

May 21, 2015 responding letter from Paul Neals (Azimuth Consulting) to Eric Cobb referred to in the OPCC Review Summary was not included in the interrogatory response. The referenced amendment to the ER was also not filed. OEB staff notes that the evidence, therefore, shows no resolution of the Eric Cobb concerns. OEB staff invites Union in its Reply to comment on how any SAR concerns are being addressed including the nature of any mitigation plans that are being put into place.

OEB staff notes that the Archaeological Assessments required for the Project will not be completed until June 30, 2015.<sup>4</sup> Staff invites Union in its Reply to provide an update on the status of the Archaeological Assessments and in particular summarize any concerns raised by the experts and indicate how any such concerns will be addressed by Union.

Union notified First Nations and Metis communities that would potentially be affected by the Project. These parties raised concerns about the water crossings associated with the Project; however Union reported that such concerns were addressed to their satisfaction.<sup>5</sup>

Other than the above, there are no outstanding issues and concerns raised in the ER review. OEB staff observes that Union says in its application that it will appoint an environmental inspector during construction to ensure that all activities comply with the conditions of approval.

## **Land Matters**

There are no outstanding landowner matters.

For that portion of the Project between Frood and LaSalle Road, the majority of the pipeline will be constructed within Union's existing easement. A short section of new easement will be required to tie in the new pipeline with the existing NPS 12 pipeline. Temporary lands will be required along the route of this portion of the Project. All other pipelines will be constructed within road allowances in the City of Greater Sudbury under the terms of Union's franchise agreement with the City of Greater Sudbury.

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<sup>4</sup> Energy Probe IRR 10 filed May 27, 2015 EB-2015-0120

<sup>5</sup> Board Staff IRR 9 filed May 27, 2015 EB-2015-0120

The only directly affected private landowner is Vale Canada Limited. Union has met with Vale Canada Limited and reports that it has identified no issues or concerns.

### **Conditions of Approval**

In response to OEB staff interrogatory 10, Union accepted the draft conditions of approval proposed by OEB staff. Union proposed clarifications to condition no. 4 which would require Union to notify the OEB of any changes to OEB approved construction or restoration practices. Union provided a list of potential construction or restoration procedures that it believed would be encompassed by condition 4.

OEB staff observes that the same set of conditions was put to Union in draft form in the Panhandle Replacement Project under docket EB-2015-0041. Union later accepted those draft conditions as proposed, without any clarifications or additional wording.<sup>6</sup> The OEB approved the conditions, unchanged, in its decision and order on the Panhandle Replacement Project dated June 4, 2015.

OEB Staff proposes that the same conditions of approval be formally adopted by the OEB in this proceeding as were approved in the Panhandle Replacement Project under docket EB-2015-0041. The proposed conditions of approval are attached to this submission as Appendix A.

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<sup>6</sup> Union letter dated May 28, 2015 EB-2015-0041

**Appendix A**

**to**

**Board Staff Submission**

**DRAFT - Leave to Construct Conditions of Approval****Application under Section 90 of the OEB Act****Union Gas Limited****EB-2015-0120**

1. Union Gas Limited (Union) shall construct the facilities and restore the land in accordance with the Board's Decision and Order in EB-2015-0120 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 Board 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 Board of any proposed change to Board-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 Board. In the event of an emergency, the Board shall be informed immediately after the fact.
5. Union shall file, in the proceeding where the actual capital costs of the project are proposed to be included in rate base, 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.
6. Both during and after construction, Union shall monitor the impacts of construction, and shall file with the Board one paper copy and one electronic (searchable PDF) version of each of the following reports:



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- 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.