



# **ONTARIO ENERGY BOARD**

## **OEB STAFF SUBMISSION**

**July 21, 2017**

**Union Gas Limited**

**2017 TERMINUS WELL REPLACEMENT PROJECT**

**EB-2017-0162**

## INTRODUCTION

Union Gas Limited (Union Gas) filed an application dated March 29, 2017 with the Ministry of Natural Resources and Forestry (MNRF) for a well drilling and operation license for an Injection/Withdrawal (I/W) well (UT.15) in the Terminus designated storage area (Terminus Pool). The Terminus Pool is located in the Township of St. Clair in Lambton County. The application was referred to the Ontario Energy Board (OEB) by the MNRF on April 12, 2017, pursuant to section 40 of the *Ontario Energy Board Act, 1998, S.O. 1998, c.15* (schedule B) (OEB Act). Union Gas asked that the OEB issue a favorable report to the MNRF pursuant to subsection 40(1) of the OEB Act recommending that the MNRF grant a license to Union to drill and operate the UT.15 well.

Union Gas has also applied under section 90 of the OEB Act for leave to construct approximately 330 metres of 12 inch diameter pipeline in the Terminus Pool to connect the UT.15 well and UT.13 well to the Union Gas pipeline system (Gathering Pipelines).

In addition to completion of the UT.15 well and the Gathering Pipelines (referred to here as the 2017 Terminus Well Replacement Project, or the Project) subject to the OEB's approval of this application, Union Gas plans to complete the following infrastructure construction activities that do not require approvals of the OEB or MNRF: the conversion of the Union Terminus 13 (UT.13) well from an observation well to an I/W well; construction of roadways and a drilling pad to facilitate access to the well location; the abandonment of approximately 340 metres of 10 inch diameter pipeline; and the removal of existing access roads to the abandoned well locations.

The 2017 Terminus Well Replacement Project is planned to be in service by November 2017.

OEB staff supports Union Gas' application; subject to the proposed draft well license conditions and the proposed conditions of approval for leave to construct the Gathering Pipelines, attached as Appendices A and B respectively.

## PROCESS AND STRUCTURE OF THIS SUBMISSION

The OEB issued a Notice of Hearing on May 9, 2017 which was served and published

as directed. Enbridge Gas Distribution Inc. and MNRF were granted intervenor status. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on June 8, 2017, the interrogatory phase was completed on July 7, 2017.

As noted, Union Gas applied for a licence to drill the UT.15 well and an order for leave to construct the Gathering Pipelines. The OEB staff submission will first address the following issues that are common to both requests:

- Need for the Project
- Costs and potential impact on Union Gas' ratepayers
- Land related matters
- Environmental matters
- Indigenous consultation

Next, the submission will address the geological, engineering, operational, technical and safety aspects of Union Gas' application to drill the UT.15 well and proposed conditions of approval for the licence application. It is noted that, in Ontario, these aspects of storage pool development and operation are within the authority and oversight of the MNRF.<sup>1</sup>

Lastly, the submission will address the proposed conditions of approval under section 90 of the OEB Act, which relate only to the application for leave to construct the Gathering Pipelines.

## NEED FOR THE PROJECT

Union Gas indicated that the Project is needed to replace 490 10<sup>3</sup> m<sup>3</sup>/day deliverability lost by abandoning an I/W well (R.4) and converting another I/W well (R.2) into an observation well as a result of Union Gas' Integrity Management Program.<sup>2</sup> The 490 10<sup>3</sup> m<sup>3</sup>/day deliverability would be provided by drilling and operation of the proposed UT.15 well and by conversion of the UT.13 observation well into an I/W well. Union Gas confirmed in response to OEB staff interrogatory # 1 d) that the conversion of the UT.13 well does not require any approval by the OEB or the MNRF. In response to OEB staff interrogatory # 1 a), Union Gas stated that the 490 10<sup>3</sup> m<sup>3</sup> represents 12% of the total deliverability of the Terminus Pool.

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<sup>1</sup> The authority of the MNRF is in accordance with requirements of CSA Z341.1-14 "Storage of Hydrocarbons in Underground Formations" (CSA Z341) and the Gas and Salt Resources of Ontario, Provincial Operating Standards (the Provincial Standards).

<sup>2</sup> Application EB-2017-0162, "Project Summary" page 3 lines 11-13.

OEB staff has no concerns with Union Gas' rationale that the Project is needed to maintain the Terminus Pool deliverability by replacing the deliverability lost due to the abandonment and conversion of well R.4 and well R.2, respectively.

## **COST AND POTENTIAL IMPACT ON UNION GAS RATEPAYERS**

Union Gas estimated the total capital costs for the Project, including well drilling and Gathering Pipelines, at \$1.797 M. In response to OEB staff interrogatory # 2 a), Union Gas stated that the cost estimates for well drilling and the construction of the Gathering Pipelines are based on costs of the recently approved 2017 Storage Enhancement Project (EB-2016-0322). In OEB staff's view these cost estimates seem reasonable.

Union Gas did not include a Discounted Cash Flow (DCF) analysis for the project. Union Gas explained that this project is "a maintenance project" and as such will be "prorated to both the regulated and un-regulated portfolios". Union Gas also indicated that for the Terminus Pool, the regulated to un-regulated split is 62.3% and 37.7% respectively. According to Union Gas' response to OEB staff interrogatory # 2 b), the amount of \$1.119 million, which is the estimated capital cost allocated to the regulated business portion of the Project, will be part of the evidence in Union Gas' rebasing application in 2019.

Regarding the cost estimate for the Project, OEB staff notes that both proposed licence condition # 5 in Appendix A and proposed condition of approval #5 in Appendix B require that Union Gas 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. OEB staff submits that the filing by Union Gas of Post Construction Financial reports for well drilling and the construction of the Gathering Pipeline will ensure that the OEB has the information on the record required to review the potential impact of actual capital costs on Union Gas' ratepayers. OEB staff notes that the condition # 5 was not part of the draft conditions in the OEB interrogatory # 7. The OEB staff by way of this submission invites Union Gas to comment on this condition in its reply submission.

## LAND MATTERS

The Project directly affects one landowner within the Terminus Pool. Union Gas filed a copy of the executed Letter of Acknowledgment between Union Gas and the affected landowner. According to the existing Storage Lease Agreement, Union Gas has the authority to drill the well and install the pipeline at the affected property. However, Union Gas stated it would secure an easement agreement with the affected landowner in a form submitted in Schedule 16 of the evidence in order to specifically identify the easement where the pipeline is located. The specific location will be referenced in the easement by way of a reference plan. The easement and reference plan will be registered on title to the landowner's property.

Union Gas applied for approval under section 90 of the OEB Act to construct the Gathering Pipelines. Section 97 of the OEB Act stipulates that an approval under section 90 cannot be granted until the OEB is satisfied that an applicant has offered or will offer to each owner of land affected by the approved route or location an agreement in a form approved by the OEB.

In response to OEB staff interrogatory # 3 b), Union Gas stated that the form of easement offered to the directly affected landowner was approved by the OEB <sup>3</sup>.

OEB staff submits that there are no outstanding land-related concerns arising from the Project. OEB staff submits that the Form of Agreement is consistent with the form of agreement previously approved by the OEB, and should be approved.

## ENVIRONMENTAL MATTERS

The Environmental Protection Plan (EPP) for the Project has been completed to meet the intent of the OEB's "*Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario*" (2016) (OEB Environmental Guidelines).

The EPP, which covers all facilities in the Project, including the well and the Gathering Pipelines, was submitted to the Ontario Pipeline Coordinating Committee (OPCC) for a review on April 10, 2017. In the process of OPCC review the OPCC members did not raise any concerns.

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<sup>3</sup> OEB Decision - Union Gas Limited Panhandle Reinforcement Project (EB-2016-0186)

Union Gas has committed to conducting an environmental inspection program to ensure the implementation of all the recommendations in the EPP, any commitments made during the regulatory proceeding, and conditions of approval for both the well drilling and pipeline construction.

OEB staff submits that Union Gas followed the requirements of the OEB Environmental Guidelines and that Union Gas' compliance with the proposed licence conditions and conditions of approval in Appendix A and Appendix B (as applicable) will ensure that impacts of well drilling and pipeline construction are mitigated and monitored.

## INDIGENOUS CONSULTATION

The 2016 edition of the OEB Environmental Guidelines set out new streamlined procedures and protocols for Indigenous consultation and the duty to consult on natural gas pipeline and storage projects that are subject to the OEB's approval. Union Gas is required to adhere to these procedures and protocols and to file the required documentation with the OEB as part of its evidence in support of its application.

In accordance with the OEB Environmental Guidelines, Union Gas' evidence (at Schedule 20) includes an *Indigenous Consultation Report, Terminus Well Drilling Project* (Indigenous Consultation Report). Union Gas also filed (at Schedule 19) a copy of the e-mail/letter from the Ministry of Energy, dated February 27, 2017, in which it is advised to "...proceed as you have in the past for well applications". Subsequently, in response to OEB staff interrogatory # 4, Union Gas filed a letter from the Ministry of Energy, dated June 22, 2017, stating that no duty to consult has been triggered as a result of this project.

Union-Gas stated that it proceeded with its standard approach and in March 2017 notified by e-mail and then followed up to engage with Caldwell First Nation; Walpole Island First Nation; Aamjiwnaang First Nation; Chippewa of the Thames First Nation; and Kettle & Stony Point First Nation. Caldwell First Nation indicated that it wishes to be notified if monitors are required for archeological surveys on the Project. Union Gas stated it will follow up and will notify them when monitors are required. Walpole Island First Nation, Aamjiwnaang First Nation and Chippewa of the Thames First Nation did not indicate any issues or concerns with the Project. Kettle & Stony Point First Nation requested a second meeting with Union Gas. The second meeting was not scheduled as of July 7, 2017 when Union Gas filed responses to OEB staff interrogatories.

Union Gas confirmed it will continue to engage with the First Nations identified in the Indigenous Consultation Report and will update the Indigenous Consultation report as needed.<sup>4</sup>

OEB staff expects Union Gas to provide, in its reply submission, an update on the follow up meeting with Kettle & Stony Point First Nation.

OEB staff notes that the Ministry of Energy found that no duty to consult was triggered by the Project. However, Union Gas advised that it notified and engaged potentially impacted First Nations. The logs and summary of these notification and engagement activities are part of the record in Union Gas' Indigenous Consultation Report. Union Gas has also stated its commitment to follow up and continue its existing approach to consultation.

OEB staff submits that Union Gas has complied with the intent of the OEB Environmental Guidelines regarding Indigenous consultation. It appears that as of the date of this submission, Union Gas has adequately engaged the Indigenous communities.

## **WELL LICENCE APPLICATION**

The MNRF is the provincial authority that ensures all of the relevant requirements of CSA Z341.1-14 for drilling and operation of the well are satisfied. The MNRF is a registered intervenor in this proceeding and active participant in the hearing. Union Gas filed all necessary studies with the MNRF for a review. Union Gas met with the MNRF on February 16, 2017 to discuss and present the Project. A copy of the presentation delivered to the MNRF by Union Gas was filed in the evidence as Schedule 4.

In accordance with the requirements of CSA Z341.1-14, Union Gas completed and filed with the MNRF the following reports:

- Risk Assessment
- Assessment of Neighbouring Activities

These reports were provided to the MNRF and are summarized in Schedule 5 of Union Gas' pre-filed evidence.

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<sup>4</sup> Union Gas Limited EB-2017-0162 Evidence, page 14, lines 12-23

OEB staff expects that Union gas will provide the MNRF's final comments and a statement on compliance with CSA Z341.1-14 in its written reply submission in this proceeding.

OEB staff supports Union Gas' well licence application subject to Union Gas confirming on the record that it has complied with all the applicable regulatory requirements to the satisfaction of the MNRF. OEB staff's proposed licence conditions relate to certain construction requirements, monitoring and reporting of any mitigation for construction impacts, and a requirement that Union Gas should conform to the CSA Z341.1-14 standards to the satisfaction of the MNRF. In response to OEB staff interrogatory # 7, Union Gas accepted all of the proposed conditions.

OEB staff submits that a favorable OEB Report, under subsection 40(1) of the OEB Act, should be provided to the MNRF to whom Union Gas has applied for a licence to drill well UT.15, subject to the proposed licence conditions attached as Appendix A of this submission, and subject to a review of Union's compliance with all CSA Z341.1-14 and other applicable regulatory requirements to the satisfaction of the MNRF.

## **LEAVE TO CONSTRUCT**

As noted in the above sections of this submission, OEB staff has no concerns with the need for the Gathering Pipelines; their costs; their potential impact on Union Gas' ratepayers; land related matters, environmental matters and Indigenous consultation.

Regarding the design and safety specifications for the Gathering Pipelines, OEB staff notes that the Technical Standards and Safety Authority (TSSA)<sup>5</sup>, which is the provincial authority on these matters, was notified of the Project and did not place any concerns on the record.

OEB staff supports Union Gas' application for leave to construct the Gathering Pipelines to connect the wells to Union Gas' system, subject to the proposed conditions of approval attached as Appendix B to this document. Union Gas agreed with the proposed conditions in its response to OEB staff interrogatory # 6.

All of which is respectfully submitted.

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<sup>5</sup> The TSSA is a member of Ontario Pipeline Coordinating Committee (OPCC) and as such received the OEB's notice of application as well as the Environmental Report as part of the OPCC review.

**Appendix A**

**EB-2017-0162**

**OEB Staff Submission**

**Proposed Conditions  
of Licence Well Drilling  
and Operation**

## **Union Gas Limited**

### **EB-2017-0162**

#### **Proposed Conditions of Licence - Well Drilling and Operation**

1. Union Gas Limited (Union Gas) shall rely on the evidence filed with the OEB in EB-2017-0162 proceeding and comply with applicable laws, regulations and codes pertaining to the construction of the proposed wells.
2. The authority granted under this licence to Union Gas is not transferable to another party without leave of the OEB. For the purpose of this condition another party is any party except Union Gas Limited.
3. Union Gas shall construct the facilities and restore the land in accordance with its Application and evidence given to the OEB, except as modified by this licence and these Conditions.
4. Union Gas shall ensure that the movement of equipment is carried out in compliance with all procedures filed with the OEB, and as follows:
  - i) Union Gas shall make reasonable efforts to keep the affected landowner as well as adjacent landowners and their respective tenant farmers, or their designated representatives, informed of its plans and construction activities; and
  - ii) The installation of facilities and construction shall be coordinated so as to minimize disruption of agricultural land and agricultural activities.
5. Union Gas 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.
6. Union Gas shall, subject to the recommendation by an independent tile contractor and subject to the landowner's approval, construct upstream and downstream drainage headers adjacent to the drilling area and access roads that cross existing systematic drainage tiles, prior to the delivery of heavy equipment, so that continual drainage will be maintained.

7. 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 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 Gas' adherence to Condition 1;
    - ii. describe the condition of any rehabilitated land;
    - iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts during 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.
8. For the purposes of these conditions, conformity of Union Gas with CSA Z341.1-14

“Storage of Hydrocarbons in Underground Formations” shall be to the satisfaction of the Ministry of Natural Resources and Forestry.

**Appendix B**

**EB-2017-0162**

**OEB Staff Submission**

**Proposed Conditions of Approval**

**Leave to Construct**

**Union Gas Limited**

**EB-2017-0162**

**Leave to Construct**

**Proposed Conditions of Approval**

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-2017-0162 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 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 Gas 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 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 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.
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 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 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 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.