



EB-2005-0247

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 Utilities Kingston pursuant to subsection 90 (1) of the Ontario Energy Board Act, 1998 for an Order granting leave to construct 13.4 kilometres of natural gas pipeline to reinforce supply to the City of Kingston.

BEFORE: Cynthia Chaplin
Presiding Member

Paul Sommerville
Member

Cathy Spoel
Member

DECISION AND ORDER

Utilities Kingston applied to the Board on March 10, 2005, for an Order granting leave to construct 13.4 kilometres of 8 inch diameter and 12 inch diameter high pressure natural gas pipeline. The proposed pipeline is located within the boundaries of the City of Kingston and will travel from an existing TransCanada PipeLine (TCPL) gate station in Glenburnie to a regulation station within the Joseph P. Clyde Industrial Park. It will then continue to the end point at a proposed cogeneration plant at the Queen's University Central Heating Plant. The pipeline will be 12 inch diameter from the Glenburnie Gate Station to Dalton Road and 8 inch diameter from Dalton Avenue to the Queen's University Central Heating Plant. The Board assigned File Number EB-2005-0247 to the application.

There is one intervenor in this proceeding, Ms. Liz Carlson, whose family has a property on Bur Brook Road. The property is situated along the preferred route,

and the pipeline will pass by the house in the road allowance. Ms. Carlson has expressed concerns specifically with regard to the well on the property and the preferred route overall.

The Board proceeded by way of written hearing as there were no requests for an oral hearing.

Project Need

The rates of Utilities Kingston are not subject to approval by the Board and the utility does not require a Certificate of Public Convenience and Necessity approved by the Board. The City of Kingston is currently served by Union Gas Limited (north of Highway 401 and west of Portsmouth Avenue) and by Utilities Kingston (west of the Great Cataraqui River, east of the main CN rail line and south of Highway 401). The proposed pipeline would be built to reinforce the City of Kingston's existing 8 inch diameter high pressure feeder main. This feeder line is a single feeder pipeline from the TCPL supply.

According to Utilities Kingston, the proposed pipeline is required to provide reliability of service and to accommodate increased demand due to the expansion of the Joseph P. Clyde Industrial Park, increases in residential users and a proposed co-generation plant to be built at Queen's University. This Cogeneration plant will provide 15 Megawatts of natural gas fired electricity for the hospital and the University.

Board Findings

The Board accepts the evidence of Utilities Kingston, which demonstrates the requirement for additional facilities to meet the forecast growth in the Kingston area.

Route Alternatives

The pipeline is intended to reinforce the natural gas supply in the City of

Kingston and to serve both the large industrial park south of Highway 401 and the Queen's University central heating plant. A number of route alternatives were evaluated by the utility before it selected the preferred route.

Several criteria were used to evaluate the potential routes. These include:

- Length and the consequent cost of the pipeline
- Cumulative effects
- Traffic impacts
- Vegetation clearing

An environmental assessment and a routing study were conducted by SENES Consultants Limited. The preferred route was selected to minimize the length and cost of the route and minimize traffic disruption and environmental impacts from clearing vegetation and/or water crossings.

Utilities Kingston conducted public consultations on the route, including public open houses, meetings with interested parties and telephone and electronic mail communications. Invitations to the open houses were sent to affected agencies, interest groups and government representatives and to approximately 2,700 residents along the alternative routes.

One of the alternative routes follows Perth Road. This route is preferred by Ms. Carlson, given that it would follow the existing Utilities Kingston line and would not disturb the residents on Bur Brook Road. However, crossing Highway 401 at Perth Road is not acceptable to the Ministry of Transportation because of plans to upgrade the interchange at Highway 401 which will result in significant changes to Perth Road. Additional issues related to this alternative route were identified, including the requirement to follow Highway 401 or to pass through the Cataraqui Conservation Area and the Knox Farm property in order to tie in to the Industrial Park.

There will be some vegetation clearance along Bur Brook Road and Sunnyside Road in the road allowance along the preferred route. The use of an existing road allowance however, along the western boundary of the Cataraqui Conservation lands minimizes environmental impacts and the Cataraqui Conservation authority has approved the route.

South of the Conservation Authority lands and the Industrial Park, the route continues along municipal road allowance and other than traffic disruptions, no issues have been raised.

Board Findings

The Board finds that the preferred route identified by Utilities Kingston is acceptable. The Board is sensitive to Ms. Carlson's concerns regarding disruption and potential damage related to the route along Bur Brook Road. However, given the concerns of the Ministry of Transportation related to crossing Highway 401, the need for greater forest clearing, the potential for contaminated land on Knox Farm and the objective of minimizing the impact on the Conservation Area, the Board finds that the Perth Road alternative proposed by Ms. Carlson is not acceptable. The Board further addresses the issues raised by Ms. Carlson in the Environmental Assessment section of this Decision and Order.

Project Costs and Feasibility

The total capital cost for the project is estimated to be \$6.3 million, excluding land acquisition costs and taxes. According to Utilities Kingston, construction costs for the project will be recovered through the revenue generated by the Queen's University cogeneration project in a period of three years. Because Utilities Kingston is not a rate regulated agency, the details of the cost recovery are not included in the application. No finding by the Board is required on this issue.

Land and Landowner Matters

North of Highway 401, the project runs through a rural area and continues along the boundary and an old road in Conservation Authority lands. South of Highway 401, the route follows municipal road allowances.

Easements are required from four entities: Cataraqui Region Conservation Authority, Homestead Landholdings, Anna Wise and SNC/Lavalin (Bell Canada). Three of these have been acquired, while the SNC/Lavalin (Bell Canada) easement is pending approval. Utilities Kingston noted that verbal consent has been given.

Several permits and approvals are required. These include:

- Canadian National Railways permit to cross the CN Railway line
- Ministry of Transportation approval to cross Highway 401
- TCPL permit to cross the petroleum products pipeline near the Glenburnie Gate station where the tap is proposed
- Cataraqui Region Conservation Authority permit to cross the Cataraqui Creek and to allow the pipeline to be installed in Conservation lands
- Trans-Northern Pipelines approval to cross the petroleum products pipeline north of Highway 401
- Enbridge Pipelines approval to cross the petroleum products pipeline along Perth Road
- Ministry of Environment Permit to Take Water for hydrostatic testing
- Ministry of Culture Stage II clearance letter once the Stage II archeological study is completed

All of these permits and approvals are pending, however Utilities Kingston's evidence indicated that it does not expect any issues to arise.

Board Findings

The Board notes that the required easements and permits have either been

acquired or are pending. The Board's approval of the application will be conditional on Utilities Kingston acquiring the necessary permits, prior to commencing construction.

Environmental Assessment

The Environmental Assessment, which was prepared by SENES Consultants Limited, identified minor impacts to the environment. These include small quantities of tree removal on conservation lands and within the road allowance as well as the crossing of four water courses. These crossings were described as follows:

- a small tributary of the Little Cataraqui Creek along Perth Road north of Bur Brook Road
- a small Tributary of the Little Cataraqui Creek along Sunnyside Road south of Bur Brook Road
- a small Tributary of the Little Cataraqui Creek along Sunnyside Road south of where Sunnyside Road heads west
- a crossing of the Little Cataraqui Creek south of Highway 401

Utilities Kingston proposes to cross Little Cataraqui Creek south of Highway 401 using a directional drilling technique. The other three water courses will be crossed using a wet crossing (dam and pump techniques) unless high water flow rates in the water courses prevent this. No impacts to aquatic species are expected, however Utilities Kingston will be conducting a spring aquatic and terrestrial survey prior to construction.

One spring has been identified along the preferred route and is of concern to the intervenor, Ms. Carlson. A site reconnaissance was conducted by Morey Houle Chevrier Engineering of the spring and the Intervenor's well. The consultant reported that the spring, which is located on the north side of Bur Brook Road, is presumed to be mostly field run off and does not offer anything to nearby wells. The consultant also reported that construction on the south side of the Bur Brook

Road would have no impact on the spring.

A preconstruction well and septic survey is being conducted on all wells and septic systems that may be potentially impacted along the route, including Ms. Carlson's. The report is pending. A preliminary survey of Ms. Carlson's well indicated that the proposed construction would have little impact on the well.

Utilities Kingston has indicated that no blasting will take place on the project and that any bedrock removal will be carried out using hydraulic equipment and hoe ramming equipment.

Most of the preferred route is located in an area exhibiting archeological potential. On Bur Brook Road, the preferred route is located in the road allowance where it will pass the Buck family burial plot, located on private lands adjacent to the Revell property. A Stage II Field Assessment of the preferred route will be conducted prior to construction. The certificate from the Ministry of Culture is pending.

Some contaminated soils may be encountered during construction and will be handled in accordance with Ministry of Environment Standards.

Utilities Kingston is proposing to use an independent third party environmental inspector from SENES Consultants to oversee construction north of Highway 401 and up to the intersection of Dalton Avenue and Sir John A MacDonald Blvd. This is the area of the industrial park. Further south from this point are municipal city streets where an environmental inspector has not been designated.

Board Findings

The Board finds that the environmental issues will be adequately addressed through Utilities Kingston's implementation of the Environmental Assessment report's recommendations. The Board has considered Ms. Carlson's concerns

regarding wells and water sources along the route as well as her concerns respecting a shag bark hickory tree on her property. She and other persons along the route are affected by the project and their interests have been taken into account in arriving at its decision. The Board's approval of this project is subject to Utilities Kingston undertaking the necessary testing, including well water testing, before and after project construction. This will ensure that any adverse impacts from the project will be addressed by Utilities Kingston. In addition, the shag bark hickory tree on Ms. Carlson's property should not be damaged and the Buck family burial plot should not be disturbed. The Board notes that Utilities Kingston does not intend blasting to take place, and the Conditions of Approval will reflect this undertaking

The environmental and route selection study was reviewed by the Ontario Pipeline Coordinating Committee. No issues were identified; however all outstanding studies will need to be completed prior to construction. The Board will include this within the Conditions of Approval.

IT IS ORDERED THAT:

Utilities Kingston Limited is granted leave pursuant to section 90 of the *Ontario Energy Board Act, 1998* to construct 13.4 km of 8 inch and 12 inch natural gas pipeline, from Glenburnie Gate Station to a regulation station within the Joseph P. Clyde Industrial Park, to the end point at a proposed cogeneration plant at the Queen's University Central Heating Plant, subject to the Conditions of Approval set forth in Appendix A.

DATED at Toronto, July 05, 2005

ONTARIO ENERGY BOARD

Original Signed By

Peter H. O'Dell
Assistant Board Secretary

July 05, 2005

CONDITIONS OF APPROVAL

EB-2005-0247

Utilities Kingston Reinforcement Project

1 General Requirements

- 1.1 Utilities Kingston 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, 2005, unless construction has commenced prior to then.
- 1.3 Except as modified by this Order, Utilities Kingston shall implement all the recommendations of the Environmental Study Report filed as Schedule 16 of the evidence, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
- 1.4.1 Utilities Kingston shall advise the Board's designated representative of any proposed material change in construction or restoration procedures and, except in an emergency, Utilities Kingston 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.
- 1.4.2 A survey of water wells shall be conducted along and within 100 m adjacent to the preferred route. Water samples should be analyzed for parameters agreed with the MOE Regional Office. Monitoring of the water wells must be carried out where dewatering or work below the water table is required. Permanent water service must be restored to landowners who experience any interference or interruption to water supply due to pipeline construction.
- 1.4.3 Blasting will not be permitted.

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 Utilities Kingston 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. Utilities Kingston 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 Utilities Kingston 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 Utilities Kingston 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 Utilities Kingston 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 Utilities Kingston 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, Utilities Kingston 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. Utilities Kingston 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 Utilities Kingston' 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.

4 Other Approvals

- 4.1.1 Utilities Kingston 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.