



EB-2012-0226
EB-2012-0227

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 of the *Ontario Energy Board Act, 1998*, granting leave to construct natural gas pipelines in the City of Thunder Bay and Gorham Township, in the District of Thunder Bay;

AND IN THE MATTER OF an Application by Union Gas Limited for a Certificate of Public Convenience and Necessity to construct works to supply gas to the inhabitants of Gorham Township.

BEFORE: Cathy Spoel
Presiding Member

DECISION AND ORDER
March 28, 2013

Introduction

On April 27, 2012 Union Gas Limited (the "Applicant" or "Union") filed two applications with the Ontario Energy Board (the "Board").

The first application, filed pursuant to section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B, (the "Act") requested an order granting leave to construct approximately 19 kilometres of nominal pipe size ("NPS") 16 (16 inch diameter) steel pipeline and 13.0 kilometres of NPS 12 (12 inch diameter) steel pipeline from

TransCanada Pipeline's ("TCPL") valve site in Gorham Township ("Gorham") to the Ontario Power Generation ("OPG") gas fired Thunder Bay Generating Station on Mission Island in the City of Thunder Bay ("Leave to Construct Application"). The gas fired generating station was planned as a result of the conversion of the existing Thunder Bay coal fired peaking generating station to gas fired generation. The Board assigned the Leave to Construct Application file number EB-2012-0226.

The second application is for a Certificate of Public Convenience and Necessity ("CPCN") to construct works to supply gas to the residents of the unincorporated Township of Gorham in the District of Thunder Bay. This application is filed under section 8 of the *Municipal Franchises Act*, R.S.O.1990, c.M.55, as amended. The Board assigned the CPCN application file number EB-2012-0227.

On November 19, 2012 Union filed a letter with the Board indicating that it wished to revise its Leave to Construct Application (EB-2012-0226) ("Revised Application") as a result of the discontinuation of the conversion of the coal fired Thunder Bay Generating Station to natural gas by OPG. Union stated that on October 31, 2012, OPG announced that it had terminated its contract with Union to supply gas to the Thunder Bay Generating Station.

Based on the termination of the gas supply contract by OPG, Union withdrew the request to construct a section of the natural gas pipeline connecting the Belrose Station to the Thunder Bay Generating Station. However, Union indicated that the replacement of pipelines between Onion Lake Station and Belrose Station remains necessary as the Replacement Pipeline is needed to ensure the continued safe and efficient operation of the Thunder Bay system¹.

Revised Leave to Construct

The revised Leave to Construct Application is for the construction of approximately 17 kilometres of NPS 12 steel pipeline to replace the NPS 10 Thunder Bay Lateral pipeline between Onion Lake Station and Belrose Station ("Replacement Pipeline"). The

¹ Union's Thunder Bay system is a network of extra high pressure pipelines that supplies the entire Union's distribution network in Thunder Bay service area. It is fed from a connection to the TCPL system at TCPL mainline valve #67 known as the Thunder Bay Onion Lake tap. (Union's Application, Prefiled evidence, dated April 21, 2012, Schedule 2, page 5 of 26)

Revised Application deals with the same route for the construction of pipeline but is a smaller diameter pipe, so Union did not file any further evidence regarding the route. As part of the Revised Application, Union filed updates to its evidence on the proposed construction schedule, design and pipe specification and construction costs.

Union is proposing to commence construction of the pipeline in May 2013. The planned in-service date is November 2013. A map showing the location of the Replacement Pipeline is attached as Appendix “B”. Union did not file any revisions to the CPCN application.

For the reasons set out below, the Board finds the construction of the Replacement Pipeline and the CPCN for the Gorham Township to be in the public interest. The Board grants Union leave to construct on the terms and conditions (the “Conditions of Approval”) set out in this Decision and Order and attached as Appendix “A”. The Board also grants the Township of Gorham the requested CPCN. An Order granting the CPCN is attached as Appendix “C” to this Decision and Order.

The Proceeding

The Board issued a Notice of Revised Application on December 7, 2012. Union served and published this Notice as directed by the Board. There are no intervenors or observers in this proceeding. The Board issued Procedural Order No. 2 on January 15, 2013 which set a schedule for a written proceeding.

In accordance with Procedural Order No. 2 Board staff filed written interrogatories on January 21, 2013 and Union provided responses on January 28, 2013. Board staff filed submissions on February 6, 2013 and Union filed its reply submissions on February 12, 2013.

Public Interest Test

Section 96 of the Act provides that the Board shall make an Order granting leave to construct a natural gas pipeline 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, the impact on the ratepayers, the environmental impact, the impact on land owners, and pipeline design technical requirements.

The following issues define the scope of the proceeding:

- Is there a need for the Replacement Pipeline?
- Are there any undue negative rate implications for Union's rate payers caused by the construction and operation of the Replacement Pipeline?
- What are the environmental impacts associated with construction of the Replacement Pipeline and are they acceptable?
- Are there any outstanding landowner matters for the Replacement Pipeline routing and construction?
- Is the Replacement Pipeline designed in accordance with the current technical and safety requirements?

Each of these issues is addressed below.

The Need for the Project

Union has stated that the need for the project is based on the requirement to replace the existing pipeline due to integrity concerns and, to allow Union to increase the capacity of that portion of its pipeline system in Thunder Bay². The existing pipeline has been subject to a Pipeline Integrity Management Program initiated by Union in 2002 ("Integrity Program"). The Integrity Program was developed and implemented to ensure that pipelines are in compliance with the Canadian Standards Association (CSA) standard for *Oil and Gas Pipeline Systems*, CSA Z662, which was adopted by the Technical Standards and Safety Authority (TSSA) by Ontario Regulation 210/01 for the pipeline systems in Ontario.

With regard to this particular pipeline, the key integrity issue identified by Union is advanced stress corrosion cracking (SCC) at the joints along the full length of the pipeline. Union has been and will continue to implement mitigation plans to address

² Integrity refers to potential corrosion, loss of pipeline wall thickness or other potential deterioration that may affect the operation of the pipeline.

identified integrity issues however Union has stated that replacement of the pipeline is the most effective and practical way to mitigate the risk of SCC.

In addition, according to Union's evidence, the proposed increased size of the Replacement Pipeline will also address Union's need for increased capacity to meet the minimum inlet pressure in the southern part of Thunder Bay, which is fed from Belrose Station. Specifically, Union stated that the proposed increase in diameter of the Replacement Pipeline from 10 inch to 12 inch diameter will provide an additional 24,000 m³/h of capacity and will resolve low pressure issues on peak temperature design days. In Union's evidence this additional capacity allows for approximately 3,200 residential houses as potential additions to customer base.

The Board has no concerns regarding the need for the replacement and increased size of the pipeline and finds that Union has satisfied the Board that there is a need for the Replacement Pipeline.

Project Economics and Ratepayer Protection

Union's evidence is that the estimated capital cost of the Replacement Pipeline is approximately \$26,726,000. Union's evidence is that the Thunder Bay Replacement Pipeline economics have not been completed because the primary purpose of the Replacement Pipeline is to ensure system integrity as opposed to customer growth which would require an economic evaluation.

In response to Board staff interrogatory # 1 Union stated that the cost of the Thunder Bay Replacement project will be managed within its overall capital budget as approved by the Board in Union's cost of service proceeding (EB-2011-0210) and in accordance with Union's 2013 Board-approved cost allocation study.

As the actual costs will not be available until the Replacement Pipeline is completed, the Board will require a follow up report from Union on the actual costs. Accordingly, the Board has included in Appendix "A" to this Decision and Order, the following as a Condition of Approval:

- 1.5 Within 15 months of the final in-service date, Union shall file with the Board Secretary a Post Construction Financial Report. The Report shall indicate the actual capital costs of the project and an explanation for any significant

variances from the estimates filed in this proceeding.

In light of the above, the Board finds that there will be no impact on ratepayers beyond that approved by the Board in the most recent rates proceeding.

Environmental Assessment

The pipeline route selection and environmental assessment performed by Union were completed in accordance with the *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 6th edition, 2011* (“OEB Environmental Guidelines”). The results of the routing and environmental assessment are presented in an Environmental Report entitled *Thunder Bay Generating Station Pipeline Project, October, 2011* (“ER”). The ER was completed by Stantec Consulting Inc. (“Stantec”) and was submitted as part of Union’s pre-filed evidence. No outstanding environmental or construction issues were identified. Union stated that it would implement all of the recommendations as set out in the ER.

The Board finds that the evidence indicates that there was extensive public consultation, including consultation with aboriginal groups. The consultations were consistent with the Board’s Environmental Guidelines. Union also confirmed in its evidence that there are no outstanding or unresolved issues relating to any of the consultations.

The Board finds that Union has proposed an appropriate mitigation and restoration program to construct the Replacement Pipeline. In addition, to ensure mitigation of impacts, and restoration of land and water resources, the Board has imposed monitoring and reporting requirements in the Conditions of Approval attached as Appendix “A” to this Decision and Order.

The Board is aware that other approvals will be required for construction of the Replacement Pipeline.

Pipeline Design

The design specifications for the pipe, including design factors for class location and hydrostatic testing, meet the requirements of Ontario Regulation 210/01, Oil and Gas Pipeline Systems, under the *Technical Standards and Safety Act, 2008* and the CSA Z662-03 Oil and Gas Pipeline Systems Code. The Technical Standards and Safety Authority, as the agency overseeing the operation of the pipelines in Ontario, has the authority to implement all the applicable standards.

The Board finds that the Replacement Pipeline meets the construction and operational requirements for safe operation.

In addition, Union confirmed that it would follow the TSSA Pipeline Abandonment Checklist for the abandonment procedures for the existing pipeline which is being replaced. The Board finds that the pipeline design specification and abandonment procedures are consistent with the requirements set in the current regulation and the TSSA guidelines.

Land Issues

Union's evidence is that the majority of the Replacement Pipeline will use existing easements with 66 directly affected properties, with the exception of 2 locations where Union will require a new easement agreement. Union has reached agreements on permanent and temporary land rights with all except one landowner along the route of the Replacement Pipeline.

Union has also confirmed that it has offered or will offer to each owner of land affected by the approved route or location an easement agreement in a form approved by the Board, pursuant to section 97 of the Act. Union filed the approved form of the easement agreement in Schedule 19 of the prefiled evidence. The Board approves the proposed form of agreement as filed.

Although Union has not obtained all of the land rights required, the Board notes that Union is committed to ongoing negotiations and expects to obtain all land rights and crossing and work permits prior to the commencement of construction. In this regard, the Board attached the following condition which addresses other approvals and permits to be obtained by Union:

- 4.1 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.

Based on Union's acceptance of this condition of approval the Board finds that there are no outstanding concerns with the land issues.

For the reasons set out above, the Board finds that the Replacement Pipeline is in the public interest and grants Union leave to construct subject to the conditions 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 17 kilometres of 304.8 millimeter diameter (Nominal Pipe Size 12 inch) Extra High Pressure steel pipeline and facilities located in the City of Thunder Bay and Gorham Township, in the District of Thunder Bay, subject to the Conditions of Approval set forth in Appendix "A".
2. A certificate of public convenience and necessity, attached as Appendix "C" to this Decision and Order, is granted to Union Gas Limited to construct works to supply gas in the Township of Gorham.
3. Union Gas Limited shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

DATED at Toronto, March 28, 2013

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

**Appendix A
TO BOARD DECISION AND ORDER**

**EB-2012-0226
EB-2012-0227**

DATED: March 28, 2013

**Leave to Construct EB-2012-0226
Conditions of Approval**

EB-2012-0226
Union Gas Limited
Leave to Construct Application

Conditions of Approval

1 General Requirements

- 1.1 Union Gas Limited ("Union") shall construct the facilities and restore the land in accordance with its Revised Application and the evidence filed in EB-2012-0226 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, 2013, unless construction has commenced prior to that date.
- 1.3 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, 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.
- 1.5 Within 15 months of the final in-service date, Union shall file with the Board Secretary a Post Construction Financial Report. The Report shall indicate:
 - a) the actual capital costs of the project and an explanation for any significant variances from the estimates filed in this proceeding.

2 Project and Communications Requirements

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Natural Gas Applications.
- 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 fulfillment 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 Other Approvals and Agreements

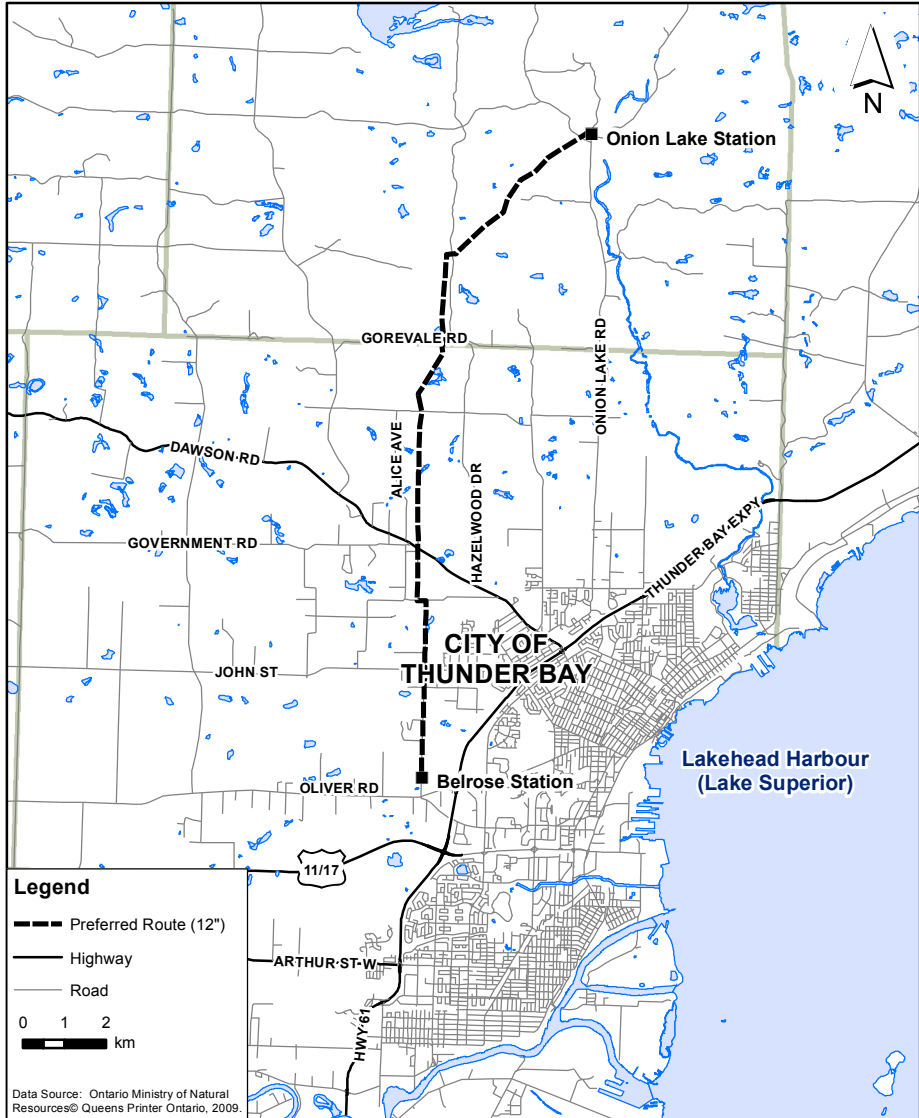
- 4.1 Union shall obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project, shall provide a list thereof, and shall provide copies of all such written approvals, permits, licences, and certificates upon the Board's request.

**Appendix B
TO BOARD DECISION AND ORDER**

**EB-2012-0226
EB-2012-0227**

DATED: March 28, 2013

Map of the Project Location



**APPENDIX C
TO BOARD DECISION AND ORDER**

**EB-2012-0226
EB-2012-0227**

DATED: March 28, 2013

**Certificate of Public Convenience and Necessity for
the Township of Gorham**

Certificate of Public Convenience and Necessity

The Ontario Energy Board hereby grants

Union Gas Limited

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55, as amended, to construct works to supply gas in the geographic boundaries of the

Township of Gorham

DATED at Toronto, March 28, 2013

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary