



ONTARIO ENERGY BOARD

OEB STAFF SUBMISSION

October 29, 2015

Union Gas Limited

**Application for approval to expropriate certain
interests in lands in the Town of Milton**

EB-2015-0230

Introduction

Union Gas Limited (Union) filed an application dated July 20, 2015 pursuant to Section 99(1) of the *Ontario Energy Board Act, 1998* (the Act), for an order or orders under Section 99(5) of the Act granting Union authority to expropriate certain interests in land in the Town of Milton, Municipality of Halton for the purposes of constructing, operating and maintaining a natural gas pipeline as part of Union's Dawn Parkway 2016 Expansion Project (the Dawn Parkway 2016 Project). In its Decision and Order in proceeding EB-2014-0261 the OEB found the Dawn Parkway 2016 Project to be in the public interest. The Dawn Parkway 2016 Project includes the construction of 20 kilometres of pipeline and associated facilities between Union's Hamilton Valve Site and Milton Valve Site (Hamilton-Milton Pipeline).

Originally Union applied for authority to expropriate 2.11 hectares (5.21 acres) of permanent easements and 4.42 hectares (10.92 acres) of temporary easements situated on a total of 8 properties along the approved Hamilton-Milton Pipeline route. In letters to the OEB, dated between July 24 and September 18, 2015, Union informed the OEB that it settled with the landowners for all the affected properties except one which is the only property that is now subject to the application for authority to expropriate. In response to OEB staff interrogatory 1(a) Union stated that Union is seeking a permanent easement for the remaining property which covers an area of 0.97 hectares (342 x 28 metres) and temporary easements over two areas, 0.17 hectares (83 x 20metres) and 0.34 hectares (342 x 10 metres). There are three co-owners in respect of this property.

OEB staff submits that the requested expropriation is in the public interest and should be granted by the OEB. Further OEB staff submits that compensation issues do not fall within the OEB's jurisdiction under Section 99 of the Act. The compensation issues will be addressed by Union in accordance with the *Expropriations Act*.

Process

The OEB issued its Notice of Application on August 18, 2015 (the Notice). Union served and published the Notice as directed. There are no intervenors in this proceeding. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on September 18, 2015, the interrogatory phase was completed on October 15, 2015.

OEB Staff Submission

OEB staff submits that it is in the public interest that the OEB grant Union authority to expropriate the necessary permanent and temporary easements, as requested by Union because the OEB found that the Hamilton-Milton Pipeline is in the public interest in EB-2014-0261 proceeding.¹ OEB staff notes that Union's application states that the temporary easements are required for top soil storage and construction related activities, including post-construction clean-up, over a period extending until December 31, 2017.

Section 99(5) of the Act establishes the test for approving an application brought under Section 99(1). Section 99(5) reads:

If after the hearing the Board is of the opinion that the expropriation of the land is in the public interest, it may make an order authorizing the applicant to expropriate the land.

The OEB, in its Decision and Order in EB-2014-0261 found that the Dawn to Parkway 2016 Project itself is in the public interest. OEB staff submits that the requested easements are necessary for the construction, operation and maintenance of the Hamilton-Milton Pipeline, which is part of the Dawn to Parkway 2016 Project. The public interest test considerations the OEB applied when approving Hamilton-Milton Pipeline included the need, alternatives to the project, economics, impact on rate payers, costs recovery, technical and safety requirements, consultation with affected parties, environmental matters and form of easement agreements with directly affected landowners.

OEB staff submits that Union obtained most of the permanent and temporary easements for Hamilton-Milton Pipeline through negotiations with directly affected landowners. The exceptions are one permanent and two temporary easements subject to this application. Union has stated in response to OEB Staff Interrogatory 1(b) that it is continuing to negotiate compensation issues with the remaining co-owners of the land.

OEB staff notes that although the co-owners of the land in question were properly served with the Notice and the Application for Authority to Expropriate, they did not file letters of comment nor did they apply for intervenor status in this proceeding. OEB staff notes that there is no information on the record setting out the position of the co-owners which may be of importance to the OEB when considering this matter. In summary OEB staff submits that for the public interest to be served the construction of the Hamilton-Milton Pipeline needs to be completed and all of the remaining required land rights need to be secured.

¹ The OEB used the same reasoning for approval of a recent application by Union to expropriate interest in land along OEB approved natural gas pipeline as part of Union's Brantford-Kirkwall / Parkway D Project (EB-2014-0335).

As such, OEB staff submits that it would be appropriate for the OEB to grant Union authority to expropriate the requested easements as it will allow the Hamilton-Milton Pipeline to be constructed and the Dawn to Parkway 2016 Project to be completed as planned and approved.

-All of which is respectfully submitted-