



EB-2005-0550

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, pursuant to subsection 90(1), for an Order or Orders granting leave to construct natural gas pipeline and ancillary facilities in the Township of Strathroy-Caradoc in the Township of Middlesex Centre in the County of Middlesex.

BEFORE: Cynthia Chaplin
Presiding Member

Ken Quesnelle
Member

DECISION AND ORDER

Application and Proceeding

Union Gas Limited ("Union") applied on December 20, 2005 for an order of the Board granting leave to construct approximately 18.1 kilometres of 48 inch diameter steel natural gas pipeline in the County of Middlesex to expand the Trafalgar transmission system ("Strathroy to Lobo expansion"). The Application has been assigned Board File No. EB-2005-0550.

The proposed Strathroy to Lobo expansion will allow Union to increase the capacity of the Trafalgar gas transmission system to meet the increasing gas requirements for current and future customers. The proposed facilities will be constructed, owned and operated by Union; construction is planned to commence in the spring of 2007, and the pipeline will be in-service later that year.

The proposed pipeline will proceed from the existing Strathroy Gate Station, located at Lot 9, Concession IX, Township of Strathroy-Caradoc to the existing Lobo Station, located at Lot 14, Concession VII, Township of Middlesex Centre, all in the County of Middlesex. In addition to the construction of the pipeline, Union will install additional compression at Parkway and yard pipe modifications to tie-in at the Lobo compressor station; these are not part of Union's leave to construct application.

The Board issued a Notice of Application (the "Notice") on January 9, 2006. Union served and published the Notice as directed by the Board. The following parties were intervenors in the proceeding:

- GAPLO-Union (Strathroy Lobo) landowner group;
- Strathroy-Lobo Landowner Committee, a landowner group;
- Robert Alex Collins, landowner;
- Angela Mostrey, landowner;
- Mostrey Farms Limited, landowner;
- Enbridge Gas Distribution Inc. ("Enbridge");
- Sithe Global Power Goreway ULC ("Sithe"), power generator;
- Alberta Northeast Gas Limited ("ANE"), shipper and Union's customer;
- TransCanada PipeLines Limited ("TCPL"); and
- Aiken & Associates, energy consultant.

The Board received written submissions from several parties objecting to a written hearing. Upon considering these submissions the Board decided to proceed by way of an oral hearing.

Settlement Agreement

The Board convened a settlement conference to provide the parties with an opportunity to settle the disputed issues. GAPLO and Union were active participants in the settlement conference. A proposed settlement agreement was reached and was presented to the Board on May 9, 2006. The Board considered and approved the settlement agreement and adjourned the hearing as there were no other disputed issues in the proceeding.

The Board notes that the format used to present the proposed Settlement Agreement was a chart which had been used by the parties to organize issues, list impacts and record agreed upon mitigation measures for each issue and impact listed. The Board also notes that the chart had an entry headed 'Socio-economic' which, unlike the rest of the issues, had no mitigation measures recorded beside it. The parties advised that any issues related to that heading were the subject of a separate agreement which was not before the Board and which did not form part of the proposed Settlement Agreement. As a result, those impacts and issues were not before the Board, and the Board expressly makes no finding concerning them.

On May 16, 2006, Union filed a revised Letter of Understanding and a revised Form of Easement for Transmission Pipeline. Both of these documents reflect the settlement proposal.

Project Need

Union indicated that the need for the proposed Strathroy to Lobo expansion was determined entirely as a result of obtaining binding bids in two open seasons and executing M12 transportation contracts with 13 parties. The total new contracted demand is 509,142 GJ/d for terms of 10 years or more, all beginning November 1, 2007. According to Union, existing contracts and renewals for 2006/2007 indicate total continuing firm contract demand of 4,295,488 GJ/d, and the net additional demand starting November 1, 2007 is 499,143 GJ/d (one existing shipper turned back 10,000 GJ/d of capacity). The proposed Strathroy to Lobo expansion and additional compression at Parkway would increase system capacity by 492,175 GJ/d.

Union forecasted total system demand for both firm transportation and in-franchise service to be 6,535,326 GJ/day for 2007/2008. Union determined that the total physical capacity will be 6,444,863 GJ/d, which is comprised of the physical design day capacity of 5,805,444 GJ/d (including the Strathroy to Lobo expansion and additional Parkway compression) and 639,419 GJ/s in projected obligated deliveries at Parkway. Union proposed to meet the remaining shortfall of 90,463 GJ/day (from the projected demand of 6,535,326 GJ/d) by purchasing a service at Parkway.

Union confirmed that all the transportation agreements have been executed and provided a form of the Firm Transportation Contract in the pre-filed evidence. Union also provided a copy of the Financial Backstopping Agreement, which has been signed by each of the contracting shippers. This agreement protects Union in the event that a shipper fails to satisfy any of the conditions precedent and the transportation agreement becomes null after the incremental capacity has already been constructed. Union also indicated that it would conduct a new open season to identify transportation demand for 2008 season and stated that any unused capacity would likely be utilized in 2008.

Board Findings

The Board accepts Union's evidence regarding the incremental firm contracted demand and finds that Union has demonstrated the need for additional facilities to meet system requirements. The Board accepts Union's evidence that it will be able to meet the forecast in-franchise demand for both 2006/2007 and 2007/2008 through a combination of existing facilities, the proposed pipeline and ancillary facilities, and non-facility transportation options; namely obligated deliveries at Parkway and additional services at Parkway.

Facilities Design and Safety

Union's evidence was that the pipeline design specifications, including location factor, design factor, Maximum Allowable Operating Pressure, hydrostatic pipeline testing medium, duration and minimum test pressure, ratings for valves and flanges and minimum depth of cover, all meet or exceed the requirements of CSA Z662-03 in terms of facilities design and safety. The Technical Standards and Safety Authority (TSSA), which administers the CSA Z662-03 in Ontario, reviewed Union's evidence on design and safety of the facilities as part of the Ontario Pipeline Coordinating Committee (OPCC) review. There are no outstanding concerns raised by the TSSA or other parties with regard to CSA Z662-03 compliance.

Board Findings

The Board finds that design specifications for the proposed pipeline are in accordance with the CSA safety and design requirements.

Project Alternatives

Union considered one non-facility alternative, five single facility alternatives and ten combinations of facility alternatives before selecting the proposed project. Union considered the following facility options in combination or individually:

- Strathroy to Lobo pipeline;
- Parkway B compression,
- Bright C compression;
- Lobo C compression;
- Brantford to Kirkwall pipeline.

Union concluded that the non-facility option of contracting for additional services at Parkway would not provide sufficient additional capacity to meet the forecast need. Furthermore, Union concluded that individual physical alternatives are not viable as these do not provide sufficient incremental capacity to the system. Union compared the combinations of facilities on the basis of cost per unit of capacity and concluded that the proposed Strathroy to Lobo pipeline, in combination with additional compression at Parkway, provides the needed capacity for the lowest capital cost per unit of capacity.

Board Findings

The Board accepts Union's evidence regarding the analysis of alternatives and finds that proposed project is the appropriate alternative in terms of providing the necessary level of additional capacity at the least cost per unit of additional capacity.

Project Costs, Feasibility and Impact on Ratepayers

Union estimated the capital cost for the Strathroy to Lobo expansion at \$52.9 million. The estimated capital cost for the Parkway B compressor is \$48.4 million. Although Parkway B is not part of this application, costs for both the pipeline and Parkway B are included in the project specific cost of \$101.3 million for purposes of calculating project economics.

Union applied the three-stage economic feasibility analysis to assess the project, in accordance with the Board's recommendations from the E.B.O. 134 *Report on System Expansion*. Union's Stage 1 or "Discount Cash Flow" (DCF) analysis for the proposed facilities, over a 30 year time horizon and including the Strathroy to Lobo expansion and the Parkway B compressor project, indicated a cumulative NPV of \$13.1 million and a Profitability Index (PI) of 1.13. Union submitted that it did not conduct a Stage 2 "Cost/Benefit" analysis because of the high profitability of the project as determined in Stage 1. For the Stage 3 "Other Public Interest Considerations" evaluation, Union identified the benefits of enhanced security of supply, contribution to a competitive market, environmental benefits of gas as a clean fuel, increased employment and value of utility taxes.

Union's evidence included a comparison of the estimated cost per unit of length for the proposed Strathroy to Lobo expansion with the estimated cost for the approved pipelines from Brooke to Strathroy (18.2 km NPS 48) and Hamilton to Milton (17.1 km NPS 48). Union indicated that there are either small variances in cost or that larger cost variances are due to specific requirements of each particular pipeline.

Union's evidence indicated a small positive impact on the ratepayers. Union explained that these changes in rates reflect the cost of the proposed facilities combined with Union's proposed cost allocation methodology for 2007 (EB-2005-0520). Impacts on the rate payers were shown in comparison to the proposed rates for 2007. Union indicated an annual reduction of rates of \$1.09 for the average residential customer in the southern operations area and an annual reduction of \$3.60 for the average residential customer in the northern and eastern operations areas. Union indicated that its M12 customers would get a decrease in their demand charge of 0.007 \$/GJ (from 0.085 to 0.078) on Dawn to Parkway and a decrease of 0.005 \$/GJ on Dawn to Kirkwall (from 0.072 to 0.067).

Board Findings

The Board accepts Union's evidence and finds that the proposed expansion is economically feasible with the project specific PI of 1.13. The Board finds that the estimated costs of the expansion are reasonable in comparison to similar pipeline construction project costs. The Board notes that there will be no adverse impacts on Union's ratepayers.

Environmental Assessment

Stantec Consulting Limited prepared "A Route Selection and Environmental Impact Assessment" ("EA") in accordance with the Board's *Environmental Guidelines for Locating, Constructing and Operating Hydrocarbon Pipelines in Ontario (2003)* ("OEB Guidelines"). The EA report was prepared during the period 2001 to the end of 2005. The process of preparing the EA Report consisted of the following:

- delineation and analysis of the study area,
- identification and evaluation of route alternatives,
- input from the affected landowners and the public,
- the OPCC review,
- identification of potential impacts on physical, natural, agricultural and socio-economic features,

- study of cumulative effects, and
- development of specific mitigation, land restoration and monitoring measures.

The EA report concluded that no significant adverse environmental or socio-economic effects would remain upon implementation of recommended mitigation and monitoring measures.

The EA report was sent for the OPCC review on December 19, 2005. In addition to the members of the OPCC, the review included all affected municipalities and the St. Clair Region Conservation Authority. The public review of the EA report was facilitated in three public open houses held in November 2001, February 2002 and October 2005 in the vicinity of the proposed route. Union stated that the OPCC review was completed in accordance with the OEB Guidelines and that issues raised would be resolved by applying standard mitigation measures as described in the EA report and in the evidence.

Board Findings

The Board finds that Union conducted the routing and environmental assessment in accordance with the OEB Guidelines and that no outstanding issues remain. The Board notes that Union is committed to implementing all the mitigation and land restoration measures identified in the evidence and in the EA report, including those identified in the settlement proposal. The Board also finds that the land restoration and construction impact mitigation measures proposed by Union are acceptable.

Proposed Route

The preferred route was selected as part of the EA assessment and routing process and consisted of the five steps:

- Identify routing objectives and socio-economic constraints;
- Generate preliminary preferred route and route deviations
- Compare route deviations and evaluate preliminary preferred route
- Conduct public consultations; and
- Finalize location of preferred route.

According to the evidence, the main objective was to select the route which would take advantage of the existing Dawn Trafalgar system corridor. Evaluation of the alternative routes focused on easement, agricultural, socio-economic and bio-physical considerations. Public consultation provided comments on alternatives and those comments were taken into account when finalizing the location of the preferred route. The proposed route parallels the existing easement for its entire length.

Board Findings

The Board finds that Union followed the OEB Guidelines in selecting the proposed route and that the location of the proposed route within the existing pipeline corridor and parallel to the existing easement is acceptable from both the environmental and socio-economic perspectives.

Land Rights and Form of Easement Agreement

Union indicated that it required a permanent easement from 44 landowners and a temporary easement from 26 of these landowners in order to secure land rights for the construction and operation of the proposed pipeline. According to Union's evidence, all the easement agreements have either been obtained or will be obtained prior to the construction commencement.

Union negotiated with the landowners individually or through representatives of the two landowner groups, GAPLO and the Strathroy-Lobo Landowner Committee. Union successfully negotiated permanent and temporary land rights with a number of individual landowners and with the Strathroy-Lobo Landowner Committee members. These negotiations took part separately from the Board sponsored settlement conference.

GAPLO participated in the settlement conference which resulted in an agreement on a number of disputed issues between Union and GAPLO. The disputed issues were related to the mitigation of impacts and residual cumulative effects of the proposed pipeline construction and operation. Compensation for land rights to the landowners was also negotiated but was not part of the scope of the Board's proceeding. The settlement proposal, which was accepted by the Board, is reflected in a revised Letter of Understanding and in a revised form of Easement Agreement which Union filed with the Board and all intervenors on May 16, 2006.

Board Findings

The Board notes that the required permanent or temporary easements have either been acquired or are pending. The Board approves the form of agreement (the amended easement agreement) filed by Union and offered to all directly affected landowners along the approved route.

Other Permits and Approvals

Union stated that the following environmental permits are required prior to commencing construction of the proposed project:

- Permit to Take Water from the Ministry of the Environment;
- Work Permit from the Ministry of Natural Resources;
- Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Permit from St. Clair Region Conservation Authority;
- Authorization for works or undertakings affecting fish habitat from the St. Clair Conservation Authority, or Letter of Advice from the Department of Fisheries and Oceans, if elevated for review by the Conservation Authority to the Department.

Union stated that it would obtain these permits in the period between November 2006 and March 2007.

Board Findings

The Board accepts Union's evidence that it is in the process of, and is committed to, obtaining all permits required to construct, operate and maintain the proposed pipeline. The Conditions of Approval reflect these requirements.

Conclusion

Given the Board's findings on each of the specific areas above, the Board concludes that the proposed expansion is in the public interest and will grant the requested Leave to Construct, subject to the Board's Conditions of Approval attached as Appendix A to this decision.

IT IS ORDERED THAT:

Union Gas Limited is granted leave pursuant to section 90 of the *Ontario Energy Board Act, 1998* to construct 18.1 kilometres of 48 inch diameter steel natural gas and ancillary facilities in the Township of Strathroy-Caradoc in the Township of Middlesex Centre in the County of Middlesex, subject to the Conditions of Approval set forth in Appendix A.

DATED at Toronto, June 12, 2006

ONTARIO ENERGY BOARD

Original Signed By

Peter H. O'Dell
Assistant Board Secretary

Appendix A
To Decision and Order
EB-2005-0550
Conditions of Approval

**CONDITIONS OF APPROVAL
EB-2005-0550**

Union Gas Limited – TFEP 2007

1 General Requirements

- 1.1 Union Gas Limited shall construct the facilities and restore the land in accordance with its application and evidence, 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, 2007, unless construction has commenced prior to then.
- 1.3 Except as modified by this Order, Union Gas shall implement all the recommendations of the Environmental Study 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 Gas shall advise the Board's designated representative of any proposed material change in construction or restoration procedures and, except in an emergency, Union Gas 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 Gas 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 Gas 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 Gas 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 Gas 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 Gas 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 Gas 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.
- 2.7 Where blasting is required, Union Gas shall follow its Standard Blasting Specifications and shall determine the locations of wells within 100 meters of blasting operations and shall test water quality of all wells within 100 meters before and after blasting operations.

3 Monitoring and Reporting Requirements

- 3.1 Both during and after construction, Union Gas 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 eighteen months of the in-service date. Union Gas 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 Gas' 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 the rehabilitated land and the effectiveness of the 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.
- 3.4 Within fifteen months of the in-service date, Union shall file with the Board a written 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 with the Board.

4 Easement Agreements

- 4.1 Union Gas 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

- 5.1 Union Gas 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.