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Our File No. 164860

December 14, 2016

VIA RESS, EMAIL AND COURIER

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attention: Kirsten Walli,
Board Secretary

Dear Ms. Walli:

Re: EB-2016-0186: Union Gas Limited, Application for approval to construct a natural gas pipeline in the Township of Dawn Euphemia, the Township of St. Clair and the Municipality of Chatham-Kent and approval to recover the costs of the pipeline

Pursuant to Procedural Order No. 4, please find enclosed BOMA's Submission.

Yours truly,

FOGLER, RUBINOFF LLP

Tom Brett per

Thomas Brett
TB/dd
Encls.
cc: All Parties *(via email)*

EB-2016-0186

ONTARIO ENERGY BOARD

Union Gas Limited

Application for approval to construct a natural gas pipeline in the Township of Dawn Euphemia, the Township of St. Clair and the Municipality of Chatham-Kent and approval to recover the costs of the pipeline

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SUBMISSION OF

BUILDING OWNERS AND MANAGERS ASSOCIATION, GREATER TORONTO ("BOMA")

December 14, 2016

Tom Brett
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Counsel for BOMA

Submission

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1. BOMA is of the view that the Board should not grant Union leave to construct the proposed facilities at this time. Union has not demonstrated the requirement for additional pipeline capacity proposed by Union in this application to serve loads in 2017, 2018, and 2019. BOMA endorses the arguments of APPrO and IGUA on this point.

2. In the event the Board were to grant Union leave to construct, BOMA is of the view that Union's proposed twenty year depreciation of the new thirty-six inch pipeline is inappropriate. It is also premature, in that it is not an issue which should be raised during the term of an IRM price cap regime.

3. The proposed twenty year recovery period is inappropriate because Union has not demonstrated that there is a likelihood that Ontario's proposed GHG plan will materially affect the demand for natural gas in Ontario over the short, medium, or longer term. Union's evidence states that it does not expect any material changes to demand to occur in the short to medium term (B.Staff.4, p4). It goes on to say that it is possible that it will occur within the typical forty to fifty year depreciation period. Union does not say it is probable or likely that such a material change in demand will occur over that time. The <u>possibility</u> that such a change will occur at some point in the distant future is not sufficient justification to shorten the depreciation period by sixty percent, and by so doing, impose a much higher delivery rate on almost all customer classes. If there is a material change in gas consumption at some point or more clarity on the likely impacts of a fully developed GHG program, Union could then apply for relief.

Moreover, Union has declined to apply to the provincial government for financial relief in the event that the proposed assets become stranded as a result of the proposed possible decrease in demand (V1, p119). Instead, it stated that it would increase its efforts to find new markets for natural gas, such as hybrid gas/electric building heating options.

For the moment, the Ontario government has described the broad outlines of its GHG policy. It has not developed the details of individual programs. Much work remains to be done. For example, Union has stated that it will recommend a series of measures to the government's review of its Long-Term Energy Plan, designed to preserve and enhance the role of natural gas in the Ontario energy mix where it makes sense and is cost-effective. One example it cited is the hybrid gas/electric home heating. Another is given the government's recent decision to temper the growth (and reduce future price impacts) of renewable electricity, it is likely that the share of natural gas-fired electricity will continue to increase in the province, given its price advantage and the paucity of alternatives.

Union's decision not to address the issue of stranded costs with the government to deal with the longer term potential consequences of its GHG plan on the utilization of Union's assets is inconsistent with its proposal to request that ratepayers bear the burden, commencing immediately, of a substantial rate increase due to the reduction of the average period over which assets are depreciated from fifty to twenty years. Union should not be allowed to place that burden on ratepayers, rather than request the government to hold it harmless in the event some of its assets are stranded as a result of the implementation of the GHG program. In the event adjustments are necessary, they should be borne by the Union shareholder and the government. The ratepayers will shortly be paying the GHG charge.

4. Union was unable to identify any other utility in Canada, or the United States, that has made a proposal to reduce the depreciation rate of its new proposed pipeline assets from the traditional fifty years to twenty years because of the possible loss of load due to the introduction of a GHG program.

5. Union confirmed that under its twenty year depreciation proposal, the net present value of the amounts paid by customers would be \$248 million, whereas it would be \$181 million, using the current depreciation rates (V1, p118; LMPA.17). Customers would pay an additional \$67 million. There is no demonstrated need for customers to bear this extra burden at this time.

6. The rate increases arising from the proposed twenty year depreciation proposal (together with the proposed changes in cost allocation) are substantial.

In Union's June 24, 2016 Fact slide (B.Staff.4, p3), Union shows the estimated delivery charge impact of its proposal to be an increase in M2 rate of six to eight percent, the M4 impact rate as twenty-four to twenty-seven percent, and the rate T1 impact of fourteen to sixteen percent (BOMA's customers fall into these rate classes). These are the one-year rate increases over current OEB approved distribution rates that would result from the implementation of its proposal. Even without including Union's proposed cost allocation changes, the depreciation change would result in changes to the M4 small and M4 large delivery rates of 9.1% and 10.0%, respectively (B1.LPMA.24, p2). Many of BOMA's customers are rate M4 customers. These increases are egregiously high.

7. Moreover, the depreciation rate should not be changed at this time because the Board-approved Settlement Agreement (the "Agreement") for EB-2013-0202, at p19, states:

> *"In determining net delivery requirement for any year, the following percentages will be applied specifically provided at p169 that depreciation expenses will be calculated using 2013 Board-approved depreciation expense".*

In BOMA's view, this provision expressly excludes the use of a depreciation term different from the term approval in EB-2013-0202. The depreciation amount is a key driver of the annual delivery revenue requirement.

The Agreement does provide a list of Y-factors for a number of items which are upstream gas costs, upstream transportation costs, incremental DSM costs (as determined in EB-2011-0327) and in any subsequent DSM proceedings, LRAM for the contract rate classes, UFG volume variances, and major capital additions. Depreciation is not listed as a Y-factor. Union's contention that since major capital addition is a Y-factor, that depreciation on these projects must be a factor, because it is the method by which costs are recovered does not make sense, especially given the wording of the paragraph quoted above. Moreover, if parties had wished deprecation to be a Y-factor, they would have included it in the list.

Union has not proposed that the proposed change in depreciation rate from fifty to twenty years be a Z-factor. Union's evidence is that it is preparing a system-wide depreciation study for the rebasing. A change that has such a material impact on rates should be made, if at all, at rebasing.

BOMA would suggest that the C1 and M6 rates be adjusted but not by the full amount of the increase in the unit costs, given the fact that the route competes with other routes to Dawn.

8. Cost Allocation

BOMA does not agree with Union's proposed cost allocation changes, specifically the removal of the St. Clair assets from the proposed Panhandle system assets, for three reasons.

First, in Union's 2013 rebasing application, the allocator used for Panhandle Transmission assets was the Ojibway St. Clair demand allocator, where Panhandle and Ojibway are the same assets (V1, p122).

This cost allocator has been in place since 1990, over twenty-five years (V1, p121).

Second, it is inappropriate and not customary to change cost allocation during the term of an IRM program. The right time to make such changes is at rebasing, when the applicant conducts a comprehensive review of the existing cost allocation regime.

Third, the change of the allocator to remove the St. Clair assets from the Ojibway-St. Clair allocator causes the M4 small and M4 large rates to increase by 24.3% and 26.7%, respectively, while the T1 small, medium, and large rates increase by 13.7%, 14.8%, and 15.9%, respectively. The result is a very large increase in the M4 rates, and a lesser, but still substantial, increase in M2 (large) rates of 7.7% (B.LPMA.24, p1). The T1 small, average, and large rates would increase by 13.7%, 14.8%, and 15.9%, respectively. On the other hand, if the current Board cost allocation method were not changed (Ojibway-

St. Clair), the M4 small and large rates increase by 9.1% and 10.0%, respectively, while the T1 small, average, and large rates would increase by 16.6%, 18.0%, and 19.3%, respectively, which represent more modest incremental increases relative to the increases in M4 small and large rates, driven by Union's proposal. The differential is about one-third of that which would occur to rates under Union's proposal. For comparison purposes, J1.2 sets out the increase in M4 large and small, of 5.8% and 5.2%, respectively, and T1 small, average, and large, of 12.0%, 13.0%, and 14.0%, respectively, as the rate impacts of using both the current Board-approved cost allocation updated for the project and Board-approved depreciation rates of approximately fifty years.

Moreover, Union's argument that changing the Board-approved cost allocation during the current leave to construct proceeding would avoid volatility if Union proposes changes to its overall cost allocation regime in the 2019 rebasing proceeding which were to run counter to the changes that would result from applying its approved regime in the case, ignore the fact that making the proposed change in this case creates substantial volatility for customers for the M4 customers now. So, there is volatility today, rather than potential volatility in two years. The possibility of volatility in 2019 is not a compelling argument in favour of increasing volatility today.

All of which is respectfully submitted, this 14th day of December, 2016.

Tom Brett,
Counsel for BOMA

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