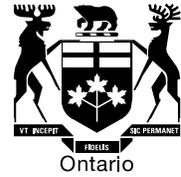


Ontario Energy Board
P.O. Box 2319
27th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'énergie de l'Ontario
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL

October 19, 2016

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
BoardSec@ontarioenergyboard.ca

Dear Ms. Walli:

**Re: Union Gas Limited (Union)
Sudbury Maley Pipeline Replacement Project
OEB Staff Submission
Board File No. EB-2016-0222**

In accordance with Procedural Order #1, please find attached OEB Staff's submission in the above noted proceeding. The applicant has been copied on this filing.

Union is reminded that its Reply Submission is due by October 28, 2016.

Yours truly,

Original Signed By

Daniel Kim
Advisor

Encl.



ONTARIO ENERGY BOARD

OEB STAFF SUBMISSION

October 19, 2016

**Union Gas Limited
2016 Sudbury Maley Drive
Replacement Project
EB-2016-0222**

Introduction

Union Gas Limited (Union Gas) filed an application with the Ontario Energy Board (the OEB) on July 14, 2016, under section 90 of the *Ontario Energy Board Act, 1998* (the Act), for leave to construct natural gas pipelines to replace a section of NPS 10 natural gas pipeline with 1,955 metres of NPS 12 pipeline and to replace an 854 metre section of NPS 12 natural gas pipeline (the Project) in the City of Greater Sudbury (City).

Union Gas plans to start construction in 2016.

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

Process

The OEB issued a Notice of Hearing on August 18, 2016. There were no intervention requests nor were any letters of comments received by the OEB. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on September 13, 2016, the interrogatory phase was completed on October 6, 2016.

Need for the Project and Alternatives

The City is proposing to construct a four lane extension of Maley Drive and is proposing to commence this work in 2016. In order to facilitate the construction of the roadways the City has requested Union Gas to relocate portions of its NPS 10 and NPS 12 pipelines in areas where the current location of the pipelines is in conflict with the new location of Maley Drive.

The City first approached Union Gas with plans for roadway upgrades in 2009. Union Gas filed an application with the OEB (EB-2010-0154) in April 2010 to replace these pipelines. However, the project was deferred due to lack of funding. In 2015, the City again approached Union Gas about relocating its pipelines because it had secured funding to complete the Maley Project.

In response to OEB staff interrogatory #8, Union Gas noted that alternatives to consider are limited due to the short length of the proposed facilities and the proposed location of the new Maley Drive. Union Gas noted that no alternatives were considered for the

current NPS 12 pipeline. However, Union Gas considered two alternatives to replace the existing NPS 10 pipeline:

1. Size for size replacement;
2. Increase the size to NPS 12 pipeline.

Union Gas provided the incremental capacity and costs associated with these alternatives. In Union Gas' view there was no significant difference in costs of increasing the pipe size from NPS 10 to NPS 12, and since there is forecasted growth in the Sudbury system, Union Gas proposed to replace the existing NPS 10 with NPS 12 pipeline.

OEB staff submits that Union Gas' evidence supports that the Project is needed to comply with the City's relocation request, and to accommodate additional capacity for anticipated future growth along the Sudbury pipeline system.

Project Cost and Economics

The estimated cost of the Project is \$6.3 million. Union Gas stated it did not conduct an economic analysis using the discount cash flow method, which is normally required for pipeline distribution system expansion projects,¹ because the Project is driven primarily by the move request from the City. In response to OEB staff interrogatory #11, Union Gas confirmed that the estimated capital contributions from the City will be approximately \$4.7 million. Also in response to OEB staff interrogatory #3, Union Gas noted that the abandonment of the NPS 10 and NPS 12 pipeline does not have any impact from an accounting perspective and that there will be no rate base impact because the existing pipe is fully depreciated. Union Gas noted that during the current incentive rate-setting period Union Gas will be responsible for the construction costs within Union Gas' existing capital budget and that these costs will form part of Union Gas' rebasing application for 2019 rates.

OEB staff accepts Union Gas' rationale for not conducting an economic analysis. OEB staff also submits that Union Gas' proposal for cost recovery is consistent with the current incentive regulation framework approved by the OEB². If the OEB approves the proposed conditions of approval attached as Appendix A, Union Gas would report the actual construction costs for the Project in its next rebasing proceeding. The OEB would then

¹ "Ontario Energy Board Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario" set out in the OEB's EBO 188 "Report of the Board" dated January 30, 1998 (EBO 188).

² EB-2013-0202.

consider the prudence of those costs for inclusion in rate base.

The Environmental Assessment

The City completed an environmental assessment for the proposed road work. This report identified environmental features in the proposed construction zone and the mitigation measures that the City proposes to implement.

In addition to the environment assessment completed by the City, Union Gas commissioned Stantec Consulting Ltd. (Stantec) to update a previous environmental review written in 2010 (at the time of the EB-2010-0154 application), as well as review of the environmental documents prepared by the City. Union Gas prepared an Environmental Protection Plan (EPP). The EPP has as an appendix an Environmental Report (ER) completed on behalf of Union Gas by Stantec. Stantec concludes, “provided that all mitigation measures referenced in this report and the 2010 Environmental Review are properly implemented, pipeline relocation activities are not anticipated to have significant adverse environmental or socio-economic impacts.”

Union Gas filed the EPP with the OEB and provided it for review to the members of the Ontario Pipeline Coordinating Committee (OPCC), the municipality, Conservation Sudbury (Nickel District Conservation Authority), affected agencies, First Nations and Métis communities. The only comment Union Gas received in the OPCC review was a request for pipeline information by the Technical Standards and Safety Authority (TSSA) for its internal database for future TSSA’s inspection purposes. Union provided the requested information to the TSSA.³

In the evidence Union Gas stated that it will obtain all necessary environmental permits from the Ministry of Natural Resources and Forestry and Conservation Sudbury prior to construction. Union Gas has also stated that following its standard construction practices, and the mitigation measures identified in the environmental checklist, the ER, and the measures identified at Table 1 of the EPP, there will be no long term significant negative environmental impacts.⁴

OEB staff has no concerns regarding the environmental assessment as long as Union Gas adheres to the proposed conditions of approval contained in Appendix A related to

³ EB-2016-0222 Union response to OEB staff interrogatory #2.

⁴ EB-2016-0222 Pre-filed Evidence, page 9.

mitigation and construction monitoring and reporting.

Indigenous Consultation

Union Gas notified the following First Nations and Métis communities about the project, which were identified by Union Gas as potentially affected by the Project: Wahnapiatae First Nation, Whitefish First Nation, Region 5 Métis Nation of Ontario, and Sudbury Métis Nation of Ontario (the Notified First Nations and Métis).

In addition, as per the OEB's letter of direction, dated August 18, 2016 Union served the Notice of Application on the Indigenous communities and on the Métis Nation of Ontario which may be potentially affected by the Project.

In response to OEB staff interrogatory #15, Union Gas stated that no issues or concerns have been raised by the Notified First Nations and Métis. Union Gas noted that it will continue to meet and consult with the Notified First Nations and Métis⁵.

OEB staff notes that on August 11, 2016, the OEB issued a new edition of its Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario⁶ (Revised Guidelines). The Revised Guidelines set out new streamline procedures and protocols for Indigenous consultation on natural gas projects subject to OEB's approval. Under the enhanced duty to consult protocol, the Ministry of Energy will determine, early in the pipeline project planning process, if the proposed project triggers a duty to consult. If so, the Ministry of Energy will identify any Indigenous communities whose rights are potentially adversely affected by the proposed project and assess the extent of necessary consultation.

As stated in the cover letter issued with the Revised Guidelines, the new process and protocols are applicable to any new leave to construct application. However, the OEB expects that proponents abide by the intent of the Guidelines to the extent possible, if leave to construct applications were filed with the OEB prior to August 11, 2016.

To identify the Indigenous communities potentially affected by the Project Union Gas referred to the Ontario Ministry of Aboriginal Affairs, Federal Department of Aboriginal Affairs and Northern Development Canada databases. OEB staff notes that Union Gas filed this application before the Revised Guidelines were issued. In OEB staff's view Union

⁵ EB-2016-0222 Pre-filed Evidence, page 10.

⁶ <http://www.ontarioenergyboard.ca/OEB/Industry/Rules+and+Requirements/Rules+Codes+Guidelines+and+Forms#envguidelines>

Gas followed the intent of the Revised Guidelines and took appropriate steps to notify and follow up with potentially affected First Nations and Métis communities about the Project. OEB staff does not have any concerns about the consultation undertaken by Union Gas.

Land Matters

Union Gas noted that the three landowners affected by the Project will be the City, Conservation Sudbury and Vale Inco Limited (Vale). In response to OEB staff interrogatory #14, Union Gas confirmed that there are no other landowners affected by the Project and that Union Gas has all of the necessary permanent and temporary land rights in place to construct the Project.

Union Gas filed a form of easement for the new easements Union Gas obtained in 2016. Union Gas noted that the form for this project is the same form that was approved for the Panhandle Relocation project (EB-2015-0366).

OEB staff notes that under section 97 of the Act, the OEB must approve the form of easement agreement that will be or has been offered to all directly affected landowners. OEB staff submits that the form of easement should be approved as it is consistent with the form previously approved by the OEB.

Conditions of Approval

In response to OEB staff interrogatory #16, Union Gas accepted the draft standard conditions of approval proposed by OEB staff. The conditions are attached as Appendix A to this submission.

All of which is respectfully submitted.

Appendix A

to

OEB Staff Submission

Draft**Leave to Construct Conditions of Approval
Application under Section 90 of the *Ontario
Energy Board Act, 1998*****Union Gas Limited****EB-2016-0222**

1. Union Gas Limited (Union Gas) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2016-0222 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 Gas shall give the OEB notice in writing:
 - i. of the commencement of construction, at least 10 days prior to the date construction commences;
 - ii. of the planned in-service date, at least 10 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 Gas shall implement all the recommendations of the Environmental Protection Plan filed in the proceeding.
4. Union Gas shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Union Gas 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 Gas shall file, in the proceeding where 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 of any significant variances from the cost estimates filed in this proceeding.
6. Both during and after construction, Union Gas 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 Gas' 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 Gas, 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 15 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 Gas' 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 Gas, 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.