

August 15, 2018

**VIA RESS AND COURIER**

Ms. Kirsten Walli  
**ONTARIO ENERGY BOARD**  
P.O. Box 2319, 27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, Ontario  
M4P 1E4

**Ian A. Mondrow**  
Direct 416-369-4670  
ian.mondrow@gowlingwlg.com

Assistant: Cathy Galler  
Direct: 416-369-4570  
cathy.galler@gowlingwlg.com

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Dear Ms. Walli:

**Re: EB-2018-0013: Union Gas Limited (Union) Kingsville Transmission Reinforcement Project.**

**Industrial Gas Users Association (IGUA) Final Submissions.**

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Filed with this letter are IGUA's final submissions herein.

In light of our earlier request for consideration of an adjustment to the schedule for final submissions herein, wherein we suggested that intervenor submissions follow those of Board Staff, we wish to note that:

1. We acknowledge that following consideration the Board declined to adjust the schedule for submissions, as confirmed in the Board's July 27<sup>th</sup> letter.
2. The overnight delay in our filing of these submissions was entirely a result of my own schedule.
3. Despite our delayed filing of IGUA's submissions we have nonetheless respected the Board's direction and have not as of filing of these submissions reviewed the submissions filed yesterday of Board Staff or of any other party.

Yours truly,

  
Ian A. Mondrow

c: S. Rahbar  
K. Hockin (Union)  
C. Keizer (Torys LLP)  
Z. Crnojacki (Board Staff)  
Intervenors of Record

TOR\_LAW\ 9607201\1

Gowling WLG (Canada) LLP  
Suite 1600, 1 First Canadian Place  
100 King Street West  
Toronto ON M5X 1G5 Canada

T +1 416 862 7525  
F +1 416 862 7661  
gowlingwlg.com

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ONTARIO ENERGY BOARD

Union Gas Limited (Union)

**Application for leave to construct a natural gas transmission pipeline and associated facilities in the Town of Lakeshore and the Town of Kingsville in the County of Essex**

Industrial Gas Users Association (IGUA)

Written Submissions

1. IGUA recognizes that the growth in demand for firm gas service from customers served by the Panhandle system commends further expansion of the overall capacity of Union's system in that area to deliver gas. IGUA accepts that Union's proposed Kingsville Expansion is an appropriate expansion and will increase Union's capacity to serve customers in the Panhandle system market area, supporting a reasonable cost supply of energy and associated economic growth.
2. IGUA has focussed its intervention in this matter on two particular topics associated with the economic framework within which the proposed Kingsville Reinforcement should be evaluated:
  - (a) Union's proposed allocation of the costs of the Kingsville Reinforcement; and
  - (b) The appropriate characterization of the Kingsville Reinforcement for the purposes of determining appropriate cost responsibility for the project, which cost responsibility in turn impacts the demand forecast underpinning the project and the appropriate economic tests to be applied in consideration of the project. (The Board in its Procedural Order No. 2 refers to the issue of "*multiple needs served by the proposed project*" which is another way of characterizing this second topic of IGUA's focus in this matter.)
3. In respect of the first topic – Union's proposed allocation of the costs of the Kingsville Reinforcement (as and when approval for recovery of those costs is granted) – the topic

is of direct interest to IGUA in light of an ongoing concern with the current allocation of the costs of the recent Panhandle Reinforcement project approved by the Board in February, 2017<sup>1</sup>. It was, and remains, IGUA's view that with the addition of the significant costs of Union's recently completed Panhandle Reinforcement, the cost allocation methodology historically applied to the Panhandle transmission system, which "status quo" methodology allocates a significant portion of Panhandle System costs to St. Clair System demands, is no longer equitable, just or reasonable.<sup>2</sup>

4. Union has indicated in response to IGUA's interrogatory #2 herein<sup>3</sup> that the Kingsville Reinforcement project assets will be recorded as an "Other Transmission" asset in the plant accounting records, and under Union's Board-approved cost allocation methodology Other Transmission Demand costs are allocated to Union South in-franchise rate classes in proportion to Union South in-franchise firm Design Day demands.
5. IGUA is thus satisfied that the Kingsville Reinforcement does not engage the issue of the appropriate allocation of Panhandle System specific costs which it has raised, and will pursue, elsewhere.
6. In respect of the second topic - the appropriate characterization of the Kingsville Reinforcement for the purposes of determining appropriate cost responsibility for the project, or the "*multiple uses*" topic - as elaborated on in the balance of this submission, the evidence in this matter appears to indicate that;
  - (a) the Kingsville Reinforcement, while technically a transmission plant project, will also displace certain distribution system investments that would, but for the Kingsville Reinforcement, have been required to serve incremental contract demands;
  - (b) those incremental contract demands largely relate to a discrete group of Kingsville and Leamington area customers (primarily greenhouses); and

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<sup>1</sup> EB-2016-0186.

<sup>2</sup> This is not the place for IGUA to elaborate on these concerns. We flag them here merely to explain the basis for IGUA's inquiries in this matter. A further description of IGUA's concern can be found in IGUA's Argument in the Union/Enbridge Gas Distribution merger and rate plan proceeding (EB-2017-0306/0307) at paragraphs 47-60.

<sup>3</sup> Ex B.IGUA.2



- (c) in respect of the distribution function of the proposed reinforcement, application of the Board's E.B.O. 188 framework would indicate the need for contributions in aid of construction (CIACs) from the customers to be directly served by the project in order to preclude an undue subsidy from Union South customers at large to the particular customers to be directly served by the Kingsville Expansion.
7. IGUA acknowledges the Board direction in the instant proceeding that the Board will not hear Union's request for recovery through an Incremental Capital Module (ICM) framework of the Kingsville Reinforcement costs<sup>4</sup>, pending determination of the concurrent Union/Enbridge Gas Distribution application for approval of 2019-2028 rate plan which application includes a proposal for an ICM during the proposed rate plan period.
8. The issue of cost responsibility for the Kingsville Reinforcement goes beyond Union's request for ICM treatment for those costs. The issue goes to the economic responsibility for those costs, and in turn influences the veracity of the demand forecast underpinning the leave to construct request. The issue encompasses whether Union should, pursuant to the Board's distribution expansion policy, require CIACs from certain customers in support of the project, and the implications of such a requirement on the demand forecast underpinning the project.

### **Multiple Uses and Appropriate Cost Responsibility**

9. Union's evidence in support of the Kingsville Reinforcement indicates that the project will, in part, fulfill a distribution function. Union explains<sup>5</sup>:

*... the Leamington-Kingsville high pressure distribution system is unable to fully service the forecasted growth without significant distribution system reinforcement in 2019. However, constructing the Project in 2019 will eliminate the need for those incremental distribution facilities. Thus, in order to eliminate the need for the costly distribution system reinforcement in 2019, the proposed in service date for the [Kingsville Reinforcement] Project is November, 2019. [Emphasis added]*

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<sup>4</sup> OEB letter to Union herein dated February 27, 2018.

<sup>5</sup> ExA/T6/p1, line 17 to p2, line 2.

10. When asked squarely by the Board whether the Kingsville Expansion will service distribution needs in addition to transmission needs, Union responds<sup>6</sup>:

*The Proposed Project, because of its strategic location, allows both the Panhandle Transmission System and the downstream distribution systems to continue to serve the growth in system demands most efficiently, while offsetting costly distribution system reinforcement projects that will no longer be required once the Project is constructed (avoids \$10.4 million in distribution reinforcement costs).*

11. In respect of the distribution function of the Kingsville Reinforcement it would be appropriate for the Board to consider the applicability of its E.B.O. 188 distribution expansion evaluation policy, including the advisability of requiring CIACs from directly served customers in order to preclude undue cross-subsidy of these directly served customers by Union's customers at large.
12. While Union's evidence states that "[n]o specifically identified customer or customers is driving the Project"<sup>7</sup>, the evidence also indicates that<sup>8</sup>:
- (a) As of May 22<sup>nd</sup> Union has executed 14 firm contracts with greenhouse customers which contracts are reliant on approval and construction of the Kingsville Expansion.
  - (b) Additionally there are 20 incremental customers Union has been negotiating contracts with (as at the May 22<sup>nd</sup> filing of IRRs).
13. It is equally clear from multiple references in Union's evidence, including the letters which Union relies on in support of the need for the Kingsville Expansion, that the primary driver for the Kingsville Expansion is the Panhandle market area greenhouse growers. (See, among numerous other references; ExA/T3/p1 line 2, ExA/T3/p2, line 11; ExA/T3/p2, lines 21-22; ExA/T3/p5, lines 4-5; ExA/T3/p12, lines 13-14; ExA/T4/p7, lines 8-9; ExA/T5/p1 line 19 – p2, line 1; ExA/T5/p3, lines 15-17; ExA/T5/p5, line 21; ExA/T5/Schedule 2, pages 2, 4, 5, 6, 7, 8 and 13.)
14. IGUA acknowledges that the Kingsville Reinforcement is a cost efficient way to meet the immediate needs of Leamington-Kingsville area customers, including primarily

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<sup>6</sup> Board Panel Question 3 response filed 2018-07-09; see also ExA/T5/p2, lines 13-17.

<sup>7</sup> Board Panel Question 4 response filed 2018-07-09.

<sup>8</sup> ExB.Staff.1, p2.

greenhouse growers, while at the same time providing capacity for future gas service in the broader Panhandle System market area. As noted at the outset of this submission, IGUA supports the expansion of gas delivery infrastructure to support economic growth, and this includes the growth in Ontario's strong greenhouse and related agribusiness sectors. The issue which IGUA raises is not whether this sector should be supported (it should). The issue which IGUA raises is what is the appropriate economic evaluation framework for this Board to apply to the proposed Kingsville Reinforcement, in light of the drivers for, and "multiple uses" of, the project, and what cost responsibility impacts flow from the appropriate economic evaluation framework.

15. The Board's E.B.O. 188 policy on economic evaluation of distribution system expansions includes a requirement that if the profitability index (PI) of the distribution expansion is lower than 0.8, then CIACs are required from customers to be served by the distribution expansion in order to preclude other distribution customers from unduly subsidizing the new customers.
16. Union addresses the Board's questions regarding CIACs under the E.B.O. 188 economic evaluation framework in Union's responses to Board Panel Questions 4 and 9. However, these responses appear to assume an all or nothing application of the E.B.O. 188 policy. That is, Union appears to assume that the entire economic shortfall of the project from a Profitability Index (PI) of 0.8 would be subject to CIAC requirements.
17. If the Board concludes that the Kingsville Reinforcement serves both transmission and distribution functions, a more nuanced approach to economic evaluation of the project and associated cost responsibility requirements might be warranted.
18. For example:
  - (a) The \$106 million<sup>9</sup> Kingsville Expansion displaces \$10.4 million of otherwise required distribution system investment<sup>10</sup> to serve incremental distribution service demand beginning in 2019.

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<sup>9</sup> ExA/T3.p5, line 20.

<sup>10</sup> Board Panel Question 3 response filed 2018-07-09.



- (b) The Kingsville Expansion will fall short of a PI of 0.8 by approximately \$53 million.<sup>11</sup>
- (c) It is not clear to us from the evidence how much of this \$53 million shortfall from a PI of 0.8 would be recoverable through CIACs under the E.B.O. 188 framework. For the purposes of this submission we assume, conservatively, 100% of this figure, but invite Union to comment on/correct this, and all other aspects of our provisional analysis.
- (d) The apparent ratio of distribution to transmission functionality of the proposed Kingsville Reinforcement can be quantified by taking the cost of distribution facility investment avoided by the project as a proportion of the total cost of the project; \$10.4 million/\$106 million x 100 = approximately 10%.
- (e) Applying 10% to the conservatively identified \$53 million E.B.O. 188 analysis shortfall = \$5.3 million.
- (f) Dividing the resulting \$5.3 million distribution attributable expansion shortfall among the 34 direct new contract customers to be attached through the Kingsville Expansion (see paragraph 12, above) would indicate CIAC responsibility of, on average, approximately \$156,000 per customer.
19. Of course, some customer CIAC requirements would be higher (where the customer investment in its business is larger) and some would be lower (where the business attaching is more modest). There is no evidence before the Board on the size of the 34 new contract customers awaiting attachment, or the scale and scope of their business investments. However, for most large (contract customer size) businesses, \$156,000 would not be a crippling expense. It would thus appear to us to be premature to conclude, as Union asserts<sup>12</sup>, that if CIACs were required *"customers would be unable to afford to connect to the system for their business operations"* and *"[t]he demand forecast for the project would be at significant risk"*.
20. As there has been no opportunity to elicit elaboration and a better understanding of this evidence, we invite Union to comment on/correct any of this analysis in its reply (based on the record as it stands and without introducing new evidence).
21. IGUA then asks that the Board consider these submissions together with Union's reply to them in its deliberations of whether Union has discharged its onus of demonstrating that

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<sup>11</sup> Board Panel Question 9 response filed 2018-07-09, page 1.

<sup>12</sup> Board Panel Question 9 response filed 2018-07-09, page 2.

the funding of the Kingsville Expansion as it has been proposed by Union meets the Board's appropriately applied policies and is in the public interest.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED by:**



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**GOWLING WLG (CANADA) LLP, per:**

Ian A. Mondrow  
Counsel to IGUA

August 15, 2018

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