

March 16, 2018

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: OM Limited Partnership  
Certificate of Public Convenience and Necessity Application  
Ontario Energy Board File No. EB-2017-0289**

Pursuant to Procedural Order No. 1 to the above noted proceeding, Union Gas Limited hereby files its final submissions with respect to the application and evidence of OM Limited Partnership.

Should you have any questions on these submissions, please do not hesitate to contact me.

Yours truly,

*[Original signed by]*

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Encl.

c.c. (email only): Ms. Jane Lowrie, President, On-Energy Corp.  
Peter Budd  
Crawford Smith, Torys

## ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B, and in particular Section 21(2) thereof;

**AND IN THE MATTER OF** an Application by OM Limited Partnership for a certificate of public convenience and necessity, pursuant to section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M. 55.

### SUBMISSIONS OF UNION GAS LIMITED

#### A. Overview

1. These are the submissions of Union Gas Limited (“Union”) regarding the application by OM Limited Partnership for a Certificate of Public Convenience and Necessity (CPCN) to allow them to supply natural gas to the Maricann Langton Facility located on the north half of Lot 2, Concession 7 in the Municipality of Norfolk County.
2. Under section 8 of the *Municipal Franchise Act*, no person can construct works to supply natural gas without approval of the Ontario Energy Board (OEB) and such approval shall not be given unless public convenience and necessity appear to require such approval to be given. Not unlike the provisions for leave to construct, a CPCN is required for the "construction" of works for the supply of gas.
3. The facilities required to connect the Maricann Langton Facility to the gas wells owned by ON-Energy / OMLP are located on property that is governed by CPCNs issued to Union.
4. While the OEB has determined in the past that it is in the public interest to have an applicant choose the service best suited to its needs as long as doing so does not unduly burden Union’s other customers, questions remain regarding the regulation of OMLP gas supply facilities and the costs of putting those facilities in place.

## **B. Regulatory Compliance**

5. In response to Union's IR #7, OMLP states that its existing pipeline and related facilities are regulated by the Ministry of Natural Resources and Forestry and do not require a CPCN. OMLP also submits that the proposed project could be required to obtain Ministry of Natural Resources and Forestry approvals and then they state that they do not envisage that any Ministry approval are required<sup>1</sup>. In Union's view, it is unclear what, if any, jurisdiction the Ministry of Natural Resources and Forestry has with respect to the proposed project.

6. OMLP states in its evidence that it has "natural gas assets" in the County of Elgin and in the Municipality of Norfolk County<sup>2</sup>. These assets are described as approximately 150 natural gas producing wells and over 300 km of pipeline. OMLP goes on to say that its existing pipeline network spans over 800 square kms in the geographic townships of Bayham, Houghton, Middleton, Charlotteville, North Walsingham and South Walsingham.

7. The current Municipality of Norfolk County includes the former Townships of Houghton, Middleton, Charlotteville, North Walsingham and South Walsingham. The Municipality of Bayham is a lower-tier municipality with the County of Elgin. While the exact location of OMLP's existing pipeline within Norfolk County and the County of Elgin has not been revealed, Union submits that OMLP's existing pipeline is located within the CPCN areas that have been granted to Union on what is currently considered a geographically exclusive basis.

8. Union does not understand how any pipeline not located on private property that is used to supply natural gas can be considered exempt from the CPCN requirements of the *Municipal Franchise Act*. The OEB has regulatory responsibility for pipeline systems located entirely within the province and ensures that that pipeline operators comply with the province's Oil and Gas Pipeline Systems Code Adoption Document which contains all national standards issued by the Canadian Standards Association that are applicable to Ontario.

9. The OEB's approval for construction of pipelines is conditional upon compliance with all related regulatory requirements including the design, operation, maintenance, safety and integrity requirements under the province's Technical Standards and Safety Authority (TSSA) mandate.

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<sup>1</sup> OMLP response to Union IR #4(a)

<sup>2</sup> OMLP Application, Section 1, page 4

While OMLP has indicated that the relevant facilities of the proposed project will be inspected after works have been constructed<sup>3</sup>, there has been no evidence submitted to identify which TSSA codes are being adhered to for both the proposed facilities and the facilities to which the proposed facilities will be joined.

10. Pipeline operators in Ontario are required to have a Pipeline Integrity Management Program to ensure that proper controls are in place to mitigate safety risks. This includes in-line pipeline inspections, records of the pipeline history, operation manuals, and documentation required to develop and implement the integrity management program. An emergency response program is also required as is financial assurance that demonstrates a pipeline operator's capability to respond to leaks and spills under the *Environmental Protection Act*. There was no evidence submitted by OMLP addressing these regulatory requirements.

11. While OMLP states that no construction of facilities work has been commenced with respect to the proposed project<sup>4</sup>, Union's experience with similar construction projects suggests that the May 1, 2018 in-service date will be extremely difficult to achieve if a CPCN is not issued until some date in April 2018 at the earliest and construction work has not already been started.

12. OMLP's evidence indicates that, in order to meet a May 2018 in-service date, upgrades to the existing pipeline system were planned to be made from August – October 2017 and that the proposed Tie-in System construction of works to supply gas to the Maricann Langton Facility was scheduled to commence in October and be completed in November 2017.

### **C. Comparative Assessment of Alternatives**

13. In response to Union IR #2, OMLP provided its comparative assessment of all alternatives considered with respect to supplying natural gas to the Maricann Langton Facility.

14. With respect to costs, OMLP did not provide the requested breakdown so it is difficult to compare one alternative to another. Based on information provided in its evidence and IR responses, it appears that OMLP's capital costs include \$205,000 for a tie-in system to the

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<sup>3</sup> OMLP response to Union IR #4(a)

<sup>4</sup> OMLP response to Union IR #1

Maricann Langton facility<sup>5</sup> and \$335,000 for the 3.7 km of 4” plastic pipeline<sup>6</sup>. There were no costs identified for the installation of a separator / dehydrator, gas odourizer, meter, piping, valves and regulators that will be required at a required meter site<sup>7</sup>. There were no costs identified related to a customer station which Union assumes will be required.

15. While OMLP describes the cost of the Union alternative as “considerable”, the preliminary cost estimate provided by Union is a fully inclusive estimate, unlike OMLP’s, which includes the installation of 4.2 km of steel pipe, a new customer station and 490 meters of service pipe.<sup>8</sup>

16. Union takes exception to OMLP’s implying in its comparative assessment that the Union alternative did not support the local economy. Union has been delivering affordable natural gas to homes and businesses throughout Ontario safely and reliably for more than a century. Union’s practice is to use as many local resources as practical to build its pipelines and to procure materials from the local community. Union’s ongoing support of local communities is evidenced in its ongoing payments of property taxes and charitable community contributions.

17. OMLP identified natural gas supply from EPCOR Utilities as an alternative to the proposed project. Evidence provided by OMLP has not identified any details of the EPCOR alternative nor whether EPCOR had actually submitted any costing information.

#### **D. Response Time to Request for Service**

18. In response to OEB Staff IR #1, OMLP states that Union’s response time to the request to provide natural gas service to the Maricann Langton Facility was too long given the live construction environment. Union submits that it was fully responsive on a timely basis to the request for service despite the changing components of the request and delays in getting specific service requirement details from Maricann.

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<sup>5</sup> OMLP Application, Section 6, page 9

<sup>6</sup> OMLP response to OEB Staff IR #6

<sup>7</sup> OMLP Application, Section 6, page 9

<sup>8</sup> OMLP response to Union IR #8, Attachment 1

19. When the application requesting service to the Maricann Langton Facility was first submitted on October 28, 2016, the request was to provide 20 million BTU per hour gas service which Union communicated that it could accommodate with the concession that system reinforcements would be required to accommodate future requirements for the Maricann Langton Facility and area residents. Union immediately began working on a plan to provide the requested service.

20. On December 14, 2016, Maricann changed its requested service to include a requirement for 51 million BTU per hour based on increased consumption by Maricann's cogenerators. On January 24, 2017, Union updated Maricann that its engineers were working to determine the minimum required to meet Maricann's needs. In June 2017, Union reached out to Maricann regarding information needed in order to complete cost estimates related to the requested service, but Maricann did not respond. When Union staff visited the Maricann Langton Facility site in August 2017 to confirm service requirements and discuss energy efficiency incentives, the Maricann project manager informed Union that Maricann had decided to buy the company operating the gas wells adjacent to the property where the new facilities were being built and that they were in the process of applying to the OEB to secure CPCN rights to supply their own natural gas. At this point, Union stopped working on the request to provide service to the Maricann Langton Facility.

21. In November 2017, a representative from Maricann informed Union staff that Maricann was still interested in obtaining project cost estimates from Union in order to help them decide on whether to move forward with Union's proposed service or to provide their own natural gas supply. Union called Maricann in January 2018 to arrange for another site visit and to discuss preliminary cost estimates, but Maricann informed Union at that time that it was now pursuing the self-supply option. Given the amount of work that had already been completed, Union finished compiling the cost estimate to provide the requested service and forwarded the estimate to Maricann on February 16, 2018.

**E. Conclusion**

22. Existing and proposed facilities required to connect the Maricann Langton Facility to the gas wells owned by ON-Energy / OMLP should not be allowed to be located on property where OMLP does not hold CPCN rights.

23. The OEB's approval of OMLP's application should be conditional upon OMLP providing proof that it is fully compliant with all regulatory and safety-related requirements.