



**EB-2010-0329**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) pursuant to Section 90(1);

**AND IN THE MATTER OF** an application by Union Gas Limited for an Order granting leave to construct a natural gas pipeline in the City of Quinte West, County of Hastings.

**BEFORE:** Marika Hare  
Presiding Member

### **DECISION AND ORDER**

Union Gas Limited (the "Applicant" or "Union") filed an application with the Ontario Energy Board (the "Board") on November 11, 2010, under section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B (the "Act") for an order granting leave to construct approximately 11.7 kilometres of 6 inch diameter and 1.2 kilometres of 8 inch diameter natural gas pipeline (the "proposed pipeline"), in the City of Quinte West, County of Hastings (the "City"). The Board has assigned the application file number EB-2010-0329.

For the reasons set out below, the Board finds the construction of the proposed pipeline to be in the public interest and grants leave to construct on the terms and conditions (Conditions of Approval) set out in this Decision. The Board's Conditions of Approval are attached as Appendix A.

## **The Proposed Pipeline**

The proposed route starts at the Union's Trenton Town Border Station ("TBS") at Glenn Miller Road, which is fed from the TransCanada Pipeline Limited tap. The proposed 6 inch diameter pipeline runs from the Trenton TBS northeast for approximately 1.5 km on private land and then turns southeast and runs for approximately 3 km along Stickles Road and St. Hilaires Road connecting to a proposed District Regulating Station ("DRS") which is to be located south of Highway 401 on the west side of St. Hilaires Road. From the DRS the proposed 8 inch diameter pipeline runs along St. Hilaires Road for 1.2 km until it reaches Meyer's Creek Road and splits into two 6 inch diameter pipelines. The proposed northwest 6 inch diameter pipeline runs northwest along Hamilton Road for approximately 1.2 km then turns southeast for approximately 1.2 km to tie into the existing Trenton system. The proposed northeast 6 inch diameter pipeline runs for approximately 2.3 km along Meyer's Road then turns southeast for approximately 2.5 km along White's Road until it ties in the existing Trenton system. Construction of the Pipeline is planned to start in spring 2011. A map showing the location of the proposed pipeline is attached as Appendix B.

## **The Proceeding**

The Board issued a Notice of Application and Written Hearing ("Notice") on November 30, 2010. Union served the Notice as directed by the Board. There were no intervenor requests made in this proceeding.

On December 16, 2010 the Board received a letter of comment from Alderville First Nation stating that the proposed project would have a "minimal potential to impact" their First Nations' rights. Alderville First Nation also indicated that they wished to be kept "apprised of any archaeological findings, burial sites or any environmental impacts, should any occur."

The Board set out a schedule for a written proceeding in Procedural Order No. 1 issued on January 4, 2011. In accordance with the schedule, Board Staff filed interrogatories (“IRs”) on January 10, 2011 and a supplementary IR on January 14, 2011. Union responded to all IRs on January 17, 2011. On January 24, 2011 Board Staff filed submissions in support of Union’s application along with proposed Conditions of Approval. In reply submissions filed on January 26, 2011 Union agreed with the proposed conditions and provided additional information to explain the impact of the project on its rate base.

The record was completed on January 26, 2011.

### **The Public Interest Test**

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, impact on ratepayers, environmental impact, the impact on land owners and pipeline design technical requirements.

The following issues defined the scope of the proceeding:

- Is there a need for the proposed pipeline?
- Are there any undue negative rate implications for Union’s rate payers caused by the construction and operation of the proposed pipeline?
- What are the environmental impacts associated with construction of the proposed pipeline and are they acceptable?

- Are there any outstanding landowner matters for the proposed pipeline routing and construction?
- Is the pipeline designed in accordance with the current technical and safety requirements?

Each of these issues is addressed below.

### **The Need for the Project**

Union stated that the reinforcement of the pipeline system in this area is needed to meet increased demand from the Canadian Forces Base (“CFB”) Trenton. According to Union’s pre-filed evidence the Federal Government announced in 2007 the expansion of CFB Trenton and the construction of the Airlift Capability Project. Construction of the Airlift Capability Project is in progress. The CFB Trenton expansion will create additional gas demand and the need for the existing pipeline system reinforcement by Union. The completion of the CFB Trenton expansion is planned for 2015.

The terms of service and the associated revenue to Union will be set under a Rate 20 Northern Gas Distribution Contract (“Contract”) with the Department of National Defence (“DND”). Union currently has the Contract for the existing gas distribution service to the CFB which has been renewed annually. In response to Board Staff IRs, Union filed a redacted copy of the 2009-2010 Contract. On November 1, 2010 this Contract was renewed and Union currently has 2010-2011 Contract with the DND. The 2011-2012 Contract will be of the same form as the existing 2009-2010 Contract but the new terms will be added to reflect the reinforcement project subject to this application. The 2011-2012 Contract will be renewed annually. Union confirmed that it would file a redacted version of the 2011-2012 Contract once it is signed.

The Board finds that Union has adequately addressed the need for the pipeline.

## Project Economics

The estimated capital cost of the pipeline is \$8.3 million. Board staff submitted that the project is economically feasible based on the E.B.O. 188 portfolio approach<sup>1</sup>. With capital contribution from the customer the project is economically feasible on a stand alone basis with a profitability index of 1.0. The evidence states that the funds from the DND are available. Union indicated that the process of the formal approval of the capital investment by the Minister of National Defence is underway. The Discount Cash Flow (“DCF”) analysis presented in the pre-filed evidence indicates that the capital contribution from the DND is estimated at \$8.5 million. The pre-filed evidence includes a letter from the DND, dated October 21, 2010 (“DND Letter”). The DND letter acknowledges that the funds for the project financing in the amount of approximately \$8.5 million would be available pending approvals by the Government of Canada.

Board Staff noted that the estimated capital contribution is larger than the estimated cost of the proposed project. In response to Board Staff IR # 2, Union explained that the capital contribution is calculated based on estimated costs and revenues by way of the DCF, and that Union and the DND will sign an Indemnity Agreement prior to construction commencement. The Indemnity Agreement would set out the payment plan and confirm that all costs incurred by Union would be paid by Union.

Union, in response to Board Staff IR # 3, further explained that the capital contribution amount of \$8.5 million required from the DND includes an amount to cover Operations and Maintenance expenses and taxes for the 10 year period of the DCF analysis. The

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<sup>1</sup> EBO 188 Report of the Board issued *in 1998* established a set of standards that the utilities were to adhere to for all distribution system expansion projects. In particular, the EBO 188 directed: a financial and environmental assessment of distribution expansions based on a portfolio approach; Discounted Cash Flow method for financial feasibility analysis; and customer connection and contribution policies.

Board accepts Union's explanation of the project economics as the revenues are guaranteed under the Contract which will be renewed annually.

In its submission Board Staff noted Union's statement that "the expected change to Union's rate base as a result of this project is a reduction in rate base of approximately \$135,000." Board staff asked that Union, in its reply submissions, address this matter and provide a step by step explanation for its estimate that the rate base would be reduced by \$135,000. On January 26, 2011 Union filed its reply submission and explained that the \$135,000 reduction to the rate base was the result of the expected revenues and contribution amounts from DND. The Board finds this explanation acceptable.

The Board notes that actual costs will not be available until the project is completed. For this reason, the Board will require a report from Union on the actual costs and cost sharing for the project approved by this decision and order. Therefore, the Board includes the following as a Condition of Approval to the leave to construct order:

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.
- b) the actual capital costs for the project borne by Union and the actual costs contributed towards construction by the Department of National Defence including the method and the actual cost inputs used to determine the final amount of the contribution by the Department of National Defence.

The Board requires that the Post Construction Financial Report be prepared for the approved project on a stand-alone basis and provide disaggregated numbers for the pipeline project which is the subject to this application.

## Land Issues

The proposed pipeline is primarily within the City municipal road allowance. The evidence indicates that discussions with the City are underway, and that Union has yet to obtain approvals. In its evidence Union stated that the City did not raise any concerns with the proposed pipeline project. With regard to private lands, Union requires easement agreements for 5 short segment locations from 4 individual landowners. Options for these agreements have been signed with the landowners. Temporary easements have been negotiated and final agreements are anticipated to be signed by early 2011 after permanent rights are registered on title.

Section 97 of the Act requires that the Board approve the form of easement agreement that would be offered to the landowners. Union filed forms of both permanent and temporary easement agreements that it would offer and confirmed that these forms had been previously approved by the Board. The Board notes that Condition 4.1 of the attached Conditions of Approval specifies that these approved forms of easement agreement be used by Union when making offers to the landowners.

## Environmental Assessment

The selection of the proposed route and environmental assessment with impact mitigation recommendations have been completed by Azimuth Environmental Consulting ("Azimuth"). Azimuth prepared an Environmental Report ("ER") entitled "Trenton Area Reinforcement Project-Environmental Study Report". The ER is part of the pre-filed evidence submitted by Union. The ER has been completed according to Board's *"Environmental Guidelines for Locating, Constructing and Operating Hydrocarbon Pipelines in Ontario"* [2003]. The ER was reviewed by the Ontario Pipeline Coordinating Committee ("OPCC") and local municipalities. A public information session was held in Trenton on October 27, 2009. Union filed copies of all the comments received in the public information session and from the OPCC. According to the evidence, there are no outstanding concerns related to the environmental impacts of the proposed project.

The proposed route is mainly in the road allowance and the ER found “no significant environmental or land use impacts along the preferred route were identified that could not readily be mitigated through Union’s standard construction specification”.

The ER included Union’s “Environmental Management Manual” which outlines general environmental management practices. The ER recommended that an Environmental Inspector be assigned to the project throughout the duration of construction to ensure that impacts are mitigated and land is restored as appropriate. The Environmental Inspector would ensure that the ER recommendations and practices in Union’s “Environmental Management Manual” are fully implemented.

The Board finds that the evidence supports the appropriate mitigation and restoration measures required to construct the pipeline. To ensure appropriate implementation of all the recommendations in the ER the Board included the following condition of approval:

- 1.2 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.

The Board addressed the request by Alderville First Nation that they be kept informed of any archaeological findings, burial sites or any environmental impacts, in Condition of Approval 2.7 as follows:

- 2.7 Union shall keep Alderville First Nation apprised of any archaeological findings, burial sites or any environmental impacts, should any occur during the construction of the facilities and restoration of the lands as described in this application. If an archaeological or potential archaeological find is made then Union shall cease construction or restoration activities until such time as the findings can be assessed.

The Conditions of Approval also impose monitoring and reporting requirements in the Conditions of Approval 3.1; 3.2 and 3.3.



The Board is aware that other approvals will be required for Union to construct the pipeline. The Board finds that Union's compliance with the Condition of Approval 5.1 ensures that the requirements of these other permits and approvals are fully addressed.

### **Pipeline Design - Technical and Safety Requirements**

Union's evidence is that the proposed pipeline is designed in accordance with the requirements of Ontario Regulation 210/01, Oil and Gas Pipeline Systems, under the *Technical Standards and Safety Act, 2008* and the Canadian Standards Association Z662-07 Oil and Gas Pipeline Systems standard. Union also noted that the Technical Standards and Safety Authority (TSSA) has reviewed the pipeline design specification and has not raised any issues regarding the construction and operation of the pipeline.

The Board finds that the proposed pipeline meets the construction and operational requirements for safe operation. The TSSA, as the agency overseeing the operation of the pipelines in Ontario, has the authority to implement all the applicable standards.

### **Orders Granted**

For the reasons set out above, the Board finds that the pipeline project being proposed by Union in this proceeding is in the public interest and grants the leave to construct subject to the Conditions of Approval 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 11.7 kilometres of 6 inch diameter and 1.2 kilometres of 8 inch diameter natural gas pipeline in the City of Quinte West, County of Hastings, 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, February 28, 2011

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

**APPENDIX "A"**  
**TO BOARD DECISION AND ORDER**  
**IN THE MATTER OF EB-2010-0329**  
**DATED February 28, 2011**  
**CONDITIONS OF APPROVAL**

EB-2010-0329

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 application and the evidence filed in EB-2010-0329 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 by December 31, 2011, 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, 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.
- 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.
  - b) the actual capital costs for the project borne by Union and the actual costs contributed towards construction by the Department of National Defence including the method and the actual cost inputs used to determine the final amount of the contribution by the Department of National Defence.

**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 file with the Board's designated representative notice of the date on written confirmation of the completion of construction. A copy of the confirmation shall be provided to the Chair of the OPCC.
- 2.7 Union shall keep Alderville First Nation apprised of any archaeological findings, burial sites or any environmental impacts, should any occur during the construction of the facilities and restoration of the lands as described in this application. If an archaeological or potential archaeological find is made then Union shall cease construction or restoration activities until such time as the findings can be assessed.

### **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-2010-0329**  
**DATED February 28, 2011**  
**MAP OF THE PIPELINE ROUTE**

# PROPOSED TRENTON AREA REINFORCEMENT PIPELINE PROJECT

UNION GAS LIMITED

SCHEDULE A

EB-2010-0329

