



ONTARIO ENERGY BOARD

OEB STAFF SUBMISSION

August 25, 2017

**Union Gas Limited
2018 Sudbury Replacement Project
EB-2017-0180**

Introduction

Union Gas Limited (Union Gas) filed an application with the Ontario Energy Board (the OEB) on May 5, 2017, under section 90(1) of the Ontario Energy Board Act, 1998, for approval to construct 20 kilometres of 12 inch diameter pipeline to replace two sections of the existing 10 inch diameter pipeline of its Sudbury Pipeline System in the City of Greater Sudbury. The construction involves removing the existing 10 inch diameter pipeline at most locations between Coniston Primary Station and Frood Receiver Site and laying a new 12 inch diameter pipeline along the existing 10 inch pipeline between Azilda Takeoff and Walden Town Border Station (Project). Union Gas noted that the Project is a continuation of 3 previous Sudbury system replacement projects previously approved by the OEB¹. Union Gas plans to complete the Project during 2018.

OEB staff supports the replacement of the existing pipeline with the same size subject to draft conditions of OEB's approval attached as Appendix A. OEB staff does not support Union Gas' proposal to increase the size of the new pipeline because, in OEB staff's view, Union Gas did not provide sufficient evidence on the demand for the incremental capacity.

Process

A Notice of Hearing was issued on June 8, 2017 and was served and published as directed. The OEB did not receive any requests for intervention. The OEB proceeded by way of a written hearing.

The OEB issued Procedural Order No. 1 on July 7, 2017, setting the schedule for written interrogatories and written submissions. Union Gas filed responses to OEB staff interrogatories on July 25, 2017. According to Procedural Order No. 1, the submission from OEB staff was due by August 9, 2017, and Union Gas' reply submission, if any, was due by August 16, 2017. By August 8, 2017 the OEB had not received complete documentation on Indigenous consultation. For this reason, the OEB issued a letter dated August 8, 2017, cancelling the remaining schedule set in Procedural Order No. 1, and advising that "The new schedule for the balance of this proceeding will be issued after the OEB receives complete documentation on the Indigenous consultation activities as required by the OEB Environmental Guidelines."

¹ EB-2015-0042; EB-2016-0122, and EB-2016-0222

On August 11, 2017, Union Gas filed the required documentation regarding the Indigenous consultation. The OEB issued Procedural Order No. 2 on August 17, 2017 and set the new schedule for written submissions by OEB staff by August 25, 2017 and reply submission by Union Gas by September 1, 2017.

Need for the Project

The need for the replacement of 2 segments of 10 inch diameter pipeline (total of 20 km) is primarily driven by integrity issues. Union Gas also proposes to increase the size of the new pipeline segments to 12 inch diameter pipeline which would add about 5% of the total capacity of the Sudbury System.

The total construction cost estimate is \$74 M: the cost to replace the existing pipeline with the same size pipeline is \$72.6M and the cost to increase in size is \$1.5 M.

Union Gas noted that the Project is a continuation of 3 previous Sudbury system replacement projects approved by the OEB:

- The EB-2015-0042 project was an integrity project that needed to be completed in 2015 to ensure the safe operation of the Sudbury system.
- The EB 2016-0122 project was a growth project where the proposed facilities were primarily required to serve the proposed loads requested by Victoria Mine.
- The EB-2016-0222 project was a class location project where it was necessary to replace the pipeline to ensure compliance with the CSA code.

OEB staff has no concerns with the need for the Project based on the integrity management of the Sudbury system. However, OEB staff has two concerns regarding the evidence in support of the need to increase the pipeline size/capacity:

- Union Gas did not provide concrete evidence of a proven demand for the proposed incremental capacity (i.e. contracts or a customer attachment forecast).
- Union Gas did not provide evidence from a regional (system) planning context on how the forecast demand relates to system wide demand and how the increase in the capacity fits within other expansion projects in the Sudbury system.

Union Gas stated that the Sudbury general service growth is predicted to be approximately 1400 m³/hr/year, which would utilize the proposed incremental capacity in approximately 8 years. Union Gas received no requests for contract services but

indicated that it would work with each of their contract customers if they wish to increase their load². The existing 10 inch pipeline is at approximately 98% capacity. Union stated that “based on the ratio of cross-sectional area approximately 71% of the 12 inch pipeline capacity is replacing 10 inch pipeline capacity”. Union Gas expects to utilize the full incremental capacity in the next 10 years³.

OEB staff is concerned that the increase in the pipeline capacity, although, not adding significantly to the cost of the Project (approximately \$1.5M), is not fully supported by Union Gas’ evidence. Although Union Gas did state that the incremental capacity would be utilized within 8 years, no further evidence was provided to support that statement. As well, OEB staff is unsure whether the incremental capacity provided by the three approved and completed Sudbury replacement projects (EB-2015-0042; EB-2016-0122, and EB-2016-0222), has been fully utilized. Related to this matter, OEB staff also notes that Union Gas stated when it determined the sizing of the pipeline that it did not consider potential gas demand related to the new provincial Cap and Trade and Climate Change Action Plan and noted that the pipeline sizing is based on peak hour demand⁴.

As the evidence does not support a proven demand for the increased capacity, OEB staff submits that the OEB should not approve the increase in size for the new pipeline segments for the Project. OEB Staff believes that instead, Union should pursue a like-for-like replacement of the existing 10 inch diameter pipeline.

OEB staff’s view is that in future leave to construct applications Union Gas should provide more concrete and quantitative evidence proving the requirement for incremental capacity, regardless of the amount and costs of providing this capacity.

OEB staff asked Union Gas if it considered filing a single application requesting approval of the four replacement/expansion projects (i.e. EB-2015-0042; EB-2016-0122; EB-2016-0222; in addition to the current application EB-2017-0180) and asked that Union Gas discuss if such a comprehensive approach could be more effective. Union Gas explained that it was not able to file the four Sudbury system projects due to the specific requirements of the individual cases⁵.

OEB staff notes that the OEB’s new Filing Requirements for Natural Gas Rates Applications dated February 16, 2017, require cost of service rates applications to

² Union Gas response to OEB staff interrogatory no. 1 a)

³ Union Gas response to OEB staff interrogatory no. 1 b) and 1 c)

⁴ Union Gas response to OEB staff interrogatory no. 1 d)

⁵ Union Gas response to OEB staff interrogatory no. 2 a) and b)

include a Utility System Plan. OEB staff's view is that it may be helpful in the future if applicants for new gas pipelines consider filing information on how proposed expansion projects fit with the regional system plan and consider if filing applications on several related projects in a system together (for example, the Sudbury system) could provide some construction and regulatory efficiencies. In addition, OEB staff submits that this may also assist the OEB in review of the need for the incremental capacity of multiple related projects in the context of a wider system demand.

Project Cost and Economics

Union Gas estimated the total capital costs for the Project at \$74M. Union Gas stated that the incremental estimated cost of upsizing the pipeline from 10 inch to 12 inch diameter is \$1.5 M. Union Gas did not complete a Discounted Cash Flow analysis for the Project. Union Gas provided a construction cost estimate comparison to actual costs of recently approved projects on the Sudbury system⁶. Union Gas noted that replacement of the pipeline sections in this Project will decrease the future integrity issues and related cost, but provided little quantitative detail to support the projected integrity related cost reductions⁷.

Based on the construction cost estimate comparison of the projects, the estimated construction costs seem reasonable.

Union Gas maintained that this Project is primarily needed to address the integrity issues and that the cost of the upsizing is not significant. OEB staff accepts Union Gas' rationale for not conducting an economic analysis as the majority of costs are related to integrity management.

The Environmental Assessment

In accordance with the OEB Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario (OEB Environmental Guidelines) AECOM prepared, on behalf of Union Gas, the "2018 Sudbury Replacement Project: Environmental Report" (ER). The ER was provided to members of the Ontario Pipeline Coordinating Committee (OPCC) for review and comments on April 13, 2017.

Union Gas filed an updated summary of responses received in the OPCC review. No

⁶ Union Gas response to OEB staff interrogatory no. 3 a)

⁷ Union Gas response to OEB staff interrogatory no. 3 d)

outstanding concerns were noted by the OPCC⁸.

In interrogatory no. 8, OEB staff expressed concerns about the safety measures for blasting and hoe-ramming of rocks and concerns about the methods for dewatering of swamps and wet areas. OEB staff also asked Union Gas to list permits it will have to acquire regarding blasting, hoe-ramming and dewatering. Union Gas responded that it will follow the applicable provincial requirements and specifications. In addition, Union Gas described procedures and specifications that will be followed if blasting is conducted: Construction and Maintenance Manual Section 12.6, Blasting Close to Gas Pipelines, Construction and Maintenance Manual Section 17.11, Blasting Information Request, Construction Specification 06, Trenching and Excavation, Construction Specification 07, Rock Excavation⁹.

OEB staff has no concerns regarding the environmental assessment. OEB staff is satisfied that Union Gas is committed to implementing the proposed mitigation measures, following safety construction specifications for blasting and rock removal and dewatering, and adhering to the proposed conditions of approval contained in Appendix A related to mitigation and construction monitoring and reporting.

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.

According to section 3.3 of the OEB Environmental Guidelines:

Prior to the leave to construct record being closed by the OEB, the Ministry of Energy will provide a letter to the applicant expressing its view on the adequacy of the Indigenous consultation based on materials provided to the Ministry of Energy. (OEB Environmental Guidelines, page 18)

On August 11, 2017 Union Gas filed a letter from the Ministry of Energy dated August

⁸ Union Gas response to OEB staff interrogatory no. 7

⁹ Union Gas response to OEB staff interrogatory no. 8

10, 2017 advising that “the Ministry is of the opinion that the procedural aspects of consultation undertaken by Union Gas to date for the purpose of the Ontario Energy Board’s leave to construct is satisfactory”. Union Gas also filed an update to the Indigenous consultation log filed in response to OEB staff interrogatory no. 6d).

Union notified the Atikameksheng Anishinawbek First Nation (Whitefish) and Wahnapiatae First Nation, as well as Sudbury Métis Council, North Channel Métis Council and Métis Nation of Ontario (MNO) which were identified by the Ministry of Energy as potentially affected by the Project. Atikameksheng Anishinawbek/First Nation (Whitefish) consultation took place between November 11, 2016 and August 9, 2017. Wahnapiatae First Nation consultation and engagement took place between November 11, 2016 and August 3, 2017. The Ministry of Energy asked that Union Gas continue dialogue with First Nations and that it would like to be informed about upcoming meetings between Union Gas and the First Nations communities. Union Gas confirmed it would do so.

The consultation with the MNO and with Métis communities in Region 5 was conducted between November 11, 2016 and March 27, 2017. A follow-up meeting to update the Métis community was planned to take place in Kenora on August 19, 2017. Union Gas filed on August 11, 2017 a letter from MNO dated April 13, 2017 in support of the Project. The letter was signed by Region 5 Councilor and Chair of Mattawa/Lake Nipissing Traditional Territory Consultation Committee. The letter states that “...the Project will not have any anticipated adverse impacts on Métis rights, interests and way of life and that the Duty to consult obligations have been fulfilled”.

OEB staff notes that Union Gas conducted the Indigenous consultation in accordance with the process established in the OEB Guidelines and that the Ministry of Energy found the procedural aspects of the Indigenous consultation satisfactory. Similarly, no Indigenous groups objected to the Project before the OEB. OEB staff is satisfied that the assessment of the Ministry of Energy regarding the procedural aspects of the Indigenous consultation is on the record. OEB staff is aware that the Indigenous consultation and engagement need to continue after the OEB’s leave to construct approval is granted. For this reason, OEB staff supports Union Gas’ commitment to continue to engage with the First Nations and Métis Nation identified in the Indigenous Consultation Report and expects Union Gas to update the OEB as needed.

Land Matters

Union Gas is in the process of acquiring permanent and temporary land use agreements for the Project. The Coniston to Frood section requires 61 temporary land use easements, eight new permanent easements and possibly two new permanent easements for crossing Hydro One owned lands. For the Azilda to Waldon section, Union Gas needs permanent and temporary easements along the entire segment. According to Union Gas, there have not been any objections to the Project from any of the potentially affected landowners. Comprehensive Agreements have been delivered to 94% of the properties along the route of the Proposed Facilities; the remaining agreements will be delivered in the next month. Union Gas has received signed documents back from 23% of the landowners. Union Gas' evidence is that land rights for over half of the properties (over 85% of the length of the Project) are owned by Vale Canada Limited and the City of Greater Sudbury. Vale Canada Limited and the City of Greater Sudbury have both agreed to grant the necessary land rights to Union Gas¹⁰.

Union Gas stated that for three areas along the Azilda to Waldon section, the exact location of the final easement will be determined after construction of the pipeline is completed. Vale Canada Limited has agreed to grant Union Gas the specific land rights after construction has taken place. The location for the detailed route of the pipeline is currently in discussions and will be jointly decided by Union Gas and Vale Canada Limited¹¹.

Crossing permits are required from Hydro One and Canadian Pacific Railway (CPR).

Drawings and a copy of the application were submitted to Hydro One in July of 2017 for their review and approval. A copy of the application and drawings will be provided to CPR in September. OEB staff notes that Union Gas confirmed that it will obtain all necessary permanent and temporary land rights in advance of the start of construction.

Union Gas 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 Gas filed a form of the Pipeline Easement Agreement in the evidence (the Form of Agreement). Union Gas noted that the Form of

¹⁰ Union Gas response to OEB staff interrogatory no. 4 b)

¹¹ Union Gas response to OEB staff interrogatory no. 4 f)

Agreement was approved by the OEB in the Union Gas' recent Panhandle Reinforcement proceeding (EB-2016-0186)¹².

OEB staff has no concerns with the Form of Agreement and 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

Union Gas accepted the draft conditions of approval proposed by OEB staff¹³. 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.

¹² Union Gas response to OEB staff interrogatory no. 4 d)

¹³ Union Gas response to OEB staff interrogatory no. 9

Appendix A

to

OEB Staff Submission

**Leave to Construct Conditions of
Approval Application under Section
90 of the OEB Act Union Gas Limited
EB-2017-180**

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-2017-0180 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 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 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 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 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.