



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

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## **DECISION AND ORDER**

**EB-2016-0222**

### **UNION GAS LIMITED**

**Sudbury Maley Drive Replacement Project**

**BEFORE: Ellen Fry**  
Presiding Member

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**November 10, 2016**

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## INTRODUCTION AND SUMMARY

Union Gas Limited (Union) applied to the Ontario Energy Board (OEB) on July 14, 2016 under section 90 of the *Ontario Energy Board Act, 1998* (OEB Act), for leave to construct natural gas pipelines to replace a section of NPS 10 natural gas pipeline with 1,955 metres of NPS 12 pipeline and to replace an 854 metre section of NPS 12 natural gas pipeline (the Project) in the City of Greater Sudbury (City).

Union plans to start construction in 2016.

A map of the Project is attached as Schedule A to this Decision and Order.

For the reasons set out below, the OEB finds that the construction of the Project is in the public interest. The OEB grants leave to construct, subject to the Conditions of Approval attached as Schedule B to this Decision and Order.

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## THE PROCESS

The OEB issued a Notice of Hearing on August 18, 2016. There were no intervention requests nor were any letters of comment received by the OEB. The OEB proceeded by way of a written hearing. The interrogatory phase of the proceeding was completed on October 6, 2016. OEB staff filed a written submission on October 19, 2016 supporting Union's application. Union filed its reply submission on October 26, 2016 confirming its acceptance of the draft Conditions of Approval proposed by OEB staff.

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## THE PUBLIC INTEREST TEST

This is an application under section 90 of the OEB Act seeking an order for leave to construct natural gas pipelines. Section 96 of the OEB Act provides that the OEB shall make an order granting leave if the OEB finds that “the construction, expansion or reinforcement of the proposed work is in the public interest”. When determining whether a project is in the public interest, the OEB typically examines the need for the project and alternatives, the project cost and economics, the environmental impacts, Indigenous consultation, and the impacts on landowners. Each of these issues is addressed below.

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## NEED FOR THE PROJECT AND ALTERNATIVES

According to Union, the Project is needed because the City is proposing to construct a four-lane extension of Maley Drive and is proposing to commence this work in 2016. In order to facilitate the construction of the roadways, the City requested that Union relocate portions of its NPS 10 and NPS 12 pipelines in areas where the current location of the pipelines is in conflict with the new location of Maley Drive.

The City first approached Union with plans for roadway upgrades in 2009. Union filed an application<sup>1</sup> with the OEB in April 2010 to replace these pipelines. However, the road works were deferred due to lack of funding. In 2016, after funding was secured, the City again approached Union about relocating the pipelines.

Regarding the alternatives to the Project, Union stated that the alternatives to consider are limited due to the short length of the proposed pipelines and the proposed location of the new Maley Drive. Union states that no alternatives were considered for the current NPS 12 pipeline. However, Union considered two alternatives to replace the existing NPS 10 pipeline. Union considered size for size replacement, and increasing the size to NPS 12 pipeline. Union stated that there was no significant difference in costs caused by increasing the pipeline size from NPS 10 to NPS 12 since there is forecasted growth in the Sudbury system, Union proposed to replace the existing NPS 10 with NPS 12 pipeline.

The OEB accepts Union's evidence on the need for the Project and its rationale for selecting the Project as the preferred alternative. The OEB finds that the increase in pipeline diameter is an acceptable approach to provide the needed capacity for anticipated growth in the Sudbury pipeline system.

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<sup>1</sup> EB-2010-0154.

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## PROJECT COST AND ECONOMICS

The estimated cost of the Project is \$6.3 million. Union indicated that it did not conduct an economic feasibility analysis for the Project because the Project was driven mainly by the move request from the City. Union confirmed that the estimated capital contributions from the City will be \$4.7 million. Union stated that the cost recovery of the Project would be brought for OEB consideration in its next rates rebasing application.

The OEB accepts Union's rationale for not conducting an economic analysis. The OEB will require a report from Union on the actual costs of the Project in its next rates rebasing proceeding, as shown in the attached Conditions of Approval. The OEB will then consider, in that proceeding, the prudence of those costs for inclusion in Union's rate base.

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## ENVIRONMENTAL ASSESSMENT

Most of the existing pipeline will be abandoned in place. Union indicated that it will follow the Technical Standards & Safety Authority (TSSA) Abandonment Checklist.<sup>2</sup>

The City completed an environmental assessment for the proposed roadwork. This report identified environmental features in the proposed construction zone and the mitigation measures that the City proposes to implement.

In addition to the environment assessment completed by the City, Union commissioned Stantec Consulting Ltd. (Stantec) to update a previous environmental review written in 2010 (at the time of the EB-2010-0154 application), as well as to review the environmental assessment done by the City. Union prepared an Environmental Protection Plan (EPP). The Environmental Report (ER) prepared by Stantec for Union was included as an appendix to the EPP. Union filed the EPP with the OEB and provided it for review to the members of the Ontario Pipeline Coordinating Committee (OPCC), the City, Conservation Sudbury (Nickel District Conservation Authority), affected provincial agencies, First Nations and Métis communities. There are no outstanding issues or concerns raised in the EPP review. Union noted that it would provide the results of the archeological assessment to any First Nations and Métis communities, when completed, upon request.

Union stated that if it followed its standard construction practices and implemented the mitigation measures identified in the ER, and in Table 1 of the EPP, there would be no long-term significant negative environmental impacts.<sup>3</sup>

The OEB finds that Union's EPP adequately addresses the environmental issues. The OEB will impose Conditions of Approval relating to environmental mitigation and construction monitoring and reporting.

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<sup>2</sup> Application, Schedule 10.

<sup>3</sup> EB-2016-0222 Pre-filed Evidence, page 9.

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## LAND MATTERS

Union states that it has all of the permanent and temporary rights in place to construct the Project.

Section 97 of the OEB Act requires Union to satisfy the OEB that it has offered or will offer to each owner of land affected by the pipeline route an agreement in a form approved by the OEB. Union filed the form of easement agreement it has offered to the affected landowners. This form of easement agreement is the same as the one the OEB approved in the Panhandle Relocation project<sup>4</sup>.

The OEB finds that Union has adequately addressed land issues associated with the Project.

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<sup>4</sup> EB-2015-0366



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## INDIGENOUS CONSULTATION

The OEB's Environmental Guidelines require that proponents identify and engage with any Indigenous groups that might be impacted by the proposed Project. To initiate the consultation, Union notified the following First Nations and Métis communities potentially affected by the Project: Wahnapiataie First Nation, Whitefish First Nation, Region 5 Métis Nation of Ontario, and Sudbury Métis Nation of Ontario (the Notified First Nations and Métis Communities).

As per the OEB's letter of direction, dated August 18, 2016, Union served the Notice of Application on the Notified First Nations and Métis Communities. None of the Notified First Nations and Métis requested intervenor status in this proceeding.

Union stated that no issues or concerns have been raised by the Notified First Nations and Métis Communities.

The OEB does not have any concerns about the consultation undertaken by Union. The OEB notes that Union's application was filed before the OEB issued a new edition of the *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (the Revised Guidelines). The OEB is satisfied that Union followed the intent of the Revised Guidelines and took appropriate steps to notify and follow up with potentially affected First Nations and Métis communities about the Project.

## ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Union is granted leave to construct pipelines, as shown in Schedule A, to replace a section of nominal size 10 inch diameter steel pipeline with 1,955 metres of nominal size 12 inch diameter steel pipeline and to replace an 854 metre section of nominal size 12 inch diameter steel pipeline. Leave to construct is subject to the Conditions of Approval set forth in Schedule B.

**DATED** at Toronto November 10, 2016

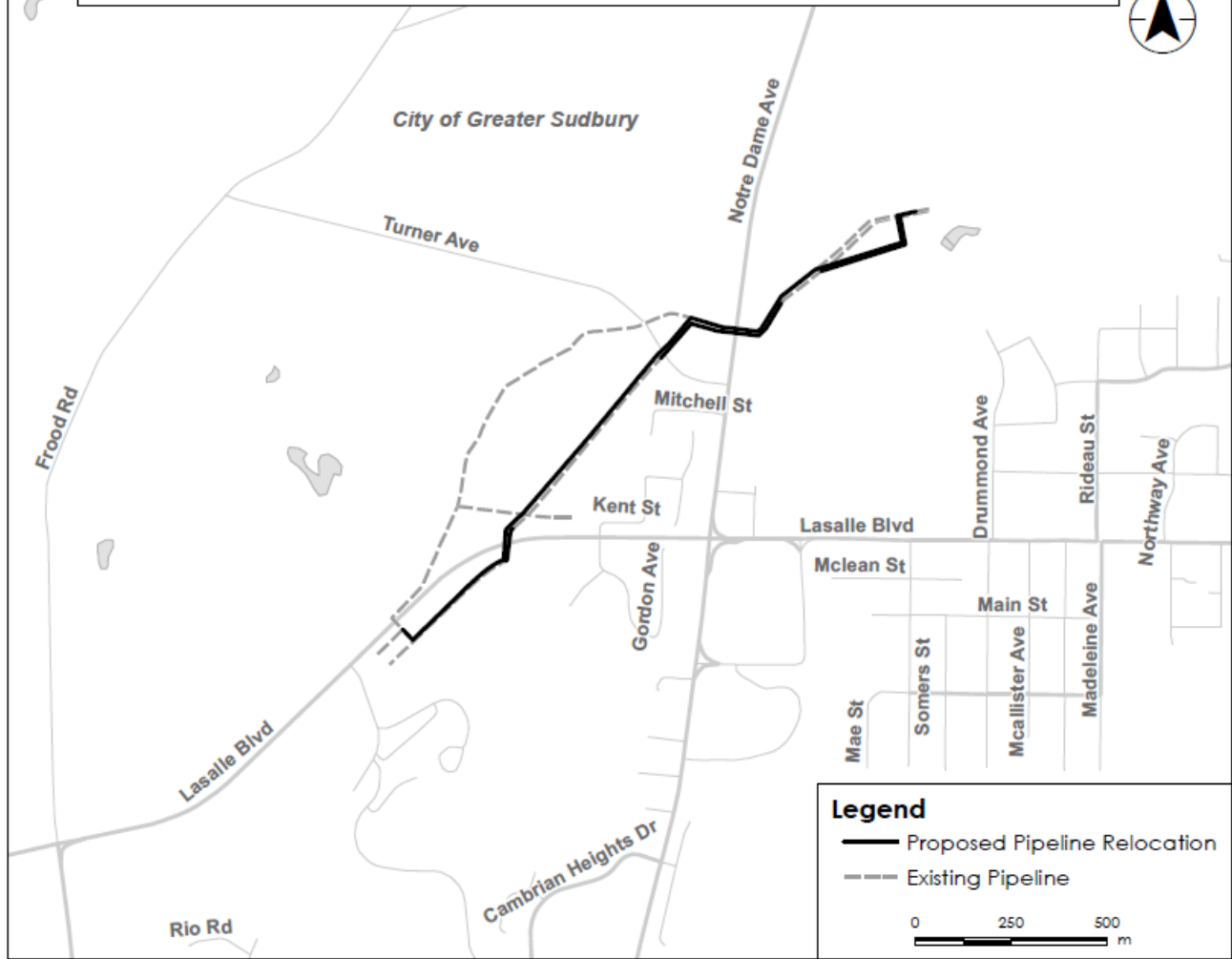
### ONTARIO ENERGY BOARD

*Original Signed By*

Kirsten Walli  
Board Secretary

**SCHEDULE A**  
**MAP OF THE PROJECT**  
**DECISION AND ORDER**  
**UNION GAS LIMITED**  
**EB-2016-0222**  
**NOVEMBER 10, 2016**

# Union Gas Limited - Proposed Maley Drive Pipeline Relocation



**SCHEDULE B**  
**CONDITIONS OF APPROVAL**  
**DECISION AND ORDER**  
**UNION GAS LIMITED**  
**EB-2016-0222**  
**NOVEMBER 10, 2016**

**Leave to Construct Conditions of Approval**  
**Application under Section 90 of the *Ontario***  
***Energy Board Act, 1998***

**Union Gas Limited**

**EB-2016-0222**

1. Union Gas Limited (Union) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2016-0222 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 10 days prior to the date construction commences;
  - ii. of the planned in-service date, at least 10 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.
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. Union shall file, in the proceeding where 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 of any significant variances from the cost estimates filed in this proceeding.
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 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 15 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 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.