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Regulator du Canada

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File OF-Tolls-Group1-N081-2021-02 01
15 July 2021

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Dear Ms. Tadayoni, Ms. Sohi, and Mr. Duncanson:

**NOVA Gas Transmission Ltd. (NGTL)
Application for Firm Transportation – Linked North Montney Service
(FT-L (NM) Service) (Application)
Notice of Public Hearing RH-001-2021 and Procedural Letter**

On 31 May 2021, the Canada Energy Regulator (**CER**) received NGTL's Application ([C13325](#)), pursuant to the tolls and tariff and public interest provisions under Parts 1 and 3 of the *Canadian Energy Regulator Act (CER Act)*, requesting an order of the Commission of the CER (**Commission**):

- 1) Approving the FT-L (NM) Service and tolling methodology.
- 2) Approving the Rate Schedule FT-L (NM) that includes the proforma Service Agreement and proforma Schedule of Service under the Tariff, and consequential amendments to the Table of Contents and General Terms and Conditions under the Tariff.
- 3) Designating the Willow Valley Interconnect (WVI) as a Group 1 delivery point for the purpose of Firm Transportation – Delivery (FT-D) service and other delivery services in accordance with the rate design approved for the NGTL System, as may change from time to time.
- 4) Affirming that the tolling methodology approved in the RH-001-2019 Decision for existing services that utilize the North Montney Mainline (NMML) will be maintained for such existing services.
- 5) Granting such further and other relief as NGTL may request or the Commission may consider appropriate.

NGTL requested approval of the Application no later than 31 December 2021.

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In its Application, NGTL requested that any party that would like to comment on the Application file a letter of comment with the CER and serve a copy to NGTL on or before noon, Calgary time, on 15 June 2021.

On 9 June 2021, the Commission issued a letter extending the deadline for providing comments on the Application until 18 June 2021. The Commission also invited comments on the process the Commission may establish to consider the Application, including any process steps required in these circumstances and related timing considerations, and the issues the Commission should consider in any further process.

The CER received 16 letters of comment from interested persons.

Comments from Interested Persons

The CER received a letter of support for the FT-L (NM) Service from PETRONAS Energy Canada Ltd.

The CER received comments supporting the designation of the WVI as a Group 1 Delivery Point from a number of interested persons, including PetroChina Kitimat LNG Partnership (PCC), KOGAS Canada E&P Partnership, Ovintiv Canada ULC, Canadian Association of Petroleum Producers (CAPP), Industrial Gas Consumers Association of Alberta (IGCAA), ARC Resources Ltd. (ARC), Shell Canada Energy, Shell Energy North America (Canada) Inc. (SENAC), and Diamond LNG Canada Partnership (DLCP).

The CER also received letters raising questions and concerns with the Application, including from Centra Gas Manitoba, Western Export Group (WEG), Westcoast, and FortisBC Energy Inc. (FEI), as well as IGCAA.

The Commission considered these matters when establishing the List of Issues and determining the process to assess the Application.

The Alberta Department of Energy and Cenovus Energy Inc. (Cenovus) also filed letters stating that they have an interest in the Application.

Reply comments of NGTL

On 23 June 2021, NGTL filed reply comments ([C13686](#)) specifically on the issues and process steps for the Commission to consider when establishing a process to consider the Application.

Process determination of the Commission

After reviewing the comments provided, the Commission requires further information to reach a decision on the Application and the requested relief. Therefore, the Commission has decided to establish a public hearing. In light of the Commission's decision to establish further process steps, IGCAA's request that the Commission dismiss the Application without further process is itself dismissed.

In establishing the process to assess this Application, the Commission considered submissions requesting a timely and efficient process and submissions requesting a thorough assessment of the Application. In the Commission's view, taking into consideration the filing date of the Application, the procedural steps and the associated timeline will result in a fair hearing that is both thorough and expeditious.

The Timetable of Events to consider the Application is provided in **Appendix II** to this letter. To the extent that some process steps take less time than expected, the Commission may adjust the schedule accordingly.

Filing evidence

NGTL may file additional evidence by **noon on 30 July 2021**, based on the List of Issues in **Appendix III** of this letter.

Intervenors may file evidence by **noon on 28 October 2021**, based on the List of Issues.

NGTL may file reply evidence by **noon on 7 December 2021**.

Filing a letter of comment

Commenters may file a letter of comment by **noon on 28 October 2021**. A letter of comment can explain how a commenter may be impacted positively or negatively by the Application and provide relevant information about the Application for the Commission's consideration.

Filing information requests

NGTL and intervenors may ask for further information about another party's evidence by submitting information requests (IRs). The Timetable of Events sets out two rounds of IRs about NGTL's evidence, which are due by **noon on 13 August 2021** and **21 September 2021**. NGTL and intervenors may file IRs about intervenor evidence by **noon on 12 November 2021**. The Timetable of Events allows two weeks for responses to be filed for each round of IRs.

Timing of notices of motion

Motions and related requests must be filed as soon as possible, because late motions may disrupt the Hearing schedule. If a motion is not filed on a timely basis, the Commission may decide that it will not consider it.

Filing motions to compel full and adequate responses to IRs

The Timetable of Events includes a deadline for parties to file motions to compel full and adequate responses to their IRs, if needed. Parties are directed to use the table found in **Appendix IV** to this letter if filing such a motion. The timeline for the consideration of motions is found in the Timetable of Events in **Appendix I**.

Oral proceeding

The Commission has set aside the week of **13-17 December 2021** for an oral proceeding. The Commission will decide at a later date whether to hold oral cross-examination and whether argument will be written or oral or a combination of the two.

Filing documents

The CER's preferred filing method is online through its [e-filing tool](#), which provides step-by-step instructions. If unable to file a document online, it may be filed by email to Secretary@cer-rec.gc.ca.

Notice of public hearing

The *National Energy Board Rules of Practice and Procedure, 1995*, SOR/95-208 (Rules) allow the Commission to exercise its discretion as to whether to issue a hearing order.¹ Given the nature of the issues and the scope and sophistication of participants and potentially-affected participants in this case, the Commission has decided that a formal hearing order is not warranted. Sufficient information is available in this letter, including the Timetable of Events, for participants and potentially-affected participants to fully understand the nature of the proceeding, the process steps, and the issues to be determined. To the extent that parties wish to raise concerns at various stages throughout the proceeding, the Rules continue to apply, unless varied by the Commission.

List of Issues

Having considered the submissions received from interested persons and NGTL on the issues the Commission should consider in any future process, the Commission agrees with NGTL that the List of Issues can be defined by the three requests for relief it seeks, as outlined on page 2 of its reply comments. The Commission also agrees with NGTL that many of the issues raised by interested persons can be addressed within the List of Issues, including matters related to tolling principles (WEG, Centra, and others), the need for the FT-L (NM) Service and alternates considered (FEI), the WVI open season (Westcoast); the costs and benefits of FT-L (NM) (Westcoast and others); and public interest considerations (Westcoast).

The letters of comment from interested persons also raised issues that are not within the scope of the matters to be addressed in this proceeding. The Commission agrees with NGTL that the general evaluation of other possible LNG service offerings raised by IGCAA is not before the Commission. However, alternatives to the FT-L (NM) Service are generally matters to be considered under the assessment of the appropriateness of the FT-L (NM) Service.

With respect to the continued appropriateness of the tolling methodology approved in the Towerbirch Expansion Project Decision GH-003-2015 (WEG and FEI), NGTL submitted that the Application does not trigger Condition 1 in Order TG-008-2016. If this condition is triggered, NGTL must re-apply for approval of the tolling methodology on the Tower Lake Section. NGTL has not requested relief on this matter in the Application. NGTL has confirmed in its Application that the implementation of the FT-L (NM) Service and availability of FT-D service at the WVI delivery point will not impact the direction of gas flow on the Groundbirch Mainline, and that gas transported on the Tower Lake Section will continue to flow eastward once it reaches the Groundbirch Mainline.² On this basis, the Commission is not persuaded by the comments from WEG and FEI that the Condition has been triggered, and will not, at this time, re-examine the matter on its own initiative.

With respect to matters related to competition in Northeast British Columbia as raised by WEG, FEI, and others, the Commission agrees with NGTL that this general issue has been considered in previous proceedings before the National Energy Board and the Commission, and is beyond the scope of the matters to be considered in the assessment of the Application. The Commission will consider submissions on competition considerations if they are directly relevant to the List of Issues.

¹ Rules, subsection 23(1).

² NGTL Evidence, Application for FT-L (NM) Service [C13325-2](#), at page 38.

With respect to the criteria to be met for establishing a Group 1 delivery point under the NGTL Tariff, as raised by FEI and WEG, the Commission will narrowly assesses the appropriateness of the Group 1 designation of the WVI delivery point, but will not generally consider what criteria are used to establish a Group 1 delivery point on the NGTL system. The Commission was not convinced by these submissions to define the List of Issues to include a broad examination of the definition of Group 1 delivery points in the NGTL Tariff.

Registration to participate

The Commission requires any person who wishes to participate in the hearing to register. Intervenor may file evidence, request additional information, present argument, and participate in any oral process steps that may be established by the Commission. Commenters may file a letter of comment.

The Commission agrees with NGTL's suggestion in its reply comments that all parties that filed a letter of comment on the Application be allowed to participate as intervenors, should they wish to do so. A number of commenters demonstrated that their interests may be sufficiently impacted by the Commission's decisions to warrant participation as intervenors. For those that did not, the Commission is of the view that the commenters' participation as intervenors may assist the Commission in its decision-making process. The parties who submitted comments do not need to file anything further to confirm their participation as intervenors.

Any person interested in participating in the hearing process, except those parties that have already filed a letter of comment on the Application, must demonstrate the nature of their interest in the Application in their letter to the CER registering to participate. If the Commission finds that a person has not sufficiently demonstrated their interest to warrant participation as an intervenor, they may participate as a Commenter.

The Registration to Participate process will be held from the date of this letter until noon, Calgary time, on **29 July 2021**. Any person wishing to participate in the hearing must file a letter with the Commission, indicating or confirming their participation and their preferred level of participation, no later than **29 July 2021**.

All parties who have already submitted comments do not need to file to register their participation as intervenors. However, should they wish to register as commenters instead they may do so by **29 July 2021**.

NGTL is automatically registered in the proceeding and is therefore not required to register.

Publication and service of notice

The Commission directs NGTL to serve this letter and Notice of Public Hearing, attached as Appendix II, no later than 16 July 2021, as follows:

1. Distribute to all NGTL customers, members of the Tolls, Tariff, Facilities & Procedures Committee, and parties to the RH-001-2019 Proceeding;
2. Distribute to all persons who provided letters of comment not captured in item 1;
3. Distribute to the persons or agencies listed in Appendix III to this letter;
4. Distribute to any other interested persons not captured in items 1, 2, and 3 of this list; and
5. Post the Notice of Public Hearing on NGTL's public website.

Yours sincerely,

Signed by

Jean-Denis Charlebois
Secretary of the Commission

Attachments

Appendix I Timetable of Events

Event	Responsible Participant(s)	Deadline (by noon, Calgary time)
Procedural letter issued	Commission	15 July 2021
Participants file letter to register to participate	Participants	29 July 2021
Issue List of Participants	Commission	Soon after 29 July 2021
Additional written evidence	NGTL	30 July 2021
Submit Information Request (IR) No. 1	Intervenors	13 August 2021
Respond to IR No. 1	NGTL	27 August 2021
Any motions related to the IRs filed ³	Intervenors	30 August 2021
Responding party files comments	NGTL	2 September 2021
Moving party (or parties) files reply	Intervenors	7 September 2021
Submit IR No. 2	Intervenors	21 September 2021
Respond to IR No. 2	NGTL	5 October 2021
Any motions related to the IRs filed	Intervenors	7 October 2021
Responding party files comments	NGTL	12 October 2021
Moving party (or parties) files reply	Intervenors	14 October 2021
Intervenors file written evidence and Commenters file letters of comment	Intervenors	28 October 2021
IR No. 1 to Intervenors	NGTL	12 November 2021
Intervenors respond to IR No. 1	Intervenors	26 November 2021
Any motions related to the IRs filed	NGTL, Intervenors	29 November 2021
Responding party files comments	NGTL, Intervenors	1 December 2021
Moving party (or parties) files reply	NGTL, Intervenors	3 December 2021
NGTL files reply evidence	NGTL	7 December 2021
Oral proceeding		Week of 13-17 December 2021

³ Refer to Appendix IV for Motion Chart.

Appendix II

Notice of Public Hearing RH-001-2021

NOVA Gas Transmission Ltd. (NGTL) Application for Firm Transportation – Linked North Montney Service (FT-L (NM) Service) (Application)

On 31 May 2021, the Canada Energy Regulator (CER) received NGTL's Application, pursuant to the tolls and tariff and public interest provisions under Parts 1 and 3 of the *Canadian Energy Regulator Act* (CER Act), requesting an order of the Commission of the CER (Commission) to:

- 1) approve the FT-L (NM) Service, tolling methodology, Rate Schedule and consequential amendments to the NGTL Tariff;
- 2) approve the designation of the Willow Valley Interconnect (WVI) delivery as a Group 1 delivery point; and
- 3) re-affirm the North Montney Mainline (NMML) tolling methodology.

A copy of the Application is available for viewing on the CER's website at <https://apps.cer-rec.gc.ca/REGDOCS/Item/Filing/C13325>.

On 9 June 2021, the Commission issued a letter setting out a comment period on the Application, including the process steps and related timing considerations, and issues to be considered. The Commission received a number of comments from interested persons, and NGTL filed reply comments.

Based on the comments received, the Commission is issuing this notice of public hearing to advise all potential participants of the Commission's process to consider the Application.

The Commission advises that interested persons who provided letters of comment during the initial comment period will automatically be registered as intervenors in the proceeding, unless they file a letter with the CER by **29 July 2021**, indicating their preference to participate as commenters. These participants are invited to file evidence and information requests, present argument, and participate in any oral process steps that may be established by the Commission, according to the timelines set out in the Timetable of Events for this proceeding.

Any other interested person may also participate in this proceeding by filing a letter with the CER, indicating the nature of their interest in the Application and their intent to participate, by noon, Calgary time, on **29 July 2021**.

The CER's preferred filing method is online through its [e-filing tool](#), which provides step-by-step instructions. If unable to file a document online, it may be filed by email to Secretary@cer-rec.gc.ca.

The CER is dedicated to the safety and well-being of its staff, Indigenous communities, the public, and all those with whom we work closely. For more information on how the CER is continuing its regulatory oversight during the COVID-19 pandemic, please refer to: www.cer-rec.gc.ca/CovidProcessUpdate.

Appendix III

List of Issues

Without limiting its consideration of matters arising from the Application, the Commission will be aided by submissions on the following issues:

1. Appropriateness of the proposed FT-L (NM) Service, including the tolling methodology, Rate Schedule FT-L (NM), and the consequential amendments to the NGTL Tariff.
2. Appropriateness of the designation of the proposed Willow Valley Interconnect delivery point as a Group 1 delivery point.
3. Appropriateness of the tolling methodology approved in the RH-001-2019 Decision and Order TG-002-2020 for existing NGTL System services that utilize the NMML.

Appendix IV

Motion Chart

CHART FOR FULL AND ADEQUATE RESPONSES TO INFORMATION REQUESTS

1	2	3	4	5
Information Request	Response to Information	Filer's Submission	Respondent's Submission	Filer's Reply

Instructions:

1. Filers should try to group the Information Requests by issue or by the submission made in Column 3.
2. Column 1: Insert the number and text of the Information Request (the references and the preamble can be omitted).
3. Column 2: Insert the text of the given response to the Information Request

Appendix V

**List of Interested Persons to be Served with Notice of Public Hearing in the
Canada Energy Regulator Public Hearing RH-001-2021
on the Application by NOVA Gas Transmission Ltd. (NGTL)
for Firm Transportation – Linked North Montney Service**

**Liste des personnes intéressées à qui l'avis d'audience publique doit être signifié
dans le cadre de l'audience publique RH-001-2021 de la Régie de l'énergie du Canada
relative à la demande de NOVA Gas Transmission Ltd. (« NGTL ») concernant
le service de transport garanti – lié au service sur la canalisation
principale North Montney**

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**(Other Government Departments or Agencies
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