



**EB-2016-0004**

## **Ontario Energy Board**

### **Application under the Ontario Energy Board's own motion to consider potential alternative approaches to recover costs of expanding natural gas service to communities that are not currently served**

#### **PROCEDURAL ORDER NO. 3 May 30, 2016**

On July 23, 2015, Union Gas Limited (Union) filed an application (EB-2015-0179) with the Ontario Energy Board (OEB) seeking approval to provide natural gas service to certain communities that are not being currently served. The application was in response to a letter<sup>1</sup> from the OEB inviting parties with the appropriate financial and technical expertise to propose one or more plans for natural gas expansion. The OEB further noted that it would consider requests for regulatory flexibility or appropriate exemptions in the context of an application made for approvals pertaining to expansion portfolios and specific projects.

Union in its application indicated that under its proposal, it could complete approximately 29 projects to provide natural gas service to 18,000 homes and businesses in 34 communities at an estimated cost of \$135 million. Union also sought approval for rate recovery of four specific projects and leave to construct approval for three of the four projects.

In a letter dated January 20, 2016, the OEB informed all parties that it intended to proceed with a generic hearing on its own motion as the issues raised by all the parties in Union's application were common to all gas distributors and new entrants seeking to provide gas distribution services in communities that do not have access to natural gas. The OEB also noted in that letter that Union's application (EB-2015-0179) would be put on hold until the completion of the generic hearing.

Accordingly, the OEB issued a Notice of Hearing for the generic proceeding on February 5, 2016. In Procedural Order No. 2 issued on March 9, 2016, the OEB

---

<sup>1</sup> OEB Letter dated February 18, 2015

determined a final Issues List for the proceeding and set out the process for filing of evidence and discovery of that evidence. The OEB also scheduled an oral hearing in the procedural order.

The OEB held an oral hearing from May 5, 2016 until May 13, 2016. At the end of the hearing, the panel indicated that they would provide for two rounds of submissions and would provide further guidance on characterization of the submission that would best inform the panel.

On May 17, 2016, Environmental Defence filed a letter quoting a recent Globe and Mail newspaper article (May 16, 2016) that referred to the Ontario Government's upcoming Climate Change Action Plan. The plan reportedly aims to move consumers off natural gas and onto other sources of energy such as electric heat, geothermal and solar power. The plan also intends to adopt new building codes that would require all homes and small buildings constructed in 2030 and beyond to be heated without fossil fuels. Environmental Defence noted that the draft plan contains numerous provisions that would be highly relevant to this proceeding. Accordingly, Environmental Defence submitted that the first round of submissions for this proceeding should be scheduled one week following the release of the Climate Change Action Plan.

On May 19, 2016, the Canadian Propane Association (CPA) filed a letter supporting the proposal of Environmental Defence. However, CPA submitted that the OEB not only consider deferring closing arguments but also raised the possibility of whether there is any merit in allowing parties to file updates to their evidence to reflect changes in the Climate Change Action Plan, and/or whether a further round of interrogatories should be allowed so that parties may ask utilities and other intervenors to provide updated program data and forecasts reflective of any such new policy.

The OEB does not consider it necessary to delay the schedule for arguments in this hearing. The purpose of this hearing is to inform the OEB of what considerations should be included in a framework for examining the merits of specific gas distribution expansion proposals. It is the OEB's intent that the framework being developed will have the flexibility to adapt to the introduction of any programs or building code requirements that have a bearing on the prospective use of natural gas in any subject communities.

As the Ontario Government has not yet released the details or the actual Climate Change Action Plan, the OEB cannot speculate on its contents. Parties may choose to address in their submissions the impact of scenarios similar to that outlined in the media reports on the community expansion framework. In keeping with the OEB's stated intent regarding adaptability, submissions of this nature could inform the OEB in determining the degree of flexibility required in an assessment framework.

As mentioned above on the last day of the oral hearing the OEB stated that it would identify matters that it considered to be of particular significance in the establishment of a framework for assessing natural gas distribution system expansion proposals. The intent is to have parties address these matters in their submissions if they have adopted positions that are relevant to the identified matters.

The issues list used to scope this hearing and the OEB's ruling on the requests for additional information in its Decision on Incomplete Interrogatory Responses dated May 2, 2016, should be viewed as the primary guidance documents for scoping the arguments. The following questions flow from the evidence that was provided in the hearing and the OEB welcomes submissions on them.

In relation to issue # 8, the OEB would be further assisted if the parties could consider the following additional questions: Should the Municipal Franchise Agreement approval process be accompanied by a selection process? Who should conduct the process and what should the selection criteria be? How would the needs of large users be considered? Submissions on the current purpose and use of the Municipal Franchise Agreement would also be of assistance.

The panel would be also be assisted by comments regarding some jurisdictional issues. Parties will already be addressing the extent to which the OEB has the jurisdiction to authorize subsidies between utilities through issue #2. The OEB asks that parties further consider what, if any, changes to the OEB's jurisdiction would be helpful in allowing the OEB to foster the rational expansion of natural gas service in Ontario.

With respect to Issue #10, in addition to submissions on how to incorporate the loan and grant programs into the economic feasibility analysis, the OEB would welcome submissions on how the disbursement of these funds might relate to the OEB's approval of expansions. The OEB recognizes that ultimately the government will decide how this money is best used, but the OEB would like to hear the parties' views on the optimal use of these funds.

The OEB considers it necessary to make provision for the following matters related to this proceeding. The OEB may issue further procedural orders from time to time.

**THE OEB ORDERS THAT:**

1. Parties that wish to file written submissions must file their submissions with the OEB and deliver it to all other parties on or before **June 20, 2016**.

2. Parties that wish to respond to the submissions made by other parties must file their reply submissions with the OEB and deliver it to all other parties on or before **July 11, 2016**.

All filings to the OEB must quote the file number, EB-2016-0004 and be made electronically in searchable / unrestricted PDF format through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

### **ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4  
Attention: Board Secretary

E-mail: [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca)  
Tel: 1-888-632-6273 (Toll free)  
Fax: 416-440-7656

**DATED** at Toronto, May 30, 2016  
**ONTARIO ENERGY BOARD**

Original signed by

Kirsten Walli  
Board Secretary