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March 26th, 2018

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
27-2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: On-Energy Corp. and Maricann Group Inc. Limited Partnership Application for a
Limited Certificate of Public Convenience and Necessity in Norfolk County
Ontario Energy Board (OEB) File Number: EB-2017-0289**

Attached please find OMLP's written reply submission pursuant to OEB procedural order No. 1. Please excuse the delayed response, OMLP has opted to take advantage of the extension suggested by OEB staff in the letter dated March 19th, 2018.

Should you have any questions please do not hesitate to contact me.

Yours very truly,

A handwritten signature in black ink, appearing to read "Scott Lewis", with a horizontal line drawn through the middle of the signature.

Scott Lewis
OM Limited Partnership
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cc (by email): PatrickMcMahon. UnionGas Limited(pmcmahon@uniongas.com)
Crawford Smith, Torys LLP (csmith@torys.com)
Ms. Sbalji, OEB registrar (registrar@oeb.ca)

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 ("OMLP") for a Certificate of Public Convenience and Necessity ("CPCN"), pursuant to section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55.

SUBMISSION OF OM LIMITED PARTNERSHIP

This is the reply of OM Limited Partnership (OMLP).

A. Reply to Submission of Union Gas Limited (Union)

1. *OMLP response to Union Gas paragraph 7:* Several Ontario producers have similar production and gathering lines in Norfolk County and in other areas throughout southwestern Ontario, where Union has a Certificate of Public Convenience and Necessity (CPCN). In addition, EPCOR Natural Gas Limited Partnership (EPCOR) has pipelines in Union's CPCN areas and Union has pipelines in NRG's CPCN areas.
2. *OMLP response to Union Gas paragraph 9:* OMLP will build all facilities to the applicable standards and codes required for the facilities.
3. *OMLP response to Union Gas paragraph 17:* We have no access to EPCOR's costing.

B. Reply to Ontario Energy Board (OEB) staff submission

4. OMLP agrees with the OEB board staff that this is not a standard certificate application. OMLP proposes to reply to OEB staff submissions in the order in which they appear. As a pre-emptory reply, OMLP will defer to the position of OEB board staff that the arrangement for the delivery of gas should be rate-regulated and OMLP will submit an application for rate regulation in a timely manner, if the Board so requires.

System By-Pass

5. OMLP understands and agrees that *a system by-pass occurs when a party other than the incumbent gas utility is permitted to construct a pipeline to serve one or more customers, despite the fact that an incumbent has a certificate for that territory*. In this case, the incumbent gas utility, Union, does not possess a certificate to serve the customer; instead a party to OMLP wishes to serve itself with locally produced natural gas on a uncertificated property.
6. OMLP agrees that there is no certificate holder for PT LT 2 CON 7 NORTH WALSINGHAM AS IN NR306706 SAVE & ECEPT PT 1 ON 37R10232, or all of Lots 1 to 5 both inclusive in Concession 7 and 8 within the Township of North Walsingham, and it would appear therefore to be free to file an application without triggering an application for bypass.
7. OMLP respects OEB staff's position that OMLP is proposing to build a pipeline on some lands for which Union currently does hold a certificate; however, OMLP's interpretation of Section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M. 55., is that OMLP is not constructing works to supply gas, rather, OMLP is building an addition to OMLP's production and gathering pipeline system. It is common practice for Ontario producers to operate pipelines that run through a utility's service territory. Furthermore, OMLP has no customers within Union Gas's CPCN territory and is seeking a limited CPCN to serve only Maricann, OMLP's business partner, in an uncertificated area.
8. We have been informed that there are several producers of natural gas in Norfolk and Haldimand Counties supplying natural gas to end users. The names that have been provided to us are Mitchell, Metalore Resources, and Chatham Resources.
9. OMLP confirms that it is not serving a customer in Union's service territory and does not believe that certificates are required for gathering lines transporting untreated natural gas from wells on Union certificated lands.

10. If the OEB determines that OMLP is in a system by-pass application, (which OMLP does not believe it is), then OMLP will reply to the four established principals as follows:
- a) *Economic benefit to the applicant alone is not sufficient grounds to permit bypass.* OMLP understands this principle or statement, and agrees that other factors below must be considered.
 - b) *Even though a bypass is in the interest of the applicant, that does not negate the possibility that it could also be in the public interest.* OMLP believes that allowing its application to proceed is in the public interest. The commercial transaction will provide and elevate local jobs, increase revenue to multiple landowners in the form of elevated royalty payments, increased competition, and deliver environmental benefits by supporting conventional production with very short commodity transportation distances.
 - c) *If the incumbent gas distributor cannot meet the needs of the applicant and there is no material harm to existing rate-payers, then a by-pass may be granted.* It is the position of the applicant that the incumbent gas distributor cannot meet Maricann's needs for reasons of timing, costs, and service requirements. As such there is no material harm to existing rate payers for OMLP to work out its own arrangements with its business partner.
 - d) *While there may be a lost opportunity in terms of foregone revenues for the incumbent gas distributor and its ratepayers, there are no lost revenues for the incumbent gas distributor if the load is incremental.* The load is incremental and as such there are no lost revenues for the local gas distributor, which does not have a CPCN to serve Maricann at its adjacent facility currently being served. Maricann intends to close its current facility in the normal course.
11. It is the position of OMLP that Union gas cannot meet the needs of OMLP's partner from a timing and pricing perspective. OMLP takes the position that no harm is done to the rate payers as its partners demand is incremental and is not being supplied now by Union Gas. Additionally, Union does not have a certificate to serve OMLP's partner at its adjacent facility, where it currently operates, which facility is scheduled to close later in 2018.

12. To shed some light on OEB staffs question as to whether Union Gas can meet the needs of the applicant, OMLP refers Board staff to Union Gas Limited's Answer to Interrogatory from OM Limited Partnership EB-2017-0108, Exhibit B. OMLP.1, Response (b). Union states that when contacted originally in 2016 regarding providing 20,000,000 BTU per hour service, Union could accommodate with the condition that Union would be able to reinforce the system. Union also states that it has not completed additional engineering to determine how best to provide the requested Rate M2 service for 51,000,000 BTU per hour. Additionally, in the Union Feasibility Estimate provided as Attachment 2 to OMLP responses to Union interrogatories March 9th 2018, Union indicates that even with the contemplated transmission reinforcement the firm hourly quantity of natural gas delivery is zero and all delivery quantities are interruptible. It should be noted that OMLP's rate for the sale of natural gas is indexed to the M4 rate schedule rather than the more costly M2 rate schedule.
13. *Stranded assets* – It is normal practise that some customers depart the distribution system after many years, after which time the pipeline installation costs will have been recovered fully. It should be noted that Maricann is not the only customer currently being served on Concession Road 8. Furthermore, Maricann is not the only customer currently being served on Concession Road 8 without a Certificate to do so.
14. *Increased gas procurement costs* - OMLP understands that Union Gas must have a gas purchasing department for all customers that are on system gas and are not on direct purchase. We do not feel the normal course closure of the old Maricann facility will have any material affect or impact on the Union's gas supply department's allocated costs, nor any impact amongst all the rest of Union's customers. Union must receive new customers and lose customers on a regular basis.
15. *Foregone revenues* – Maricann's existing facility is a relatively small customer and so there would be minimal foregone revenues. Demand at Maricann's new facility is incremental.

16. *Change in distribution efficiency* – OMLP understands that the old Maricann facility terminates with a 2" distribution pipeline connection at the meter. The old Maricann facility is a small customer that will have negligible impact on Union's gas distribution efficiency.

Leave to Construct

17. We agree with Board Staff that no leave to construct is necessary.

Rate Regulation

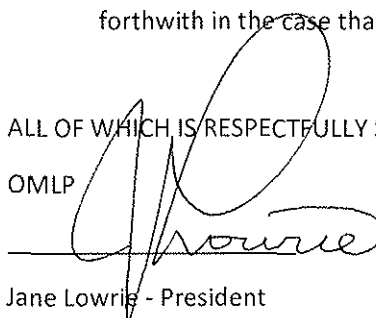
18. OMLP will defer to the position of OEB board staff that the arrangement of delivering gas should be rate-regulated and OMLP will submit an application for rate regulation in a timely manner, if the Board so directs.

C. Conclusion

19. We agree that this is not a standard CPCN application. Normally Ontario gas utilities make applications to renew and serve many customers. We feel by-pass is not necessary and if it is, OMLP would pass all tests as set out by the Board. Our position is, that this not a system by-pass and we agree with the OEB staff recommendation that a certificate should be granted forthwith in the case that it is not a system bypass. OMLP agrees to be rate-regulated.

ALL OF WHICH IS RESPECTFULLY SUBMITTED BY

OMLP



Jane Lowrie - President