



Ontario Energy Board Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2015-0230

UNION GAS LIMITED

**APPLICATION FOR APPROVAL TO EXPROPRIATE CERTAIN
INTERESTS IN LANDS IN THE TOWN OF MILTON, REGIONAL
MUNICIPALITY OF HALTON**

BEFORE: Ken Quesnelle
Presiding Member

DECEMBER 3, 2015

1 INTRODUCTION AND SUMMARY

Union Gas Limited (Union) filed an application dated July 20, 2015 pursuant to section 99(1) of the *Ontario Energy Board Act, 1998* (the Act), for an order under section 99(5) of the Act granting Union authority to expropriate certain interests in land in the Town of Milton, Municipality of Halton. Union stated that it needs the lands for the purposes of constructing, operating and maintaining a natural gas pipeline as part of Union's Dawn Parkway 2016 Expansion Project (the Dawn Parkway 2016 Project). In its Decision and Order in proceeding EB-2014-0261 the Ontario Energy Board (OEB) found the Dawn Parkway 2016 Project to be in the public interest. The Dawn Parkway 2016 Project includes the construction of 20 kilometres of pipeline and associated facilities between Union's Hamilton Valve Site and Milton Valve Site (Hamilton-Milton Pipeline).

Originally, Union applied for authority to expropriate 2.11 hectares (5.21 acres) of permanent easements and 4.42 hectares (10.92 acres) of temporary easements situated on a total of 8 properties along the approved Hamilton-Milton Pipeline route. In letters to the OEB, dated between July 24 and September 18, 2015, Union informed the OEB that it settled with the landowners for all the affected properties except for one which Union is now seeking authority to expropriate. The request for this one property includes the following: (i) a permanent easement over an area of 0.97 hectares (342 x 28 metres) and (ii) temporary easements over two areas, 0.17 hectares (83 x 20 metres) and 0.34 hectares (342 x 10 metres). There are three co-owners in respect of this property which is located in the Town of Milton.

The OEB finds that the requested expropriation is in the public interest and grants to Union the authority to expropriate the interests in land including one permanent and two temporary easements described in Schedule "A" of this Decision and Order.

2 THE PROCESS

The OEB issued its Notice of Application on August 18, 2015 (the Notice). Union served and published the Notice as directed. There are no intervenors in this proceeding. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on September 18, 2015, the interrogatory phase was completed on October 15, 2015. OEB staff filed a written submission on October 29, 2015. Union filed its reply submission on November 12, 2015.

3 PUBLIC INTEREST CONSIDERATIONS

Section 99(5) of the Act establishes the test for approving an application brought under section 99(1). Section 99(5) reads:

If after the hearing the Board is of the opinion that the expropriation of the land is in the public interest, it may make an order authorizing the applicant to expropriate the land.

The OEB applied the following public interest considerations when reviewing this application:

1. Are the easements needed for the location, construction, operation and maintenance of the OEB approved pipeline along the OEB approved pipeline route?
2. Did the OEB find that the Hamilton-Milton Pipeline, where the easements are required, to be in the public interest ?
3. Have the directly affected parties, the landowners of the property, where the easements are required, been notified and are they aware of the expropriation application? Have they had adequate opportunity to participate in the OEB proceeding?

Are the easements needed ?

Union submitted that the Hamilton-Milton Pipeline cannot be completed without Union securing all the required easements to construct and operate the pipeline along the approved route. According to Union's evidence, the easements are located along the OEB approved route of the Hamilton-Milton Pipeline.

The one permanent easement is needed for the location and construction, operation and maintenance of the Hamilton-Milton Pipeline. The two temporary easements are required for top soil storage and construction related activities, including post-construction clean-up for the Hamilton-Milton Pipeline over a period extending until December 31, 2017.

OEB's approval of the Hamilton-Milton Pipeline

The Hamilton-Milton Pipeline is part of the Dawn to Parkway 2016 Project approved by the OEB. The OEB, in its Decision and Order in EB-2014-0261, found that the Dawn to Parkway 2016 Project, including the Hamilton-Milton Pipeline, is in the public interest. The public interest considerations the OEB applied when approving the Hamilton-Milton Pipeline included the need, alternatives to the project, economics, impact on rate payers, costs recovery, technical and safety requirements, consultation with affected parties, environmental matters and form of easement agreements with directly affected landowners.

Both OEB staff and Union submitted that it is in the public interest that the OEB grant Union authority to expropriate the permanent and temporary easements, as requested by Union.

Have the directly affected parties, the landowners of the property, where the easements are required, been notified and are they aware of the expropriation application?

According to Union's evidence, prior to Union's filing of the expropriation application, since May 2014, Union communicated regularly with the landowners of the one property that is subject to this application. Union and the landowners had 11 meetings and multiple communications by fax and telephone. The communications were in the course of negotiations between Union and the landowners on the amount of compensation the landowners would receive for granting Union interest in their land. In late August 2015, as directed by the OEB, Union served the Notice on these landowners as no agreement could be reached. The Notice informed the landowners of the ways to participate in the OEB expropriation proceeding. The landowners did not apply for intervenor status in this proceeding. The OEB did not receive any letters of comment regarding Union's expropriation application from any of the directly affected landowners.

Findings

The OEB has determined that it is in the public interest to allow for expropriation of the interests in the property as Union requested for the following reasons:

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- The temporary and permanent easements are required for the location, construction, operation and maintenance of the Hamilton-Milton Pipeline along the OEB approved route.
 - The OEB's approval of the Hamilton-Milton Pipeline was based on the OEB's determination that it was in the public interest to construct and operate the Hamilton-Milton Pipeline. The Hamilton-Milton Pipeline may be completed only if all necessary land rights are acquired by Union.
 - The directly affected parties by this expropriation application are the three co-owners of the subject property. These landowners have been aware of Union's application for authority to expropriate their land and have been informed and given adequate opportunity to participate in this proceeding and express their views on the expropriation application.

4 ORDER

THE BOARD ORDERS THAT:

1. Union Gas Limited is hereby authorized to expropriate the interests sought in the lands listed in Schedule "A" to this Decision and Order.
2. Union Gas Limited shall file, with the OEB, a final expropriation plan for OEB approval and endorsement as soon as practical.

DATED at Toronto December 3, 2015

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

SCHEDULE A
DECISION AND ORDER
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Description of Land Subject to Expropriation and Interest Approved

Legal Description	Approved Interest
Pt Lt 10, Con 7 NNS, AS IN 119411, EXCEPT 322100 & 322344; S/T 296129,85629	Permanent easement area of 0.97 ha (342 x 10 m) Temporary easement areas of 0.17 ha (83 x 20 m), 0.34 ha (52 x 10 m)