

March 15, 2017

**RESS, COURIER & EMAIL**

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

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: EB-2015-0179 – Union Gas Limited – Community Expansion Proposal – OEB Process**

We are legal counsel to Union Gas Limited (“Union”) in respect of the above-referenced proceeding. Union is in receipt of the Ontario Energy Board’s (the “Board”) letter dated March 3, 2017, which is a response to Union’s letter dated February 13, 2017 where Union sought clarity on the intended process to adjudicate Union’s EB-2015-0179 application. For the reasons set out below, this letter is to request that the Board reconsider the process outlined in the Board’s March 3 response and allow Union’s application to proceed as requested by Union.

As noted in Union’s February 13, 2017 letter, the communities that form the basis of Union’s updated application are: (a) Town of Milverton, (b) the Chippewas of Kettle and Stony Point First Nation, and Lambton Shores, (c) Prince Township, and (d) Delaware Nation of Moraviantown First Nation. A key factor that Union did not include in its February 13 letter is that for each of these communities, Union holds a Certificate of Public Convenience and Necessity. In the case of Milverton and Prince Township, Union already has existing franchise agreements in place and for the remaining two communities, Union is in the process of obtaining the necessary permits under the *Indian Act* and has the support of the Kettle and Stony Point and Moraviantown leadership. This is a key factor given the Board’s statement in its March 3 letter that:

“The generic community expansion decision contemplated that the OEB would be in a better position to consider the merits of an applicant’s proposal to serve a new community if it heard the rates application and/or the leave to construct application (if required) ***prior to granting a municipal franchise agreement and certificate of public convenience and necessity.***”  
(emphasis added)

Because Union already holds a certificate for each of the communities in question, Union’s pending updated application does not fit into the Board’s commentary above and within the Board’s generic Community Expansion Decision (EB-2016-0004). Through its updated

application and pursuant to its certificates, Union is, in effect, pursuing its established legal rights to construct works in and to supply gas to the areas in question.

Union submitted its EB-2015-0179 application for the four communities in July 2015. These applications were placed on hold on the Board's own motion to initiate and complete the generic community expansion proceeding. Following the Board's generic Decision, Union advised the Board in December 2016 that it intended to update its EB-2015-0179 application for the four projects by March 2017<sup>1</sup>. Union is in the final stages of amending the EB-2015-0179 application for Leave to Construct and Rates approval for the four projects to align with the EB-2016-0004 Decision and is ready to proceed. For over 20 months, Union has been attempting to assert its rights under its certificates for each of these areas and bring the economic benefits of natural gas to these communities.

Union's original application was made almost a year before EPCOR submitted the unrelated South Bruce franchise applications (EB-2016-0137/ 138/ 139) in the spring of 2016. Furthermore, Union's circumstance is readily distinguishable from EPCOR's since Union has the right to pursue service through its certificate, which EPCOR does not have. Given that Union is legally entitled to serve the communities in question and has been attempting to do so for almost two years, It seems unfair to both Union and those communities that Union's application be once again placed on hold until a decision is made on phase one of the EPCOR application, which relates to an entirely different circumstance.

Given the foregoing, the implication of the Board's March 3 letter is that the decision to delay the hearing of Union's application causes undue prejudice to the four communities in question. With the process and timelines currently proposed by the Board, construction of these projects will be deferred yet another year to 2018. Union notes that the EB-2016-0004 Generic Proceeding has already delayed the projects by one year. A further delay in construction will likely result in increased capital costs required to service the areas. More importantly, it will result in consumers in the areas proposed to be serviced having to forgo savings averaging \$1,100 per year for a full two years. During the two years since Union publicly expressed its intent to serve these four communities, Union can confirm that no party has approached the communities expressing a desire to also provide service or approached Union seeking a gas supply source to provide such service. The only objection to Union's proposed timeline was the South Bruce Municipalities in a letter dated February 17, 2017; however, this party is not a competing LDC service provider.

Consequently, Union urges the Board to reconsider the process outlined in the Board's March 3 response, and allow Union's application to proceed as requested. Union requests that the Board confirm Union's view that a request of the interest of other parties to serve and any process arising from that request is not required in respect of these four communities.

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<sup>1</sup> Under Union's pending application, leave to construct will be sought for Prince Township, Milverton and Kettle and Stony Point First Nation, and for Moraviantown a leave to construct is not required. The only aspect common to all three that requires approval is the establishment of a community specific rate to provide for a PI of 1.0.

Yours truly,

  
for Charles Keizer

cc: Mark Kitchen, Union Gas  
Karen Hockin, Union Gas  
All Intervenors (EB-2016-0004)  
Kettle and Stoney Point First Nations: Chief Tom Bressette  
Lambton Shores: CAO Kevin Williams  
Milverton area: Perth East CAO Glenn Schwendinger  
The Corporation of the Township of Prince: Ken Lamming  
Delaware Nation of Moraviantown: Chief Greg Peters