

EB-2008-0024

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 a natural gas pipeline and related facilities in
the Town of Halton Hills and the Town of Milton.

BEFORE: Gordon Kaiser
Presiding Member

Paul Vlahos
Member

David Balsillie
Member

DECISION AND ORDER

1.0 THE APPLICATION

Union Gas Limited (“Union”) filed an application with the Ontario Energy Board (the “Board”) dated January 25, 2008 under section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the “Act”) for an order of the Board for leave to construct approximately 4.5 kilometres of Nominal Pipe Size (“NPS”) 20 (20 inches) natural gas pipeline and ancillary facilities in the Town of Halton Hills and the Town of Milton. According to Union’s evidence, the purpose of the pipeline is to supply natural gas to Halton Hills Generating Station (“GS”) currently being constructed by TransCanada Energy Ltd. (“TransCanada Energy”) near the southwest corner of Steeles Avenue and 6th Line in the Town of Halton Hills. The pipeline will originate

from a tie-in point on the Applicant's Dawn / Trafalgar Transmission line at 5th Line and extend along 5th line and Highway 401 to the Halton Hills GS, near the intersection of Highway 401 and sixth line, as shown in Appendix A.

The Board assigned this application file number EB-2008-0024.

2.0 THE PROCEEDING

On February 12, 2008, the Board issued its Notice of Application and Hearing ("Notice"). The Notice was published and served by Union as directed by the Board. Three parties were granted intervenor status in this proceeding: (i) Enbridge Gas Distribution Inc.; (ii) Regional Municipality of Halton; and (iii) Mr. Onkar Rai, a landowner. As well, landowner Bruhm Developments Ltd. filed a letter of comment followed by a submission regarding the impact of the proposed pipeline on its property.

The Board has proceeded with this application by way of a written hearing.

Board Staff issued written interrogatories on April 4, 2008. No other party submitted interrogatories. Responses to the interrogatories were filed by Union on April 17, 2008. The submissions and responses phase was completed on June 10, 2008.

3.0 THE PUBLIC INTEREST TEST

Section 96(1) of the Act provides that if, after considering an application under section 90 of the Act, the Board is of the opinion that a proposed work is in the public interest, then the Board shall make an order granting leave to carry out the work.

In the context of this Application, the main issues for the Board are as follows:

1. Is there a need for the proposed project?
2. Have appropriate alternatives been considered?
3. Is the proposed routing of the pipeline appropriate and are there any environmental concerns?
4. Have appropriate consultations with Aboriginal Peoples been carried out?
5. Are there any landowner issues?
6. Is the project economically feasible?

Each of these issues is considered below.

3.1 Project Need

Union submitted the proposed pipeline is needed to supply natural gas to the Halton Hills GS currently being constructed by TransCanada Energy near the southwest corner of Steeles Avenue and 6th Line in the Town of Halton Hills.

Halton Hills GS will have a generating capacity of 683 megawatts (“MW”) and will require natural gas at a peak flow of approximately 145,000 cubic metres per hour. Natural gas service will be required for commissioning of Halton Hills GS in August 2009.

The Board accepts Union’s evidence that the proposed pipeline is needed to supply natural gas to Halton Hills GS which is currently under construction.

3.2 Alternatives Considered

Three alternatives were considered to serve Halton Hills GS:

- Alternative 1: Install 4.5 km of 20 inch pipeline (proposal)
- Alternative 2: Install a smaller diameter pipeline
- Alternative 3: Serve the generating station from the existing system

Alternative 3 was rejected because the existing system does not have sufficient capacity and upgrading the existing system would require installation of 7.2 km of 20 inch pipeline, significantly longer than the proposed route.

In Alternative 2, Union considered use of 16 inch pipeline instead of 20 inch pipeline. This alternative was ruled out because the difference in cost was minimal (about 0.2%) and it did not provide flexibility for increased load requirements.

Alternative 1 was selected because it meets the requirements of the generating station and allows for future growth at essentially the same cost as alternative 2.

The Board accepts Union’s evidence that the proposed project is the best alternative for supplying natural gas to Halton Hills GS.

3.3 Routing and Environmental Considerations

Union retained Stantec Consulting Ltd. to complete a Route Selection, Environmental and Socio-Economic Impact Assessment (“EA Report”) for the proposed pipeline in

accordance with the Board's Environmental Guidelines for Location, Construction and Operation of Hydrocarbon Pipelines in Ontario (2003).

A copy of the EA Report was submitted to the Ontario Pipeline Coordinating Committee ("OPCC") on December 12, 2008. Copies of the EA Report were also submitted to local aboriginal groups, local municipalities and all interested parties who requested a copy.

The overall conclusion of the EA Report is that the environmental and socio-economic effects of the project are generally short term and minimal and that there are no significant cumulative effects.

Union filed a letter from the OPCC, dated May 22, 2008, in which Union indicates that the OPCC has completed its formal review of the EA Report and the issues or concerns identified in the OPCC review have either been resolved or are in the process of being resolved. In this regard, Union plans to individually meet with Conservation Halton and Hydro One to address any questions they may have regarding construction of the proposed pipeline and to obtain any necessary permits. These parties have not intervened in this proceeding.

The Board notes Union's commitment to ensure that the recommendations of the EA Report and all conditions of approval are followed.

3.4 Aboriginal Peoples Consultations

Union's evidence indicates that through the federal and provincial government agencies that deal directly with issues related to Aboriginal Peoples, Union identified the following six Aboriginal Groups that may be affected by the proposed project: Mississaugas of the New Credit, Curve Lake, Alderville First Nation, Hiawatha First Nation and Mississauga's of Scugog Island First Nation.

Union contacted all six aboriginal groups, provided information regarding the preferred route of the pipeline and requested any comments regarding the project.

The only comment Union received throughout the process was from Six Nations of the Grand River Territory who expressed only a general concern about "the overall pace and scope of development within the Grand River Tract and region". Six Nations of the Grand River Territory further indicated that it has no further comment with regards to this application.

The Board accepts Union's evidence that it identified and consulted the Aboriginal Peoples groups that may be affected by the proposed pipeline and considers the consultation process followed in this case to be appropriate and complete.

3.5 Land Matters

Union's evidence indicates that the majority of the pipeline route is on municipal road allowances where existing franchise agreements with the municipalities allows Union to construct within municipal road allowances.

Union's evidence further indicates that it will require both permanent and temporary easements for the proposed pipeline and that there are 17 landowners from whom Union may require land rights.

Mr. Onkar Rai, a landowner and intervenor, advised that he has reached an agreement with Union which addressed his concerns. Another landowner, Bruhm Developments Ltd. ("Bruhm") submitted that it has concerns regarding the impact of the proposed pipeline on its property including a creek located on the property. Union indicated that this is one of the watercourse crossings that Stantec Consulting Ltd. considered in its study and EA Report. Union advised that it has started negotiations with Bruhm for acquiring the necessary easements and will ensure that the recommendations in the EA report are followed.

Union submitted that it has an extensive program of consultation with landowners and other interested parties to keep them informed regarding the project, tracking and resolving concerns and solutions. Union further submitted that it will attempt to negotiate mutually satisfactory agreements with landowners on an individual basis.

In its pre-filed evidence, Union submitted a form of easement agreement which it has provided to the affected landowners. As required by Section 97 of the *Act*, the Board has considered and approves the form of easement agreement filed by Union.

The Board is satisfied that Union's easement acquisition process will effectively address the landowner issues associated with the project.

3.6 Project Cost and Feasibility

Union submitted that the total Project cost is estimated at \$23.2 million. This includes all materials, labour, land, environmental measures, contingencies and interest during construction.

Union submitted that it has performed an economic feasibility analysis consistent with the principles in the Board's "Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario" and the Board's E.B.O. 188 "Report to the Board" dated January 30, 1988. The analysis involved the calculation of discounted cash flows over a 20-year customer revenue horizon.

TransCanada Energy has selected to be a T-1¹ customer of Union, utilizing the Board-approved Billing Contract Demand option from the NGEIR settlement agreement². Based on this, the billing is set such that the annual revenues over the term of the contract will recover the invested capital, return on capital and operating & maintenance costs.

The Billing Contract Demand methodology results in a Net Present Value ("NPV") of zero and a Profitability Index ("PI") of 1.0.

Union noted that, with a PI of 1.0, no undue burden is placed on existing customers.

To ensure that no financial risk is borne by ratepayers, Union will use actual construction costs to recalculate the Billing Contract Demand no later than 18 months after the in-service date.

The Board accepts Union's evidence that the project is economically feasible and that no undue rate impacts will result from the project.

3.7 Conclusion

Based on the evidence provided and the above findings, the Board has determined that the project is in the public interest and that, in accordance with Section 96(1) of the Act, an order granting leave to construct the Project should be made.

¹ T-1 is a rate class that is available to large customers of Union who purchase 5,000,000 cubic metres or more of natural gas per year and meet certain other specific requirements.

² Natural Gas Electricity Interface Review (EB-2005-0551) Decision with Reasons dated November 7, 2006. Appendix F of the document contains a Union Gas Limited Settlement Agreement which describes the Billing Contract Demand billing mechanism that allows the billing to be set at a level that recognizes the economics of the facilities used to serve the customer over the contract term.

3.8 Cost Awards

A decision regarding cost awards will be issued at a later date. Eligible parties shall submit their cost claims by **July 9, 2008**. A copy of the cost claim must be filed with the Board and one copy is to be served on the Union Gas limited. The cost claims must be prepared in accordance with section 10 of the Board's Practice Direction on Cost Awards.

Union Gas Limited will have until **July 23, 2008** to object to any aspect of the costs claimed. A copy of the objection must be filed with the Board and one copy must be served on the party against whose claim the objection is being made.

Any party whose cost claim was objected to will have until **July 30, 2008** to make a reply submission as to why their cost claim should be allowed. Again, a copy of the submission must be filed with the Board and one copy is to be served on Union Gas Limited.

THE BOARD ORDERS THAT:

Union Gas Limited is granted leave, pursuant to subsection 90 (1) of the Act, to construct 4.5 kilometres of NPS 20 natural gas pipeline natural gas pipeline and ancillary facilities in the Town of Halton Hills and the Town of Milton subject to the Conditions of Approval set forth in Appendix B.

DATED at Toronto, June 16, 2008

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

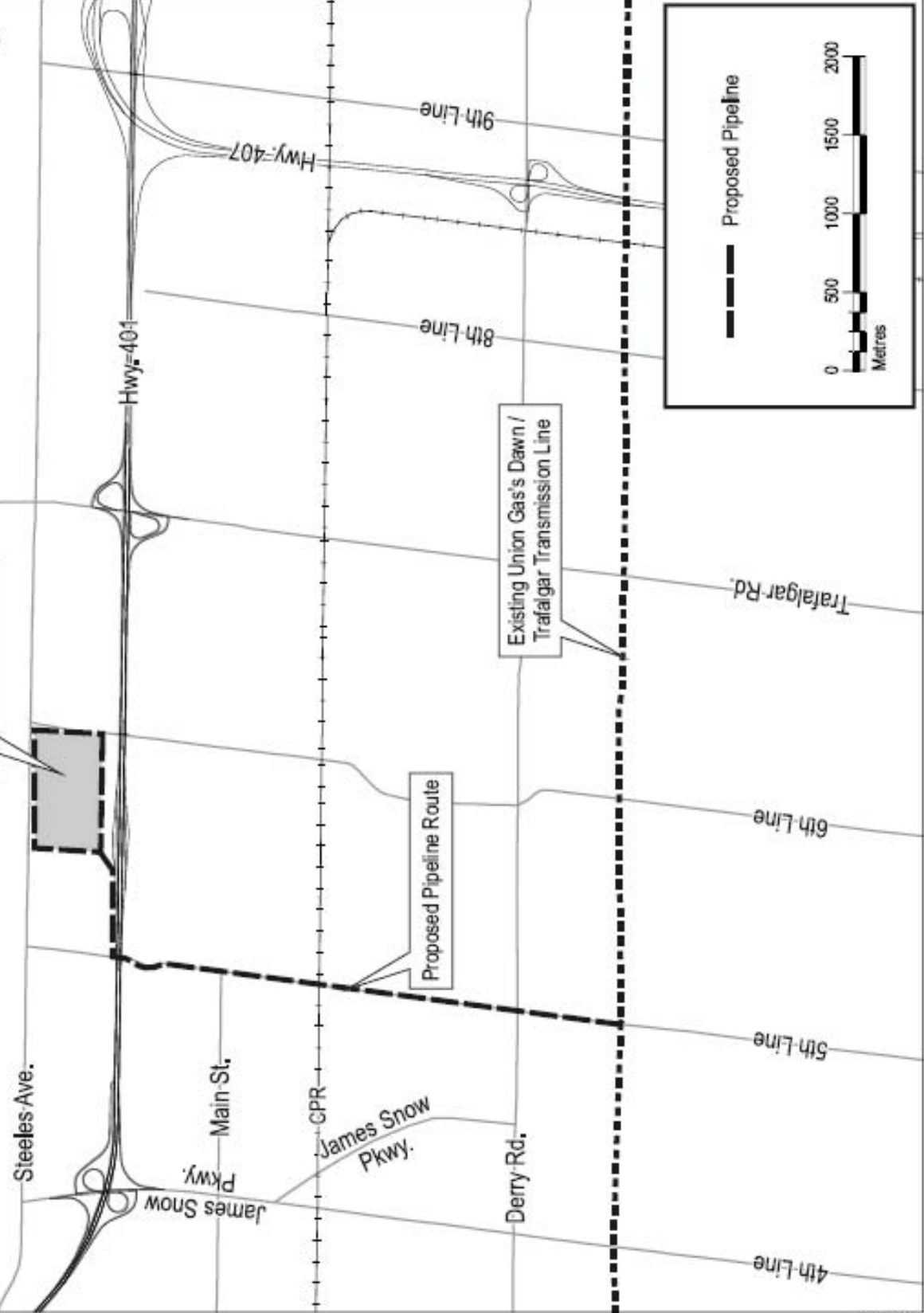
APPENDIX A
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2006-0066
DATED JUNE 16, 2008

MAP OF THE PROPOSED PIPELINE ROUTE

Union Gas Limited Proposed Pipeline to Halton Hills Generating Station Project

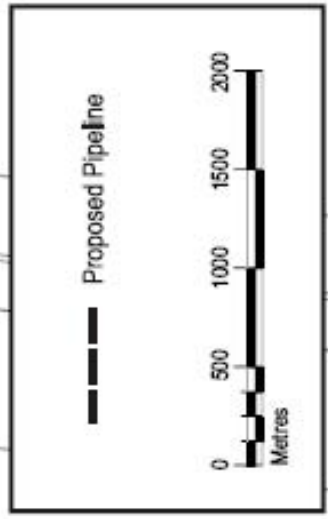


Halton Hills Generating Station Site



Proposed Pipeline Route

Existing Union Gas's Dawn /
Trafalgar Transmission Line



APPENDIX B
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2006-0066
DATED JUNE 16, 2008

CONDITIONS OF APPROVAL

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EB-2008-0024

UNION GAS LIMITED

PIPELINE TO HALTON HILLS GENERATING STATION

LEAVE TO CONSTRUCT APPLICATION

1.0 General Requirements

- 1.1 Union Gas Limited ("Union") 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, 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 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 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.

2.0 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.

3.0 Monitoring and Reporting Requirements

- 3.1 Both during and after construction, Union shall monitor the impacts of construction, and shall file five 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 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.

- 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.

4.0 Easement Agreements

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

5.0 Other Approvals

- 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.