



# **ONTARIO ENERGY BOARD**

**OEB STAFF SUBMISSION**

**June 14, 2016**

**Union Gas Limited  
2016 Sudbury Replacement Project  
EB-2016-0122**

## Introduction

Union Gas Limited (Union) filed an application with the Ontario Energy Board (the OEB) on March 11, 2016, under section 90 of the *Ontario Energy Board Act, 1998*, for leave to construct natural gas pipelines to replace two sections of the existing Sudbury lateral NPS 10 line, to address class location changes, pipeline system integrity concerns and future growth requirements. The proposed expansion project consists of a total of 850 metres of NPS 12 natural gas pipeline, with the first section being 700 metres long and the second section 150 metres long (the Project), in the City of Greater Sudbury.

Union plans to start construction in the summer of 2016.

OEB staff supports Union's application subject to the proposed draft conditions of approval attached as Appendix A.

## Process

The OEB issued a Notice of Hearing on April 1, 2016. The Industrial Gas Users Association (IGUA) requested and was granted intervenor status and cost award eligibility. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on April 25, 2016, the interrogatory phase was completed on May 24, 2016. On May 30, 2016, IGUA and OEB staff advised the OEB that they would not file evidence in the proceeding. Based on that information, the OEB issued Procedural Order No. 2 revising the dates for written submissions.

## Need for the Project and Alternatives

The need for the Project is twofold:

- (i) Union needs to replace the existing pipeline to meet the pipeline design requirements of the CSA Z662-11 code<sup>1</sup> to address:
  - a) pipeline integrity issues identified as safety and security of supply concerns by Union's Integrity Management Program inspection;
  - b) pipeline related safety issues due to the increased population density along the existing pipeline by meeting the design requirements for Class 3 location

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<sup>1</sup> Compliance with the code is required under the *Technical Standards and Safety Act, 2000*.

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population density.

- (ii) Union proposes to increase the diameter of the 700 metre long section and the 150 metre section of the existing pipeline to add capacity for future demand growth on the Sudbury pipeline system.

Union considered two alternatives to the Project:

1. size for size replacements of the two sections;
2. replacements of individual sections not meeting the integrity or Class location requirements.

Union stated that it compared the two alternatives to the Project and decided that the Project is a preferred alternative because it addresses forecast growth in the City of Greater Sudbury and efficiently addresses integrity and Class location requirements.<sup>2</sup>

OEB staff submits that Union demonstrated that the Project is needed to ensure compliance with the current pipeline design regulatory requirements to address integrity concerns and increased population density risk and to add capacity for anticipated future growth along the Sudbury pipeline system.

### **Project Cost and Economics**

The estimated cost of the Project is \$ 2.2 million. Union stated it did not conduct an economic analysis using the discount cash flow method, which is normally required for pipeline distribution system expansion projects,<sup>3</sup> because the Project is driven primarily by integrity issues and class location requirements. There are no new contracts associated with the Project. Union also noted that the cost to increase the pipeline diameter adds about \$117,988.50 or 5.4% to the total Project cost. According to Union, increasing the pipeline diameter is an efficient way to increase the capacity of the Sudbury pipeline system in anticipation of demand growth. Cost recovery of the Project will be addressed as part of the Union's 2019 rebasing application.<sup>4</sup>

OEB staff accepts Union's rationale for not conducting an economic analysis. OEB staff also submits that Union's proposal for cost recovery is consistent with the current incentive

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<sup>2</sup> EB-2016-0122 Pre-filed Evidence, pages 4-5, paragraphs 27, 28.

<sup>3</sup> "Ontario Energy Board Guidelines for Assessing and Reporting on Natural System Expansion in Ontario" set out in the OEB's EBO 188 "Report to the Board" dated January 30, 1998 (EBO 188).

<sup>4</sup> Response to OEB staff interrogatory no. 1.

regulation framework approved by the OEB.<sup>5</sup> Subject to the OEB's approval of the proposed conditions of approval attached as Appendix A, Union will report the actual construction costs for the Project in its next rebasing proceeding. The OEB will then consider the prudence of those costs for inclusion in rate base.

### **The Environmental Assessment**

As the majority of the pipeline will be removed and a new pipeline will be installed in the same general location, a full route selection was not completed. Union prepared an Environmental Protection Plan (EPP). The EPP has as an appendix an Environmental Report (ER) completed on behalf of Union by Azimuth Environmental Consulting Inc. Union filed the EPP with the OEB and provided it for review to the members of the Ontario Pipeline Coordinating Committee (OPCC), municipalities, Conservation Sudbury (Nickel District Conservation Authority), affected agencies, First Nations and Métis communities. In response to OEB staff interrogatory no. 3, Union filed a summary of the comments received by the OPCC. There are no outstanding issues and concerns raised in the ER review by the OPCC or others. Although no concerns have been raised by the First Nations and Métis communities that Union notified about the Project, Union stated it would provide the results of the archeological assessment, when completed, upon request.

In the evidence<sup>6</sup> Union stated that it will implement the environmental inspection program to ensure that the recommendations and mitigation measures in the EPP, found at Schedule 11 of Union's pre-filed evidence, are followed and implemented.

OEB staff has no concerns regarding the environmental assessment as Union is committed to implementing the proposed mitigation measures and to adhere to the proposed conditions of approval contained in Appendix A related to mitigation and construction monitoring and reporting.

### **Aboriginal Consultation**

On March 16, and March 17, 2016 Union sent notification letters about the Project to the following First Nations and Métis communities identified as potentially affected by the Project: Wahnapiataie First Nation, White Fish First Nation, Region 5 Métis Nation of Ontario, Sudbury Métis Nation of Ontario (the Notified First Nations and Métis).

As per OEB's letter of direction, dated February April 1, 2016, Union served the Notice of Application on the Notified First Nations and Métis.

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<sup>5</sup> EB-2013-0202.

<sup>6</sup> EB-2016-0122 Pre-filed Evidence, page 8, paragraphs 60-61.

Union stated that it did not receive any comments from the Notified First Nations and Métis and that it followed up by phone calls with offers to meet in person, after the Project is approved, to discuss the construction schedule.<sup>7</sup>

In OEB staff's view, Union appears to have made adequate attempts to engage with affected Aboriginal groups and no concerns have been raised. Based on this, OEB staff submits that the duty to consult has been sufficiently discharged for the Project unless any new information is received before the OEB issues its decision.

## Land Matters

The Project consists of two segments: (i) a 700 metre long segment (First Segment) and (ii) a 150 metre long segment (Second Segment).

For the First Segment, Union needs three permanent easements from private landowners and the City of Greater Sudbury and temporary land rights from Hydro One and the City of Greater Sudbury. Union has obtained two of the three permanent easements. Regarding the third permanent easement, Union explained that one of two landowners signed the agreement and it expects the other one to sign it. Union obtained temporary easement from the City of Greater Sudbury and is currently negotiating with Hydro One for the temporary easement. Union indicated that Hydro One did not raise any issues with granting Union the temporary rights.

For the Second Segment, Union has all the easements rights including temporary land use rights from the City of Greater Sudbury.<sup>8</sup>

Union confirmed that it will obtain all necessary permanent and temporary land rights in advance of the start of construction.

Union applied under section 97 of the *Ontario Energy Board Act, 1998* for an order approving the form of easement agreement that will be offered or has been offered to all directly affected landowners. Union filed a form of the Pipeline Easement Agreement in the evidence (the Form of Agreement).<sup>9</sup> Union noted that the Form of Agreement was approved by the OEB in the Dawn Parkway 2016 System Expansion EB-2014-0261 proceeding.<sup>10</sup>

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<sup>7</sup> Response to OEB staff interrogatory no. 4.

<sup>8</sup> Response to OEB staff interrogatory no. 2 (a).

<sup>9</sup> EB-2016-0122 Union's Application and Evidence, Schedule 10.

<sup>10</sup> Response to OEB staff interrogatory no. 2 (b).

OEB staff submits that the Form of Agreement should be approved as it is consistent with the form of agreement previously approved by the OEB.

### **Conditions of Approval**

In response to OEB staff interrogatory no. 5, Union accepted the draft conditions of approval proposed by OEB staff. The conditions are attached as Appendix A to this submission. They are the standard conditions the OEB attaches to pipeline approvals.

All of which is respectfully submitted.

**Appendix A**  
**to**  
**OEB Staff Submission**

**Leave to Construct Conditions of Approval  
Application under Section 90 of the OEB Act  
Union Gas Limited  
EB-2016-0122**

1. Union Gas Limited (Union) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2016-0122 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 Protection Plan 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. 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.



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6. 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.