

MICHAEL R. BUONAGURO

Barrister and Solicitor

24 HUMBER TRAIL
TORONTO, ONTARIO, M6S 4C1
P: (416) 767-1666
F: (416) 767-1666
EMAIL: mrb@mrb-law.com

August 14, 2018

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
26th Floor
2300 Yonge Street
Toronto, ON
M4P 1E4

DELIVERED BY EMAIL

Dear Ms. Walli,

**RE: Board File No. EB-2018-0013 Union Gas Limited Kingsville Reinforcement
Project Application**

Please find enclosed the submissions of the Ontario Greenhouse Vegetable Growers in the above noted proceeding.

Yours very truly,



Michael R. Buonaguro
Encl.

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B, and in particular, S.90 (1) thereof;

AND IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B, and in particular, S. 36 thereof;

AND IN THE MATTER OF an Application by Union Gas Limited for an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the Town of Lakeshore and the Town of Kingsville in the County of Essex;

AND IN THE MATTER OF an Application by Union Gas Limited for an Order or Orders for approval of recovery of the cost consequences of all facilities associated with the development of the proposed Kingsville Transmission Reinforcement Pipeline Project.

**SUBMISSIONS OF THE
ONTARIO GREENHOUSE VEGETABLE GROWERS**

1. These are the submissions of the Ontario Greenhouse Vegetable Growers (OGVG) with respect to the application by Union Gas Limited (Union Gas) for approval under s. 90(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the “Act”) for the proposed Kingsville Transmission Reinforcement Pipeline Project (the “Project”). In accordance with Procedural Order #1 OGVG will not be making submissions with respect to Union Gas’ request for relief under s. 36 of the Act.
2. OGVG supports Union Gas’ request for approval of the Project under s. 90(1) of the Act, particularly to the extent that Union Gas has proposed that the Project will have an in-service date of November 1, 2019, and that the Project qualifies for approval under s. 90(1) of the Act in accordance with the Ontario Energy Board’s (the “Board’s”) E.B.O. 134 Policy Guidelines for approval of transmission pipeline projects.
3. In OGVG’s respectful submission Union Gas has adequately set out the need for the Project in terms of the forecast capacity requirements on the Panhandle Transmission System, has established that the proposed Project is the optimal solution for meeting those capacity requirements, and has demonstrated that the economics of the Project meet the criteria for approval under the Board’s E.B.O. 134 Policy Guidelines, including most importantly that the Project meets the 3 Stage economic test for approval of the Project.
4. OGVG’s endorsement for the Project was provided as part of the Application at Exhibit A, Tab 5, Schedule 2, page 7, wherein OGVG explains the importance of the proposed transmission reinforcement project to its members:

OGVG represents approximately 200 growers responsible for 2,880 acres of greenhouse tomatoes, peppers and cucumbers across the province. Much of this acreage is in Windsor-Essex and Chatham-Kent. Particularly, Leamington has the highest concentration of greenhouses in North America. We are pleased to see infrastructure projects like these that will better serve the community. Ontario's greenhouse sector has a consistent track record of growth, expanding at 5.8% annualized over the past 8 years. We expect this growth will continue and predict that the sector could grow by 750 acres over the next 5 years, contributing an additional \$1.3 billion to the Ontario economy and supporting over 3,000 new jobs.

To realize the described growth and development, current and future greenhouse growers require sufficient access to natural gas infrastructure. Currently, resources in the Essex region are at capacity and a transmission reinforcement is necessary to ensure continued regional economic development. Additionally, some growers in the region are on interruptible service contracts, as firm service is not currently available. This project should increase local access to firm service, which will add cost-stability for growers as they will not be required to purchase alternative fuels during periods of peak market demand.

5. OGVG also respectfully notes that Union Gas has demonstrated the immediate need for additional capacity on the Panhandle Transmission System without reference to the impact of new cannabis related greenhouse sector growth in the area. In OGVG's respectful submission this suggests that, if anything, Union Gas' load growth forecast is conservative.
6. OGVG will not duplicate the extensive submissions of Union Gas in support of approval of the Project; OGVG wishes only to emphasize:
 - a) the importance of the proposed in service date of November 1, 2019 for the Project,; and
 - b) OGVG's expectation that approval for the Project will be examined as a transmission level project within the E.B.O. 134 Policy Guidelines framework.

IN SERVICE DATE

7. It is important to OGVG's members, if continued growth of the greenhouse sector in Ontario is to be maintained, that the natural gas infrastructure represented by the proposed Project be in service in a timely manner. OGVG notes that the reverse open season for the Project, issued on September 27, 2017 specified Union's Gas' proposed in service date of November 1, 2019.¹ Accordingly, to the extent that OGVG members have been planning the future of their respective businesses based on the availability of new transmission level capacity they have done so based on the availability of the Project by November 1, 2019.
8. Similarly Union Gas has proceeded with the development of the Project based on the projected need for an in-service date of November 1, 2019, culminating in the filing of this

¹ Exhibit A, Tab 5, Schedule 1, page 1.

Application on January 25, 2018 in order to provide adequate time for the Board to review the Application and grant approval in time for Union Gas to begin construction in time to meet the needed November 1, 2019 in service date.²

9. Of particular concern to OGVG is the possibility that additional distribution level investment in the order of \$10.4M will become necessary if the Project is delayed by even one year, an investment that is completely obviated by the timely completion of the proposed Project by November 1, 2019.³
10. Accordingly OGVG echoes Union Gas' request that the Board continue to process this request for approval in a timely manner in order to allow construction of the proposed Project to meet the proposed in service date of November 1, 2019.

TREATMENT OF THE PROJECT UNDER THE BOARD'S E.B.O. 134 POLICY GUIDELINES

11. Union Gas' application for approval is premised on the understanding that the Project is to be evaluated as a transmission level project under the E.B.O. 134 Policy Guidelines.⁴
12. In turn, OGVG's intervention in this application was premised on the understanding that the Board's E.B.O. 134 Policy Guidelines would apply. Based on the record to date, it appears to OGVG that a similar understanding was shared by Board Staff and the other intervenors, at least insofar as neither Board Staff nor any intervenor asked interrogatories testing or suggesting a different policy approach to the approval of the Project in this application.
13. On June 25, 2018, the Board Panel filed Questions for Union Gas to answer, including specifically Board Panel Question #9 which tested, for the first time in the application process, the possibility that new customers could be required to provide a Contribution in Aid of Construction with respect to the Project, a requirement that does not flow from the treatment of the Project as a transmission level investment under the E.B.O. 134 Policy Guidelines Framework.
14. On July 9, 2018 Union Gas responded to the Board Staff questions, including its' response to Board Panel Question #9, in which Union Gas explained why analyzing the appropriateness of the Project outside the framework provided for in E.B.O. 134, including the contemplation of a Contribution in Aid to Construct, was inappropriate.
15. On July 17, 2018 the Board issued Procedural Order #3, wherein it determined that "Given the clarification provided by Union on July 9th, the OEB has decided to proceed with a written process."
16. It is important to OGVG's members that their obligations with respect to the costs of natural gas infrastructure such as those associated with the Project are known in advance. To that end OGVG respectfully submits that Union's Gas' synopsis of the obligations of new firm customers accessing capacity created or released as a result of the Project is appropriate and

² Exhibit A, Tab 3, page 10.

³ Exhibit A, Tab 3, page 2-3.

⁴ Exhibit A, Tab 3, page 8.

accurately reflects what OGVG's members would have understood their obligations to be based on:

- a) the nature of the Project, and
- b) the consistent regulatory treatment of projects with a similar nature,

including most recently the approval of the Panhandle Reinforcement Project in EB-2016-0186.

17. As explained by Union Gas in its responses to the Board Panel's questions, OGVG's members fully expect that they will be individually responsible for possible Contributions in Aid of Construction with respect to the cost of any distribution level costs incurred in order to provide distribution service to each member.⁵
18. At the same time, OGVG's members would not expect to be individually responsible for possible Contributions in Aid of Construction with respect to the cost of any transmission level costs incurred to increase the capacity of the relevant transmission system. In the present application Union Gas is proposing a Project that is properly classified as a transmission level project, which serves to expand the transmission level capacity that can be accessed across the Panhandle Transmission System, rather than a distribution level project that can be attributed to providing natural gas service to a specific customer or group of customers.⁶
19. OGVG understands the Board's decision to move directly to written submissions with an oral hearing in this process as a direct result of the clarification provided by Union Gas on July 9, 2018 to suggest that the Board intends to consider approval for the subject Project under the framework set out in the E.B.O. 134 Policy Guidelines as proposed by Union Gas. Based on that understanding, and given that under the current process OGVG can only respond to the Argument in Chief filed by Union Gas (which is premised on the applicability of E.B.O. 134 criteria, which OGVG agrees with) OGVG does not propose to make any submissions that try to anticipate arguments against the applicability of the E.B.O 134 framework when considering leave to construct the proposed Project. In OGVG's view it would be inappropriate and procedurally unfair to require it or any other party to respond to an argument before that argument has actually been advanced.
20. To that end OGVG will only respectfully submit that it agrees with Union Gas' assessment in its response to Board Panel Question #9 to the effect that were the Board to change existing policy with respect to projects such as the one under consideration in this application to include a Contribution in Aid to Construct, the magnitude of the required contribution would almost certainly result in the withdrawal of the Project.⁷

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 14th DAY OF AUGUST 2018

⁵ Board Panel Question #7 explains the obligations of individual customers accessing distribution service, including the obligation to, possibly, fund shortfalls related to distribution level system reinforcements either through an Contribution in Aid of Construction or a certain level of contract commitment.

⁶ Board Panel Question #9.

⁷ Board Panel Question #9 page 2.