



**Ontario Energy Board
Commission de l'énergie de l'Ontario**

DECISION AND ORDER

EB-2015-0366

UNION GAS LIMITED

Panhandle Relocation Project

BEFORE: Ellen Fry
Presiding Member

April 28, 2016

INTRODUCTION

Union Gas Limited (Union) applied to the Ontario Energy Board (OEB) on January 7, 2016 under section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B (the OEB Act) for approval to relocate and replace two existing pipelines (the Project). The Project is needed to accommodate the Windsor Detroit Bridge Authority's (WDBA) International Detroit River Crossing Project in the City of Windsor, and in particular the construction of a new customs and immigration plaza.

The proposed pipelines are part of Union's Panhandle System and will replace two pipeline sections that supply gas to two gas-fired generating stations as follows:

1. An approximately 1,470 m long NPS 12 pipeline replacing the existing NPS 12 supply pipeline to the West Windsor Power station (WWP); and
2. An approximately 1,710 m long NPS 20 pipeline replacing the existing NPS 16 pipeline to the Brighton Beach Power station (BBP).

A map of the Project is attached as Schedule A to this Decision and Order.

The existing pipelines will be abandoned and left in place in accordance with the Technical Standards and Safety Authority's "Pipeline Abandonment Checklist".¹

Construction of the Project is scheduled to start in the spring of 2016. In order to coordinate the completion of the Project with the plaza construction schedule, the construction must be finished by fall 2016. Tie-in of the relocated pipelines to the two power plants is planned for October 2016.

Union also applied under section 97 of the OEB Act for approval of the form of easement agreements.

For the reasons set out below, the OEB finds that the construction of the Project is in the public interest. The OEB grants leave to construct, subject to the Conditions of Approval attached as Schedule B to this Decision and Order.

¹ Union's Evidence, Schedule 7.

THE PROCESS

Union's application for leave to construct included a request for "an exemption, pursuant to s. 95 of the OEB Act, from any requirement to hold a hearing". The OEB did not grant this request. The OEB issued a Notice of Application (Notice) on February 5, 2016.

Union served and published the Notice as directed. No one requested intervenor status. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No.1, the interrogatory phase of the proceeding was completed on March 24, 2016. OEB staff filed a written submission supporting Union's application. Union filed a reply submission confirming its acceptance of the draft Conditions of Approval proposed by OEB staff.

THE PUBLIC INTEREST TEST

This is an application under section 90 of the OEB Act seeking an order for leave to construct a natural gas pipeline. Section 96 of the OEB Act provides that the OEB shall make an order granting leave if the OEB finds that “the construction, expansion or reinforcement of the proposed work is in the public interest”. When determining whether a project is in the public interest, the OEB typically examines the need for the project, the project cost and economics, the environmental impacts, Aboriginal consultation, and the impacts on land owners. Each of these issues is addressed below.

NEED FOR THE PROJECT

The Project need is based on a request of the WDBA.² The WDBA is responsible for the International Detroit River Crossing Project including a new customs and immigration plaza. To accommodate the construction of the plaza, the WDBA requested that Union relocate two pipelines which are part of Union's Panhandle System and supply gas to two gas-fired generating plants.

The OEB accepts Union's evidence on the need for the Project and finds that the Project is needed to accommodate construction of the plaza by the WDBA.

² Union's evidence, Schedule 2, letter from WDBA to Union dated February 25, 2015.

PROJECT COST AND ECONOMICS

The WDBA will reimburse Union for all costs associated with the Project (estimated at \$14.25 million).³ There will therefore be no impact on Union's ratepayers.

³ Union's evidence, Schedule 2, letter from WDBA to Union dated February 25, 2015.

ENVIRONMENTAL ASSESSMENT

Union adhered to the OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (2011) to assess the environmental impact of the Project. The environmental assessment, including proposed mitigation measures, was documented in an Environmental Report (ER) prepared by Neegan Burnside Ltd. on behalf of Union. The ER concluded that with the implementation of the recommended mitigation measures, the potential environmental impacts of construction will be short-term and minimal. The ER was reviewed by the members of the Ontario Pipeline Coordination Committee (OPCC), the City of Windsor, Essex Region Conservation Authority, First Nations and the Métis Nation of Ontario. There are no outstanding issues or concerns raised in the ER review.

The OEB finds that Union has adequately addressed the environmental issues through its commitment to implement the mitigation recommendations identified in the ER and recommendations received in the OPCC review⁴. Union is also required to adhere to the Conditions of Approval contained in Schedule B related to mitigation and construction monitoring and reporting.

⁴ Union's response to OEB staff interrogatory # 5(a) Schedule 1, "OPCC Review Summary" update. In a letter dated March 4, 2016, the Ministry of Tourism Culture and Sport recommended a standard procedure to be followed by Union if unknown archaeological or cultural material is encountered during construction.

ABORIGINAL CONSULTATION

The OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (2011) require that proponents identify and engage with any Aboriginal groups that might be impacted by the proposed project. On June 22, 2015, as part of Project planning, and prior to filing the application with the OEB, Union notified First Nations and Métis communities potentially affected by the Project and offered to meet with them to discuss the Project.⁵ Copies of the notification emails are included in the evidence.

As per OEB's letter of direction, dated February 5, 2016 Union served the Notice of Application on Métis Nation of Ontario, Walpole Island First Nation, Oneida First Nation, Chippewas of the Thames First Nation, Munsee-Delaware First Nation, Kettle and Stony Point First Nations, Aamjiwnaang First Nation, Caldwell First Nation, and Delaware First Nation.⁶ None of these requested intervenor status in this proceeding.

Union has received a letter from the Chippewas of the Thames First Nation stating that it had no concerns with the Project.⁷ Union stated in response to OEB staff interrogatories that it received no other comments, concerns or issues from First Nations or the Métis Nation of Ontario as of March 24, 2016.⁸

Union has indicated that once the archeological assessment is completed it will make that available to any Aboriginal group that requests it. It will also have representatives available during construction to discuss any concerns that any Aboriginal groups may have.⁹

Union has followed the Environmental Guidelines and appears to have adequately engaged with potentially affected Aboriginal groups. No concerns have been raised. The OEB is satisfied that the duty to consult has been sufficiently discharged for the Project as of the time of this approval.

⁵ EB-2015-0366 Evidence, page 13, line 1.

⁶ EB-2015-0366 Affidavit of Service, filed with the OEB by Union, on February 18, 2016.

⁷ Union's response to OEB staff interrogatory # 5(b), Schedule 2, Letter from the Chippewas of the Thames First Nation, dated October 5, 2015.

⁸ Union's response to OEB staff interrogatory # 5(c).

⁹ EB-2015-0366 Evidence, page 13.

LAND MATTERS

In order to coordinate construction schedules, Union is required to complete construction of the Project prior to completion of the plaza by the WDBA. The pipelines will be mainly located within the plaza along a proposed future road allowance of the City of Windsor. The municipal franchise agreement between Union and the City of Windsor includes rights to locate pipelines within municipal road allowances. The land for the entire plaza including the future road allowance is being purchased by the WDBA. Once the purchase is finalized the WDBA will transfer road allowance rights to the City of Windsor. These transactions will not be closed in time for Union's construction to start. For this reason, Union needs temporary and permanent land rights from the WDBA, the West Windsor Power station (WWP) and Infrastructure Ontario (IO), and temporary land rights from the Brighton Beach Power station (BBP) and Nemark of Canada Corporation (Nemark). Union stated the acquisition of these land rights is either concluded or is expected to be concluded in the second quarter of 2016.¹⁰ Regarding Union's negotiations for temporary land rights with Nemark, Union stated that in case of unsuccessful negotiations with Nemark, it will be able to complete construction without the use of Nemark's property. Land rights for the Project's launcher and receiver facilities will be subject to Union's municipal franchise agreement with the City of Windsor.

Section 97 of the OEB Act requires Union to satisfy the OEB that it has offered or will offer to each owner of land affected by the pipeline route an agreement in a form approved by the OEB. Union filed a form of easement agreement that has been or will be offered to the WWP, the WDBA and IO.

The OEB approves the proposed form of easement agreement included in the evidence. OEB notes that the form of the easement agreement provided in the evidence of this application is the same as the ones filed in EB-2013-0420 and EB-2015-0041 which were approved by the OEB on March 28, 2014 and June 4, 2015 respectively.¹¹

The OEB finds that Union has adequately addressed land issues associated with the Project.

¹⁰ EB-2015-0366, Union's response to OEB staff interrogatories #1 and #3.

¹¹ EB-2013-0420 (Union's Panhandle 2014 Replacement Project) and EB-2015-0041 (Union's Panhandle 2015 Replacement Project).

ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Union Gas Limited is granted leave, pursuant to subsection 90(1) of the OEB Act, to construct approximately 1,470 metres of nominal size 12 inch steel pipeline and approximately 1,710 metres of nominal size 20 inch steel pipeline plus ancillary facilities to relocate the pipelines serving the West Windsor Power station and the Brighton Beach Power station, respectively, both in the City of Windsor, as described in the application for this proceeding. Leave to construct is subject to the Conditions of Approval set forth in Schedule B.
2. Union Gas Limited shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

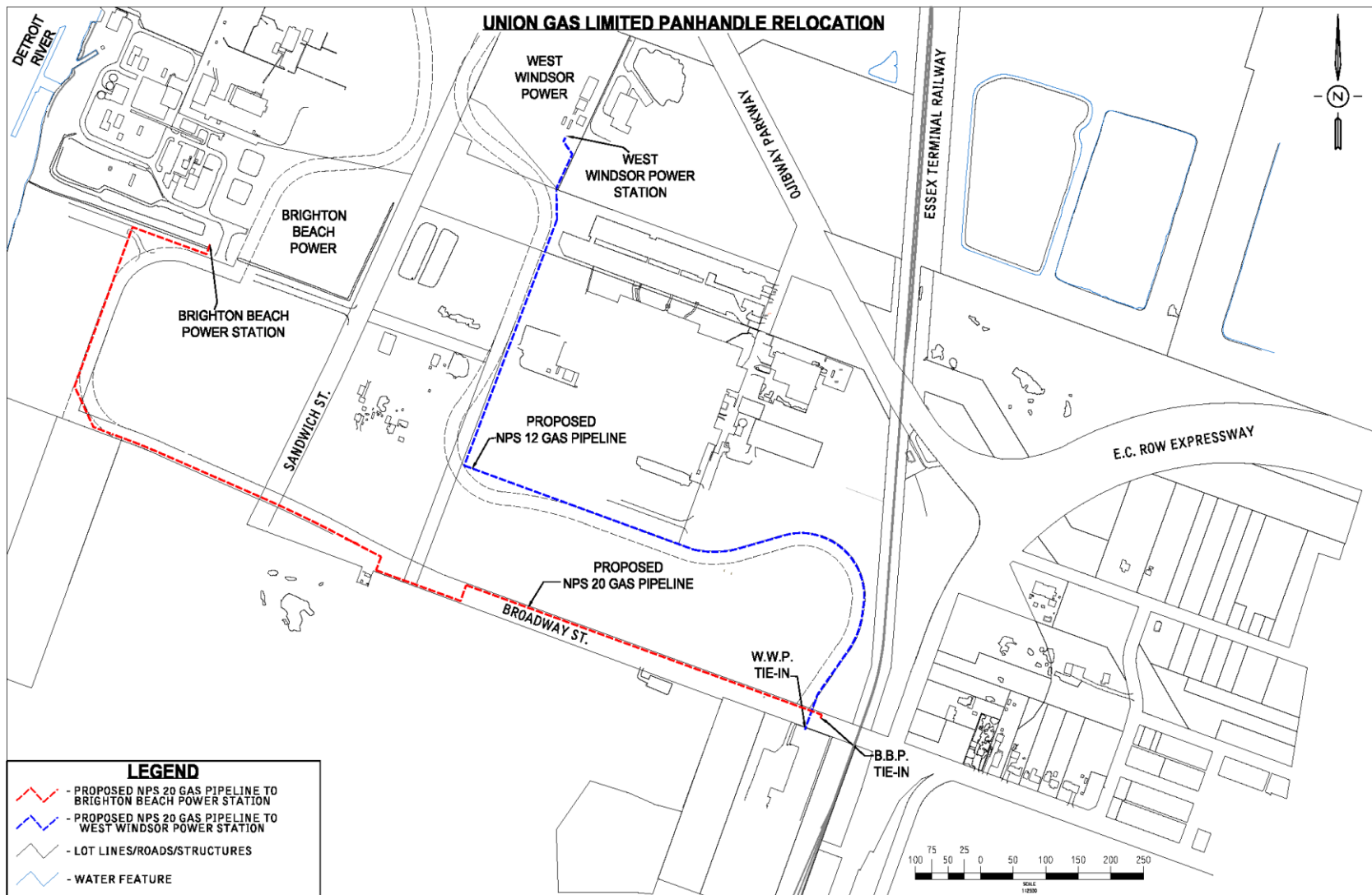
DATED at Toronto April 28, 2016

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
OEB Secretary

SCHEDULE A
DECISION AND ORDER
UNION GAS LIMITED
EB-2015-0366
APRIL 28, 2016



SCHEDULE B
DECISION AND ORDER
UNION GAS LIMITED
EB-2015-0366
APRIL 28, 2016

**Leave to Construct Conditions of
Approval
Application under Section 90 of the
OEB Act
Union Gas Limited
EB-2015-0366**

1. Union Gas Limited (Union) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2015-0366 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 OEB 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 OEB of any proposed change to OEB-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 OEB. In the event of an emergency, the OEB shall be informed immediately after the fact.

5. Both during and after construction, Union shall monitor the impacts of construction, and shall file with the OEB one paper copy and one electronic (searchable PDF) version of each of the following reports:
- 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.