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Filed Electronically

Canada Energy Regulator
Suite 210, 517 Tenth Avenue SW
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Attention: Mr. Jean-Denis Charlebois, Secretary of the Commission

Dear Mr. Charlebois:

**Re: NOVA Gas Transmission Ltd. (NGTL)
Application for Firm Transportation - Linked North Montney [FT-L (NM)] Service
(Application)
File OF-Tolls-Group1-N081-2021-02 01
Reply Comments of NGTL**

NGTL filed the Application¹ on May 31, 2021 and invited parties to file comments by June 15, 2021. By letter dated June 9, 2021,² the Commission established a formal comment process soliciting comments from interested parties on the process it may establish to consider the Application and the issues it should consider in any further process. Comments from interested parties were required to be filed by June 18, 2021, with NGTL's response to any comments to be filed by today, June 23, 2021. This letter is NGTL's reply.

In their submissions, a number of commenters made suggestions regarding the issues and process steps to be included in the consideration of the Application, as was requested by the Commission. Some commenters also expressed their views or positions on the merits of the relief sought in the Application. In NGTL's view, comments on the merits of the Application will be more appropriately addressed through the hearing process. To avoid engaging in a substantive debate prior to the hearing, and to allow the focus of this comment process to be on the issues and process steps, NGTL has limited its reply comments to these matters at this time. The fact that NGTL is not responding to some of the comments included in the letters filed by interested parties should not be characterized as NGTL's acceptance of any opinions expressed or of their relevance to the current Application.

List of Issues

In the Application, NGTL applied for three specific requests from the Commission. Any process established to consider the Application should appropriately be focused on the specific relief sought. Contrary to a number of the letters of comment, the relief being sought and the issues

¹ Filing ID: C13325.

² Filing ID: C13482.

before the Commission in this proceeding are narrow, such that the list of issues can simply be expressed as follows:

- Appropriateness of the proposed FT-L (NM) Service, the proposed tolling methodology for the service, the Rate Schedule FT-L (NM), and the consequential amendments to the NGTL Tariff
- Appropriateness of the proposed designation of the Willow Valley Interconnect (WVI) delivery as a Group 1 delivery point
- Appropriateness of the proposed re-affirmation of the North Montney Mainline (NMML) tolling methodology

Several matters proposed by commenters may be relevant to the consideration of the above list of issues.³ NGTL does not object to these matters being addressed. In NGTL's view however, the issues that are relevant to the consideration of the Application can be characterized as sub-issues to the those listed above and do not need to be separately itemized in the List of Issues to be established by the Commission. NGTL notes that this approach is consistent with proceedings established to consider other unique service offerings, which included issues phrased similarly to those listed above.⁴

Other issues proposed by commenters go beyond the relief sought in the Application and should not be considered in this proceeding. These include the continued appropriateness of the Towerbirch tolling methodology,⁵ generic issues related to competition between pipelines and producers in Northeast B.C.,⁶ the evaluation of other possible LNG service offerings,⁷ and the criteria to be met for establishing a Group 1 delivery point under the NGTL Tariff.⁸ For the reasons set out below, NGTL submits that these issues are out of scope for this proceeding.

Towerbirch Tolling Methodology

FEI and WEG's comment letters include the continued appropriateness of the Towerbirch toll methodology as a potential issue without providing any justification for its inclusion. Presumably the issue being suggested relates to Condition 1 in Order TG-008-2016⁹ (Towerbirch Order) which is in regard to the Tower Lake Section (TLS) approved as part of the Towerbirch Expansion Project (Project). As NGTL clearly set out in the Application, this condition is only triggered if over the operating life of the Project, some or all of the gas transported on the TLS does not travel eastward on the Groundbirch Mainline to delivery points on the NGTL System in Alberta, and instead is delivered to markets not currently attached to the NGTL System. In these narrow circumstances, the condition requires that NGTL re-apply for approval of the tolling

³ For example, matters related to whether the proposed tolls are just and reasonable, tolling principles, unjust discrimination, need for the Service, public interest considerations, allocation of costs and revenues associated with the Service, and net benefit analysis.

⁴ See for example the wording of the List of Issues defined by the National Energy Board in the Application to Participate forms for Dawn Long Term Fixed Price (LTFP) service under the RH-003-2017 proceeding and North Bay Junction LTFP under the RH-002-2018 proceeding.

⁵ FortisBC Energy Inc. (FEI) (Filing ID: C13629) and Western Export Group (WEG) (Filing ID: C13626).

⁶ FEI and WEG.

⁷ Industrial Gas Consumers Association of Alberta (IGCAA) (Filing ID: C13617).

⁸ FEI and WEG.

⁹ Filing ID: A82113-7, under the GH-003-2015 Report.

methodology on the TLS. As stated in the Application, this condition is not triggered by the facts surrounding the relief requested.

NGTL notes that including this as an issue in the proceeding for this Application would have the effect of varying the terms and conditions of the Towerbirch Order without the parties requesting it first having to seek and successfully obtain a variance. NGTL notes that the Commission's predecessor previously denied¹⁰ Westcoast Energy Inc.'s (Westcoast) application to review and vary the Towerbirch Order.¹¹ Including this issue, as proposed by FEI and WEG, would be inappropriate, as it would effectively allow these parties to do indirectly what Westcoast was unable to do directly.

Competition in Northeast B.C.

FEI and WEG also suggest that issues related to competition in Northeast B.C. be considered as part of this proceeding. Such issues are well beyond the matters for which relief is sought, and adding them to the List of Issues could effectively turn the current Application into a generic inquiry into competition among producers and pipelines in Northeast B.C. The Commission's predecessor has already considered whether pipeline competition in the area should be the subject of a generic inquiry and rejected the idea, citing concerns that the inquiry would introduce undue uncertainty and be ineffective in resolving the potential issues.¹² The Commission's predecessor chose alternate methods to address issues related to competition in Northeast B.C., which included specific filing requirements in NGTL's 2019 tolls application, which NGTL fully addressed in the RH-001-2019 proceeding.¹³ It would be inappropriate and redundant to include an issue in this proceeding for which a generic inquiry has already been ruled out and for which alternate requirements have been fulfilled. Further, NGTL notes that this issue has not been considered by the Commission's predecessor in other applications in the Northeast B.C. area.¹⁴

Other Potential LNG Service Offerings

IGCAA has suggested that the evaluation of other possible LNG service offerings should be included as an issue in this proceeding. In the Application, NGTL is seeking approval of the FT-L (NM) Service only. There is no basis for the scope to be extended to a generic evaluation of other possible LNG service offerings. To the extent other services are offered in the future,

¹⁰ National Energy Board Letter Decision dated March 16, 2017 on the Application by Westcoast for a Review of Decision GH-003-2015 (Filing ID: A82112).

¹¹ Application by Westcoast for a Review of Decision GH-003-2015 (Filing ID: A80565).

¹² National Energy Board Examination to Determine Whether to Undertake an Inquiry of the Tolling Methodologies, Tariff Provisions and Competition in Northeast British Columbia, Letter Decision dated March 8, 2018, page 3 of 8 (Filing ID: A90483).

¹³ NGTL System Rate Design and Services Application (RH-001-2019 proceeding), Section 3.3 (Filing ID: A98318-2).

¹⁴ For example, see Commission Letter Decision on Legislated Time Limit and Decision on Process for Silverstar Project (Filing ID: C07993) and National Energy Board Letter Decision on the Spruce Ridge Program (Filing ID: A96562).

they will be subject to their own respective applications, and will be assessed by the Commission on their own merits and circumstances.¹⁵

Criteria for Establishing a Group 1 Delivery Point

While the issue as to whether WVI should be designated a Group 1 delivery point is to be addressed in the current proceeding, and all but two of the parties who express a view on Group 1 designation of WVI support NGTL's relief request,¹⁶ FEI and WEG, without providing supporting rationale, suggest that an issue be added with respect to the criteria to be met for establishing WVI as a Group 1 delivery point. As NGTL clearly stated in the Application,¹⁷ the criterion for the designation of a Group 1 delivery point is explicitly reflected in the NGTL Tariff¹⁸ and no changes to the criterion have been proposed as part of the Application. With the criterion already being clearly defined, the appropriate issue to be included for NGTL's request to designate WVI as a Group 1 delivery point is whether this designation meets the established criterion, not what criteria should apply. Accordingly, this issue should not be included in the List of Issues in this proceeding.

The Commission Cannot Summarily Dismiss the Application

There is no basis to summarily dismiss NGTL's request for approval of the Service, as suggested by IGCAA. It is well established that the Commission has a legal obligation to hear an application so long as it is complete.¹⁹ As the Application contains the requisite information, meeting all of the requirements of the *Canadian Energy Regulator Act* (CER Act) and the Commission's Filing Manual for an application of this nature, the Commission is legally required to adjudicate the Application and cannot summarily dismiss it.

NMML Tolling Methodology

Two commenters²⁰ have also suggested that because NGTL has not applied for a revised NMML tolling methodology, it has not addressed directions contained in Condition 2 of Order TG-002-2020 (NMML Order)²¹ There is no merit to these suggestions in fact or in law. Based on the terms of the NMML Order, NGTL is required to re-apply for a tolling methodology on the NMML if there is commencement of flow for gas received on the NMML to a new market. NGTL acknowledged this in the Application that this condition is triggered²² and sought an affirmation of the existing methodology. Through the process established to consider the

¹⁵ National Energy Board Letter Decision, Herbert LTFP Service (RH-002-2017 proceeding), page 14 of 16 (Filing ID: A84788-1).

¹⁶ ARC Resources Ltd. (Filing ID: C13622), Canadian Association of Petroleum Producers (CAPP) (Filing ID: C13604), Diamond LNG Canada Partnership (Diamond LNG) (Filing ID: C13633), IGCAA, Kogas Canada E&P Partnership (Filing ID: C13528), Ovintiv Canada ULC (Filing ID: C13602), PetroChina Kitimat LNG Partnership (PCC) (Filing ID: C13591), Shell Energy Canada (Filing ID: C13625) and Shell Energy North America (Canada) Inc. (Filing ID: C13630).

¹⁷ Application, page 26.

¹⁸ See Article 1.0 of the General Terms and Conditions under the NGTL Tariff.

¹⁹ See for example, EH-1-2000 Reasons for Decision, pages 6-7 under *Principles of Natural Justice and Fairness* (Filing ID: A07408).

²⁰ IGCAA and Westcoast (Filing ID: C13627).

²¹ Filing ID: C05448-5, under the RH-001-2019 Decision.

²² Application, at Section 6.2.

Application, parties will have the opportunity to test NGTL's evidence on this proposed relief, including evidence supporting the continued appropriateness of the existing tolling methodology. There is no basis, however, for any party to suggest that NGTL is somehow precluded from requesting that the existing methodology continue to apply. Interpreting Condition 2 of the NMML Order to mean that NGTL cannot apply for the existing NMML tolling methodology to continue upon the condition being triggered would indicate that the Commission fettered its discretion in the NMML Order by pre-determining the outcome of a future tolls proceeding. This would be contrary to the law and long-standing practice by the Commission's predecessor²³ and is not a reasonable interpretation of the NMML Order.

Process

NGTL reiterates its request for the Commission to issue a decision on the Application by December 31, 2021, with reasons or with reasons to follow. This request is supported in multiple comment letters requesting a timely and efficient process.²⁴ To enable an efficient process, NGTL suggests that all parties that filed letters of comment be granted intervenor status and additional parties be given the opportunity to file Applications to Participate in a timely manner.

Commenters submitted that the Application should be considered through either an oral or written process that would include some or all of the following process steps: Commission and intervenor information requests (IRs) to NGTL, intervenor evidence, NGTL reply evidence, the possibility of oral cross-examination, and oral or written arguments.

NGTL submits that a comprehensive process focused on the requested relief that allows for submission of evidence, the testing of evidence by all parties through one round of information requests, and oral argument (with the option for written argument) would be appropriate to consider the Application. NGTL notes that parties must be permitted to ask IRs of intervenors that file evidence and requests that NGTL and other parties are given at least two weeks to respond to IRs. As applicant, NGTL should be afforded the right to submit reply evidence. Should the Commission determine cross-examination is necessary, NGTL requests that the Commission confirm this as part of the Hearing Order, rather than waiting to confirm the balance of the process, to allow NGTL and other parties to appropriately prepare and ensure the availability of their witnesses. Finally, while NGTL believes that an oral process for argument and reply argument would be most efficient, it does not object to parties having the opportunity to file written arguments so long as written arguments are filed sufficiently in advance of the commencement of oral arguments.

NGTL submits such a process can be completed in a timeframe that results in argument concluding in the fall and a decision from the Commission being provided in 2021. This timeline is consistent with the processes established to consider other unique service offerings on natural gas pipelines, including Dawn LTFP²⁵ and Herbert LTFP²⁶ services.

²³ GHW-R-1-2007 Reasons for Decision, PDF 11 (Filing ID: A17402) and GH-1-2002 Reasons for Decision, PDF 74 (Filing ID: A05055).

²⁴ CAPP, Diamond LNG and PCC.

²⁵ RH-003-2017 proceeding.

²⁶ RH-002-2017 proceeding.

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Should the Commission require additional information regarding this filing, please contact the undersigned.

Yours truly,
NOVA Gas Transmission Ltd.

Original signed by

Namrita Sohi
Legal Counsel
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cc: Parties who filed letters of comment