



EB-2013-0420

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 sections 90 of the *Ontario Energy Board Act, 1998*, granting leave to construct a natural gas pipeline and facilities in the Town of Lakeshore, in the County of Essex.

BEFORE: **Cynthia Chaplin**
Presiding Member

DECISION AND ORDER
March 28, 2014

Union Gas Limited (“Union”) filed an application with the Ontario Energy Board on December 17, 2013 seeking approval to construct approximately 13 kilometres of Nominal Pipe Size 20 natural gas pipeline in the Town of Lakeshore, in the County of Essex. The application was made under section 90 of the *Ontario Energy Board Act, 1998*, and the Board has assigned the application file number EB-2013-0420.

For the reasons set out below, the Board finds that the construction of the proposed pipeline is in the public interest. The Board grants leave to construct, subject to the Board’s Conditions of Approval, which are attached as Appendix A.

The Proposed Pipeline

The proposed NPS 20 pipeline will replace approximately 13 kilometers of the existing NPS 16 Panhandle Line in the Town of Lakeshore from the west side of West Puce Road to the east of East Ruscom River Road. Union plans to start construction in May

2014 for completion and in-service date in November 2014. 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 on January 22, 2014. Union served and published the Notice as directed by the Board. There are no intervenors in this proceeding.

Board staff filed a written submission on March 14, 2014, supporting Union's application. Union filed its reply on March 18, 2014, confirming its acceptance of the conditions of approval proposed by Board staff. On March 27, 2014 Union filed additional information on the cost difference between the proposed NPS 20 pipeline and an alternative of replacing the existing NPS 16 with the same size new pipeline. This information was provided upon request of the Board.

The Public Interest Test

This is an application under section 90 of the Act seeking an order for leave to construct a natural gas pipeline. 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, 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 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 Pipeline

Union explained that the need for the pipeline is driven by integrity management requirements and by expected new customer growth in the service region served by the Panhandle system.

In accordance with provincial regulatory requirements, administered by the Technical Standards and Safety Authority (“TSSA”), Ontario natural gas utilities must implement pipeline system maintenance and integrity management programs to ensure safe operation of the system. Union identified safety and reliability issues with the pipeline during internal pipeline inspections conducted between 1999 and 2003 and again in 2011. Some of the identified deficiencies were eliminated between 1999 and 2013, however Union concluded that replacement of the existing pipeline should be implemented in 2014.

The Board accepts Union’s evidence related to its integrity management program and pipeline inspections and the conclusions the company has reached as to the necessity of replacing the pipeline. The Board finds that Union has adequately justified the need to replace the existing pipeline.

Project Economics and Impact on Ratepayers

The estimated capital cost of the project is \$29.597 million. Union stated it did not complete a discounted cash flow analysis for the project because the project is underpinned by system integrity requirements and there are no new contracts associated with this replacement.

Union considered two alternatives for the proposed pipeline. One alternative would be to replace individual sections of the pipeline which were identified as not meeting integrity or class location requirements. Union rejected this alternative on the basis that it would be an inefficient approach given the large number of replacements required. The Board agrees with Union that such an approach would be inefficient. The second alternative would be to replace the pipeline with a new pipeline of the same diameter (NPS 16). Union rejected that alternative because the capacity would not be sufficient

to serve the forecast growth in the City of Windsor and the Leamington/Kingsville greenhouse market. Union estimated that cost of replacing the existing NPS 16 pipeline with the same size pipeline would be \$26.340 million, which is \$3.257 million less than the proposed pipeline. The Board finds that replacing the pipeline with a larger diameter pipe involves a modest incremental expense, but is an efficient means by which to meet expected incremental demand. The Board is satisfied that Union has considered a reasonable range of alternatives and that an appropriate alternative was selected.

The Board finds that the cost of the project is reasonable and that the impacts on ratepayers are acceptable. The Board will require a report from Union on the actual costs of the project, and this requirement is included in the Conditions of Approval.

Environmental Assessment

The pipeline route selection and environmental assessment were completed in accordance with the Board's *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 *NPS 16 Pipeline Replacement West Puce River Road to East Ruscom River Road Environmental Report, December, 2013*. The report was completed by Azimuth Environmental Consulting Inc. and was submitted as part of the application. Union stated that the pipeline will be constructed in accordance with Union's construction specifications and the recommendations set out in the report.

The evidence indicates that there was extensive public and agency consultation, Ontario Pipeline Coordinating Committee ("OPCC") review, and consultation with aboriginal groups. Union stated that the consultation was consistent with the OEB Environmental Guidelines. Union also stated that there are no outstanding or unresolved issues relating to any of the consultations.

The Board finds that Union has adequately addressed the environmental issues through its proposed mitigation and restoration program and its commitment to implement the recommendations in the environmental report. 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.

The Board is aware that other approvals will be required for the project. The Board finds that Union's compliance with the Conditions of Approval will ensure that the requirements of other permits and approvals are fully addressed.

Land Issues

Union proposed to remove most of the existing pipeline and to construct the new pipeline in the existing easement. Some sections of the new pipeline will be located in a newly acquired easement to accommodate the required set back from electricity infrastructure and to address requests from some individual landowners. Union filed a form of easement agreement that has been or will be offered to all the landowners directly affected by the proposed pipeline. Temporary land rights for a period of 2 years will be needed for a workspace along the pipeline route. Union reported that negotiations with the landowners for easement rights are in progress.

Section 97 of the Act requires that Union offer landowners a form of easement agreement which the Board has approved. The Board approves the proposed forms of agreement included in the evidence. The Board also notes Union's commitment to implement its Landowner Relation Program, including the Complaint Tracking System, to address and resolve any issues and concerns occurring during and after construction.

Pipeline Design - Technical and Safety Requirements

Union provided evidence that the pipeline design specifications for the pipe, hydrostatic testing, the minimum depth of the pipeline cover, and Class Location are 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 CSA Z662-11 Oil and Gas Pipeline Systems Code.

Regarding Class Location¹, the existing pipeline is located in Class 1, 2 and 3 categories. To address the increased potential safety risk, due to the growth and development along the pipeline route, the design specification for the new NPS 20 pipeline will be in accordance with Class 3 requirements. Union stated that the pipe will

¹ Class Location is a classification set out by the CSA Z662-11 that is based on land use and population density along both sides of the pipeline route.

be manufactured to the CSA Z245.1-07 *Steel Line Pipe Standard for Pipeline Systems and Materials*.

The Board accepts Union's evidence that the pipeline will meet 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.

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

THE BOARD ORDERS THAT:

1. Union Gas Distribution Inc. is granted leave, pursuant to subsection 90 (1) of the Act, to construct approximately 13 kilometres of 508 millimeter diameter (Nominal Pipe Size 20 inch) Extra High Pressure steel pipeline and facilities located in the Town of Lakeshore, in the County of Essex, Ontario, 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 28, 2014

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Appendix A

Conditions of Approval

EB-2013-0420

**Union Gas Limited
Leave to Construct Application**

**Board Staff Proposed
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-2013-0420 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, 2014, 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 the actual capital costs of the project and shall explain all significant variances from the estimates filed in the 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.

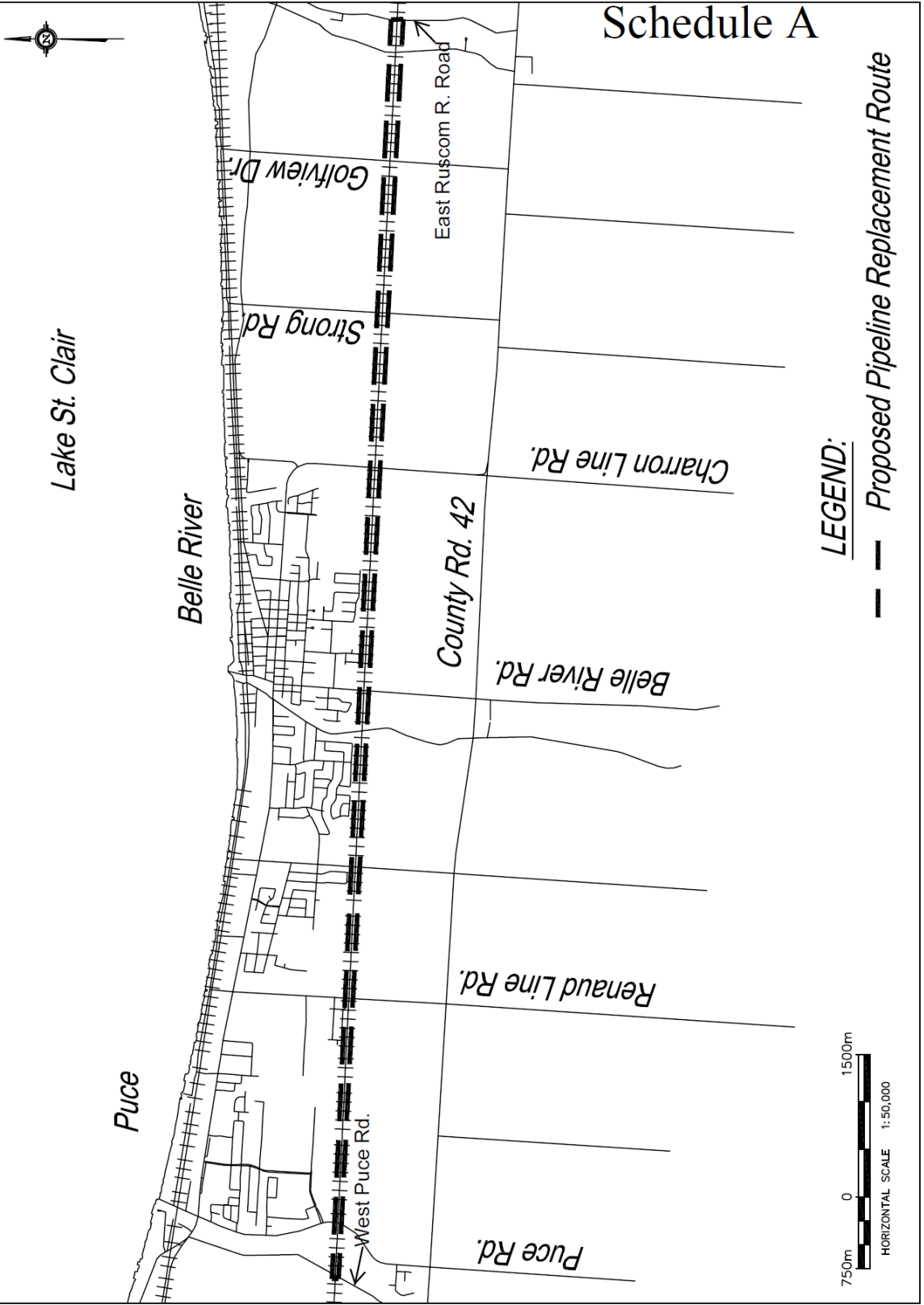
4 Other Approvals and Agreements

- 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

Map of the Project Location

Union Gas Limited Proposed Panhandle NPS 16 Replacement (Lakeshore) Project



Schedule A

LEGEND:

--- Proposed Pipeline Replacement Route