ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B, and in particular, S.90.(1) thereof;

AND IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B, and in particular, S. 36 thereof;

AND IN THE MATTER OF an Application by Union Gas Limited for an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the Town of Milton and the Town of Oakville
.

AND IN THE MATTER OF an Application by Union Gas Limited for an Order or Orders for approval of recovery of the cost consequences of all facilities associated with the development of the proposed Burlington Oakville Project;

Final Submissions from

The Association of Power Producers of Ontario (APPrO)

October 16, 2015

Lisa (Elisabeth) DeMarco
Tel: 647-991-1190
Email: lisa@zadllp.com
Facsimile: 1-888-734-9459

Joanna Kyriazis
Tel: 1-888-389-5798
Email: joanna@zadllp.com
Facsimile: 1-888-734-9459

Zizzo Allan DeMarco LLP
5 Hazelton Ave, Suite 200
Toronto, ON M5R 2E1

Introduction

1. We are counsel to the Association of Power Producers of Ontario ("**APPrO**") in the EB-2014-0182 proceeding (the "**Application**") and the following sets out APPrO's final submission in the Application.

2. On December 12, 2014, Union Gas Limited ("**Union**") filed the Application for leave to construct approximately 12 km of NPS 20 pipeline extending from Union's Parkway West compressor station, situated in the Town of Milton, to Union's Bronte Gate Station located in the Town of Oakville.

3. The Application indicates that the new pipeline is needed to support the long term needs of the Burlington Oakville system. The 2014/15 and 2035 design day needs of the system are 198 TJ/d[1] and 276 TJ/d[2], respectively. Union notes that the average annual growth for the period up to 2030 is 4 TJ/d and after 2030 the growth declines to 2.8 TJ/d[3].

4. The current demand on the Burlington Oakville system is met by a combination of longhaul and shorthaul transportation arrangements with TransCanada, as well as utilizing Union's existing NPS 8 and NPS 12 pipelines that feed the area from its Dawn-Parkway system. Union's existing renewable firm shorthaul transportation capacity provided by TransCanada totals 84 TJ/d[4] and its longhaul renewable firm capacity is 70 TJ/d.[5] Union's NPS 8 & 12 pipelines collectively provide 54 TJ/d[6] of capacity.

5. Union has indicated that TransCanada has recently split the central delivery area ("**CDA**"), in which Burlington and Oakville are situated and these now reside in a new Eastern Central Delivery Area ("**ECDA**"), which limits the flexibility that Union has previously had to optimize contracts between Union's North and South franchise areas.[7]

6. The combined effect of the increased demand and limited flexibility is that Union will have a likely shortfall of 65 TJ/d[8] for the 2016/17 winter.

[1] Exhibit A Tab 6 page 6.
[2] Exhibit A Tab 5 page 8.
[3] Exhibit A Tab 6 page 11, footnote 10.
[4] Exhibit A Tab 7 Table 7-2.
[5] Exhibit A Tab 5 page 3.
[6] Exhibit A Tab 7 Table 7-1.
[7] Exhibit A Tab 7 page 11.
[8] Exhibit A Tab 5 page 8.

7. Union has proposed to construct a new NPS 20 pipeline from Parkway West to Bronte Gate Station. This new pipeline would provide sufficient capacity, along with its NPS 8 and NPS 12 pipeline, to allow it to directly serve the 2035 design day of the Burlington Oakville area without any transportation on TransCanada.[9]

8. Union indicates that the net present value ("**NPV**") to Union's ratepayers of the NPS 20 pipeline is $102.6 million[10] and the NPV of the NPS 20 option compares more favourably to the other 4 alternatives it considered. The capital cost of the project is $119.5 million.[11]

9. Union is seeking an order from the Board pursuant to Section 36 of the *Ontario Energy Board Act*, for approval of recovery of the cost consequences of the Project from ratepayers, and approval for a Burlington Oakville Project Costs Deferral Account to track any variance between the costs approved in rates for the Project and the actual annual revenue requirement of the Project.[12]

<u>Parkway-Bronte TransCanada Contract Alternative to the Proposed Pipeline</u>

10. As an alternative to the Burlington-Oakville pipeline, Union indicated that it could contract with TransCanada and that the NPV of contracting for the proposed capacity from Parkway to TransCanada's ECDA was $156.8 million.[13]

11. In response to Board Staff 2-1, Union was asked how its application complied with the Filing Guidelines on the Economic Tests for Transmission Pipeline Applications (the "EBO 134 filing guidelines"), and in particular:

> *"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?"*

Union responded that since this pipeline was not moving gas on behalf of third parties it was not subject to these guidelines. APPrO notes that Union has characterized the Burlington-Oakville pipeline as a mainline pipeline. Specifically, it indicated that:

[9] Exhibit A Tab 7 Table 7-4.
[10] Exhibit A Tab 7 page 8.
[11] Exhibit A Tab 9 page 1.
[12] Exhibit A Tab 3 page 3.
[13] Exhibit B.APPrO.5(c) Updated.

> *"The Proposed Pipeline establishes a large diameter, high capacity transmission main"*[14]

12. APPrO submits that the proposed pipeline is not, technically, being proposed to move gas for third parties, but it will nonetheless be a very large transmission pipeline that is operating at the same transmission pressure as the Dawn-Parkway system,[15] and nothing prevents Union from offering third party services from this pipeline in the future. APPrO therefore submits that the Board should consider carefully whether the EBO 134 guidelines apply to the Application. If the Board determines that the EBO 134 guidelines apply in their entirety, then APPrO submits that there is a requirement to look at the impact of the proposed pipeline on other infrastructure in Ontario.

13. In response to APPrO Interrogatory 5(c), Union indicates that the NPV of the cost of the TransCanada service between Parkway and Bronte is $151.3 million. If TransCanada were to provide this service it would be applied to its existing revenue requirement and thereby lower rates for all shippers. Union has previously estimated that about 40% of revenue received by TransCanada would accrue to Ontario shippers and lower rates for Ontario customers.[16] Union has made certain further assumptions in this case and has recognized a benefit of only $11.4 million of the $151.3 million or 7.5% would accrue to Ontario customers.

14. APPrO does not agree with all of the assumptions that Union has used to prepare its NPV analysis. However, APPrO does recognize certain operational benefits of Union owning and operating its own pipeline in this area. The benefits may include: i) providing firm intra-daily balancing without having to nominate for such service in the day-ahead timely nomination window ii) shifting volumes from the existing older pipelines to the new NPS 20 line, which would service the Burlington Oakville region that may not be as readily serviceable from TransCanada and iii) providing lower long term financial risk under Union's cost of service model, whereby the revenue requirement would decline over time. There is not the same long term financial certainty with the TransCanada toll. For these reasons APPrO believes that the Union proposed NPS 20 is a comparable option to purchasing the service from TransCanada and therefore accepts Union's preferred option to build its own line.

[14] Exhibit A Tab 7 page 17.
[15] Exhibit A Tab 10 page 3.
[16] See Exhibit B.APPrO.5 Reference ii.

Niagara Gas Alternative to the Proposed Pipeline

15. On June 29, 2015 Canadian Manufacturers & Exporters ("**CME**") and Ontario Greenhouse Vegetable Growers ("**OGVG**") advanced evidence from Ms. Cheung indicating that there was a further alternative to proposed pipeline that would eliminate the need for the NPS proposed pipeline. This option involved Union purchasing a portion of its system supply at Niagara/Douglastown ("**Niagara**"). Ms. Cheung's evidence was that this alternative (the "**CME/OGVG Alternative**") was both technically feasible and more economic that the proposed pipeline.[17] Ms. Cheung notes that the annual potential benefits of accessing gas at Niagara are likely in the $4 million to $12.8 million.[18]

16. In its Reply Evidence, Union[19] suggested that the CME/OGVG Alternative is not appropriate given that: (i) it disconnects the Burlington Oakville system from Dawn (ii) it does not align with Union's Gas Supply Planning Principles, and (iii) it omits certain costs.

17. Union also indicates that the CME/OGVG Alternative may require Union to change its other gas supply arrangements to accommodate the gas supply shift to Niagara. APPrO notes that Union has filed an application for approval of its long term transportation contracts on NEXUS, which may also be impacted by the CME/OGVG Alternative.[20] Union also expressed concern about its ability to acquire gas at Niagara given the historical challenges with liquidity at Niagara. Further, Union raised concerns about the lack of uncontracted capacity between Niagara and Kirkwall,[21] and its potential effect on the timing of a TransCanada expansion and the implementation of the CME/OGVG Alternative.

18. APPrO believes that the CME/OGVG Alternative may have real economies and benefits associated with it. However, there are a number of uncertainties related to the potential impact and implementation of the CME/OGVG Alternative. APPrO submits that consideration of the Application and the CME/OGVG Alternative highlights the challenges for the Board in assessing any particular supply option or proposed infrastructure facility in the absence of a broader long term plan and supports coordinated and longer term energy infrastructure planning.

[17] Ms. Cheung evidence sections 3.1 and 3.2.
[18] Ms. Cheung evidence paragraph 23.
[19] Exhibit C.
[20] EB-2015-0166.
[21] J1.2.

19. Specifically, APPrO submits that any individual major system expansion or new long term supply or transportation contract may be difficult to assess in isolation, and could lead to suboptimal or non-sustainable solutions impacting Ontario natural gas ratepayers.

20. APPrO therefore recommends that the Board give regular consideration to undertaking a process such as the Natural Gas Market Review in order to review and assess the utilities' and TransCanada's long-term market requirements, risks, costs, non-facility alternatives as well as infrastructure options. This would provide greater understanding of the longer term market requirements and supply options and provide the necessary context for how any individual expansion proposal or new transportation option may fit into the broader longer term energy infrastructure plan. This may also expedite and create efficiencies in the approval of specific facilities. Given the pace of change in the natural gas sector, APPrO strongly recommends that such a review is updated periodically as the market evolves. This should assist the Board and all stakeholders in attempting to ensure that, over the longer term, the most optimal and sustainable development plan is being pursued for the benefit of the utilities and ratepayers.

Cost Recovery

21. Union states in its application that it is seeking approval to recover the cost consequences of all the facilities:

> *The Applicant also hereby applies to the Board, pursuant to Section 36 of the Act, for an Order or Orders granting:*
>
> *a) approval of recovery of the cost consequences of all facilities associated with the development of the proposed Burlington Oakville Project from ratepayers;*[22]
> *b) approval of an accounting order to establish the Burlington Oakville Deferral Account.*

22. The deferral account being requested is intended to track the variance between the costs approved in rates for the project and the actual revenue requirement.

> *Union is also seeking approval for a Burlington Oakville Project Costs Deferral Account to track any variance*

[22] Exhibit A Tab 2 page 1.

> *between the costs approved in rates for the Project and the actual annual revenue requirement of the Project.*[23]

23. If the Board approves the Project, then APPrO believes that the Board should only approve the estimated capital cost of $119.5 million[24] of this project. A deferral account should also be used to track the difference between the estimated $119.5 million capital cost and the actual capital cost of the Project. Upon completion of the project, Union should then be required to provide an explanation of all major cost variances and apply for approval to dispose of the capital cost deferral account balance and any appropriate returns.

24. In conclusion, while APPrO does not oppose the Application, it strongly recommends that the Board implement a broader natural gas energy infrastructure planning process that it well and duly informed by systematized and periodic natural gas market review instituted by the Board. It is through such process that the Board may best attempt to ensure natural gas infrastructure is optimized and sustainably developed to the benefit of all customers, including gas-fired power generators.

25. APPrO has participated very efficiently in this proceeding in order to test the alternatives and make specific recommendations for a path forward for the Board, in furtherance of its statutory mandate. We therefore request that APPrO be awarded 100% of its reasonably incurred costs.

[23] Exhibit A Tab 3 page 3.
[24] *Ibid*.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS

16th day of October, 2015

Lisa (Elisabeth) DeMarco
Zizzo Allan DeMarco LLP
Counsel for APPrO