



EB-2008-0364

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B;

AND IN THE MATTER OF an application by Union Gas Limited for an Order pursuant to Section 90(1) of the *Ontario Energy Board Act, 1998*, granting leave to construct a natural gas distribution pipeline in the Township of Puslinch, in the County of Wellington.

BEFORE: Ken Quesnelle
Presiding Member

Cynthia Chaplin
Member

DECISION AND ORDER

Union Gas Limited (“Union”) has filed an application with the Ontario Energy Board (the “Board”), dated November 13, 2008, under section 90(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B, for orders granting leave to construct approximately 4.9 km of Nominal Pipe Size (“NPS”) 12 diameter steel high pressure pipeline in the Township of Puslinch, in the County of Wellington. The pipeline is intended to transmit additional volumes of natural gas for the purpose of increasing the capacity of the existing Guelph System to accommodate forecasted growth on the system.

For the reasons set out below, the Board finds that the construction of the proposed pipeline is in the public interest and grants Union leave to construct the pipeline, subject to the conditions contained in the Conditions of Approval, Appendix A of this Decision.

The Proposed Pipeline

The 4.9 km pipeline is intended to increase the capacity of the existing Guelph system in the County of Wellington. The Guelph system originates at the Guelph Valve Site at Union's Dawn Trafalgar Line and runs northerly for 15 km to the Puslinch Transmission Station. In 2004, 5.9 km of NPS 12 (the Guelph Phase I Looping project) was constructed. The proposed pipeline will complete the second phase of the Guelph Reinforcement Project and is scheduled to be in-service no later than November 1, 2009.

A map showing the location of the proposed pipeline is attached as Appendix B. The proposed pipeline will extend north from the terminal point of the Guelph Phase I Looping project constructed in 2004 at Lot 16, Concession 1 along Wellington County Road 35, crossing Highway 401 to Lot 16, Concession 2, adjacent to Wellington Road 34.

The Proceeding

The Board issued the Notice of Application on December 8, 2008, which was published and served by Union as directed. Enbridge Gas Distribution Inc. ("Enbridge") filed the only request for intervenor status which was approved by the Board. No requests for observer status were made and no letters of comment were filed. The Board proceeded by way of a written hearing.

On February 6, 2009, Board Staff, through written interrogatories, requested clarification of certain aspects of the pre-filed evidence and additional information. On February 13, 2009, Union responded to the interrogatories. Enbridge asked no interrogatories. On February 27, 2009, Board Staff filed its written submission, noting that there were no outstanding concerns with the proposed project. Enbridge made no submissions.

This is an application under section 90 of the Act, seeking a Leave to Construct Order. Section 96 of the Act provides that the Board shall make an Order granting leave if the Board 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 Board typically examines the need for the project, the economics of the project, the environmental impact, the impact on landowners and consultation with Aboriginal Peoples. Each of these factors will be considered in turn.

The Need for the Project

The proposed pipeline is intended to deliver gas to the areas served by Union's Guelph System.

Union states that it is necessary to increase the capacity of the Guelph System in order to meet existing and forecasted loads during the Winter 2009/2010. In recent years, areas served by the Guelph System have experienced growth in the number of customers requesting natural gas service to their home or business. Union further notes that this growth includes new residential and commercial/industrial customers using natural gas as their primary energy source, existing residential customers converting from other fuels to natural gas, and commercial/residential businesses converting to natural gas for their energy needs.

The existing Guelph System has an available capacity lower than that required for design day demand, resulting in a design day capacity shortfall during the Winter 2009/2010.

Union states, and the Board accepts, that the construction of the proposed pipeline will provide additional capacity to accommodate forecasted growth through Winter 2014/2015, with the next phase of the NPS 12 looping required in 2015.

Alternatives Considered

When preparing its proposal for the second phase of the Guelph Reinforcement project, Union examined various alternatives. Union identified and assessed five different reinforcement alternatives prior to selecting the preferred route.

The first alternative assessed was a new lateral from Union's Dawn-Trafalgar system. This alternative was rejected because it would require 17.5 km of pipeline and the installation of a new regulating station and the total cost would be approximately \$8.6M.

The second alternative was to receive new system supply from Enbridge. Enbridge advised Union that its closest supply point was 15 km from the end of the Guelph distribution system. It was noted that there is not adequate pressure or capacity from the Enbridge system to provide reinforcement to the Guelph System. The closest major diameter high pressure line on the Enbridge system is located approximately 37 km

from Union's Guelph System and would cost significantly more than any of the other alternatives examined. Union therefore eliminated this alternative.

Union also considered adding compression at the Puslinch Transmission Station to boost system pressure. Union noted that this would require a 400 HP compressor in order to provide the required outlet pressures at the Puslinch Transmission station over the next 5 years. The initial capital cost was estimated at \$4M not including the cost of back-up compression, fuel and maintenance costs. Union concluded that this alternative was more expensive than the preferred alternative and did not provide security of supply by way of a second pipeline to the Guelph System.

The fourth alternative considered by Union was looping the Guelph System downstream of the Puslinch Transmission Station to reduce the pressure loss in the 3450 kPa maximum operating pressure ("MOP") Guelph System. Union concluded that this option was infeasible due to inadequate inlet and outlet pressures at the Puslinch Transmission Station.

The last alternative examined was looping a portion of the 6160 kPa MOP Guelph System from the Dawn-Trafalgar system. Union's evaluation indicated that this alternative was the preferred alternative. Union stated that this alternative was selected because it had the highest profitability index ("P.I.") and lowest costs while accommodating 6 years of forecasted growth.

The Board accepts that Union has appropriately examined the alternatives to the proposed project and that the proposed project is the best alternative.

The Proposed Pipeline's Design

According to Union's evidence, the design and pipe specifications, installation and testing of the proposed pipeline adhere to the requirements of Ontario Regulation 210/01 under the *Technical Standards and Safety Act*, Oil and Gas Pipeline Systems and the CSA Z662-03 Oil and Gas Pipeline Systems code.

The Board is satisfied that the evidence establishes that the pipeline design and specifications are acceptable.

Environmental Assessment and Routing

Union retained Stantec Consulting Limited (“Stantec”) to undertake an environmental assessment, evaluate alternatives and advise on the selection of a preferred route. The environmental assessment was carried out in accordance with the Board’s *“Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario (May 2003)”* (the “Board’s Environmental Guidelines”). The results of the assessment are documented in the report entitled “Environmental Report: Union Gas Limited Pipeline Project – Guelph Reinforcement Phase II” dated September, 2008 (the “Stantec Report”), which was filed in this proceeding.

As part of the environmental assessment process, Stantec undertook consultation with government agencies and the public. Public meetings were held on June 26, 2008, to inform the public of the project and to solicit input. The Stantec Report included details of the public consultation undertaken. No major concerns were identified.

In accordance with the Board’s Environmental Guidelines, the Stantec Report was reviewed by the Ontario Pipeline Coordination Committee (“OPCC”). There are no outstanding concerns related to the OPCC review.

Stantec selected the preferred route for the proposed pipeline after reviewing and considering detailed field surveys, the possible environmental and socio-economic impacts on stakeholders, comments received during the Public Information Session, and completed exit questionnaires. The Report states that no significant adverse effects on environmental and socio-economic features are likely to occur as a result of this Union Gas project, with the implementation of the recommended mitigation and related programs.

Union confirms that all permits and approvals will be secured prior to the construction of the pipeline. Union also confirmed that it will comply with all the recommended mitigation measures as outlined in the Stantec report.

The Board accepts Union’s evidence regarding the environmental assessment of the proposed pipeline, and finds that the proposed mitigation and monitoring activities are acceptable and address the environmental concerns.

Economics of the Project

The total estimated cost for the Guelph Reinforcement Phase II project is \$2,256,864. The economic feasibility of the project was measured in accordance with the Board's approved procedures as established in EBO 188¹. When the proposed facilities are included in Union's 2009 new business investment portfolio, the resulting P.I. would be 1.30. Union indicated that the proposed facilities have a Net Present Value ("NPV") of \$3,060,976 and a P.I. of 1.17. A PI at or above 1.0 indicates that the project is economic for Union.

The Board accepts Union's evidence and finds that the project is economically feasible under the proposed feasibility analysis.

Land Issues

Section 97 of the Act provides that a leave to construct will not be granted until the applicant has satisfied the Board that it has offered, or will offer, to each owner of land affected by the approved route or location, an agreement in a form approved by the Board.

Union has indicated that the majority of the proposed pipeline is to be located within road allowances in the Township of Puslinch, County of Wellington. Union notes that it purchased land at the northern terminus of the project which would allow the construction of the proposed pipeline and valve connection facilities. Union has also filed with the Board a temporary land use agreement it has acquired for the Highway 401 crossing.

The Board accepts Union's evidence surrounding land issues and approves the temporary land use agreement.

Aboriginal Consultation Conducted by Union

Union, through the Stantec Report, advised that there were no known aboriginal community reserves or lands that are currently used for traditional or cultural purposes along the proposed pipeline route.

¹ [The Consumers Gas Company Ltd, Union Gas Limited and Centra Gas Ontario Inc., Natural Gas System Expansion, Report of the Board, EBO 188, (January 30, 1998)]

As part of its mandate, Stantec sent letters dated March 18, 2008, to Indian and Northern Affairs Canada (“INAC”), Ontario Research Team, Litigation and Management and Resolution Branch, Specific Claims Branch, and Comprehensive Claims Branch, the Ontario Secretariat for Aboriginal Affairs, the Ministry of the Attorney General, and the following First Nations: Mississauga of the New Credit; Six Nations of the Grand River Territory (“Six Nations”); Mississaugas of Scugog Island First Nation; Hiawartha First Nation; Curve Lake First Nation; and Alderville First Nation (“Aboriginal communities”). The letters provided details of the proposed project, advised that an environmental report was being undertaken and invited comments regarding the proposed project. The Aboriginal communities were asked if there were any land claims or claims of traditional land use within the Project Study Area.

The stakeholder groups listed above were also sent letters on June 2, 2008 to notify them of the Public Information Session scheduled for June 26, 2008.

One of the six Aboriginal communities responded. Six Nations sent a letter dated April 10, 2008 informing Stantec that the Study Area is within the 1701 Treaty Territory (within six miles on either side of the main channel of the Grand River). They advised they had no comments on the proposed project at the time of response and asked to be kept up to date on the archaeological work that will be conducted within the study area.

Union noted in its response to Board Staff interrogatories, dated February 13, 2009, that upon closer examination, it had determined that the Study Area is not within the 1701 Treaty Territory and therefore not subject to the 1701 Treaty. Union also noted that it indicated in a letter dated November 10, 2008 that an updated Archaeological Assessment would be provided to Six Nations once all archaeological work is completed.

In a letter dated April 8, 2008, INAC’s Specific Claims Branch confirmed there are no specific claims in the Study Area. In a letter dated June 16, 2008, INAC’s Litigation and Resolution Management Branch advised that there was litigation in the vicinity of the Study Area, initiated by Six Nations, which had not been adjudicated.

The Board notes that despite litigation ‘in the vicinity of the Study Area’, Six Nations does not object to the project.

Union notes in its interrogatory response that there were no further comments received from Aboriginal communities that support or object to this application for leave to construct.

The Board is satisfied that Union has consulted appropriately.

Orders Granted

For the reasons indicated, the Board finds the pipeline project proposed by Union in this proceeding is in the public interest and grants an Order for Leave to Construct subject to the Conditions of Approval as set out in Appendix A.

THE BOARD ORDERS THAT:

1. Union Gas Limited is granted leave, pursuant to subsection 90 (1) of the Act, to construct approximately 4.9 kilometres of NPS 12 in the Township of Puslinch, in the County of Wellington for the purpose of meeting the increase in demand of natural gas to its Guelph System, subject to the Conditions of Approval set forth in Appendix A.
2. Union Gas Limited shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

DATED at Toronto March 24, 2009

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2008-0364
DATED March 24, 2009
CONDITIONS OF APPROVAL

Conditions of Approval

Leave to Construct

1 General Requirements

- 1.1 Union Gas Limited ("Union") shall construct the facilities and restore the land in accordance with its application and the evidence filed in EB-2008-0364, except as modified by this Order and these Conditions of Approval.
- 1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate December 31, 2009, unless construction has commenced prior to then.
- 1.3 Except as modified by this Order, Union shall implement all the recommendations of the Environmental Report filed in the pre-filed evidence, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee ("OPCC") review.
- 1.4 Union shall advise the Board's designated representative of any proposed material change in construction or restoration procedures and, except in an emergency, Union shall not make such change without prior approval of the Board or its designated representative. In the event of an emergency, the Board shall be informed immediately after the fact.

2 Project and Communications Requirements

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Facilities.
- 2.2 Union shall designate a person as project engineer and shall provide the name of the individual to the Board's designated representative.

The project engineer will be responsible for the fulfilment of the Conditions of Approval on the construction site. Union shall provide a copy of the Order and Conditions of Approval to the project engineer, within seven days of the Board's Order being issued.

- 2.3 Union shall give the Board's designated representative and the Chair of the OPCC ten days written notice in advance of the commencement of the construction.
- 2.4 Union shall furnish the Board's designated representative with all reasonable assistance for ascertaining whether the work is being or has been performed in accordance with the Board's Order.
- 2.5 Union shall file with the Board's designated representative notice of the date on which the installed pipelines were tested, within one month after the final test date.
- 2.6 Union shall furnish the Board's designated representative with five copies of written confirmation of the completion of construction. A copy of the confirmation shall be provided to the Chair of the OPCC.

3 Monitoring and Reporting Requirements

- 3.1 Both during and after construction, Union shall monitor the impacts of construction, and shall file four copies of both an interim and a final monitoring report with the Board. The interim monitoring report shall be filed within six months of the in-service date, and the final monitoring report shall be filed within fifteen months of the in-service date. Union shall attach a log of all complaints that have been received to the interim and final monitoring reports. The log shall record the times of all

complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.

- 3.2 The interim monitoring report shall confirm Union's adherence to Condition 1.1 and shall include a description of the impacts noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction. This report shall describe any outstanding concerns identified during construction.
- 3.3 The final monitoring report shall describe the condition of any rehabilitated land and the effectiveness of any mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained.

4 Easement Agreements

- 4.1 Union shall offer the form of agreement approved by the Board to each landowner, as may be required, along the route of the proposed work.

5. Other Approvals and Agreements

- 5.1 Union shall obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project, shall provide a list thereof, and shall provide copies of all such written approvals, permits, licences, and certificates upon the Board's request.

APPENDIX B
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2008-0364
DATED March 24, 2009
MAP OF THE PIPELINE ROUTE



