

National Energy  
Board



Office national  
de l'énergie

File OF-Tolls-TollsGen-15 01  
8 March 2018

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Dear Mr. Pelletier, Ms. Kolber, and Mr. Troicuk:

**National Energy Board (NEB or Board) Examination to Determine Whether to Undertake an Inquiry of the Tolling Methodologies, Tariff Provisions and Competition in Northeast British Columbia (BC) (Examination) Examination Decision**

The competitive landscape in Northeast BC is comprised of several Group 1 NEB regulated natural gas pipeline companies: NOVA Gas Transmission Ltd. (NGTL), Westcoast Energy Inc. carrying on business as Spectra Energy Transmission (Westcoast) and Alliance Pipeline Ltd. (Alliance) (NEBC Group 1 Pipelines). These companies, each with distinct tolling methodologies and tariff provisions, compete to transport the gas supply of third parties from this resource-rich area.

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In the past, facility applications in Northeast BC have been contested on commercial grounds. In addition, parties have requested that the Board undertake a generic inquiry regarding tolling in Northeast BC, outside of the confines of any particular facilities application. The Board has dealt with these issues on an application-by-application basis to date and has not conducted such an inquiry.

The Chairperson of the NEB authorized Board Member L. Mercier, pursuant to section 15(1) of the NEB Act, to initiate an Examination to determine whether:

- 1) an inquiry of the tolling methodologies or tariff provisions of one or more of the Group 1 NEB regulated natural gas pipeline companies operating in Northeast BC (Inquiry) is warranted; and
- 2) what the scope of the Inquiry should include.

Accordingly, on 26 January 2017, Board Member L. Mercier was authorized pursuant to subsection 15(1) of the *National Energy Board Act* to conduct the Examination and to report and make recommendations to the Board with respect to whether an Inquiry is warranted and the scope of any such Inquiry.

The NEB initiated the Examination by letter dated 16 March 2017, which the NEBC Group 1 Pipelines were each directed to serve on the list of shippers and stakeholders in their respective tolls and tariff working groups as well as interested parties. The letter requested that interested parties submit comments by 21 April 2017 on the following matters:

- what process the Board should establish for the Examination;
- what factors the Board should consider in its Examination;
- whether an Inquiry is warranted; and
- what the scope of the Inquiry should include.

On 27 March 2017, the Ministry of Natural Gas Development filed a letter requesting an extension of the 21 April 2017 deadline to allow time for the incoming government to transition in. The Board decided to grant this request and extended the deadline for all interested parties to 23 June 2017. The Board also decided to allow the NEBC Group 1 Pipelines to reply to comments received. The Board requested reply comments to be filed by 14 July 2017.

On 25 May 2017, Saulneau First Nation (SFN) submitted a letter to the Board indicating that none of the First Nations in Northeast BC were notified of the Examination. In its letter, SFN urged the Board to disclose information and engage with First Nations before deciding whether and how to perform an inquiry. On 12 June 2017, the Board issued a letter to 32 Aboriginal Groups in Northeast BC and its surroundings inviting comments by 10 July 2017.

By the 10 July 2017 deadline, the Board had received comments from 25 Interested Parties, including SFN. On 15 August 2017, the Board issued information requests to the NEBC Group 1 Pipelines, Canadian Association of Petroleum Producers (CAPP) and 11 Northeast BC producers.

The Board received a letter from the Iyiniwok Consultation, Referral and Coordination Centre (ICRCC) on 30 August 2017. In its letter, the ICRCC acknowledged Kapawe'no First Nation's receipt of the letter sent by the Board on 12 June 2017 and submitted that the proposal/consultation request is being taken under consideration. The Board responded with a letter dated 22 September 2017 providing more information with respect to the Examination. No additional correspondence was received from the ICRCC.

By 15 September 2017, the Board received the responses to all information requests. Interested Parties submitted final comments on 26 October 2017 and final reply comments were submitted by the NEBC Group 1 Pipelines on 9 November 2017.

Member L. Mercier carefully considered all submissions received in connection with this Examination. As set out in the Board's letter dated 12 October 2017, Member L. Mercier also considered the following in preparing her recommendation:

- the records and reports for NGTL Northwest Mainline Komie North Extension (GH-001-2012), North Montney Mainline Project (GH-001-2014) and Towerbirch Expansion Project (GH-003-2015);
- Alliance New Services and Related Tolls and Tariffs decision (RH-002-2014);
- Westcoast information request responses from the Wyndwood Pipeline Expansion Project (GH-001-2017);
- Publically available information regarding NGTL, Alliance and Westcoast systems and expansions;
- NGTL Application for Rate Design Methodology and Terms and Conditions of Services and Integration of the ATCO Pipelines System decision (RHW-1-2010); and
- NGTL System FT-R Floor and Ceiling Phase 1 and Phase 2 Report.

On 22 February 2018, Member L. Mercier submitted her Report to the Board.

### **Views of the Board**

Northeast BC presents regulatory challenges, as it is an area experiencing several pressure points including a lack of takeaway capacity and disputes between NGTL and Westcoast regarding competition. The Montney is a highly competitive formation, and special care needs to be paid to ensure sound tolling principles are applied to the area, fostering competitive outcomes and managing the pace of pipeline infrastructure development in Northeast BC in the public interest.

The Board is of the view that parties have identified potential issues regarding the current competitive landscape in Northeast BC that should be examined. However, the Board is concerned that holding an inquiry would introduce undue uncertainty to the Northeast BC supply basin and may not effectively resolve these potential issues. As set out more fully below, the Board is of the view that its established processes – including Filing Manual revisions, and upcoming toll applications – are better suited to address these potential issues at this time.

### Filing Manual Revisions

To ensure that issues related to fair competition are addressed in future applications, the Board will consider revisions to its Filing Manual. Such revisions will be developed through the Board's established process for Filing Manual revisions, which would include industry consultation. For example, filing requirements with respect to notification of commercial third parties may be modified. Additional filing requirements for facility extension applications using the pipeline's existing toll methodology could include whether the project could proceed on a stand-alone basis and a justification of rolled-in tolling treatment for proposed facilities, including quantification of costs and benefits.

### Upcoming Toll Applications

In order to assess the potential issues arising in connection with competition between NGTL and Westcoast, the Board is of the view that additional information with respect to each company's toll methodology, capital expansion policy and depreciation policy is required. The Board is further of the view that this information is most appropriately considered in each company's respective 2019 final tolls application.

The Board does not require additional information from Alliance for the purposes of this Examination, given the recent approval of its New Services Offering proposal. The New Services Offering that Alliance has recently implemented places the volume/revenue risk and the preponderance of cost risk on the pipeline. Firm shippers on Alliance accept the risks associated with their contracting decisions and the utilization levels of their contracted services. In addition, the capital cost of new interconnections and facility expansions are paid for by the requesting party(ies) receiving the benefits and not by existing shippers. This reflects a stand-alone tolling methodology and provides a direct link between risks/costs borne by parties requesting new infrastructure and the benefits received by these parties.

In the Komie North (GH-001-2012), Towerbirch (GH-003-2015) and North Montney (GH-001-2014) applications as well as this Examination, parties expressed concerns that NGTL's toll methodology may be providing it with an unfair competitive advantage to expand into Northeast BC. Other parties raised concerns that NGTL's significant capital expenditures have increased system costs and risks.

Despite Westcoast's allegations of its inability to compete with NGTL, Westcoast's system is essentially fully contracted and has been recently expanded. Some of these expansions have resulted in increased deliveries to the NGTL system. The Board does not accept that tolling of NGTL has caused any significant underutilization on the Westcoast system to date. However, the Board recognizes the possibility that such effects could occur in the future.

The Board notes that shippers on Westcoast must pay a stacked toll to deliver gas to the NOVA Inventory Transfer. Likewise, shippers on NGTL must pay a stacked toll to deliver gas to Station 2. This is common to almost all pipeline systems and the Board does not believe this is an issue in and of itself.

However, the Board finds that whether NGTL's tolls adhere to the principles of cost causation and economic efficiency is an issue. If NGTL's tolls do not appropriately respect the user-pay principle, then it will be afforded a competitive advantage in seeking to extend its system into Northeast BC. The Board is concerned that NGTL's current toll methodology does not appropriately recognize changes to system usage. In addition, most of NGTL's system extensions are underpinned by contracts that are shorter than that extension's depreciable life. If system extensions are not tolled appropriately, inefficient use of existing system infrastructure may result. The criteria NGTL sets for system extensions and the risk of underutilization of extension facilities are, therefore, also issues.

While Westcoast's toll methodology and system expansions have not faced the same level of scrutiny as have NGTL's, some of the same concerns exist there in terms of adherence to tolling principles. Like NGTL, in Zone 3, Westcoast rolls in the cost of its system expansions. Westcoast uses postage stamp tolling in Zone 3. Parties have also raised concerns that Westcoast has not sought tools to respond to competition.

Westcoast does not have a written policy regarding capital investments in expansions and extensions, and the Board is of the view that this information should be developed, documented and filed. This capital investment policy, as well as an explanation and analysis of Westcoast's depreciation policy and practices, will inform the Board of the risks faced by Westcoast and its shippers.

In the Part IV context, the Board is of the view that its role, in ensuring that competition is fair and that development in Northeast BC proceeds efficiently, requires it to review the tolling methodologies of NGTL and Westcoast to ensure adherence with the Board's established principles. As the capital expansion and depreciation policies are closely interrelated in this context, the Board also finds that reviewing these policies is required.

The Board therefore directs NGTL and Westcoast to each file the following information with the Board, with each company's respective 2019 final toll application. This information must be filed regardless of whether NGTL or Westcoast has reached a negotiated settlement with its shippers. As set out in the Board's *Guidelines for Negotiated Settlements*<sup>1</sup>, settlements do not fetter the Board's ability and discretion to take into account any public interest considerations which may extend beyond the immediate concerns of the negotiating parties.

***NGTL shall file:***

**Policies Affecting Capital Spending for System Extensions:**

An analysis of how NGTL's Tariff and *Guidelines for New Facilities*<sup>2</sup> ensure appropriate cost accountability for shippers requiring receipt extensions; the analysis should describe any changes proposed to introduce stronger cost accountability for receipt shippers and NGTL.

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<sup>1</sup> Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs, 12 June 2002, [A02885-1](#)

<sup>2</sup> NGTL Guideline for New Facilities, PDF Page 1-55 of 101, [A86052-2](#)

The analysis should also include an overview of how NGTL's Tariff (e.g. Rate Schedule FT-R and Appendix E to NGTL's Gas Transportation Tariff), *Guidelines for New Facilities*, 2017 Annual Plan, and the Facilities Design Methodology<sup>3</sup>, when applied together with NGTL's toll methodology, contribute to:

- a) the optimization of NGTL's extension additions; and
- b) the utilization of its existing infrastructure.

### **Depreciation Policy and Practices:**

An analysis of NGTL's current depreciation study that assesses:

- i. how NGTL's system-wide depreciation rates recognize the changing flows on its system and the changing utilization levels on mainline sections/segments;
- ii. whether the service life for receipt facilities in the depreciation study are aligned with the receipt contract terms so that captive customers are not burdened with responsibility for receipt extensions after receipt contracts have terminated; and
- iii. the steps that NGTL proposes to take to ensure that the costs of any undepreciated receipt pipeline facilities that are being or will be underutilized or not used will be allocated fairly to shippers and NGTL in the future.

### **Tolling Methodology and Tariff Provisions:**

An analysis of NGTL's tolling methodology and tariff provisions that addresses whether the current methodology should be retained for all or part of the existing NGTL system.

If the current methodology is retained, NGTL must provide an assessment of:

- i. the distance of haul methodology and its capability to recognize current flow patterns and future flow patterns, including where some gas may flow from Northeast BC or Northwest Alberta to the BC coast;
- ii. any updates required to align the current methodology with current system utilization;
- iii. the appropriateness of the floor and ceiling for receipt tolls;
- iv. the capability of the distance-diameter algorithm to recognize the full incremental cost of receipt extensions;
- v. how this tolling methodology for receipt extensions satisfies the cost-based tolling principle;
- vi. the appropriate cost accountability for that portion of the capacity of supply extensions that exceeds the capacity under contract for such extensions, especially where inter-pipeline competition exists; and
- vii. how the tolling methodology sends the proper price signals, and whether it promotes the economically efficient use of the existing NGTL system.

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<sup>3</sup> NGTL Facilities Design Methodology Document, PDF Pages 56-92, [A86052-2](#)

If an alternate methodology is proposed, NGTL must provide a description of the methodology and an assessment of how it adapts to system utilization, sends appropriate price signals and complies with the cost-based tolling principle for extensions.

*Westcoast shall file:*

**Policies Affecting Capital Spending for System Extensions and Expansion:**

Develop, document and file with the Board Westcoast's internal policies, procedures and practices for capital investments in expansion and extension facilities in Zone 3.

An analysis of how Westcoast's policies, procedures and practices ensure appropriate cost accountability for Westcoast and shippers requiring facility additions in Zone 3.

**Depreciation Policy and Practices:**

An analysis of the depreciation study that Westcoast is required to file as per TG-003-2016 that assesses:

- i. whether the service life estimates for facilities in Zone 3 in the depreciation study are aligned with the terms (including estimated renewals) of the transportation contracts in Zone 3; and
- ii. if the service life in the depreciation study is greater than the estimated terms of the transportation contracts, provide an explanation of the steps that Westcoast proposes to take to ensure that the costs of any undepreciated pipeline facilities that are being or will be underutilized or not used will be allocated fairly to shippers and Westcoast in the future.

**Tolling Methodology and Tariff Provisions:**

An analysis of Westcoast's Zone 3 tolling methodology and tariff provisions that addresses whether the current methodology should be retained.

If the current methodology is retained in Zone 3, Westcoast must provide an assessment of:

- i. whether the current methodology allows it to respond to competition effectively;
- ii. how this tolling methodology for extensions and expansions satisfies the cost-based tolling principle;
- iii. the appropriate cost accountability for that portion of the capacity of additions in Zone 3 that exceeds the capacity under contract for such additions, especially where inter-pipeline competition exists; and
- iv. how the tolling methodology sends the proper price signals, and whether it promotes the economically efficient use of the existing system in Zone 3.

If an alternate methodology is proposed for Zone 3, Westcoast must provide a description of the methodology and an assessment of how it enables Westcoast to respond to competition effectively, sends the appropriate price signals and how it complies with the cost-based tolling principle for capacity additions.

Yours truly,

*Original signed by*

Sheri Young  
Secretary of the Board

c.c. List of Interested Parties, Attachment 1



**LIST OF INTERESTED PARTIES / LISTE DES PARTIES INTÉRESSÉES**

**NEB Examination to Determine Whether to Undertake an Inquiry of the Tolling Methodologies, Tariff Provisions and Competition in Northeast BC**

**Examen de l'Office visant à déterminer si une étude s'impose sur les méthodes de tarification, les dispositions tarifaires et la concurrence dans le nord-est de la Colombie-Britannique**

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