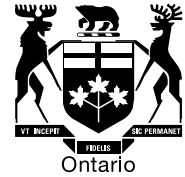


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BY E-MAIL

May 3, 2018

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
BoardSec@oeb.ca

Dear Ms. Walli:

**Re: OEB Staff Submission
Union Gas Limited
Application for leave to construct a pipeline in Oxford and Norfolk Counties
OEB File No. EB-2018-0003**

Please find attached OEB staff's submission in the above referenced matter.

Yours truly,

Original signed by

Ritchie Murray
Project Advisor

c. W.T. Wachsmuth, Union Gas Limited

Introduction

Union Gas Limited (Union) is seeking an order under section 90 of the *Ontario Energy Board Act* (OEB Act) for leave to construct (LTC) 5.2 kilometres of Nominal Pipe Size (NPS) 8 inch extra-high pressure (XHP) steel natural gas pipeline in the Counties of Oxford and Norfolk for the purposes of system reinforcement on its Eastern Transmission System (Pipeline). The Pipeline would extend from the corner of Potters Road and Baseline Road in the County of Oxford to the corner of Windham Road 20 and Swimming Pool Road in the County of Norfolk. The Pipeline is required to serve market growth in these counties as well as those of Brant and Haldimand.

OEB staff has no issues or concerns with the OEB granting LTC approval to Union for construction of the Pipeline, subject to standard conditions of approval which Union has reviewed and agreed upon with one revision as further discussed below.¹

LTC Application

OEB staff's submission on LTC approval of the Pipeline will cover the following aspects of Union's application:

1. Need and Alternatives
2. Proposed Facilities and Schedule
3. Franchises and Certificates
4. Economics and Feasibility
5. Routing and Environmental Matters
6. Land Matters
7. Indigenous Consultations and Duty to Consult
8. Standard LTC Conditions of Approval

Need and Alternatives

Union's application states that the Eastern Transmission System serves the area south of the Dawn Parkway System between Woodstock and Hamilton including the communities of Tillsonburg, Delhi, Brantford, Simcoe, and Port Dover. It also serves a number of major industrial customers in the Nanticoke area. There have been no significant changes to the Eastern Transmission System in the past 15 years.

¹ Union's response to OEB staff interrogatory #9.

Union's application provides forecasted customer additions of the areas served by the Eastern Transmission System. Residential customers are forecasted to increase by 4,718 attachments between 2018 and 2024. Over this same period, commercial customers are forecasted to increase by 350 attachments and industrial customers are forecasted to increase by 42 attachments. Union performed and filed a computer simulation of the Eastern Transmission System for the Winter 2018/2019 using the forecasted market demand. The results suggest that the system is forecasted to be fully utilized with no excess capacity available as of 2018. Union asserts that, in order to accommodate the forecasted customer additions, a project is required to increase the system capacity.

In its application, Union filed a report titled *System Design Criteria for Reinforcement on the Eastern Transmission Gas Delivery System* (System Design Report). Among other things, this report documents Union's efforts to identify project alternatives, including:

- upgrading existing laterals;
- upgrading existing stations;
- looping (reinforcing along the existing route) existing pipelines;
- reinforcing through an entirely different pipeline;
- joining two previously independent systems;
- installing compression;
- obtaining supply from nearby non-Union pipelines.

The Pipeline and its routing were selected by Union from the alternatives based on a number of factors including cost, number of years of reliable capacity created, and construction feasibility. Although not the least cost alternative², the Pipeline is the lowest cost alternative that achieves the required years of reliable capacity created while at the same time having a high degree of construction feasibility.

OEB staff accepts the need for the Pipeline and has no issues or concerns with the selection of the preferred solution from among the alternatives.

Proposed Facilities and Schedule

The Pipeline consists of 5.2 kilometres of NPS 8 inch XHP steel natural gas pipeline in the Counties of Oxford and Norfolk. Union has provided the design specifications of the

² Union's response to staff interrogatory #5.

Pipeline to the Technical Standards and Safety Authority (TSSA).³ To date, the TSSA has not expressed any concerns regarding the Pipeline.⁴

Union proposes to initiate construction of the Pipeline at the beginning of summer, 2018 to utilize the favourable summer construction weather and environmental windows. The proposed latest in-service date for the project is November 1, 2018. Union requests a decision from the OEB in May 2018.

OEB Staff has no concerns with the proposed in-service date, which matches the forecast full utilization of the Eastern Transmission System.

Franchises and Certificates

Union Gas holds a municipal franchise agreement (MFA) with and Certificate of Public Convenience and Necessity (certificate) for Oxford County.

Union Gas holds a MFA and certificate for Norfolk County.⁵

OEB staff has no issues or concerns with the existence and/or applicability of Union's MFAs or certificates.

Economics and Feasibility

The total estimated cost of the Pipeline is approximately \$7.4 million. This includes a 15% contingency. Union provided evidence that suggests this level of capital spend is in-line with comparable past projects.⁶ Union submits that this level of contingency aligns with Union's cost estimating standards based on the level of engineering design complete at this stage in the project lifecycle given that contractors and materials have not been finalized.⁷

Union has employed an economic feasibility test in accordance with the OEB's E.B.O 188 guidelines to assess the economics of the Pipeline. The results of a stand-alone Discounted Cash Flow (DCF) analysis indicates that the proposed project has a Net

³ By way of the Ontario Pipeline Coordinating Committee (OPCC) circulation process.

⁴ Union's response to staff interrogatory #4.

⁵ Union is currently engaged in a proceeding before the OEB along with EPCOR Natural Gas LP (EPCOR) pertaining to overlapping certificates in the counties of Elgin, Middlesex and Norfolk (EB-2017-0108). The particular location of Union's proposed Oxford Reinforcement Project is not an area under dispute in that proceeding.

⁶ Union's response to staff interrogatory #2.

⁷ Ibid.

Present Value (NPV) of -\$3,420,000 and profitability index (PI) of 0.85. Including the proposed project in Union's rolling portfolio results in a PI of 1.15.

OEB staff has no issues or concerns with the economic evaluation and notes that the Pipeline feasibility complies with the E.B.O. 188 guidelines (i.e., that an individual project may have a PI of less than 1.0 but equal to or greater than 0.8 as long as the rolling portfolio remains above 1.0).

Routing and Environmental Matters

As previously stated, the preferred routing for the Pipeline was selected by Union based on the findings of its report, System Design Report. Union retained Neegan Burnside Ltd. (Neegan) to complete an Environmental Report (ER) for the purpose of assessing the preferred route and to identify any potential environmental and/or socio-economic impacts that the Pipeline could have on the existing environment.

The Pipeline was originally planned to be constructed in 2016. At that time, Union intended to construct two phases: phase one of approximately 5.2 kilometres, and phase two of approximately 2.5 kilometres. In early 2016 Union determined that both phases could be deferred. In the summer of 2017, Union determined that phase one would be required in 2018 and an addendum to the original ER was prepared by Neegan covering only the phase one pipeline (i.e., the Pipeline). It is the phase one facilities that are the subject of this application. Union's application was silent on the need and timing of the phase two facilities.

The proposed Pipeline route is located along road allowances on and between Lot 1, Concession 12 (Norwich) in Oxford County; and, Lots 45 and 48, Concession 2 North Talbot Road East (Middleton); Lots 188 and 189, Talbot Road East North Side (Middleton); Lots 21, 22, 23, and 24, Concession 10 (Windham); and Lots 21, 22, 23, and 24, Concession 11 (Windham) in Norfolk County.

The ERs (original and addendum) were submitted to the Ontario Pipeline Coordinating Committee (OPCC) on November 17, 2017. Copies of the ERs were also provided to the local Conservation Authority and local municipalities. As of April 19, 2018, Union has not received any correspondence from OPCC members expressing concern with the Oxford Reinforcement Project.⁸

Union held a public information session on October 8, 2015, at the Delhi Community Arena to solicit input from the general public with respect to the project. The public

⁸ Union's response to staff interrogatory #4, Schedule 1 (filed April 19, 2018).

information session was advertised in the local newspaper. Union submits that there were no major environmental concerns raised by the attendees of this session.

Mitigation measures designed to minimize environmental and socio-economic impacts were developed by Neegan and documented in the ERs. Together, the ERs conform with the OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario*⁹. In Neegan's opinion, the implementation of the recommended mitigation and protective measures outlined within the ER will adequately protect the sensitive environmental features throughout the construction process.

OEB staff accepts that there should be no long-term environmental and/or socio-economic impacts from the construction and/or operation of the Pipeline as long as Union adheres to the mitigation measures recommended in the ERs.

Land Matters

The preferred Pipeline route is located along road allowances. Two fee simple land right purchases will be required for the "stations" or tie-in facilities with existing pipelines at either end of the Pipeline; Union has signed Option Agreements for these properties¹⁰. No permanent easement requirements are anticipated¹¹. Temporary easements will be required for material and equipment staging areas, etc. Union has signed Option Agreements for seven out of the eight temporary easements required for the Pipeline; the eighth landowner has agreed to sign a temporary easement agreement, however the agreement has yet to be finalized.¹²

The form of land use agreement (also referred to as the easement agreement) Union offered affected landowners is provided in evidence¹³ and was last approved by the OEB in Union's Panhandle Reinforcement Project.¹⁴

Union has met on-site with each road superintendent from the affected municipalities to solicit input on the alignment of the Pipeline. Union asserts that, following these discussions, each road superintendent was in agreement with Union's proposal. Union commits to continue to work with road superintendents until the Pipeline is completed.

⁹ 7th Edition, 2016

¹⁰ Union's response to staff interrogatory #3

¹¹ Ibid.

¹² Ibid.

¹³ Ibid., Schedule 1

¹⁴ EB-2016-0186

OEB staff has no issues or concerns with the nature and extent of Union's proposed land use requirements or its form of land use agreement.

Indigenous Consultation and Duty to Consult

In a letter dated August 29, 2017, Union Gas contacted the MOE with respect to the Crown's duty to consult. Union received a letter from the MOE dated October 20, 2017, indicating that the procedural aspects of the duty to consult were delegated to Union Gas. Union Gas filed its Indigenous Consultation report with the MOE, and received a letter from the MOE dated March 19, 2018, stating that the procedural aspects undertaken by Union Gas to date are satisfactory for the purposes of Union Gas' LTC application to the OEB.

OEB staff has no issues or concerns with Union's Indigenous consultations.

Standard LTC Conditions of Approval

Through an interrogatory, OEB staff asked Union to comment on the OEB's standard LTC conditions of approval. Union noted that Condition 5, as currently worded, required that Union submit a post construction financial report at its next rebasing:

5. Union 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.

Union suggested that the post construction financial report be filed at the same time as the final environmental monitoring report – i.e., no later than fifteen months after in-service date, or, where the deadline falls between December 1 and May 31, the following June 1. Union submitted that filing a post construction financial report in 2028 - which is when Union is proposing to submit its next rate rebasing application¹⁵ - does not appear to meet the intent of the condition.

OEB staff has considered Union's proposal to revise Condition 5 and agrees that a revision is advisable. However, Union's suggestion presupposes that the OEB will approve Union's amalgamation with Enbridge Gas Distribution Inc. (Enbridge) and allow

¹⁵ In November, 2017, Enbridge Gas Distribution Inc. and Union filed a Merger, Acquisition, Amalgamation and Divestures (MAADs) application to amalgamate (EB-2017-0306). The applicants propose to defer the rebasing of the amalgamated entity for 10 years.

for an incremental capital mechanism in the subsequent rate regime. OEB staff submits that the revised condition should provide for the post construction financial report to be filed at an appropriate time regardless of the outcome of the current amalgamation proceeding. OEB staff recommends revising condition 5 as follows:

5. Concurrent with the final monitoring report referred to in Condition 6(b), Union shall file 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. Union shall also file a copy of the Post Construction Financial Report in the proceeding where the actual capital costs of the project are proposed to be included in rate base or any proceeding where Union proposes to start collecting revenues associated with the project, whichever is earlier.

Attachment A provides OEB staff's proposed conditions, including the revised standard condition 5.

Summary

For the following reasons, OEB staff submits that Union's request in this matter should be approved:

- a) The need for the Pipeline has been established and is in the public interest.
- b) The proposed facilities and schedule seem appropriate.
- c) Union holds the necessary MFAs and certificates.
- d) The Pipeline costs appear reasonable and in compliance with the E.B.O. 188 guidelines.
- e) Based on Union's evidence, OEB staff accepts that there should be no long-term environmental and/or socio-economic impacts from the construction and/or operation of the Pipeline as long as Union adheres to the mitigation measures recommended in the ERs.
- f) Union is using a previously-approved form of land use agreement.
- g) To date, Union has not received any objections to the project through its consultations with affected private land owners and municipalities.
- h) The MOE has stated that the procedural aspects of the duty to consult have been met.
- i) Union's proposed revision to standard LTC condition 5 is appropriate.

All of which is respectfully submitted.

Attachment A
Leave to Construct Conditions of Approval
Application under Section 90 of the OEB Act
Union Gas Limited
EB-2018-0003

1. Union Gas Limited (Union) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2018-0003 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 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 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 shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Union 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. Concurrent with the final monitoring report referred to in Condition 6(b), Union shall file 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. Union shall also file a copy of the Post Construction Financial Report in the proceeding where the actual capital costs of the project are

[proposed to be included in rate base or any proceeding where Union proposes to start collecting revenues associated with the project, whichever is earlier.](#)

6. Both during and after construction, Union 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's 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, 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's 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, 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.