

ONTARIO ENERGY BOARD

Union Gas Limited (Union)

**Application for leave to construct a natural gas transmission  
pipeline and associated facilities in the Counties of Oxford and Perth**

WRITTEN SUBMISSIONS

of

INDUSTRIAL GAS USERS ASSOCIATION (IGUA)

1. Two particular issues were highlighted in IGUA's request for intervention herein<sup>1</sup>:
  - (a) The rate impact of the proposed reinforcement on existing Union Gas customers.
  - (b) The appropriate characterization of the proposed reinforcement as "transmission" and thus the appropriate economic test and associated cost recovery model (i.e. including, or not including, contributions in aid of construction).

**Appropriate Economic Test for the Proposed Reinforcement**

2. In its pre-filed evidence, Union<sup>2</sup> specifically addresses the characterization of the proposed reinforcement as "transmission", and thus subject to the E.B.O. 134 economic test and associated regulatory framework (i.e. one which does not consider or require contributions in aid of construction). Union states at page 12 of its pre-filed evidence [emphasis added]:

*The Proposed Facilities are a transmission project that increases the capacity of the FHG Transmission System to meet forecasted demand growth that arises from a variety of sources over a large geographic area of the Union Gas franchise. No*

<sup>1</sup> December 12, 2018 letter, page 2.

<sup>2</sup> Since filing of this Application Union Gas has amalgamated with the previous Enbridge Gas Distribution Inc. to form Enbridge Gas. For convenience in respect of the instant application, we continue for the purposes of these written submissions to refer to the applicant as Union.

*specifically identified customer or customers are driving the Project. As the forecast incremental demand extends throughout the service area affected, the increased demand is available on a first come, first served basis.*

3. This characterization of the proposed reinforcement distinguishes the instant project from the Kingsville reinforcement project that was the subject of Union's EB-2017-0013 application. In its Decision on the Kingsville reinforcement application the Board commented as follows<sup>3</sup>:

*While the OEB has approved the Project, there are some concerns that the OEB would like to observe.*

*First, the new pipeline has ancillary distribution benefits according to Union in addition to the transmission functions. The distribution benefits are evidenced as Union identified 14 firm customer contracts executed and 20 customer contracts being negotiated which rely on the approval and construction of the Project. The OEB finds that the Project meets both distribution and transmission needs, yet the OEB's economic tests are exclusive, applicable to either distribution or transmission lines.*

*Second, the economic test for transmission, E.B.O. 134, does not attribute who should pay with each stage of testing. For distribution pipelines, the more recent E.B.O. 188 test recognizes that if there is insufficient new revenue generated by the project to cover its costs, capital contributions are required from the benefiting parties. Under E.B.O. 134, the stage 2 benefiting parties would be downstream connecting customers and the local economy. Currently there is no mechanism to have these parties make a contribution to the costs despite their substantial benefit.*

*For natural gas in Ontario, no economic test or ratemaking mechanism exists today to allow these discrepancies to be addressed.*

*The OEB acknowledges the creative thinking included in IGUA's submission. While it is not appropriate to split the costing between transmission and distribution pipelines as proposed by IGUA in this proceeding, such proposals may help inform future thinking on the treatment of dual function pipelines.*

4. Union characterizes the Stratford reinforcement project as one to "meet forecasted demand growth that arises from a variety of sources over a large geographic area" with "[n]o specifically identified customer or customers... driving the Project", rendering it a "transmission" project and thus subject, in the current regulatory framework, to the E.B.O.

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<sup>3</sup> EB-2018-0013 Decision and Order, page 5, 2<sup>nd</sup> last paragraph, *et seq.*

134 economic test, in which customer contributions in aid of construction are not considered.

5. However, the evidence provided in response to interrogatories suggests that the Stratford reinforcement is intended to, in part, support anticipated downstream “community expansions”. In IRR B.Staff.2, parts a) and d), Union specifically identifies customers in the system expansion areas of Milverton and Lambton Shores who will be paying a System Expansion Charge to support extension of gas service to them, and whose gas service will be facilitated by this Stratford reinforcement.
6. The appropriate allocation of costs for upstream transmission reinforcements directly supporting community expansion is an issue currently before the Board in Union’s application for approval of a new rate M17 [EB-2010-0244], which new rate was developed in connection with the South Bruce community expansion project awarded by the Board to EPCOR. The issue engaged in that proceeding, and highlighted again in the instant application, is the extent to which cross-subsidy of new community expansion customers should be permitted through allocation to existing customers of the costs of upstream expansions supporting new community expansions.
7. Given the engagement of this issue in Union’s ongoing M17 application, IGUA is not advocating that the issue be addressed through the instant application. This is so in particular given that the evidence on this issue in the instant application is less than complete.
8. It was not apparent until receipt of the IRRs herein that the Stratford reinforcement is driven, in part, by new community expansion customers in Milverton and Lambton Shores. Accordingly there was no opportunity to explore what percentage of the incremental forecast load these new community expansion customers represent. We thus can’t evaluate the impact of, for example, excluding the forecast benefits of gas service to these new expansion customers and a proportionate share of the project costs from the economic analysis in support of the instant project (on the premise that the costs associated with these benefits should be recovered directly from the new community expansion customers).

9. Nonetheless, this application further indicates, as noted in the Board's decision on Union's Kingsville reinforcement application, the merit of *"future thinking on the treatment of dual function pipelines"*.

### Rate Impact of the Proposed Reinforcement on Existing Customers

10. The evidence herein indicates that the second largest dollar impact, and largest delivery bill impact, of the Stratford reinforcement if costs are ultimately allocated in the manner indicated by Union in IRR IGUA.2 is to Union's T2 customer class (in which IGUA's members fall). This though there are no T2 customers in the forecast of new load. (We are not aware of whether there are any T2 customers on this sub-system at all).
11. While Union asserts a \$175 million NPV benefit over 20 years (for a simple average of more than \$8 million/year) to new customers to be attached as a result of this reinforcement<sup>4</sup>, IGUA's members served in Union South will, with other T2 customers, pay \$2.36 million in rates from 2020 through 2023<sup>5</sup> without any concomitant benefit<sup>6</sup>. Further, as noted above, it appears that some of this rate burden will effectively subsidize new community expansion customers in Milverton and Lambton Shores, despite the Board's recently determined policy<sup>7</sup> that there should be no such subsidization of expansion customers who benefit by existing customers who do not.

### Conclusion

12. As the issues identified above are currently before the Board in the Union rate M17 approval application, IGUA is not advocating that they should be resolved in this leave to construct application. Accordingly, IGUA is not objecting to the approval sought by Union herein.
13. While IGUA is not objecting to approval of the proposed project, its position on this application is without prejudice to its pursuit of these cross-subsidization and rate making

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<sup>4</sup> Pre-filed Evidence paragraphs 60 and 67.

<sup>5</sup> IRR IGUA.2, Attachment 1, page 1, line 13.

<sup>6</sup> IRR B.Staff.2, part c) and IRR IGUA.2, part a) indicate that there are no T2 customers included in the forecast supporting the proposed reinforcement.

<sup>7</sup> EB-2016-0044, Decision with Reasons.

issues when the Board considers the Incremental Capital Module (ICM) request which Enbridge Gas (EG) has advanced as part of its 2019 rates application<sup>8</sup> in respect of, *inter alia*, the recovery of costs of this Stratford reinforcement project.

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

*Cathy Aalby*

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

*for*: Ian A. Mondrow  
Counsel to IGUA

February 13, 2019

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<sup>8</sup> EB-2018-0305.