

File OF-Tolls-Group1-N081-2018-01  
19 June 2018

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Dear Ms. Tadayoni, Mr. Forrest and Mr. Pelletier:

**NOVA Gas Transmission Ltd. (NGTL)  
Application for Approval of 2018-2019 Revenue Requirement Settlement and  
Final 2018 Rates<sup>1</sup>, Tolls, Charges and  
Abandonment Surcharges for the NGTL System (Application)  
Letter Decision and Order TG-004-2018**

## Background

On 23 March 2018 NGTL filed an Application requesting National Energy Board (Board or NEB) approval of its 2018 and 2019 Revenue Requirement Settlement (Settlement). NGTL stated that on 21 March 2018 the Tolls, Tariff, Facilities and Procedures Committee (TTFP<sup>2</sup>) endorsed, through an unopposed resolution, the Settlement for establishing the NGTL System revenue requirement and its components for the period 1 January 2018 to 31 December 2019. NGTL explained that TTFP procedures treat an unopposed resolution, without regard for

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<sup>1</sup> In its Application, NGTL refers to the regulated prices of its services as rates. In this Decision, the Board uses rates and tolls interchangeably.

<sup>2</sup> The TTFP is a joint NGTL and industry working group that facilitates the efficient and timely exchange of information among involved parties. It addresses and attempts to collaboratively resolve issues related to the tolls, tariff, facilities, and operating procedures of the NGTL System.

absenteeism, as one in which the majority of the TTFP members voted for the resolution with no member indicating that it would actively oppose the Settlement before the regulator or propose an alternative to the regulator.

In addition, NGTL requested that the Board approve as final:

- i) the interim 2018 rates approved in Order TGI-001-2017 for the period 1 January 2018 to 30 April 2018;
- ii) the revised interim 2018 rates set out in its 23 March 2018 Application for the period 1 May 2018 to 31 December 2018; and
- iii) the abandonment surcharges approved by the Board in Order TGI-001-2017 for the period January 1 2018 to December 31, 2018.

NGTL stated that it had calculated its revised 2018 interim rates in accordance with the Settlement and the existing rate design methodology approved in Order TG-004-2010. NGTL also submitted that the NGTL 2018 abandonment surcharges were calculated using the Board approved methodology from the MH-001-2013 Reasons for Decision. The Board approved the revised interim 2018 rates effective 1 May 2018 in Order TGI-002-2018 and continued to assess the Application and the comments of parties.

In response to the Board's request for comments on the Settlement, the Canadian Association of Petroleum Producers (CAPP), Centra Gas Manitoba Inc. (Centra) and the Industrial Gas Consumers Association of Alberta (IGCAA) filed comments with the Board. CAPP and IGCAA supported the Settlement as an appropriate package deal and recommended that the Application should be approved without further Board process. Centra stated that it voted against the TTFP resolution but it would not actively oppose the Settlement before the NEB or propose an alternative to the Board.

Centra commented on: fixed operations, maintenance and administrative (O&MA) costs, the flow-through treatment of severance costs, the impact of the settlement on future tolls, and reporting on capital expenditures. Centra supported NGTL's changes to its capital reporting and expressed concern about some of the revenue requirement components listed above. In response, NGTL observed that Centra's comments were inconsistent with the package nature of settlements and procedurally inappropriate given the outcome of the TTFP vote as an unopposed resolution. In NGTL's view, if Centra wants to advise the Board of its opposition, the procedurally appropriate option available is to "hard oppose"<sup>3</sup> a resolution.

NGTL also observed that no party made a submission directly contesting or otherwise objecting to approval of the Settlement and no party suggested that further process is needed before the Board makes a determination on the Application. NGTL concluded that the Settlement complied with the Board's *Revised Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs* (Guidelines).

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<sup>3</sup> The TTFP Committee Procedures describe Hard Opposed as: Members voting against a resolution and indicating that they are prepared to actively oppose the resolution before the NEB and may propose an alternative to the Board.

After assessing the comments of the interested parties and NGTL's reply the Board decided it needed additional information and issued Information Request No. 1 to NGTL. The information request sought information on TTFP procedures, the 2017 Depreciation Study and the potential ties between this Application and the Section 15 Member's 8 March 2018 Examination Decision on Northeast British Columbia inter-pipeline competition matters.

## **The Board's Views and Findings**

In the Application NGTL stated that the components of the 2018 – 2019 Settlement are inextricably linked and are presented to the Board as a package.

The Board assessed the Application in this context rather than making a determination on the individual elements in the revenue requirement that are presented in the Settlement documentation.

The Board provides its views below on: the Settlement Process, 2018 Revenue Requirement and Rates, 2017 Depreciation Study, and NGTL's Settlement Requirements to the Board. Although not part of the Settlement, the Board also addresses the 2018 Abandonment Surcharges, and potential effect of approving this Application on the Board's 8 March 2018 Examination Decision<sup>4</sup> concerning Northeast British Columbia competition matters.

### **Settlement Process**

NGTL stated that the TTFP process that resulted in the Settlement satisfied the requirements of the NEB's Guidelines. Parties' comments supported NGTL's statement and no party submitted views that refuted NGTL's statement.

The Board finds that NGTL's description of the TTFP negotiating process illustrates that the process was open and parties had a fair opportunity to participate in the negotiations. Further, the Board finds that adequate information was placed on the record to allow the Board to assess the reasonableness of the Settlement and to determine if the resulting tolls are just and reasonable and not unduly discriminatory. The Board finds that the settlement process employed by the TTFP to negotiate the 2018-2019 Settlement complied with the Board's Guidelines.

The Board has concerns with NGTL's view that a party should only be able to advise the Board of its opposition to a settlement if it votes "hard opposed" on a resolution. The Board finds this procedural approach to be overly confining and not supportive of the collaborative intent of the TTFP. In the Board's view, NGTL appears to be unintentionally extending the applicability of TTFP procedures beyond the Committee so that the comment step in the Board's assessment process may no longer be meaningful. Comments from interested parties to a settlement may assist the Board in carrying out its adjudication function. Also, the comments may be an indicator of emerging issues in a company's revenue requirement and may go beyond issues in a

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<sup>4</sup> National Energy Board Examination to Determine Whether to Undertake an Inquiry of the Tolling Methodologies, Tariff Provisions and Competition in Northeast British Columbia, Examination Decision, 8 March 2018

settlement. For example, Centra's comments on toll impact and NGTL's capital spending program appear to extend beyond the Settlement and have implications post-2019. The Board notes that NGTL's annual revenue requirements have been determined by an uninterrupted series of negotiated settlements since 2010 and there has been no Board proceeding to examine NGTL's revenue requirement in-depth. In these circumstances the Board finds that interested parties to settlements should have the freedom to file comments with the Board without being encumbered by TTFP procedures that would require a party to take a "hard opposed" position. The Board is concerned that applying the TTFP procedures as NGTL proposes may discourage parties from filing comments with the Board or, alternatively, may prompt more hard opposed votes simply to gain the ability to right to file a comment with the Board. Neither outcome enhances the effectiveness of the collaborative process.

If the hard oppose condition for comments from parties to the Board is not enforced rigidly, the Board will continue to assess the weight to be given to such comments on an individual basis in each proceeding.

### **2018 Revenue Requirement and Rates**

The 2018 revenue requirement is forecast to be approximately \$1,968.9 million, which is about five per cent higher than NGTL's actual 2017 revenue requirement. The Operations, Maintenance and Administrative (OM&A) Costs are fixed at \$225 million for 2018 and any variances are split evenly between NGTL and its customers.

The Board notes that NGTL's actual 2017 OM&A expenses were more than 10% less than the Board-approved amount. For the term of the 2018-2019 Settlement the Board expects NGTL to provide full and meaningful explanations for OM&A variances from the Settlement amounts of \$225 million and \$230 million for 2018 and 2019, respectively.

Spending on pipeline integrity and compressor repair expense are separated from the OM&A costs and treated on a flow-through rather than on a fixed cost basis. In the Application NGTL stated:

NGTL recognizes its obligations, and affirms its commitment, to ensure the continued integrity, safety and reliability of system facilities. In this context, NGTL will ensure that any efficiencies achieved in non-integrity OM&A will not adversely impact pipeline integrity and operational safety. NGTL will continue to ensure that pipeline integrity is maintained at a consistently high level to protect public and employee safety, the environment and property.

The Board acknowledges NGTL's commitment to the important matters of integrity, safety and reliability. These commitments are aligned with the Board's mission<sup>5</sup>.

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<sup>5</sup> We regulate pipelines, energy development and trade on behalf of Canadians in a way that protects the public and the environment while supporting efficient markets.

NGTL's proposed final 2018 tolls will be about six per cent to 11 per cent lower than the 2017 final tolls. The Board understands that this decline is caused primarily by regulatory amortizations, and higher forecast 2018 throughput and billing determinants. NGTL stated that it had calculated the 2018 interim rates in accordance with the existing rate design methodology approved in Order TG-004-2010.

The Board approves the Settlement and the resulting 2018 revenue requirement as a package. The Board finds the applied-for 2018 final tolls to be just and reasonable and not unduly discriminatory.

The Board recognizes that NGTL's current tolling methodology may be revised by a future Board decision.

### **2017 Depreciation Study**

In the Board's 7 April 2016 Order TG-001-2016 that approved NGTL's 2016-2017 revenue requirement settlement, the Board directed NGTL to file a depreciation study for its system by 31 July 2017. This study was intended to update and replace NGTL's 2012 depreciation study (2012 study). On 31 July 2017 NGTL filed with the Board its 2017 Depreciation Study (2017 Study) that was prepared by Concentric Advisors. The 2017 Depreciation Study includes the retention of the economic planning horizons from Concentric's 2012 study and the change from equal life group (ELG) procedure to average life group (ALG) procedure.

NGTL and the TTFP accepted the results of the 2017 Depreciation Study and used it to determine 2018 depreciation expense in the negotiated 2018 revenue requirement. The composite depreciation rate rises from 3.16 per cent in 2017 to 3.45 per cent in 2018.

The Board approves the depreciation methodology proposed in the 2017 Depreciation Study and the use of the Study's results to calculate the depreciation expense for 2018 and 2019. The Board notes that Board initiatives arising from the 8 March 2018 Examination Decision may result in NGTL's depreciation principles and practices being reviewed further later in 2018 or in 2019.

### **NGTL's Settlement Reporting Obligations to the Board**

In the Application, Attachment A – 2018-2019 Settlement, PDF pages 8 and 9 of 54, NGTL lists its reporting obligations to the TTFP and 2(F)(v) identifies reports that NGTL will file with the Board. The reporting requirements relevant to the Board are listed below.

#### **Tolls, Tariff, Facilities, and Procedures Committee ("TTFP") Reporting**

- (i) On or before March 31, 2019 (for 2018) and on or before March 31, 2020 (for 2019), NGTL will provide Supplemental Schedules to the TTFP as provided pro forma in Appendix 3 (the "**Supplemental Schedules**").

- (ii) On or before March 31, 2019 (for 2018) and on or before March 31, 2020 (for 2019), NGTL will provide an update to the TTFP on the pipeline integrity and compressor repair and overhaul activities and costs.
- (iii) On a monthly basis, NGTL will provide the TTFP with detailed information on capital projects as provided pro forma in Appendix 2.
- (iv) During the Term, NGTL will provide the TTFP with variance updates for Annual Plan (as defined in NGTL's Gas Transportation Tariff) projects forecast to be in excess of \$25 million.
- (v) NGTL will file with the NEB the Supplemental Schedules and any updates related to items referred to in Sections 2(F)(ii) and (iv) by March 31, 2019 (for 2018) and March 31, 2020 (for 2019).

The Board accepts NGTL's proposal to provide the Board with the Supplemental Schedules and updates referenced in item (v) from Attachment A to the Application (the Settlement). In addition, the Board directs NGTL to provide the following:

- 1) The capital project information in item (iii), above, on a quarterly basis.
- 2) The addition of the NGTL System unit transportation cost data in the Annual Plan for three historical years and the five forecast years covered in each year's Annual Plan. The unit transportation cost will be calculated by dividing NGTL's actual or forecast revenue requirement by the System's annual throughput, actual or forecast. This filing requirement will take effect with NGTL's filing of its 2018 Annual Plan with the Board, which is expected in December 2018. [Note: The forecast revenue requirement for the four years in the Design Forecast beyond the 2018/2019 gas year should recognize rate base additions based on rule-of-thumb capital cost estimates.]

The Board is requesting this data because NGTL is undertaking a multi-billion dollar capital expansion program of its system and the timely availability of capital project information will enable the Board to have a better understanding of NGTL's capital spending program and its impact on NGTL's investment base and financial position. The unit transportation cost forecasts will enable NGTL's shippers and the Board to better understand the potential toll impacts on the NGTL System and its shippers.

### **2018 Abandonment Surcharge**

NGTL applied to have the abandonment surcharges approved in Board Orders TGI-001-2017 and TGI-002-2018 to be the final abandonment surcharges for 1 January 2018 through 31 December 2018. This approval would result in 2018 daily abandonment surcharges of \$0.0091/GJ/d, which is a decrease from \$0.0099/GJ/d in 2017. NGTL calculated its surcharges by dividing its Annual Contribution Amount of \$104.3 million by its total forecast billing determinants. NGTL stated that the NGTL 2018 Abandonment Surcharges were calculated using the Board-approved methodology from the MH-001-2013 Reasons for Decision. NGTL will place the funds collected in a trust approved by the Board for future abandonment costs.

The Board approves NGTL's applied-for final 2018 daily abandonment surcharge of \$0.0091/GJ/d.

**Potential Effects of this Decision on the Filing Requirements in the Board's 8 March 2018 Examination Decision re: Northeast British Columbia Pipeline Competition**

In the Examination Decision, the Board directed NGTL and Westcoast to file information on capital spending policies for system extensions and expansions, depreciation policy, and tolling methodology and tariff provisions with their applications for 2019 final tolls. In the Board's Information Request No. 1 to NGTL in this proceeding NGTL was asked if approval of the 2018-2019 Revenue Requirement Settlement would affect NGTL's ability to file the directed information in the Examination Decision. NGTL responded that NGTL's ability to file the directed analyses will not be impacted by approval of this Application. NGTL indicated that the analyses would be part of its application for 2019 Final Rates and changes resulting from the analyses would likely be implemented prospectively.

Should NGTL's view on this matter change, the Board directs NGTL to advise the Board of the updates.

**Decision**

The Board approves the 2018-2019 Settlement, as filed as a package, and the applied-for final 2018 tolls and 2018 abandonment surcharges.

Attached is Order TG-004-2018 that gives effect to this decision.

The Board directs NGTL to serve a copy of this Letter Decision and attached Order on all of the NGTL System shippers, its TTFP Committee members and other interested persons.

Yours truly,

*Original signed by*

Sheri Young  
Secretary of the Board

Attachment