Canada Energy Regulator
Régie de l'énergie du Canada

Canada Energy Regulator Reasons for Decision

NOVA Gas Transmission Ltd.
RH-001-2019

Canada

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In the Matter of

NOVA Gas Transmission Ltd.

Application dated 14 March 2019 for NGTL System Rate Design and Services

RH-001-2019
March 2020

NOVA Gas Transmission Ltd.
RH-001-2019

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Glossary of Terms and Abbreviations

ADOE	Alberta Department of Energy
Application	NGTL's application for approval of a rate design methodology and terms and conditions of service for the NGTL System.
ARC	ARC Resources Ltd.
B.C.	British Columbia
Bcf	Billion cubic feet
Bcf/d	Bcf per day
Black Swan	Black Swan Energy Ltd.
Brattle	The Brattle Group
Canbriam	Canbriam Energy Inc.
CAPP	Canadian Association of Petroleum Producers
CDQ	Contract Demand Quantity
Centra	Centra Gas Manitoba Inc.
cents/Mcf/d	Cents per Mcf/d
CER	Canada Energy Regulator
CER Act	*Canadian Energy Regulator Act*
Commission	The Commission of the CER.
Concentric	Concentric Energy Advisors Inc.
ConocoPhillips	ConocoPhillips Canada
CPCN	Certificate of Public Convenience and Necessity
DOH	Distance of Haul
Drazen	Drazen Consulting Group, Inc.
Encana	Encana Corporation, now known as Ovintiv Inc.
Existing NGTL System	The NGTL System excluding those facilities that comprise the NMML.

FT-D	Firm Transportation – Delivery
FT-D1	Group 1 Delivery Points are major interconnection points with major downstream pipeline systems.
FT-D2	Group 2 Delivery Points are non-FT-D1 points where the customer elects to contract for standard service attributes.
FT-D3	Group 3 Delivery Points are non-FT-D1 points where the customer elects to contract for a premium service which is offered at a premium above the FT-D2 rate.
FT-P	Firm Transportation – Points to Point
FT-R	Firm Transportation – Receipt
km	Kilometre(s)
LEI	London Economics International LLC
LNG	Liquefied Natural Gas
Mcf/d	Million cubic feet per day
NEB	National Energy Board
NEB Act	*National Energy Board Act (R.S.C., 1985, c. N-7; Repealed, 2019, c.28, s.44)*
NEBC Decision	Letter Decision of the National Energy Board Examination to Determine Whether to Undertake an Inquiry of the Tolling Methodologies, Tariff Provisions and Competition in Northeast British Columbia.
NGTL	NOVA Gas Transmission Ltd.
NGTL System	The extensive natural gas transmission system comprised of approximately 24,000 km of pipeline and associated compression and other facilities in Western Canada.
NIT	NOVA Inventory Transfer
NMML	North Montney Mainline which comprises the natural gas pipeline and associated facilities constructed or being constructed following and in accordance with the NEB's approval of the Variance Application.

NMML Tolling Methodology	The tolling of the NMML as applied for pursuant to the Application, which, in respect of any receipt point on the NMML, is the sum of the FT-R rate at such receipt point resulting from the proposed NGTL System rate design and the rate determined by the Surcharge Formula.
NPS	Nominal Pipe Size
O&M	Operations & Maintenance
Original Project	NGTL's applied-for 301 km extension of the NGTL System to the North Montney area in B.C. as approved by the NEB pursuant to its decision in GH-001-2014 and CPCN GC-125.
OSDAs	Oil Sands Delivery Areas
Petronas	PETRONAS Energy Canada Ltd.
PNW LNG	Pacific NorthWest Liquefied Natural Gas
Progress	Progress Energy Canada Ltd.
Settlement	The contested settlement included in the Application.
Settlement Guidelines	The 2002 Revised Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs adopted by the NEB.
Shell	Shell Canada Energy
Stout	Mr. Richard Stout
Surcharge Coefficient	The constant in the Surcharge Formula.
Surcharge Formula	The formula proposed by NGTL to calculate the surcharge applicable to service on the NMML; namely, the ratio of the NMML revenue requirement to NMML billing determinants multiplied by the Surcharge Coefficient.
Taps	Rural gas interconnections.
Tenaska	Tenaska Marketing Canada, a division of TMV Corp.
TJ	Terajoules
Tourmaline	Tourmaline Oil Corp.
TTFP	Tolls, Tariffs, Facilities and Procedures Committee.
UCI	Unit Cost Index

Variance Application	NGTL’s 2017 application to vary CPCN GC-125 to construct a subset of the Original Project comprised of approximately 206 km of natural gas pipeline and associated facilities.
Variance Decision	NEB Decision MH-031-2017
WCSB	Western Canada Sedimentary Basin
WEG	Western Export Group
Westcoast	Westcoast Energy Inc.

Recital and Appearances

IN THE MATTER OF the *National Energy Board Act* and the regulations made thereunder;

AND IN THE MATTER OF an application dated 14 March 2019 by NOVA Gas Transmission Ltd. filed pursuant to Parts I and IV of the *National Energy Board Act*, the 2002 Revised Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs, certain directives in the MH-031-2017 Decision, and directives contained in the Letter Decision of the National Energy Board Examination to Determine Whether to Undertake an Inquiry of the Tolling Methodologies, Tariff Provisions and Competition in Northeast British Columbia under File OF-Tolls-Group1-N081-2019-01 01;

AND IN THE MATTER OF National Energy Board Hearing Order RH-001-2019, dated 16 May 2019;

HEARD in Calgary, Alberta on 2, 3, 4, 5, 17, and 18 December 2019.

BEFORE:

P. Davies	Presiding Commissioner
D. Côté	Commissioner
S. Luciuk	Commissioner

Appearances	Participants	Witnesses
Mr. Sander Duncanson Ms. Cassandra Richards Ms. Rosemary Stevens	NOVA Gas Transmission Ltd.	Mr. Richard Prior Mr. Michael Ritsch Mr. Blaine Trout Ms. Penelope Echenagusia Mr. Colin Cooper Mr. John J. Reed Mr. Toby Bishop
Mr. Colin King	Alberta Department of Energy	
Mr. Robert Bourne	Alliance Pipeline Ltd.	
Mr. Laurie E. Smith Q.C. Mr. Sean Assié	ATCO Gas	Mr. Stewart Tighe Mr. Doug Stone
Mr. David Wood	Black Swan Energy	Mr. A.J. Goulding
Ms. Kim Johnston	BP Canada Energy Group ULC	
Mr. Lewis L. Manning	Canadian Association of Petroleum Producers	Mr. Greig Sproule Dr. Ren Orans Mr. Stuart Mueller
Ms. Helga Van Iderstine Ms. Jessica Carvell	Centra Gas Manitoba Inc.	Ms. Lori H. Stewart Ms. Christine Symons Mr. Mark Drazen Mr. Ron Mikkelsen

Mr. Alan Ross Mr. Bradon Willms Mr. Mike Baker	ConocoPhillips Canada	
Mr. Daniel Dunlop	Encana Corporation	
Mr. Mark Thomas	Industrial Gas Consumers Association of Alberta	
Mr. Bernard Roth Mr. Simon Kupi	PETRONAS Energy Canada Ltd.	Dr. Toby Brown Dr. Paul R. Carpenter Mr. Michael Culbert Mr. Elie G. Atme
Ms. Deanna Grant	Shell Canada Energy	
Mr. Tomasz Lange	Tenaska Marketing Canada, a division of TMV Corp.	
Ms. Deanna Kruk	Tourmaline Oil Corp.	
Mr. Don Davies Mr. Robert Bourne	Westcoast Energy Inc., doing business as Spectra Energy Transmission	Mr. Garth Johnson Mr. Brian Troicuk Mr. Richard Stout
Ms. Rosa Twyman	Western Export Group	
Ms. Lauren Bell Ms. Michelle Haug	Canada Energy Regulator	

1 Executive Summary

On 14 March 2019, NGTL applied for approval of a rate design methodology and terms and conditions of service for the NGTL System. The Application was supported by a contested Settlement. NGTL also sought approval of two associated matters that did not form part of the Settlement: first, a surcharge formula[1] to be paid by FT-R shippers on the NMML; and second, amendments pertaining to FT-P service. NGTL also included information that the NEB directed NGTL to file in its NEBC Decision.[2]

The NEB established the RH-001-2019 proceeding to consider the Application. On 28 August 2019, the CER Act[3] came into force and replaced the NEB Act. The Application was taken up by the CER and continued in accordance with the NEB Act. During the RH-001-2019 proceeding, several parties made submissions raising concerns regarding specific aspects of the Application. Areas of concern included the proposed NMML tolling methodology and surcharge level, contracting practices, long-term cost accountability and the allocation of costs within delivery services.

The Commission finds that all interested parties had a fair opportunity to participate in negotiations and have their interests recognized and appropriately weighed in the Settlement and that the Settlement complies with the Settlement Guidelines. The Commission also finds that that the Settlement complies with the requirements of the NEB Act.

Taking into account the evidence submitted in the RH-001-2019 proceeding, the Commission finds that the Application will result in tolls that are just and reasonable and not unjustly discriminatory pursuant to sections 62 and 67 of the NEB Act. The Commission finds that the Settlement, the terms of the proposed FT-P service on NGTL and the NMML Tolling Methodology, including the proposed Surcharge Coefficient of 0.3, align with established tolling principles of cost-based/user-pay and economic efficiency. By approving the Application as set out in this decision, the Commission is persuaded that, relative to the existing rate design, there will be improvements in cost accountability among shippers by producing tolls that better reflect costs associated with distance of haul and pipeline diameter.

Notwithstanding its approval of the Application, the Commission finds that there is potential for further improvements in NGTL's rate design and services. To inform future toll and tariff discussions, the Commission also provides directions on additional steps NGTL must take. The Commission's decision and directions are summarized in Chapter 7.

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1 The NMML surcharge formula was addressed outside of the Settlement, while the proposal that NMML customers would be subject to a surcharge in addition to the NGTL System rate was addressed within the Settlement.

2 A90483-1

3 S.C. 2019, c.28, s.10

2 Introduction

The Application

On 14 March 2019, NOVA Gas Transmission Ltd. (NGTL) filed its Application seeking National Energy Board (NEB) approval of a new rate design methodology and terms and conditions of service for the NGTL System (Application). The Application asked the NEB to:

- Approve the amendments to the current rate design and services methodology resulting from the contested settlement included in the Application (Settlement);
- Approve the Additional Firm Transportation – Points to Point (FT-P) Amendments;
- Approve the North Montney Mainline (NMML) Tolling Methodology, including the NMML Surcharge Formula;
- Approve the revision to the NGTL System Tariff in accordance with Appendix 4 to the NGTL Evidence contained in the Application; and
- Grant such further and other relief as NGTL may request or the NEB may consider appropriate.

NGTL also requested a decision on the NMML Tolling Methodology, including the NMML Surcharge Formula, prior to 22 June 2019. In the alternative, NGTL requested approval of the NMML Tolling Methodology on an interim basis pending a decision, or that the tolling methodology approved during the NMML Provisional Period be maintained pending the NEB's disposition of the Application.

Regulatory Framework

The Application is subject to the *National Energy Board Act* (NEB Act), including sections 62 and 67. Section 62 states:

> 62. All tolls shall be just and reasonable and shall always, under substantially similar circumstances and conditions with respect to all traffic of the same description carried over the same route, be charged equally to all persons at the same rate.

In previous decisions,[4] the NEB articulated a number of tolling principles that assist in the interpretation and application of this statutory provision. These fundamental tolling principles include cost-based/user-pay, economic efficiency, and no acquired rights.

The cost-based/user-pay principle means that tolls should be, to the greatest extent possible, cost based and that users of a pipeline system should bear the financial responsibility for the costs caused by the transportation of their product through the pipeline[5] without unjustified cross

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[4] A summary is found in the RH-1-2007 Reasons for Decision dated July 2007, Chapter 3, pages 21-23, A16008-1.

[5] RH-1-2007 Reasons for Decision, page 21, A16008-1.

subsidization by other rate payers. The NEB has stated that adherence to the principle of cost causation lays the foundation for fair competition[6] among regulated pipelines.

The NEB has also stated that in the context of regulated tolls, economic efficiency generally means that tolls should promote proper price signals, which will protect against over investment and promote the efficient development and use of pipeline systems.[7]

The no acquired rights principle has been articulated as meaning that payment of tolls in the past confers no benefit on toll payers beyond the provision of service at that time.[8]

As noted, section 67 of the NEB Act also applies to the Application:

> 67. A company shall not make any unjust discrimination in tolls, service or facilities against any person or locality.

Pursuant to section 63 of the NEB Act, the Commission of the Canada Energy Regulator (Commission) may determine as a question of fact whether unjust discrimination would likely result from the Settlement. The NEB established in prior decisions that not all discrimination is prohibited, only that which is "unjust".[9] This includes consideration of whether traffic is or has been carried under substantially similar circumstances and conditions, as set out in section 62. Pursuant to section 68 of the NEB Act, if discrimination is shown, the burden of proving that the discrimination is not unjust lies with the company.

In addition to the above statutory framework, the Commission also applied the 2002 Revised Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs[10] (Settlement Guidelines) to the Application. Historically, the NEB treated settlements as a package, opting not to selectively make changes to a settlement submitted for approval; approving or rejecting it in its entirety.

On 28 August 2019, the *Canadian Energy Regulator Act* (CER Act) came into force, replacing the NEB Act. The NEB was succeeded by the Canada Energy Regulator (CER). Section 36 of the transitional provisions associated with the CER Act states that applications pending before the NEB prior to coming into force of the CER Act are to be taken up by the CER and continued in accordance with the NEB Act. As the Application was pending before the NEB prior to 28 August 2019, the Application was taken up by the CER and continued in accordance with the NEB Act.

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6 GH-001-2014 Report, page 40, A69520-1.

7 MH-031-2017 Reasons for Decision, page 33, A92071-1.

8 RH-1-2007 Reasons for Decision, page 22, A16008-1.

9 MH-4-96 Reasons for Decision, page 12, link.

10 A02885-1

Hearing Process

On 26 March 2019, the NEB released a letter[11] issuing a Notice of Hearing, establishing the application to participate process and soliciting comments from interested persons. On 30 April 2019, the NEB issued a letter concluding that it was fully satisfied, following NGTL's submissions and those of interested persons, that the settlement process was open, understood by and accessible to all interested parties.[12] The NEB also indicated that it was satisfied that multiple interests were considered and weighed. Subject to stipulations regarding the need for additional information and the prohibition against settlement terms that are contrary to the law or public interest, the NEB stated it was prepared to consider the Settlement within the Settlement Guidelines.

On 16 May 2019, the NEB issued a letter with its decisions regarding the final List of Issues, the hearing process to be used to assess the Application, and the tolling methodology to be applied to the NMML on an interim basis[13].

The CER heard oral cross examination on 2-5 December 2019, received written final argument on 10 and 12 December 2019, and heard oral summary argument on 17 and 18 December 2019. All oral portions of the hearing were held in Calgary, Alberta.

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[11] A98496-1

[12] A99191

[13] A99470-1

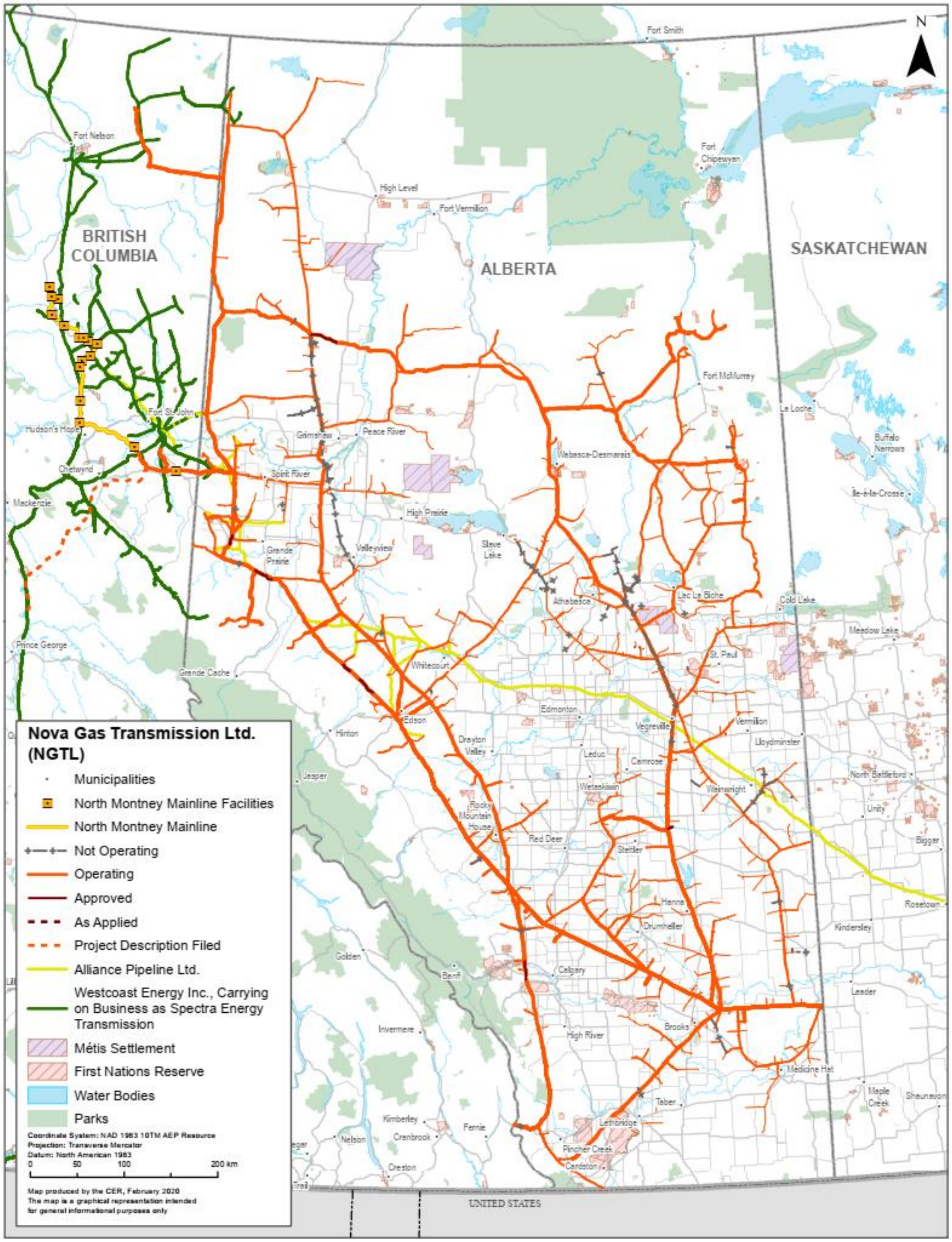
3 Background

3.1 The NGTL System

In the Application and over the course of the hearing, the Commission received significant background information regarding the NGTL System, which informed the Commission's decision regarding the Application. The NGTL System is an extensive natural gas transmission system comprised of approximately 24,000 kilometres (km) of pipeline and associated compression and other facilities in Western Canada. The NGTL System transports natural gas produced in Alberta and British Columbia from the Western Canada Sedimentary Basin (WCSB). The gas can enter the system through over 1,000 receipts points and can be delivered at over 1,600 delivery points. The NGTL System serves markets with different demand requirements and its facilities have varying capacities and pipe sizes.

Natural gas produced from the WCSB competes in the North American gas market on many fronts. The North American pipeline grid is highly interconnected, allowing end users to satisfy their demand for gas from a choice of producing basins. This interconnectivity means that the WCSB competes with all producing regions in diverse North American markets including the Bakken, Appalachian (including the Marcellus and Utica plays), and Rockies.

Figure 3.1: NGTL System



The NGTL System has evolved over time, with the supply shifting to the north and west portion of the system which extends into Northeastern British Columbia (B.C.). Currently, the most active areas of development within the WCSB are focused on liquids-rich natural gas resources. The higher value of natural gas liquids increases the value of natural gas produced in the WCSB. NGTL stated that as existing wells outside of the Peace River Area continue to decline without replacement, new facilities in the Peace River Area are needed to enable the NGTL System to continue providing markets with access to economic supply to replace the declining production. Currently, about 85 per cent of natural gas flows on the system originate upstream of James River.

Demand across the NGTL System has also evolved over time. In 2009, 75 per cent of the natural gas transported on the system was delivered to the East and West Gate export points, and the remaining 25 per cent was delivered for consumption within Alberta. However, in 2017, only 45 per cent of the natural gas transported on the system was delivered to the East and West Gates, and the remaining 55 per cent was delivered for consumption within Alberta. Intra-basin demands are forecast to continue to grow including residential, commercial, industrial, oil sands, electric generation, and Liquefied Natural Gas (LNG) demands out to 2030.

While on most pipelines a shipper pays to move a product from one point on the pipeline system to another point on the pipeline system, this is not the case on the NGTL System. Receipt service and delivery service are not directly linked. Firm Transportation – Receipt (FT-R) service delivers gas onto the NGTL System at receipt points on the System and into the NOVA Inventory Transfer (NIT) virtual hub. Firm Transportation – Delivery (FT-D) service delivers gas from NIT to NGTL System delivery points. The NIT structure allows gas to be received on the NGTL System at any receipt station in order to be sold through NIT and delivered at any delivery station. This structure, NGTL submitted, underpins the liquidity of NIT which increases commodity price transparency and decreases transaction costs.

The NGTL System functions as an integrated system and the NIT hub effectively aggregates all natural gas supplies, storage, intra-basin and export markets and interconnected pipelines to the NGTL System at a virtual, integrated transaction hub. NGTL submitted that supply and demand adjust over time based on market forces, as illustrated by historical contracting on the system.

NGTL submitted that over the past four years the NGTL System went from being largely available for new contracting to being fully contracted in the Peace River Area for new FT-R contracts and also fully contracted for FT-D in major delivery areas. Currently, the NGTL System is fully contracted and undergoing significant expansions to meet aggregate contract requirements for both receipt and delivery firm services. The migration of supply into the Montney, Deep Basin, and Duvernay supply areas has resulted in a need for incremental facilities to transport this supply to markets.

3.2 The North Montney Mainline

The NMML is part of the NGTL System.[14] However, its unique regulatory history required the Commission to consider tolling issues particular to this relatively new addition to the NGTL System. On 8 November 2013, NGTL filed an application to build and operate an approximately 301 km extension of the NGTL System to the North Montney area in British Columbia (Original Project). The Original Project was proposed in response to demand from Progress Energy Canada Ltd. (Progress) to connect large volumes of incremental gas supply from the North Montney area to the NGTL System and the Pacific NorthWest Liquefied Natural Gas (PNW LNG) Project via the proposed Prince Rupert Gas Transmission pipeline.

A Certificate of Public Convenience and Necessity (CPCN GC-125), was issued on 11 June 2015 in respect of the Original Project. Condition 4 of CPCN GC-125 required NGTL to file confirmation with the NEB prior to commencing construction that Progress had made a positive final investment decision on the PNW LNG Project.

Toll Order TG-002-2015 was issued on 15 April 2015 with respect to the Original Project. That order allowed NGTL to continue its current tolling methodology during a transition period. However, following the transition period, NGTL would have the option of implementing stand-alone tolling on the Original Project or applying to the NEB for a revised tolling methodology.

On March 20, 2017, NGTL filed an application to vary CPCN GC-125 (Variance Application). The Variance Application sought approval to proceed with construction of a subset of the Original Project. This subset is approximately 206 km of natural gas pipeline and associated facilities and is known as the NMML. The NMML originates at the Blair Creek meter station and ends at an interconnection near the Saturn meter station on the Existing NGTL System.

In the Variance Application, NGTL requested that NEB approval be independent of any final investment decision related to LNG development, in light of the need for the NMML and new, related contractual commitments. In contrast to the Original Project, NGTL submitted that gas received on the NMML would be commingled with gas on the Existing NGTL System. On that basis, NGTL submitted that rolled-in tolling was appropriate.

On 25 July 2017, Pacific NorthWest LNG Limited Partnership announced that the PNW LNG Project would not proceed as previously planned.

Although the PNW LNG Project was not going ahead, in its decision on the Variance Application (NEB Decision MH-031-2017 or the Variance Decision), the NEB found that there was a need for the NMML and that the NMML would be economically feasible.

In the Variance Decision, the NEB rejected the rolled-in tolling proposed by NGTL. The NEB acknowledged that the NMML would be integrated with and would offer services similar to those offered on the Existing NGTL System. However, the NEB found that integration and similarity of services were not sufficient alone to support the use of rolled-in tolling over the long term, as applied for by NGTL.

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[14] For convenience, the term “Existing NGTL System” is used in this decision to refer to the entire NGTL System excluding those facilities that comprise the NMML.

The NEB found that NGTL's proposed tolling methodology would result in excessive levels of cross subsidization of the NMML by shippers on the Existing NGTL System. The NEB concluded that such tolls would not be just and reasonable as they would neither adhere to the principle of cost causation nor foster the goal of economic efficiency.

The NEB also found that the FT-R toll ceiling rates employed in NGTL's proposed toll methodology would contribute to problematic price signals and were not, therefore, in accordance with the goal of economic efficiency. For instance, tolls at the Blair Creek end of the NMML, approximately 200 km upstream from Saturn, would be no different than the tolls at Saturn.

The NEB granted some latitude to NGTL to calculate its revenue requirement during an interim Provisional Period[15] using its existing tolling methodology by combining the incremental revenue requirement of the NMML with the revenue requirement of the Existing NGTL System. The resulting NMML tolls were not to be constrained by the FT-R toll ceiling. Thereafter, in the Post-Provisional Phase,[16] NGTL was required to calculate the tolls for services on the NMML using a stand-alone tolling methodology, unless NGTL applied for, and received approval of, a new tolling methodology (subsequently proposed by NGTL as part of the Application). The NEB noted that the requirement for stand-alone tolling was not an indication that the NEB favoured stand-alone tolling for the Post-Provisional Phase; rather, it reflected the NEB's finding that there were no other persuasive long-term tolling alternatives proposed during the hearing on the Variance Application.

The NEB provided guidance with respect to the tolling methodology for the Post-Provisional Phase and suggested that at least three alternatives could be used, such as:

1. Developing a separate cost pool for the NMML, which would be recovered from NMML shippers as part of a stacked toll with the FT-R toll at Saturn;
2. Applying a surcharge to shippers on the NMML, in addition to the rate these shippers would pay under NGTL's existing toll methodology; and
3. Creating a toll zone, including the NMML, which would result in an increased allocation of the costs caused by the NMML shippers to the FT-R rates.

The NEB suggested NGTL evaluate and justify the appropriateness of any proposed ceiling and floor rates for its FT-R service, particularly with respect to the distance sensitivity of its tolling methodology. In the NEB's view, NGTL's tolling methodology was insufficiently distance sensitive to address a major supply extension like the NMML. Simply removing the toll ceiling was not sufficient to address the deficiencies identified in that Decision.

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15 The Provisional Period is the period of one year starting from the date the Governor in Council approved the amendments to CPCN GC-125.

16 The Post-Provisional Phase begins at the end of the Provisional Period.

3.3 Northeast B.C. Examination

The Original Project and several other facility applications in Northeast B.C. were contested on commercial grounds. In March 2017 the NEB initiated an examination to determine whether an inquiry into the tolling methodologies or tariff provisions of one or more of the Group 1 NEB-regulated natural gas companies operating in Northeast B.C. was warranted. The NEBC Decision[17] was issued on 8 March 2018. Ultimately, the NEB found that toll issues would best be resolved within individual toll applications; however, the decision also made a series of observations and findings pertaining to parties before the NEB, including NGTL.

The NEB observed a particular need to foster competitive outcomes in the area and to manage the pace of pipeline infrastructure development in Northeast B.C. in the public interest. The NEB found that if NGTL's tolls did not appropriately respect the cost-causation/user-pay principle, NGTL would be afforded an unfair competitive advantage when extending its system into Northeast B.C. The NEB was also concerned that NGTL's toll methodology did not appropriately recognize changes to system usage. In addition, most of NGTL's system extensions were underpinned by contracts that were shorter than their depreciable life, giving rise to a risk of underutilization of extension facilities.

Though an inquiry was not undertaken, the NEBC Decision directed disclosure of documents by NGTL and Westcoast. The Commission interprets the NEBC Decision to highlight the need for robust regulatory oversight and to achieve greater accountability and transparency. Further, in the view of the Commission, the NEBC Decision encouraged detailed oversight of toll applications, such the current NGTL Application.

NGTL filed a Depreciation Study in July 2017. Information regarding policies affecting capital spending for system extensions; depreciation policy and practices; and tolling methodologies and tariff provisions was filed in this proceeding and is discussed throughout this decision.

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[17] Northeast British Columbia Examination Decision, A90483-1

4 The Settlement

As part of the Application, NGTL requested the Commission's approval of amendments to the current rate design methodology and services resulting from the Settlement. NGTL submitted that the Settlement was the product of extensive negotiations and represents a balance of the diverse interests and positions of all stakeholders. Consequently, NGTL submitted that amendments to the current rate design methodology and services were presented as a consolidated package pursuant to the Settlement Guidelines.

Several parties submitted that the Commission has the ability to accept part of the Settlement and reject or modify selected parts. However, the Commission acknowledges that the Settlement consists of a balance of interests and compromises achieved among numerous parties after a lengthy negotiation process. That negotiation process would be undermined if the Commission were to freely impose selected changes at its discretion. While Commission is not foreclosing the possibility that there may be instances where an exercise of such discretion might be justified, the Commission finds that the Settlement submitted by NGTL should be treated as a package.

The Commission finds that the settlement process and steps taken by NGTL in the Application and hearing met the requirements of the Settlement Guidelines. NGTL demonstrated that:

- All interested parties had a fair opportunity to participate and have their interests recognized and appropriately weighed in a negotiated settlement;
- The settlement process was open and all interested parties were invited to participate in the settlement negotiations;
- The Commission's ability and discretion to take into account public interest considerations was not fettered;
- The Settlement does not contain provisions which are illegal or contrary to the NEB Act, or that are otherwise contrary to the public interest;
- The process was understood and agreed upon by all interested parties;
- A summary of the process by which the settlement was obtained and an explanation of the support for the settlement was provided; and
- Adequate information was placed on the public record for the Commission to understand the basis for the agreement, assess its reasonableness, and to be able to determine that the resulting tolls are just and reasonable and not unjustly discriminatory.

The Commission considered the objections and concerns raised by various participants regarding selected aspects of the Settlement and the responses of NGTL, echoed in many cases by other participants. With respect to sections 62 and 67 of the NEB Act, the Commission finds that the Settlement will produce tolls that are just and reasonable and not unjustly discriminatory, and therefore is consistent with the requirements of the NEB Act. The reasons for the Commission's finding follow, with a consideration of each of the concerns raised.

4.1 Postage Stamp FT-D2 and FT-D3 Rates

Group 2 Delivery Points (FT-D2) and Group 3 Delivery Points (FT-D3) rates are based on a postage stamp methodology. FT-D3 is priced at a 20 per cent premium to the FT-D2 rate. The parties to the Settlement agreed to not depart from the current postage stamp methodology for FT-D2 and FT-D3 services.

Views of Participants

ATCO Gas

ATCO Gas supported approval of the Settlement, contingent on the Commission providing specific direction to NGTL to address several issues of concern within a future defined timeframe, including the use of the postage stamp rate.

In ATCO Gas' view, the use of a postage stamp rate for FT-D2 and FT-D3 services results in an unreasonable level of cross subsidization, particularly from low Distance of Haul (DOH) markets, primarily Edmonton and Calgary, to high DOH markets, particularly the Oil Sands Delivery Areas (OSDAs). Regarding cross subsidization, ATCO submitted that:

- The DOH of the OSDAs exceeds 850 km in 2017, compared to a range of 308-428 km for the areas of Edmonton, Calgary, and Other.[18]
- Differences in DOH have grown over time since the 2009 Rate Design Application.
- Levels of cross subsidization have also increased due to the growth of demand in the OSDAs and growth in the NGTL revenue requirement.
- Under the current rate design, the cross subsidization by the FT-D3 rate group of other customer groups is greater than $100 million per year. Under the Settlement, the cross subsidization by the FT-D3 rate group of other customer groups would be $58-$75 million per year, compared to the total FT-D3 revenue under postage stamp rates of $235 million per year.
- The cross subsidization is amplified because FT-D3 rates are priced at a 20 per cent premium to the FT-D2 rates; ATCO Gas represents 97 to 98 per cent of the FT-D3 rate group Contract Demand Quantity (CDQ).

Regarding economic efficiency, ATCO Gas acknowledged the Settlement resulted in distance sensitivity improvements for individually tolled receipt points. However, ATCO Gas maintained that under the FT-D2 and FT-D3 postage stamp rate, rates for intra-Alberta customers lack such distance sensitivity. Accordingly, there are no price signals to customers reflecting cost differences of intra-Alberta locations.

To address these concerns, ATCO Gas proposed Major Market delivery rates as an alternative to NGTL's proposed postage stamp rate for Group 2 and 3 delivery service, which rates would include the following key features and benefits:

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[18] The Other category represents all remaining segments on the NGTL System other than East Gate, West Gate, Calgary, Edmonton OSDA Liege, OSDA Kirby.

- Major Market delivery rates would be zonal rates that establish a postage stamp rate for each major delivery market on the NGTL System. The Major Markets would be East Gate, West Gate, Calgary, Edmonton, OSDA Liege and OSDA Kirby, markets which NGTL has already defined in the FT-R pathing methodology. There would also be a postage stamp rate for Other delivery points that would apply for all other intra-basin locations.
- The Major Market delivery rate proposal would be more reflective of the cost to serve each Major Market and therefore reduce the cross-subsidy paid by FT-D2 and FT-D3 customers in Edmonton, Calgary, and Other Major Markets for the benefit of the other FT-D customers, specifically those located in the East Gate, West Gate, OSDA Liege, and OSDA Kirby Major Markets.
- Major Market delivery tolling would better align with the tolling principles of cost-based/user-pay and economic efficiency, compared to the postage stamp rate. The rates would reflect the cost differences between Major Markets with respect to distance and diameter. In that regard, the rates would better reflect the operational use of the system and promote utilization of the pipeline system to a greater degree.
- ATCO Gas emphasized that it did not wish to delay positive improvements on the FT-R rate design or with respect to the modification of the Group 1 Delivery Points (FT-D1) rate floor included in the Settlement. ATCO Gas encouraged the Commission to approve the Settlement, contingent on specific direction to NGTL to address the postage stamp FT-D2 and FT-D3 methodology in a future toll application, after Tolls, Tariffs, Facilities and Procedures Committee (TTFP) consultation, within a defined timeframe.

Other Participants

No participants other than ATCO Gas raised any serious concerns about the postage stamp rates. Several participants opposed the Major Markets proposal or expressed concern about the relief requested by ATCO Gas, including the Canadian Association of Petroleum Producers (CAPP), Encana Corporation (Encana), Shell Canada Energy (Shell) and Tenaska Marketing Canada, a division of TMV Corp. (Tenaska). The submissions from these parties included the following:

- ATCO Gas' proposal is narrowly focused and ignores the broader perspectives and intentions of the integration of ATCO Pipelines with the NGTL System and the growing costs of integration on all NGTL's shippers.
- ATCO Gas' proposal would change the balance achieved through the Settlement. Specific direction from the Commission on the postage stamp FT-D2 and FT-D3 methodology for consideration in a future tolls application would likely lead to parties seeking to renegotiate the present Settlement in its entirety.
- ATCO Gas has focused on one particular way of measuring and averaging costs, which is the distance of haul or distance-diameter allocator. There are other ways of looking at cost causation for the various market areas, and at least two of those identified by NGTL in its reply evidence showed that the real cost of providing delivery service in Calgary and Edmonton is higher than what is indicated by NGTL's distance of haul model.
- The late introduction of the ATCO Gas proposal created challenges for other intervenors.

CAPP, with whom Shell concurred, conceded that general guidance from the Commission could be considered within the TTFP process, with the appropriate discussions taking place by all affected parties. However, Encana opposed any Commission approval that would be subject to further proceedings.

Views of NGTL

NGTL opposed the request made by ATCO Gas for direction from the Commission and criticized the Major Markets proposal on a number of grounds. Broadly, NGTL replied that ATCO Gas' proposed major market allocation would not adequately reflect the cost to provide service to ATCO Gas' primary markets of Calgary and Edmonton, considering the premium nature of the FT-D3 service, the increased reliance on the integrated NGTL System, and the increasing costs of the ATCO Pipelines system. NGTL asserted that if the Commission required NGTL to come back within a defined period of time with a new application to address ATCO Gas' proposal, it would require negotiations to restart, which would erode the certainty achieved through the Settlement and harm the competitiveness of the basin. However, NGTL submitted that, if the Commission finds that ATCO Gas' concerns have merit, clear guidance provided in the Commission's decision would allow for more informed subsequent discussions between NGTL and its stakeholders.

Moreover, NGTL highlighted a strong relationship between the cost of ATCO Pipelines and the cost to provide FT-D3 service to ATCO Gas. Significant capital expenditures have been made on the ATCO Pipelines system in recent years as part of the Urban Pipeline Replacement initiative. NGTL stated that an evaluation of ATCO Gas' proposal would need to further assess the actual costs to provide FT-D2 and FT-D3 service to each intra-basin market, taking into account the ongoing expansions to serve ATCO Gas in Calgary and Edmonton that are resulting in very large unit costs being averaged into the system.

NGTL submitted that under NGTL's current and proposed rate design, revenues from FT-R, FT-D2 and FT-D3 services at locations on the ATCO Pipelines system cover the direct costs associated with ATCO Pipelines and also make a contribution to the rest of the NGTL System. In contrast, the ATCO Gas proposal would result in no contribution to the balance of the NGTL System costs being made by services on ATCO Pipelines despite the increasing need for the rest of the NGTL System to supply gas.

As well, ATCO Gas' proposal raises new concerns related to unjust discrimination in that certain locations with a similar distance-diameter allocation factor would face vastly different rates depending on whether they are included within a major market or the "Other" market.

NGTL raised serious process concerns regarding ATCO Gas' introduction of the Major Markets proposal, which had not been considered by all relevant parties through the TTFP process. NGTL argued that the Commission does not have sufficient evidence on the record or the necessary parties before it to actually make a determination on ATCO Gas' Major Markets proposal. Moreover, NGTL noted that ATCO Gas' analysis was narrowly focused on specific matters that cannot and should not be looked at in isolation. NGTL identified a preliminary list of issues it believes would need to be evaluated before considering a move away from postage stamp rate design for FT-D2 and FT-D3 delivery services, such as potential impacts to contracting and throughput, a review of significant differences between services and markets, a review of the FT-D3 service attributes and premium, a review of potential impacts to other service attributes and an assessment of whether rate floor and ceilings would be required.

Views of the Commission

The Commission finds that there may be a legitimate concern about unreasonable cross subsidization. ATCO Gas demonstrated that DOH is a major cost driver in NGTL's rate design, yet there are large differences in DOH between delivery points on the NGTL System lacking relative cost sensitivity. Notably, the Calgary and Edmonton areas have a much lower DOH compared to the OSDAs. In particular, under NGTL's proposed rate design, ATCO Gas estimated the level of cross subsidization from the FT-D3 group to other customer groups to be between $58-75 million per year, or approximately 25-32 per cent of the FT-D3 revenue, a meaningful amount to the users of FT-D3 service. This cross subsidization (if proven) could raise concern with the alignment of FT-D2 and FT-D3 tolls with the cost-based/user-pay principle, as well as concerns as to whether the tolls send appropriate price signals to the market.

At the same time, the Commission concurs with the concerns of NGTL and other participants that a complete record of evidence pertaining to postage stamp methodology was not presented to the Commission from all parties potentially affected by ATCO Gas' concerns and its Major Market proposal. Moreover, the Commission notes that ATCO Gas did not assert that that the Settlement should be rejected on the basis that it was not just or reasonable or on the basis that it was unjustly discriminatory. The Commission therefore approves the Settlement, including the postage stamp rate, at this time.

However, the Commission directs NGTL to initiate additional evaluation of potential cross-subsidization between delivery points and further consultation with the TTFP regarding the Major Market proposal. NGTL submitted that further discussions at the TTFP would benefit from clear guidance from the Commission. The Commission does not wish to interfere with the TTFP processes. The Commission offers the following suggestions to NGTL to help inform discussions with the TTFP:

- Develop a scope of analysis for allocating costs to FT-D2 and FT-D3 services that will enable all significant impacts of alternative cost allocation methodologies to be identified and quantified where possible.
- Identify and evaluate feasible procedures for allocating costs to the FT-D2 and FT-D3 services. These procedures could include the current postage stamp procedure, ATCO Gas' proposed major markets approach using distance-diameter allocation factors, and other options such as postage stamp for Calgary, Edmonton and other intra-basin delivery points with the exception of OSDA Liege and OSDA Kirby (combined and separated), which would be allocated costs by the major market approach.
- Assess the continued appropriateness of basing the rate for FT-D3 on a 20 per cent premium over FT-D2 rates and, if not appropriate, recommend further steps to determine a revised premium.
- Compare the ATCO Pipelines System cost of service embedded in NGTL's revenue requirement with the estimated revenue generated from the services provided by ATCO Pipelines' assets to NGTL to determine if adjustments to FT-D2 and FT-D3 rates may be appropriate.

- Compare the FT-D3 unit revenue with the estimated unit cost of service for NGTL's pipeline assets and ATCO Pipelines' assets that are used to provide the FT-D3 delivery service and comment on this revenue/cost of service relationship.

The preceding guidance is not intended to be exhaustive, as other matters may need to be assessed.

NGTL is directed to file with the Commission within three years after the date of this decision a report that summarizes:

a) an assessment of the current methodology used to allocate costs to FT-D2 and FT-D3 services;
b) the appropriateness, including strengths and weaknesses, of alternative allocation methodologies to allocate costs to FT-D2 and FT-D3 services;
c) the consultation process that NGTL undertook; and
d) the next steps that NGTL would recommend to rectify any unreasonable cross subsidization in the current cost allocation methodology for the intra-basin delivery services.

4.2 Metering Charge

The NGTL net transportation revenue requirement consists of two components: a transmission component and a metering component. A metering component is determined for both receipt and delivery services and is based on the historical metering unit cost multiplied by the applicable throughput forecast.

Views of Participants

ATCO Gas

ATCO Gas submitted that NGTL's current and proposed rate design results in cross subsidization of delivery services by the FT-D3 customer group. NGTL's Metering Study does not include any FT-D3 metering stations and fails to recognize that FT-D3 service causes lower metering costs by avoiding the duplication of facilities. The cross subsidization is amplified by the 20 per cent premium placed on FT-D3 service.

ATCO Gas submitted that it carries in its own rates the majority of metering facility-related capital costs that would be common to delivery metering provided by the integrated NGTL/ATCO Pipelines system. ATCO Gas pays the cost of the building, land, site grading/civil works, fencing, and site access road and other common components. Out of 299 facilities, 290 ATCO Pipelines meters are housed within an ATCO Gas owned site and building. The 299 sites where ATCO Pipelines provides custody transfer metering account for approximately 90 per cent of ATCO Gas' CDQ on the NGTL System. ATCO Gas identified that the average ATCO Gas station installation cost for the period of 2015-2019 period was $1.20 million, and that ATCO Pipelines contributes a relatively small component cost between $150,000 and $200,000 per station on average. If ATCO Gas did not provide a site and building for these components, ATCO Pipelines would have to acquire land and provide other common components, which would increase costs on the integrated NGTL/ATCO Pipelines system.

To lessen the impact of cross subsidization ATCO Gas proposed the continued use of a standard metering charge, with the elimination of the 20 per cent premium. ATCO Gas estimated the cost savings from this proposal to be $1.7 million per year.

Tenaska

Tenaska argued that ATCO Gas' proposal is inconsistent with the rationale for the 20 per cent premium, the use of system-wide unit metering costs for toll design purposes, and with the whole concept of grouping delivery points into zones. Tenaska further argued that the 20 per cent premium has nothing to do with metering costs.

Views of NGTL

NGTL asserted that ATCO Gas failed to provide adequate evidence to support its proposal. NGTL noted that ATCO Gas filed no supporting evidence related to the physical configuration of facilities on either ATCO Gas or ATCO Pipelines, lease or other arrangements for such facilities between ATCO Gas and ATCO Pipelines or the actual relative costs of ATCO Gas versus NGTL meters.

As well, NGTL noted that the current pricing for FT-D3 does not have a specific breakdown of transmission and metering components, such that excluding the metering cost component may warrant an increase to the FT-D3 premium. NGTL discouraged the Commission from considering ATCO Gas' proposed change in isolation from a fulsome review of the premium associated with FT-D3 service attributes.

Views of the Commission

Based on the information provided in this proceeding on the costs associated with ATCO Gas and ATCO Pipelines metering facilities, the Commission is unable to conclude that there is excessive cross subsidization in the metering charge for FT-D3 service. The Commission accepts NGTL's position that it requires additional information to fully evaluate the costs involved. While ATCO Gas provided general information in its evidence regarding costs of co-located facilities owned by ATCO Gas and ATCO Pipelines, the Commission expects ATCO Gas and ATCO Pipelines to provide NGTL detailed information on the physical configuration and specific costs of metering facilities to support assertions of unreasonable cross subsidization. The Commission also accepts NGTL's position that ATCO Gas' proposal should not be reviewed in isolation of the FT-D3 premium. The Commission finds that additional analysis is required on this matter, as well as further TTFP consultations.

For these reasons, the Commission finds the metering charge as included in the Settlement to be acceptable at this time. Should ATCO Gas desire to pursue this issue with the TTFP, the Commission expects that ATCO Gas, ATCO Pipelines and NGTL would share all relevant and appropriate information on the physical configuration and specific costs of co-located ATCO Gas and ATCO Pipelines metering facilities.

4.3 Unit Cost Index

NGTL currently uses a Unit Cost Index (UCI) in FT-R rates. Under NGTL's proposed rate design, FT-D rates will also be derived using a delivery UCI. The UCI reflects the varying unit costs of transportation associated with different pipe diameters. The UCI is a comprehensive determination of the relative unit cost for transportation for various pipe diameters, incorporating economies of scale derived from historical acquisition costs for each pipe size, and considers other factors, such as compression costs and Operations and Maintenance (O&M) costs.

Views of Participants

ATCO Gas

ATCO Gas submitted that NGTL's UCI methodology over-allocates costs to small diameter pipelines.In argument, ATCO Gas stated that information provided by NGTL lessened its concern about NGTL's assumption of equal O&M costs by pipeline diameter. However, ATCO remained concerned that none of the pre-1992 small diameter pipeline costs are included in the Pipe Capital component of the UCI.

ATCO Gas expressed concern that because a higher proportion of smaller diameter pipelines were installed prior to 1992, the average installation costs (which are calculated using the period since 1992) for smaller diameter pipelines are likely overstated due to inflation. Additionally, older pipelines have been depreciated over a longer period and as a result they will comprise a smaller part of NGTL's depreciation expense and return on rate base. Another important factor is that new installations of small diameter pipe have been very limited in recent years.

ATCO Gas recommended that small diameter pipelines should be grouped at NPS 10 in the Delivery Unit Cost Index, to reduce the excessive allocation to small diameter pipelines. ATCO Gas identified that NGTL already groups pipelines with diameters of NPS 4 and smaller together. Using the 2017 illustrative tolls, the revenue generated by FT-D3 service would decrease by $8.6 million as a result of this proposal.

Views of NGTL

NGTL replied that ATCO Gas' proposal would not result in a more accurate UCI framework, noting the following:

- Grouping pipe sizes of NPS 10 and smaller together would result in more than 30 per cent of pipe lengths of diverse diameters being combined into one size category.
- Smaller diameter lines incur a significantly greater proportion of pipe integrity costs on a per unit of capacity basis, compared to larger diameter pipe.
- Significant amounts of large diameter pipe were also installed prior to 1992 and there is no evidence that including all pipe from before 1992 in the UCI calculations would actually have the effect of lowering tolls for ATCO Gas.

Views of the Commission

The Commission does not accept ATCO Gas' proposal that smaller diameter pipe be grouped at the NPS 10 level. Based on the evidence on the record, the Commission does not find that small diameter pipe is being unreasonably over-allocated costs within the UCI methodology. In particular, there is no compelling cost or technical evidence that including pre-1992 installation costs would improve or affect the UCI indexed allocation factors to each pipe diameter group. As well, the Commission notes ATCO's acknowledgement that NGTL's evidence that pipe integrity costs are generally not correlated to pipeline diameter, lessened ATCO Gas' concerns on that particular issue.

4.4 Length of contract term and term-up provision

FT-R and FT-D contracts have primary and secondary terms. During the primary term, contracts are tied to a specific Receipt or Delivery Point. During the secondary term, the contract quantity may be transferred to a different point if existing capacity is available.

Appendix E of the Gas Transportation Tariff establishes the minimum contract terms. Under the Settlement, the default minimum contract term in constrained areas of the System is an eight-year total term with a minimum primary term between two years and five years. However, NGTL retains the discretion to require longer contract terms to ensure there is sufficient cost accountability. NGTL submitted that it evaluates the appropriate minimum contract term on a project by project basis having regard to each project's costs and anticipated contract revenues.

Views of Participants

Centra

Centra Gas Manitoba Inc. (Centra) raised concerns that NGTL's contracting practices do not adequately address long-term cost accountability for capital investment in expansions and extensions that have been and will be constructed on the NGTL System. Centra submitted that this issue requires immediate attention given NGTL's pending significant capital expansion program. Centra requested that the Commission supplement or modify the proposed Settlement to require longer contract terms and implement term-up provisions.

Drazen Consulting Group, Inc. (Drazen), on behalf of Centra, submitted that the most obvious tool to address the risk of future underutilization is to require longer contract terms. While NGTL has longer terms for FT-D1 contracts (averaging about 26 years), NGTL has generally required only eight-year terms for contracts underpinning its major facilities additions for FT-R, FT-D2 and FT-D3 shippers. These investments have economic lives of more than 30 years. If contracts are not renewed, NGTL will be left with underutilized facilities, the cost of which must be recovered in some fashion. Centra submitted that the length of contract term is the only contractual assurance for a pipeline that a customer will be a long-term customer.

Centra argued that a term-up provision for all contracts associated with new facilities would improve cost accountability. A term-up provision would require a minimum multi-year contract term extension from the expected in-service date for existing shippers whose continued usage impacts the design of any expansion facilities. Centra referred to the TransCanada Mainline to illustrate the benefits of term-up provisions.

Centra stated that it is in the public interest to have longer contract terms and a term-up provision to address long-term accountability. Centra encouraged the Commission to approve the Settlement with a modification to minimum contract terms or to provide guidance to NGTL that future facilities applications will require minimum 15-year contract terms to underpin them.

Other Participants

Tenaska argued that the contract term provisions that have been negotiated should be seen as a market-driven solution to the problem of reconciling the common goal of avoiding the long-term risk of stranded assets, with the need to ensure that NGTL is commercially attractive to prospective new supplies. Encana argued against the changes Centra proposed for contracts stating that individual shippers should not be able to use the regulatory process to renegotiate select terms of the Settlement to suit their individual interests. CAPP and ConocoPhillips argued that modifying contract lengths and term-up provisions would fundamentally change the balance of the Settlement.

Views of NGTL

NGTL submitted that Centra's proposals should be rejected as they would constitute a material change to the Settlement and would significantly affect the balance of gives and takes negotiated between NGTL and its shippers.

NGTL indicated that the contracting provisions in the Settlement reflect a reasonable balance between those who would prefer shorter contract terms and those who would prefer longer contract terms. Although longer contract terms are generally preferable from the pipeline's perspective, unreasonably long contract terms could have the effect of reducing the amount of System contracting and throughput and actually decrease the long-term demand for facilities, resulting in higher costs for remaining shippers.

In response to an information request, NGTL stated that reducing the contract term requirement for system expansions and major projects could result in a variety of effects to more captive shippers largely dependent on market circumstances over time. Shorter term lengths could result in:

- greater toll variability and variability risk through potentially faster contract declines on the System if significant non-renewals occur;
- increased risk of materialization of various forms of fundamental risk, including supply, market, and competitive risks; and
- as a result of higher risk, all else equal, the cost of capital of the System would increase, which would impact all NGTL customers through higher tolls.

Remaining contract terms would also be one factor considered in determining appropriate depreciation rates for the NGTL System. Subject to depreciation rates reasonably reflecting remaining economic lives of various asset classes, shorter contract lengths would not have a material impact on intergenerational equity, since tolls would continue to reflect the aggregate costs and aggregate demand for service on the System.

NGTL conceded that a term-up provision, as required on the TransCanada Mainline for certain firm transportation service contracts pertaining to new facilities, would be feasible on the NGTL System. A term-up provision could help align overall contract term to economic life and enhance cost accountability. However, as part of the Settlement, NGTL agreed not to implement a term-up provision.

NGTL stated that it nonetheless has the discretion under the Settlement to require longer contract terms where warranted. NGTL described some of the factors that could lead it to require a longer contract term for a specific project. NGTL considers factors such as project costs, associated contract revenues, aggregate system needs, and balances quantitative and qualitative factors to determine an appropriate contract term for a specific circumstance. NGTL submitted that it used its discretion to require longer contract terms for a 2023 intra-basin expansion that has not yet been submitted to the Commission.

NGTL argued that any direction from the Commission regarding NGTL's exercise of its discretion regarding contract term would effectively change a fundamental term of the Settlement.

Views of the Commission

The Commission approves the Settlement, including the minimum contract term length and no term-up provision. The Commission notes that the contract term and term-up provision were actively discussed in the Settlement negotiations. The Commission accepts that the Settlement negotiations involved trade-offs between parties, particularly regarding key matters such as contract term and allocation of risk. As stated in the Views of the Commission in section 6.1, NGTL retains responsibility to manage its long-term risks.

While Centra raised legitimate concerns regarding long-term risks to captive shippers, the Settlement explicitly provides NGTL with discretion to modify contract length to address long-term cost accountability.

The Commission denies Centra's request to issue guidance requiring future NGTL applications to have longer contracts. Any future applications will be assessed in future Commission proceedings. The Commission provides further direction in section 4.7 for NGTL to modify its Guidelines for New Facilities within six months after the issuance of this decision. NGTL is required to include guidelines to inform shippers of whether longer minimum contract terms than the Tariff-defined minimum are appropriate.

4.5 Intra-basin/export shipper contract terms

Views of Participants

Centra

Centra stated that NGTL's current contracting practices have created contract terms that are unjustly discriminatory to export shippers. Centra submitted that all of the terms for export shippers (FT-D1) have been for greater than 17.5 years while all of the terms for intra-basin delivery shippers (FT-D2 and FT-D3) have been for 8 years. In the 2018 open season for the 2021 NGTL Expansion Project, export shippers (FT-D1) executed contracts for a weighted average term of 30.6 years. Comparatively, intra-basin shippers (FT-D2, FT-D3 and FT-R) were only required to execute eight-year contracts for the exact same set of facilities. Centra further stated that almost all of the terms for intra-basin receipt shippers (FT-R) on the NGTL System have been for 8 years with the exception of the North Montney Mainline which has a term of 20 years.

Centra proposed that longer contract terms should be required for new facilities on the NGTL System. This would help to ensure that intra-basin shippers make a significant and long-term contribution to the incremental facilities that they need and would equalize the current gap in contract terms between export and intra-basin shippers.

Views of NGTL

NGTL submitted that its minimum contract term for new facilities does not differ between intra-basin and FT-D1 customers. The difference in contract terms between FT-D1 and intra-basin delivery customers is the result of the differences in approach to allocating expansion capacity; an open season process is used to allocate capacity at FT-D1 points, while intra-basin contracts for delivery and receipt are managed through a queue process. The use of open seasons at FT-D1 locations is a requirement of the current tariff which was previously approved by the NEB. Recent open seasons have resulted in prospective customers bidding longer terms to increase the likelihood of being awarded capacity.

For intra-basin delivery, the queue process addresses the challenge of allocating capacity across thousands of meter stations, as compared to allocation at the five FT-D1 delivery points. NGTL submitted that having two different kinds of methods for assigning contract capacity for delivery contracts was not discriminatory as the circumstances and situations of FT-D1 and intra-basis shippers are not similar.

Views of the Commission

The Commission finds that differences in contract term length between FT-D1 and intra-basin shippers are not unjustly discriminatory. NGTL's evidence demonstrates that the discrepancy arises from the practical need to allocate capacity differently for intra-basin versus export delivery points.

4.6 Rural Gas Interconnections

Rural gas interconnections (Taps) allow rural end users with an average daily demand of less than 1 TJ and peak daily demand of less than 5 TJ to access the NGTL System. Taps users include small local distribution companies, rural gas cooperatives, and municipal corporations. Costs associated with Taps facilities are recovered through a contribution in aid of construction. Measurement facilities are operated by the interconnecting party. No rate is charged for delivery at a Taps.

As part of the Settlement, NGTL committed to hold discussions seeking to codify in the Tariff the existing practices for Taps.

Views of Participants

ATCO Gas

ATCO Gas asserted that it was unfair and discriminatory that Taps users take gas off of the NGTL System without paying a delivery toll, as other delivery shippers are required to pay. The NGTL System has over 1,000 Taps with the majority for residential use. Total deliveries to Taps in 2019 were estimated to be 35.3 Bcf. Applying the 2017 FT-D2 rate under the proposed rate design to these volumes would result in revenue of approximately $7 million. ATCO Gas recommended that any toll, or lack thereof, applied to Taps users should be reviewed by the CER and subject to approval.

ATCO Gas further recommended that NGTL be directed to add its terms and conditions for Taps service to the tariff, subject to approval by the Commission. Greater transparency would allow potential Taps users, such as ATCO Gas, to better understand the terms and conditions and tariff. In argument, ATCO Gas expressed concern that Taps users are conferred with an effective veto over any toll or any terms and conditions of their service. ATCO Gas asserted that there is no evidence of any progress having been made to codify existing Taps practices in the tariff, which is why ATCO Gas is seeking a Commission direction to codify terms and conditions without undue delay.

Other Participants

In argument, the Alberta Department of Energy (ADOE) stated that it is concerned with any modifications that may be made to the Taps practice that could affect access to gas for rural communities. The ADOE submitted that it would be premature and inappropriate to vary the Settlement and attempt to codify the Taps practice within the current proceeding.

Gas Alberta Inc. argued that the Commission should reject ATCO Gas' proposal and allow NGTL and those shippers interested in TAPs service to conduct their business as was outlined in the Settlement. Gas Alberta Inc. argued that the ATCO Gas proposal would undermine the integrity of the TTFP process, because parties would no longer have the incentive to vet their proposals through the committee and seek compromise or consensus.

Views of NGTL

NGTL characterized Taps not as a service but as a good neighbor policy whereby NGTL provides access to gas to rural communities in proximity to NGTL facilities that would not otherwise be able to obtain gas access. The practice originates from rural gasification policies from the Government of Alberta and is not intended to extend free service to existing customers. Because the unique situation of Taps users requires further consideration, NGTL submitted it would be premature to mandate codification of any policy in the Tariff and noted the future discussions on this topic were planned.

NGTL further noted that ATCO Gas filed no evidence suggesting there has been any improper administration of the Taps practice beyond commenting that some Taps users may not have an interconnecting agreement with NGTL. The remedy for this particular concern would be for ATCO Gas to encourage ATCO Pipelines to ensure it has interconnecting agreements in place.

Views of the Commission

The Commission accepts NGTL's commitment to hold discussions with a view to codifying in the Tariff the existing practices pertaining to Taps. Given the history and importance of Taps for rural communities across Alberta, and the number of communities potentially impacted, the Commission accepts that lengthy consultations may be involved. The Commission finds that it would be inappropriate to require codification within a defined time frame and declines to issue any direction at this time regarding Taps.

4.7 Default Tolling of Extensions

The parties to the Settlement expressed broad support for the use of rolled-in tolling as a default methodology for new extensions and expansions to the System, conditional on an assessment of the degree of integration, nature of service and satisfactory determination that there is no excessive cross subsidization having regard to project costs and associated contract revenues.

Views of Participants

Westcoast

Westcoast requested that the Commission reject the proposal to apply rolled-in tolling as a default methodology for new NGTL extensions. If the appropriate tolling methodology for a new extension is to be based on an assessment of degree of integration, nature of service, and degree of cross subsidization, as NGTL claims, then removing the rolled-in default from the Settlement should not be problematic. Westcoast argued that if the Commission finds that a provision of the Settlement is inappropriate, then it should deny the Settlement and leave it to the parties to the Settlement to determine if they can live with the Settlement without the inappropriate provision.

Westcoast argued that under NGTL's proposal, rolled-in tolling would be accepted as correct unless proven otherwise for all new NGTL extensions. If the Commission were inclined to approve the Settlement, at the very least NGTL should be required to provide specifics about how it would assess the degree of cross subsidization having regard to project costs and contract revenues.

Other Participants

PETRONAS Energy Canada Ltd. (Petronas) supported rolled-in tolling as the default methodology for new extensions and expansions. Petronas submitted that introducing complex and untested approaches to evaluating the tolling treatment of extensions and expansions beyond rolled-in tolling would further disrupt the upstream investment environment, impeding producers' ability to respond to the competitive threat posed by other basins.

CAPP concurred that the default provision was important to a number of its members by providing a degree of certainty regarding expansions and extensions. At the same time, CAPP submitted that all expansions and extensions continue to be subject to the Commission's approval, regardless of the default provision in the Settlement, and that the Commission would be able to assess on a case by case basis whether there was sufficient integration and revenue-to-cost relationship to justify rolled-in treatment.

In argument, Western Export Group (WEG) requested that the Commission clarify that a default rolled-in tolling methodology would be limited to the NGTL System footprint. In the addition or the alternative, the default methodology should be limited to NGTL's undertaking to have the burden to defend rolled-in tolling as just and reasonable for all future expansions and extensions.

Views of NGTL

NGTL emphasized that the default rolled-in tolling methodology was important to participants in the TTFP process and that this aspect of the Settlement should be approved intact. NGTL submitted that the purpose of describing a default methodology was to provide some certainty to customers regarding extensions and expansions by creating a baseline to set plans and make investment decisions.

At the same time, NGTL also argued that the default methodology would not preclude NGTL or the Commission from determining that an alternative tolling methodology might be more appropriate for a particular future project and conceded that any current or future party could object to a rolled-in tolling methodology for such a project. NGTL argued that as a basic principle of law, the applicant will bear the onus to demonstrate that any future application meets the Commission's statutory requirements and should be approved. As a result, no party would be prejudiced by the default methodology and this aspect of the Settlement is not contrary to the NEB Act. NGTL submitted that shippers are not bound by the default tolling methodology provision of the Settlement to take any particular position in the context of specific applications in the future.

In response to Information Requests regarding the potential future application of the default tolling methodology, NGTL provided detail regarding its tolling planning. In its assessment of cross subsidization of an extension and expansion project, NGTL performs quantitative analyses that reflect the capital and operating costs of the facilities, the expected revenues from the contractual underpinning, a comparison of the resulting net present value of the costs and revenues, and the anticipated impact on rates. The assessment also relies on qualitative criteria, such as new supply being attracted to the system, tolling treatment previously afforded to shippers in a similar situation, length of an extension, number of shippers expected to contract on the facilities over the long-term, the need of the overall system for access to supply and markets, and guidance provided in previous NEB decisions. These complexities demonstrate the difficulty of pre-establishing a specific quantitative threshold to determine excessive cross subsidization.

NGTL submitted that the Guidelines for New Facilities, which are included in Appendix 6 of NGTL's Application, identify criteria which are considered when determining whether NGTL or ATCO Pipelines will construct new facilities to connect incremental supply or markets to the NGTL System, including pipeline extensions. In response to an Information Request, NGTL stated that this document could be revised to include guidelines to inform shippers of the quantitative and qualitative factors NGTL may consider in determining whether the default tolling methodology for new facilities should apply, and whether longer minimum contract term than the Tariff-defined minimum are appropriate.

Views of the Commission

The Commission questions the value and the appropriateness of the default rolled-in provision, as drafted in the Settlement. However, given the qualifications conceded by NGTL regarding the limited practical application of this provision, the Commission nonetheless approves the Settlement, including provisions regarding default tolling methodology. In particular, NGTL submitted that shippers, including parties to the Settlement, are not prevented from raising concerns with NGTL and the Commission regarding future applications. Further, the Commission notes that no provision could relieve or prevent the Commission from exercising its regulatory oversight of a tolling methodology.

In order to give legally defensible meaning to this aspect of the Settlement, the Commission interprets the default methodology provision to be solely a commitment by NGTL to its shippers to use rolled-in tolling as a starting point when beginning discussions on future projects. Given the complexities involved with evaluating the tolling methodology associated with any proposed extension, illustrated by NGTL's expansion into the North Montney, the Commission understands that the tolling treatment of future extension projects must be addressed on a case-by-case basis.

The Commission expects pipeline companies, including NGTL, to share information regarding tolling considerations related to new facilities with shippers in a transparent and fair manner. Accordingly, the Commission directs NGTL to modify its Guidelines for New Facilities to include guidelines to inform shippers of the quantitative and qualitative factors NGTL considers in determining whether the default tolling methodology for new facilities should apply, and whether longer minimum contract terms than the Tariff-defined minimum are appropriate. NGTL must file with the Commission its revised Guidelines for New Facilities that incorporate that information within six months after the issuance of this decision. No threshold values for analytical results would need to be specified.

4.8 North Montney Mainline Tolling Methodology

The Settlement specifies that customers on the NMML will be subject to a surcharge in addition to the otherwise applicable rates under the NGTL rate design. The specific methodology, including the Surcharge Formula and Surcharge Coefficient, do not form part of the Settlement.

While NMML tolling was addressed, in part, in the Settlement, this matter was a significant focus in the hearing. Chapter 5 of these reasons addresses all matters pertaining to the NMML tolling. As a result of the Commission's findings in Chapter 5, the Commission accepts the proposal to charge NMML shippers a surcharge in addition to the otherwise applicable rates under the NGTL rate design.

4.9 Flow Data and Toll Filings

Views of Participants

WEG

Many of WEG's submissions focused on increasing clarity and information from NGTL. Regarding flow data and toll filings, WEG requested that the Commission direct NGTL to do the following:

- Implement any approval of the Proposed Toll Design for delivery tolls based on the NGTL System flows for the most recent months of February and July;
- Include in all toll filings for interim and final tolls , the updated data in a table in the form of Table NEB 1.5-9 for each FT-D1 and the FT-D2/3 delivery point; and,
- Implement the tolls determined under the Proposed Toll Design, as soon as practical and as part of NGTL's application for 2020 final tolls.

WEG argued this information will help shippers and the Commission to assess the reasonableness of weighted distance of each pipe size, the allocation factors and toll changes. In WEG's view, this information will provide transparency into how the rates are made, considering changes in the distance diameter in UCI components that are used to derive the allocation factors. Absent such information, neither shippers, nor the Commission, will be able to verify the manner in which NGTL implements its proposed rate design.

Views of NGTL

NGTL committed that it will use data for NGTL System flows from the most recent months of February and July to determine the FT-D paths.

NGTL argued that WEG had requested relief to require NGTL to file certain information in future toll applications in WEG's IR No. 6.10 to NGTL, which the NEB concluded was beyond the scope of this proceeding. In NGTL's view, there is no basis for the Commission to revisit that ruling again through argument.

NGTL further argued that there is no need for a direction from this Commission that would fetter its discretion in future processes. NGTL submitted that to the extent that WEG requires additional information from NGTL about how the rate design has been implemented, it can request that information through the TTFP process.

Views of the Commission

In the Commission's view, it is important that NGTL provide parties with sufficient information to support its annual interim and final tolls applications resulting from this decision. Although not necessary for the record of this proceeding, the Commission finds the information in Table 1.5-9 in response to NEB IR No.1.5 to be relevant for the future interim and final tolls applications that implement the approved rate design. In particular, this information provides transparency regarding allocation factors, which can change over time and can have a significant impact on the resulting rates. Accordingly, the Commission directs NGTL to include in its filings for interim and final tolls under the approved rate design the type of information provided in Table 1.5-9 in response to NEB IR No. 1.5 in the RH-001-2019 proceeding, with updated information, for each FT-D1, FT-D2 and FT-D3 delivery point. The Commission acknowledges NGTL's commitment to use data for NGTL System flows from the most recent months of February and July to determine the FT-D paths. Based on NGTL's commitment, no direction is necessary on this matter.

The Commission also expects NGTL to implement the proposed rate design within a reasonable timeframe, but declines to impose any further specific direction on implementation timing.

The Commission also directs NGTL to file with the Commission, at the time of its final 2020 rates application, its updated NGTL System Tariff in its entirety incorporating the revisions approved in this Decision and the final 2020 rates, tolls and charges that NGTL is seeking the Commission's approval to implement.

4.10 Matters in the Settlement that were not contested

In the Application, NGTL indicated it is seeking the Commission's approval of amendments to the current rate design and services methodology resulting from the Settlement. The following are terms of the Settlement that were not contested in the hearing process:

- FT-R pathing methodology: In addition to East Gate and West Gate, NGTL proposed to expand the receipt pathing methodology to include the OSDA Liege, OSDA Kirby, Calgary area, and Edmonton area;
- FT-R three-year pathing average;
- FT-R floor and ceiling mechanism: establish the ceiling and floor such that approximately 90 per cent of the FT-R CDQ have rates that are between the FT-R floor and ceiling rates. An absolute FT-R floor would be set at 8 cents per million cubic feet per day (cents/Mcf/d);
- FT-R Transition Mechanism;
- FT-D Pathing Methodology: updated to incorporate a distance-diameter algorithm;
- FT-D1 Floor Modification: changed to be the lesser of the East Gate and West Gate FT-D1 rates;
- Firm Transportation – Points to Point;
- Transfer Provisions;
- Contract shaping; and
- Renewal notice and Turnback for FT-R and FT-D service.

NGTL also applied for additional FT-P amendments that did not form part of the Settlement:

- the FT-P adjustment would increase from 4 cents/Mcf/d to 10 cents/Mcf/d, and
- an FT-P Price Point D would be implemented with a discount set at 85 per cent of the FT-P Price Point A when three eligibility criteria are met.

Views of the Commission

The Commission finds the above terms of the Settlement to be acceptable. The Commission finds that the proposed changes to the FT-R pathing methodology, the FT-R floor and ceiling rate methodology, and the FT-D1 floor enhance distance sensitivity in the rate design. Incorporating pipeline diameter as a function in the FT-D pathing methodology will produce tolls that better reflect the underlying costs of providing delivery service. In the Commission's view, those changes increase alignment with the cost-based/user-pay tolling principle and send more appropriate price signals, relative to the existing rate design. The Commission also finds that the proposed changes to FT-R rate design are responsive to the NEBC Decision by better reflecting current system utilization and increasing the financial accountability of shippers for the costs they cause on the pipeline. Overall, the Commission finds that these uncontested features, along with the balance of the Settlement, are likely to provide for stability in future rates, are responsive to customer needs, reflect the system's changes in recent years, and increase flexibility for shippers, all of which are desirable attributes of a tolling methodology.

5 North Montney Mainline Tolling Methodology

The Settlement specifies that shippers on the NMML will be subject to a surcharge in addition to the otherwise applicable rates under the NGTL rate design. The specific methodology to be applied to NMML shippers, including the NMML Surcharge Formula and Surcharge Coefficient, was presented to the Commission for approval outside of the Settlement.

Only Westcoast submitted that the surcharge failed to meet the requirements of the NEB Act. Westcoast submitted a standalone tolling methodology was appropriate and urged the Commission to deny the Settlement, if the Commission determined that the rolled-in surcharge methodology for the NMML was inappropriate.

The Commission agrees with Westcoast that if the Commission had determined the surcharge to be inappropriate, it would have denied the Settlement. However, for the reasons below, the Commission finds the proposal to charge NMML shippers a surcharge in addition to the otherwise applicable rates under the NGTL rate design satisfies sections 62 and 67 of the NEB Act.

Views of NGTL

The proposed NMML Tolling Methodology is made up of two components:

- The rate resulting from the proposed NGTL System rate design, which reflects increased distance sensitivity for the NGTL System as a whole, including the NMML, and
- A formula-based surcharge applicable only to services on the NMML.

NGTL submitted that the effect of the surcharge has to be considered in conjunction with the proposed changes in NGTL's rate design. NGTL submitted that the proposed changes to the NGTL rate design increase the degree to which distance is reflected in the FT-R rates, increasing cost accountability from shippers on the NMML. Furthermore, because none of the receipt points on the NMML would be constrained by the ceiling, NGTL's proposed rate design is expected to result in FT-R rates on the NMML that are between 2 to 4 cents/Mcf above the Saturn receipt rate, depending on the Receipt Point. In contrast, at the time of the Variance Application, rates on the NMML were expected to be at or near the ceiling, such that the same or similar rate was expected to apply at Receipt Points between Saturn and Blair Creek.

NGTL stated that the second component of the NMML Tolling Methodology is a surcharge applicable to service on the NMML, which would be calculated annually based on NGTL's proposed NMML Surcharge Formula:

$$\text{The NMML Surcharge Formula} = \text{NMML Surcharge Coefficient} \left(\frac{\text{NMML Revenue Requirement}}{\text{NMML Billing Requirement}} \right)$$

The ratio of the NMML Revenue Requirement associated with the NMML and the NMML Billing Determinants, including the firm contract levels and forecast interruptible flows on the NMML, yields a NMML unit cost. The NMML Surcharge Coefficient is applied to this unit cost.

In NGTL's submission, the NMML Tolling Methodology (including the level of the Surcharge Coefficient) would remain in place unless subsequently changed as part of a future application submitted to the CER. Accordingly, the NMML Shippers would pay the proposed NMML Surcharge for the entire term of their respective contracts unless changed by a decision of the CER.

NGTL submitted that a formulaic surcharge approach has several benefits. First, it allows for consistency as NMML shippers will be subject to any changes that occur in the NGTL rate design just like all other shippers on the NGTL System. Second, the surcharge component is inherently adaptive in that it adjusts as the NMML Revenue Requirement and Billing Determinants change. Lastly, a formula allows for rates that are transparent in their calculation and simple to administer.

NGTL proposed a Surcharge Coefficient of 0.3, based on its informed judgment having regard to numerous qualitative and quantitative factors. These factors include: the guidance provided by the NEB in the Variance Decision; the increased distance sensitivity and cost accountability resulting from the proposed changes to the NGTL System rate design; the need for and resulting benefits to the Existing NGTL System from the gas received on the NMML; and, the need to ensure there would be a meaningful contribution to both the incremental NMML cost of service and to the costs of the Existing NGTL System.

Based on the proposed NMML Surcharge Formula and the current estimates of the costs and billing determinants, NGTL submitted that the proposed surcharge is expected to average approximately 10 cents/Mcf/d over the 2019 to 2022 period, and then decline slightly over time as the cost of service of the NMML declines.

NGTL submitted that if the incremental NMML revenues are first assigned to the NMML costs, the proposed methodology using a 0.3 Surcharge Coefficient fully recovers the NMML incremental costs and also results in a contribution to the Existing NGTL System of $70 million annually or $1.4 billion over 20 years, which equates to about 35 per cent of the cost of NGTL's FT-R service at Saturn. By way of comparison, the contracts on the NMML were expected to provide an annual contribution of $22 million to the Existing NGTL System at the time of the Variance Application. NGTL submitted that $1.4 billion is a meaningful contribution to the Existing NGTL System, which the NEB previously recognized as the relevant factor in assessing cost causation.

NGTL submitted that the magnitude of the contribution of the NMML shippers to the cost of service of the NMML and the Existing NGTL System can also be observed by considering the following:

- By applying the proposed NMML surcharge of approximately 10 cents/Mcf/d, NMML shippers will pay some of the highest receipt rates on the NGTL System. The daily FT-R rates at the Blair Creek receipt meter station are expected to be 14 cents/Mcf/d or approximately 50 per cent higher than the rates at the Saturn receipt meter station, which is only 200 km downstream.
- The resulting rates on the NMML would generate revenues that range from approximately 140 per cent to 170 per cent of the NMML cost of service over the first 20 years of the contract terms.

- By applying the proposed rate design changes and the NMML Surcharge Formula, the direct NMML revenue would cover 22 per cent of the total 2017 NGTL Receipt Revenue Requirement, inclusive of the NMML, despite the NMML Shipper contracts making up only 12 per cent of the total receipt contracts.
- The revenue contribution from the NMML shippers is expected to be an average of 73 per cent of the revenue that would be generated under the stand-alone stacked toll for the first 20 years of the contract term.

NGTL tendered evidence from its consultant Concentric Energy Advisors Inc. (Concentric). Concentric described NGTL's revenue projections as conservative. Specifically, Concentric noted that while there is the potential for the initial 20-year FT-R contracts to be extended, NGTL's estimated revenues in excess of costs associated with the NMML Shippers do not reflect any additional FT-R revenue that may be generated by the NMML upon expiration of the initial term of the FT-R contracts. In addition, NGTL has also not reflected any revenue associated with potential future FT-D service, or interruptible transportation – receipt services, associated with the service provided by the NMML. Any such revenue would further enhance the projected contribution of the NMML shippers to the NGTL System.

Concentric disagreed with Westcoast's position that stand alone or stacked tolls were appropriate. Concentric submitted that it did not employ either of NGTL's or Westcoast's revenue allocation approaches and evaluated the NMML shippers' contribution to both the NMML incremental costs and the Existing NGTL System costs to get a full perspective. Concentric estimated that in aggregate, 73 per cent of the costs of the two different FT-R cost pools (Existing NGTL System and the NMML) will be covered by the North Montney shippers.

Concentric disagreed with Westcoast's view that none of the costs of the NMML are attributable to the indirect use of, and need for, the NMML by existing shippers. WCSB supply now declines on average by 19 per cent per year which represents approximately 2.4 Bcf/d of supply on the NGTL System annually. Concentric submitted that there is a need for the NMML to help replace natural declines on the Existing NGTL System. Concentric submitted that there are no off-system supplies that have contracted for service on NGTL, nor is there currently the capability of such off-system supplies to provide the magnitude of production that is associated with the NMML, which means existing shippers cannot rely on other off-system options for toll contributions commensurate with those anticipated from NMML shippers under the NMML Tolling Methodology. In Concentric's view, if benefits will accrue to Existing NGTL System shippers from new facilities, then it is reasonable to consider those benefits as part of the overall calculus in establishing tolls.

NGTL argued that the Commission should consider not only quantitative but also qualitative factors in determining the appropriate contribution of NMML shippers to the Existing NGTL System. NGTL noted that its proposed NMML Tolling Methodology including the NMML Surcharge would largely place the cost and risks of the NMML on the NMML shippers, who are the primary beneficiaries of the new facilities. However, NGTL also justified some distribution of costs to shippers on the Existing NGTL System on the basis that they benefit from the addition of the NMML, including lower rates resulting from incremental volumes, rate stability from long-term contracts, increased liquidity at NIT and access to low-cost supply.

NGTL stated that stand-alone tolling for the NMML would be inappropriate as it would ignore those benefits to shippers on the Existing NGTL System. Rather, if those shippers had no cost responsibility for NMML under a stand-alone methodology, they would continue to receive those benefits, which would be inconsistent with the NEB's concerns with respect to cross subsidization, the guidance over allocation of a portion of NMML costs attributable to existing system shippers, and would not send an appropriate price signal. Stand-alone tolling would also fail to account for the similar nature of service and the level of integration between the Existing NGTL System and the NMML. NGTL submitted that imposing a stand-alone tolling methodology would result in rates that are not just and reasonable and are unjustly discriminatory.

NGTL argued that it does not accept the premise that the NMML shippers' share of existing system costs should be evaluated based on the FT-R toll at Saturn. That is because the gas received from NMML shippers is not received on the NGTL System at Saturn. It is received at the various NGTL System receipt points along the NMML. NGTL has been clear that it disagrees with calculating revenues in that manner based on the FT-R toll at Saturn. Doing so adopts a standalone tolling framework to assessing cost causation, which is contrary to how the NEB has historically applied that principle. Concentric submitted that the NMML shippers cause no costs on the Existing System. NMML shippers make a contribution to cover Existing System costs that are there even in the absence of the NMML shippers.

NGTL also made submissions about conditions imposed in GH-001-2014 regarding separate cost pools and reporting. NGTL submitted that overall, the greater cost accountability associated with the NMML Tolling Methodology eliminates the need to formally maintain a separate NMML cost pool, as contemplated in Condition 1 of the Toll Order TG-003-2018. NGTL recognized that some reporting requirements were appropriate, as information regarding the NMML cost of service would still be required to determine the level of the surcharge. In argument NGTL proposed to preserve the element of cost accounting and reporting to the Commission. To the extent the Commission needs information about costs and revenues in the future, that information will exist.

Views of Parties Supporting the Methodology but Seeking a Reduction in the Proposed Surcharge

Black Swan

Black Swan indicated support for the surcharge methodology but not the proposed Surcharge Coefficient of 0.3. Black Swan's consultant, London Economics International LLC (LEI), submitted that NMML shippers would be paying more than their cost of service with a Surcharge Coefficient of 0.30, as NMML shippers do not cause the costs of the Existing NGTL System. If NMML had not been built, existing shippers would still need to pay for the full costs of the Existing NGTL System. Accordingly, LEI submitted that NGTL's proposed Surcharge Coefficient of 0.3 is excessive when considering cost causation principles. LEI stated that a Surcharge Coefficient of 0.24 at most would result in a revenue contribution to the existing system that is proportional to the NMML shippers' use of the entire system. Black Swan noted that its expert also endorsed a coefficient of less than 0.24.

Black Swan's expert Dr. Carpenter submitted that setting tolls should play a part in creating the right economic incentives for commercial development of natural gas resources. In Dr. Carpenter's view, the surcharge contributes to the price signal that the NGTL toll methodology creates. The more the surcharge is dialed up, the more it taxes, in effect, production on the NMML and the more it sends a signal that would cause these resources not to be developed in as efficient a way as possible.

LEI noted that since the NEB asserted the need for a meaningful contribution from the NMML shippers to the cost of using services on the Existing NGTL System, the definition of "meaningful" in this case becomes important. LEI asserted that materiality thresholds provide insight into what might constitute a reasonable definition of meaningful. Academic sources cited by LEI described quantitative measures of materiality as between 10 per cent to 15 per cent of net income.

Petronas

Petronas also agreed in principle that a surcharge is appropriate to address the concerns raised by the NEB in the Variance Decision. In contrast to Black Swan, Petronas stated that NGTL's Application, exclusive of the surcharge, achieves the meaningful contribution to Existing NGTL System costs called for by the NEB in its Variance Decision. Relying on the evidence of its consultant, Brattle, Petronas submitted that a minimal Surcharge Coefficient of 0.05 to 0.1, at most, would be appropriate to ensure that any uncertainty around the question of a meaningful contribution is resolved in favour of Existing NGTL System shippers.

A 0.3 Surcharge Coefficient, however, would cross the line into unjust discrimination against NMML shippers. Since changes to the FT-R ceiling and pathing formula alone result in significant NMML revenue contributions to the Existing NGTL System beyond the NMML's cost of service, a surcharge in the range of NGTL's proposal imposes a disproportionate burden on NMML shippers. The result is an Application that replaces one cost causation problem with another, and disrupts the proper functioning of upstream markets.

Brattle further submitted that it is not relevant to compare the difference between the NMML revenues and the NMML cost of service to the revenues that would be earned from a stacked toll at Saturn, as urged by Westcoast. Brattle's evidence was that a stacked toll would significantly depart from economic principles such as: promoting efficient use of existing capacity; promoting efficient investment in new gas production and new downstream facilities; and, avoiding uneconomic bypass. A stacked toll would also significantly depart from the cost-based tolls that result from NGTL's tolling methodology.

Petronas stated that NGTL's proposed Surcharge Coefficient would have the CER adopt a different concept of cost causation in service areas featuring pipe-on-pipe competition from those served by a single carrier. Petronas submitted that whatever this would achieve for midstream competitors, this asymmetric model of toll setting would reap inequity, inefficiency and disruption for toll-paying gas producers.

Petronas further submitted that the NGTL System's toll methodology cannot be premised on speculation about the ability of production within the Existing NGTL System to make up for decline-related volume losses. Projects like the NMML present a timely and needed solution to the problem of declining supply.

Petronas asserted that decisions on tolls in the B.C. Montney must consider three dimensions of competition as it relates to the Canadian natural gas sector; i) pipe-on-pipe competition in the midstream segment, ii) producer-on-producer competition in the upstream segment, and iii) basin-on-basin competition in the broader North American gas market. In oral testimony, Dr. Carpenter of Brattle stated that the goal of the NMML Tolling Methodology is to come up with a tolling arrangement that promotes economic efficiency, meaning that these resources are developed in as efficient a way as possible to support the basin. In Dr. Carpenter's view, the surcharge should be low enough to provide an efficient price signal, but high enough so that NMML shippers provide a meaningful contribution.

Petronas noted that in the November 2018 report of the Alberta Natural Gas Advisory Panel[19] (Roadmap), gas prices and industry revenues were described as “crushingly low” and volatile. Further, the Roadmap stated that legacy gas producers south of James River have higher costs, lower revenue and lower netbacks than the producers operating north of James River who are involved in unconventional production.

Tourmaline

Tourmaline agreed with the NMML Surcharge Formula and the adaptability of the design but disagreed with the proposed Surcharge Coefficient being set at 0.3 which, it submitted, produces an excessive contribution and unjustly discriminates against the NMML shippers. Tourmaline further noted that NMML shippers were required to execute contracts with 20-year terms and restricted secondary term conditions which prevent them from transferring any firm receipt transportation service to non-NMML receipt locations. These conditions, in conjunction with the enhanced distance sensitivity of the receipt path methodology proposed in the Settlement, provide a built-in cost accountability by the NMML shippers.

ARC

In its letter of comment, ARC supported the NMML Surcharge Methodology but took issue with the proposed Surcharge Coefficient. Like Tourmaline, ARC noted that NMML shippers were required to execute 20-year contracts with the restricted secondary term attributes preventing those contracts from being transferable to non-NMML receipt locations. ARC submitted that these conditions represent a long and sufficiently meaningful contribution by NMML shippers to the rest of the NGTL System, such that the proposed Surcharge Coefficient would result in an over-contribution by NMML shippers to the rest of the system.

Canbriam

Canbriam also supported the proposed NMML Surcharge Methodology but opposed the proposed Surcharge Coefficient. Cambrian also submitted that the proposed value of the surcharge would result in over contributions by NMML shippers to the Existing NGTL System.

Views of Participants Not Opposed to the Surcharge Methodology and Proposed Coefficient

Alberta Department of Energy

The ADOE argued that it does not oppose, at a minimum, NGTL’s proposed Surcharge Coefficient of 0.3. The ADOE views the surcharge as an improvement to NMML cost accountability by NMML shippers.

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19 Natural Gas Advisory Panel, Roadmap to Recovery: Reviving Alberta’s Natural Gas Industry – Report to the Minister (9 November 2019)

CAPP

CAPP stated that Existing NGTL System shippers benefit from their indirect use of and need for the new facilities. These benefits include the replacement of depleted gas supply connected to the system; maintenance or improvement of supply security for the system; alternative options for meeting demand requirements and connection of strategic, large and growing supply within the WCSB that helps ensure sustainability. CAPP is in agreement with NGTL that these benefits need to be accounted for in developing the toll design.

CAPP submitted that each of NGTL, Petronas and Black Swan provided reasonable approaches for determining the level of an appropriate surcharge. However, CAPP did not take a position on which is more appropriate. Full cost accountability is not necessary for the tolls to be just and reasonable and balance the cost causation and efficiency goals.

ConocoPhillips

ConocoPhillips submitted that NGTL's proposed NMML Surcharge Formula is a just and reasonable methodology for calculating the applicable surcharge for tolls on the NMML.

ConocoPhillips submitted that a Surcharge Coefficient in the range of 0.05 to 0.3 would result in just and reasonable tolls and meet the objectives of the principle of cost causation articulated in MH-031-2017, but argued that a Surcharge Coefficient greater than 0.3 would be unreasonably high and inappropriate. In support of this, ConocoPhillips noted that no parties to this proceeding presented any evidence in support of a Surcharge Coefficient higher than 0.3 with the exception of Westcoast, who would not accept anything less than a surcharge resulting in tolls equal to or greater than stand-alone tolling.

ConocoPhillips also noted that, during Oral Cross Examination, Westcoast conceded that it does not have any available capacity to transport North Montney gas to the NGTL System. Therefore, ConocoPhillips submitted, Westcoast cannot provide a competing service.

ConocoPhilips further highlighted that the need for adding incremental supply from the NMML to the integrated NGTL System is undisputed by intervenors in this proceeding.

Views of Participants Opposed to the Surcharge Methodology and Seeking an Increase in the Surcharge

Westcoast

Westcoast submitted that the NMML Tolling Methodology does not adhere to the cost causation principle and fails to send proper price signals to transport gas from the North Montney area to the Existing NGTL System at Saturn. In its view, the NMML shippers should be required to pay their own costs of using the existing system, consistent with the principle of cost causation. In Westcoast's view, NGTL should calculate tolls for service on the NMML using a stand-alone tolling methodology.

For the purpose of assessing whether the FT-R tolls for service on the NMML adhere to the principle of cost causation and send proper price signals, Westcoast submitted that FT-R revenue should be allocated first to the costs to use the Existing NGTL System and then to the NMML cost. Westcoast submitted that over the term of the initial 20 year NMML contracts to 2044. If the NMML contract revenue of $4.778 billion was first allocated to the NMML incremental cost of $3.651 billion, there would remain only $1.127 billion as a contribution towards the existing System costs of $3.297 billion. This would leave existing system shippers to contribute $2.170 billion, 65.8 per cent, towards the costs caused by the NMML shippers to use the Existing NGTL System.

Westcoast's consultant Richard Stout (Stout) submitted that none of the costs of the NMML are attributable to the indirect use of, and need for, the NMML by existing system shippers. Stout stated that existing system shippers do not need the NMML to supply FT-D contracts and deliveries and that sourcing of gas behind the NGTL System is competitive. In the case of NGTL, the demand for delivered gas can be supplied from a combination of contract extensions or increased receipts at Existing NGTL System receipt points or from interconnections with competing pipelines such as Westcoast. However, during Oral Cross Examination, Westcoast confirmed it has no available capacity to transport North Montney gas to the NGTL System.

Stout also provided evidence regarding proper price signals in a system that was not centrally planned. He cautioned that without proper price signals, there could be, for example, over investment in new pipeline facilities, over investment in gas field development and facilities, and economic inefficiency if other sources of gas or other pipelines are used less than would be the case with proper price signals.

Westcoast noted that, based on NGTL's estimate of the capital costs of the NMML, the FT-R tolls on the Existing NGTL System would go down. But this toll reduction would not be due to NGTL's proposed tolling methodology, which requires FT-R shippers on the Existing NGTL System to cover NMML costs that they do not cause. The toll reduction would result from bringing the additional NMML volumes onto the Existing NGTL System, thereby increasing the billing determinants used to calculate the tolls. Stout submitted that it is wrong to assert that pipeline toll design is a direct function of factors that occur as a result of the interaction of supply and demand in the gas commodity market. Since the mid-1980's, pricing of gas pipeline transportation and commodity pricing in gas markets have been separated, and gas transportation tolls have been set with regard to the Board's tolling principles that address cost causation and economic efficiency.

Other Views of Participants

ARC

In its letter of comment, ARC advocated for a limited term during which the NMML Surcharge Formula is applicable. At such time that the capital contribution for the project has been fully recovered, the Surcharge Formula should no longer be applicable and NMML tolling should be rolled in.

ATCO Gas

ATCO Gas stated that it opposes NGTL's proposed modification of Condition 1 of Toll Order TG-003-2018 because the cost pool defined in Condition 1 will be informative to parties in the event of a future NMML tolling application.

Painted Pony

In its letter of comment, Painted Pony Energy Ltd. raised concerns that the surcharge methodology related to NMML does not allow for the expiry of the surcharge.

Views of the Commission

The Commission approves the NMML Tolling Methodology, including the NMML Surcharge Formula and the proposed Surcharge Coefficient of 0.3. The Commission finds that tolls derived from NGTL's proposal will result in just and reasonable tolls that are not unjustly discriminatory.

The Commission considered the requirements of the NEB Act and the NEB's long-standing tolling principles when assessing the proposed tolls for the NMML. As discussed in Chapter 2, section 62 of the NEB Act requires that the tolls be just and reasonable and section 67 requires the tolls to be free of unjust discrimination.

The Commission considered the extent of the integration between the NMML and the Existing NGTL System. The Commission then considered whether the proposed NMML tolls comply with the cost causation and economic efficiency principles, which are key indicators of just and reasonable tolls. The Commission then examined whether charging the proposed tolls on the NMML would be unjustly discriminatory. Finally, the Commission made a determination as to the applicable conditions.

The Commission determined that the proposed NMML rates satisfy the cost causation and economic efficiency principles. Compliance with these principles, in combination with the extensive integration and the similarity of services between the NMML and the Existing NGTL System, justifies combining the costs of NMML and the Existing NGTL System into a single cost pool for rolled-in treatment of the system FT-R toll on the NMML and the Existing NGTL System. As the NMML FT-R transportation service for North Montney gas is not traffic that is carried under substantially similar circumstances and conditions as that on the Existing NGTL System, the surcharge is not unjustly discriminatory. Accordingly, the Commission approves rolled-in tolling treatment for determination of the NMML FT-R tolls with a toll surcharge for NMML.

Integration with the Existing NGTL System

The Commission concurs with the Variance Decision that there will be integration between the NMML and the Existing NGTL System.

The Commission notes that gas entering the NMML will flow into the Existing NGTL System under FT-R contractual arrangements that are very similar to FT-R contracts on the existing NGTL System. The evidence shows that the NMML contracts have a longer term and more restrictive transfer terms than those on the existing NGTL System but the primary attributes of the services on each facility are very similar.

The Existing NGTL System is showing a greater need for gas from the North Montney region than at the time of the Variance Decision. This growing dependence and integration of the NMML with the Existing NGTL System demonstrates that the NMML will bring benefits to both NMML shippers and those on the Existing NGTL System.

The Commission does not accept Westcoast's proposal of a stand-alone toll for the NMML. It is not compatible with the integration of the NMML and the Existing NGTL System.

Compliance with Cost Causation Principle

In considering cost causation, the Commission reviewed the Variance Decision to which NGTL responded in bringing this Application. With that Decision as background, the Commission considered the following to determine whether the proposed NMML Tolling Methodology complies with the cost causation principle:

i. the extent to which the NMML FT-R revenues and the NMML surcharge revenues will cover the cost of service of the NMML;

ii. the costs, if any, that the NMML shippers would cause when using the Existing NGTL System and the extent to which their revenue contribution would cover those costs, and

iii. the potential benefits that the NMML would provide shippers on the Existing NGTL System.

Extent NMML revenues cover NMML Cost of Service

The Commission recognizes that there were differing approaches proposed in this proceeding for notionally allocating revenue between the NMML and the Existing NGTL System.

NGTL's proposed approach was to allocate revenue first to the NMML to cover 100 per cent of the NMML cost of service and then to allocate any residual revenue to cover or partially cover the Existing NGTL System's cost of service at Saturn, the terminus of the NMML and interconnection point with the Existing NGTL System. Using this approach, the evidence indicates that the NMML revenue will cover 140 to 170 per cent of the NMML annual cost of service over the first 20 years of the contract term. This will result in an average residual revenue of approximately $70 million annually. This residual will cover 35 per cent of the Existing NGTL System's notionally allocated cost of service at Saturn based on the product of the CDQ of the NMML shippers and the Saturn FT-R toll at the terminus of the NMML for the contract period.

Westcoast's approach was to allocate NMML revenue first to cover the Existing NGTL System cost of service for FT-R Service at Saturn and then to allocate any residual revenue to the NMML cost of service. Under this approach, the NMML revenue would cover all of the NMML shippers' share of the Existing NGTL System cost of service allocated notionally to the Saturn receipt point and approximately 40 per cent of the NMML cost of service. Westcoast estimated the cost of the NMML shippers' use of the Existing NGTL System to be $3.297 billion over the first 20 years of the contract.

Concentric offered a third perspective and submitted that the NMML revenue in aggregate will cover 73 per cent of the costs of the NMML shippers' share of the two cost pools (Existing NGTL System and the NMML).

The Commission prefers to assign the NMML shippers' revenue to first cover 100 per cent of the NMML cost of service because the NMML shippers are primarily responsible for causing the NMML costs. Further, the Commission finds NMML shippers' contribution to the Existing NGTL System to be meaningful whether measured by the 73 per cent coverage of the two cost pools or the 35 per cent contribution for the use of the Existing NGTL System when compared with the revenue generated by stand-alone tolls.

The Commission does not accept Westcoast's estimate of the Saturn FT-R cost of service of $3.297 billion over 20 years because it is not a cost caused by the NMML shippers. The Commission is of the view that if the NMML shippers were charged the costs proposed by Westcoast for the use of the Existing NGTL System, NMML shippers would subsidize the shippers on the Existing NGTL System because their contribution would be in excess of the aggregate costs they caused on the NMML and the Existing NGTL System.

The NMML shippers' revenue discussed above can be adjusted by the value of the coefficient in the surcharge formula. NGTL proposed a surcharge coefficient of 0.3. Some parties submitted that this level for the coefficient is excessive.

Table 5.1: Summary of Parties Views on the NMML Tolling Methodology and Surcharge Coefficient

Participant	View on NMML Surcharge Concept	View on NMML Surcharge Coefficient
NGTL	Supported	0.30
ADOE*	Supported	0.30 or higher
ARC**	Supported	0.30 is excessive
Black Swan	Supported	0.24 or lower
CAPP	Supported	0.05 to 0.30
Canbriam**	Supported	0.30 is excessive
ConocoPhillips*	Supported	0.05 to 0.30
Petronas	Supported	0.05 to 0.10
Westcoast	Not Supported	NMML should pay stand-alone tolls (Surcharge Coefficient was estimated to be approximately 0.88 to achieve this)

* View provided in Written Argument
** View provided in Letter of Comment

Table 5.1 indicates that, with the exception of Westcoast, which is not a shipper on the NGTL System, parties supported a surcharge concept for the NMML. ARC, Black Swan, Canbriam and Petronas argued the proposed Coefficient of 0.3 is excessive. The Commission notes that no shipper on the Existing NGTL System advocated for a surcharge greater than 0.3.

Given the direct impacts of the toll methodology on Existing NGTL System shippers, the Commission finds it relevant and persuasive that no shipper on the Existing NGTL System tendered evidence or argument that the proposed surcharge coefficient is too low. In addition, the Commission notes that there was no consensus amongst NMML shippers on the level of the coefficient if it were reduced below 0.3. CAPP found 0.3 to be at the upper end of acceptability. Petronas, Black Swan and other producers argued that the market competition evidence supported reducing the surcharge coefficient below the 0.3 level in the Application. Black Swan's consultant LEI proposed a coefficient as high as 0.24 while Petronas proposed a coefficient in the range of 0.05 to 0.10.

Petronas and other shippers on the NMML asserted that the Commission should take market competition into consideration in addition to the requirements of sections 62 and 67 of the NEB Act and related tolling principles. The Commission is of the view that it should give primary consideration to its tolling principles. The Commission is also of the view that while it may give consideration to market matters where circumstances justify such a consideration the present circumstances do not warrant it exercising such discretion.

The Commission finds that the lower coefficient advocated by Petronas would significantly reduce the revenue generated by the NMML shippers so that compliance with the cost causation principle would be problematic. In that scenario, the NMML shippers would not make a meaningful contribution for the use of the Existing NGTL System, which involves one of the longest distance of haul flow paths on the System. Furthermore, the Commission found the market evidence on inter-basin competition did not provide adequate comparative financial information for NMML producers versus producers in competing basins, and for producers in conventional areas of the WCSB south and east of the North Montney.

Accordingly, the Commission approves the applied-for coefficient of 0.3.

Cost caused by NMML Shippers on Existing NGTL System

Concentric and Black Swan submitted that NMML shippers do not cause costs on the Existing NGTL System. The Commission finds there was no compelling evidence that identified direct costs caused on the Existing NGTL System by NMML shippers. However, the Commission is cognizant of NGTL's large, multi-year capital spending program. The Commission expects that NGTL would include the transportation of the NMML volumes in the aggregate gas quantities that would support some of those capital projects.

The Commission found that Westcoast did not develop a meaningful estimate of the costs caused by NMML shippers to use the Existing NGTL System, but rather chose the Saturn toll, which is based on a notional allocation of System costs that do not identify costs caused by the NMML shippers.

Benefits of NMML to Existing NGTL System Shippers

In addition to the NMML shippers' financial contributions to the Existing NGTL System, discussed above, several parties submitted that the NMML will provide indirect or qualitative benefits. The Commission agrees that such benefits may be considered in the evaluation of cost causation and finds that the NMML provides such benefits to the Existing NGTL System and its shippers.

The Commission accepts NGTL's evidence that WCSB gas production declines on average 19 per cent annually and must be replaced to maintain the utilization of the NGTL System at a high level. The Commission recognizes that the NMML producers will introduce a new source of supply to the Existing NGTL System and the NMML will maintain and improve gas supply security and enhance liquidity on the System. The Commission also notes that the NMML volumes will contribute to a reduction of tolls for existing shippers. These benefits illustrate the existing shippers' indirect use of and need for the NMML. In the Commission's view, the NMML will make a significant contribution to meeting shippers and end users future demand for gas supply and supporting the utilization of the Existing NGTL System.

The Commission also notes that NMML Shippers are subject to longer contract lengths and more restrictive secondary terms than shippers on the Existing NGTL System. The Commission finds these contract terms provide enhanced cost accountability by the NMML shippers and provide an element of rate stability to Existing NGTL System shippers.

The Commission was not persuaded by the views of Westcoast witness Stout regarding the availability of alternate off-system gas supplies to existing shippers. The evidence disclosed that the Westcoast system lacks the capacity to provide incremental supplies to NGTL. Westcoast did not provide compelling evidence that third party suppliers have contracted for service on NGTL. Further, the Commission did not accept Westcoast's view that the markets would adequately recognize the qualitative benefits that the NMML would provide the Existing NGTL System and its shippers.

After considering all the quantitative and qualitative factors discussed above, the Commission finds that the proposed rates for NMML shippers will satisfy the cost causation principle.

Economic Efficiency Principle

The determination that the proposed tolls satisfy the cost causation principle is one of the fundamental attributes for determining that tolls comply with the economic efficiency principle. This principle also requires that tolls should send the proper price signals to users of the pipeline. The proposed NGTL System rate design increases distance sensitivity in the base NMML tolls such that the base FT-R tolls along the full length of the NMML will reflect the increased distance sensitivity compared to the current rate design and will not be constrained by the toll ceiling. The Commission notes that when the proposed NMML surcharge of approximately 10 cents/Mcf/d is added to the FT-R toll, NMML shippers will pay some of the highest receipt rates on the NGTL System. The rates at the Blair Creek receipt meter station are expected to be 14 cents/Mcf/d or approximately 50 per cent higher than the rates at the Saturn receipt meter station, which is 200 km downstream. This sample of the proposed methodology illustrates that the proposed NMML tolls include a meaningful price sensitivity to distance. The Commission finds that this distance sensitivity will send appropriate price signals, consistent with the cost causation principle and encouraging economic efficiency.

Unjust Discrimination

The Commission finds that the NMML tolls are not unjustly discriminatory. In the Commission's view, tolling the NMML differently than other NGTL System extensions because of the surcharge does not offend the no unjust discrimination requirement in the NEB Act.
The NMML facilities are unique because the very long extension requires a toll surcharge layered over the basic FT-R tolls to satisfy the cost causation principle and eliminate excessive cross subsidization.

In the Commission's view, Westcoast's proposed tolls may cause excessive cross subsidization of the shippers on the Existing NGTL System by the NMML shippers, and if imposed, may be unjustly discriminatory when compared with tolls on other NGTL System extensions.

For the reasons discussed above, the Commission finds that the applied-for tolls are just and reasonable and not unjustly discriminatory.

Conditions

The original conditions from the Variance Decision were intended to address concerns regarding potential future diversions of gas carried over the NMML to new large volume markets such as the LNG market on the Pacific coast. The Commission has considered the submission from all participants regarding the ongoing need for, and benefit of, each of these conditions. For the reasons outlined below, the Commission finds that ongoing reporting and accounting directions remain appropriate.

Diversion from the NMML, such as those described above, could result in a material change in utilization of segments of the NMML and NGTL's planned downstream capacity expansions. Such a scenario would call into question the reasoning underpinning the Commission's findings regarding integration. Therefore, the Commission is including Condition 2 in Toll Order TG-002-2020. That condition states that, if over the operating life of the NMML, some or all of the gas transported on the NMML is delivered to new large volume markets, such as the LNG market on the Pacific coast, NGTL must re-apply to the Commission for approval of a revised tolling methodology on the NMML.

In view of potential future gas diversions, cost accountability for the NMML should remain with the NMML shippers and NGTL. Pursuant to Toll Order TG-002-2020, the Commission directs NGTL to maintain accounting records capable of providing separate and verifiable financial information in support of the amounts reported for the NMML. The Commission requires NGTL to maintain separately identifiable balance sheet and income accounts in which NMML rate base, capital expenditures, accumulated depreciation, revenue, expenses and income are recorded. This information shall be maintained by NGTL for the life of the Project, or until the Commission directs otherwise.

6 Broader Considerations

Parties raised a number of concerns regarding the System that extended beyond the Settlement, including underutilization, fundamental risk, and future toll impacts. In response to the NEBC Decision, NGTL filed information which focused on issues related to future development in the Montney supply area, where most of NGTL's new supply is coming on to the system. The Commission also heard issues raised between competing pipelines operating in Northeast B.C.

NGTL is the largest pipeline system in Canada, carrying the majority of natural gas that is produced in the country. While most pipelines carry products to one or more markets, in the case of NGTL, the pipeline system is also a market in and of itself because access to the NGTL system equates to access to NIT. Natural gas markets across North America have been rapidly changing and NGTL is in the process of an extensive capital expansion program for its system. For these reasons, the Commission is of the view that regulatory oversight of the NGTL system is essential.

While the Commission finds the proposed rate design methodology will result in tolls that are just and reasonable in the current circumstances, the Commission remains concerned with NGTL ensuring appropriate cost accountability for shippers requiring receipt extensions and the capability of the distance of haul methodology to recognize future flow patterns. In approving the Application, the Commission recognizes the complexity of the NGTL System and unknown future market changes that will have to be managed by NGTL in the future. Accordingly, the Commission also directs NGTL to file ongoing information, as further outlined below, to enable transparency and accountability to the Commission and shippers over time.

6.1 Underutilization

Views of Participants

Centra

Centra proposed that NGTL be put on notice that it may share in any stranded costs resulting from asset underutilization. Centra expressed concerns that the Settlement does not address long-term accountability for NGTL System costs and the impact of the current capital expansion program. Centra identified that by the end of 2023, almost $17.7 billion will have been added to the NGTL System in 14 years. This investment will more than double NGTL's 2018 rate base. Centra identified long-term risks of underutilized facilities if contracts are not renewed.

Centra stated that the driver of unused or underutilized assets on a pipeline system can be local or global. With the former, underutilization can occur locally on a system, where one geographic portion of the system is underutilized while other geographic portions are not. With the latter, a global event or phenomenon can occur that results in system-wide underutilization. In either case, assets that are not yet fully depreciated can be stranded or underutilized.

Centra requested that the Commission reiterate the position enunciated in the NEB RH-003-2011 Reasons for Decision that the pipeline bears fundamental risk for underutilized assets. Centra indicated that it is appropriate and necessary for the Commission to address the issue of long-term cost accountability and provide guidance on the sharing of any uneconomic capacity costs resulting from asset underutilization. Centra stated that deferring the issue of long-term cost accountability for new facility construction to future applications will exacerbate the costs and risk of underutilization given the resulting passage of time. In Centra's view, the Commission needs to issue direction to ensure NGTL takes steps to mitigate these risks.

On behalf of Centra, Drazen stated that the gas market can change in large and unexpected ways (*e.g.*, the shale gas revolution). According to Drazen it is conceivable that an Alliance-like bypass of the NGTL System could occur, resulting in underutilized capacity and highlighting why the NGTL potential problem needs to be addressed now. Ultimately, Centra argued that underutilized assets would result in higher tolls for remaining shippers on the System, with the potential for tolls to rise to uncompetitive levels.

Other Participants

Petronas, Black Swan, CAPP, and Tenaska responded to Centra's evidence. Petronas noted that producers in the WCSB are facing, and will continue to face, fierce competition from cost-competitive downstream supply basins, notably the U.S. Marcellus Basin in Pennsylvania and Ohio. These basins operate near NGTL's traditional downstream demand markets. Black Swan submitted that low natural gas prices and high differentials reflect ongoing weakness in demand for Canadian gas from the U.S., as U.S. gas has displaced Canadian gas. CAPP argued that it is clear through this proceeding that NGTL accepted that it faces fundamental risk as that concept is understood in RH-003-2011. CAPP further argued the Settlement was a fair and reasonable approach to balancing the commercial risks that shippers and NGTL respectively face under the proposed service contract terms. Tenaska expressed concern regarding long-term cost accountability and tolling spirals, but argued that the problem that NGTL and its captive customers have is that maintaining the viability of the system in the long term also requires new supply to be added to the system.

Views of NGTL

NGTL submitted that it would be inappropriate to simply "put NGTL on notice that it may share in any stranded costs resulting from asset underutilization", as Centra proposed. The implications on fair return, depreciation rates, impact on investments, reliability of service to customers and the Canadian public interest would need to be fully reviewed and considered before any change to the longstanding allocation of risk between NGTL and its shippers was made. In addition, NGTL argued this this issue should not be adjudicated in the context of this rate hearing, as Centra's submissions involved potential policy changes applicable not only to NGTL alone, but also all CER-regulated pipelines.

NGTL stated that the system is currently highly utilized, at roughly 80 per cent. NGTL submitted that it decreases utilization risk on the NGTL System by ensuring it maintains and enhances the System's competiveness by continuously connecting low cost sources of supply to the System, providing access to markets and remaining adaptable to the ever-changing competitive landscape.

NGTL acknowledged that following the issuance of RH-003-2011, the risk perception for CER-regulated pipelines includes the exposure to fundamental risk. NGTL recognized that ultimately, it has a responsibility to maintain a competitive pipeline system that adds value. As a part of that, NGTL acknowledged its responsibility to make prudent capital infrastructure investment decisions. NGTL designs its system to not over-build capacity as that would have unnecessary consequences on tolls and in turn, make NGTL less competitive.

NGTL submitted that since 2010, competition in the natural gas market has intensified as supply from other basins has increased substantially, resulting in downward pressure on gas prices. Depressed gas prices and growing liquids demand have led WCSB producers to seek the lowest cost and liquid-rich WCSB supply to maintain their competitiveness with other basins. NGTL observed that the competitiveness of the NGTL System is interlinked with the competitiveness of the WCSB. It is NGTL's view that allowing pipelines to be innovative and apply different tolling methodologies, suites of services and contracting practices, when appropriate, incentivizes competitive solutions that benefit customers. NGTL believes enabling producer on producer competition ensures that the most economic supply is made available to the market, which in turn results in the greatest ability for the WCSB to compete favourably with other basins.

NGTL submitted that when proposing to add new facilities, it uses a forecast to assess the long-term need for the facilities. It considers incremental contracts that may underpin the facilities, as well as the aggregate existing contracts that can be served through the facilities, the overall supply forecast that can be transported on the facilities, and market need that can be served using these facilities. This ensures NGTL facilities are expected to be used at reasonable levels over the long term.

NGTL stated that its System-wide forecast considers supply from various North American basins. Taking into account the low-cost supply of the WCSB basin, overall continental demand and the ability to increase access to international markets and the potential of natural gas as a transition fuel to reduce energy carbon intensity, NGTL expects that the NGTL System will remain highly utilized under a broad range of reasonable scenarios.

In an information request, the Commission requested future projections of pipeline flows and production from each natural gas supply basin that competes with the WCSB. NGTL indicated that projected flow data are not available. However, NGTL forecasted that from 2018 to 2028 production from the Bakken supply basin will increase by 0.6 Bcf/d, production from the Appalachian basin will increase by 12.8 Bcf/d while production from the Rockies basin will decrease by 0.8 Bcf/d. All other basins in North America are interconnected through various pipelines, such as the Permian basin where production is expected to increase by 9.8 Bcf/d from 2018 to 2028.

Views of the Commission

The Commission is of the view that fundamental risk is not materializing on the NGTL System at this time, but remains a long-term risk. It is the pipeline company, in this case NGTL, which faces fundamental risk and is ultimately responsible for managing this risk. NGTL has the flexibility and the ability to be innovative in order to adapt to changing market circumstances. It also has a variety of tools to manage its long-term risks including depreciation rates and contract terms. The Commission acknowledges the concerns raised by Centra, and notes that in accepting the Settlement, the Commission does not relieve NGTL from its long-term responsibility for managing its regulated assets beyond the terms of the Settlement.

A number of parties in this proceeding discussed how fundamental risk was framed in the NEB's RH-003-2011 decision.[20] In line with the RH-003-2011 Decision, the Commission is of the view that the materialization of fundamental risk would occur when just and reasonable tolls could not

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[20] Reasons for Decision RH-003-2011, pages 42-44, PDF pages 61-66 of 276, A51040-1

allow for the recovery of all prudently-incurred costs. The Commission will not discuss in this decision what specific circumstances would constitute the materialization of fundamental risk on the NGTL System as the record of this proceeding is insufficient to do so.

In the near term, shippers are responsible for the costs they cause on the pipeline. Over the long term, a pipeline company is responsible to match the recovery of capital to the pipeline's use. As a part of its responsibility a pipeline company should be regularly reviewing its pipeline assets and underlying assumptions regarding depreciation. In doing this review, the pipeline company's depreciation approach and assumptions should match the economic life of the assets. Continuing the practice of regularly updating depreciation assumptions and providing revised studies reduces the future risk of undepreciated facilities. The Commission therefore directs NGTL to file a depreciation study in the second-half of 2023, which:

- includes all expansion capital additions, forecast out to at least 2026; and
- describes the treatment of capital maintenance expenditures over the Economic Planning Horizon and the rationale for that treatment.

NGTL's 2023 depreciation study and any other future depreciation studies must provide detailed evidence on supply, markets, competitiveness of the pipeline, and throughput factors to support any proposed Economic Planning Horizon.

6.2 Northeast B.C. Examination Filings

As discussed in Chapter 3, the NEB previously issued the NEBC Decision. It directed NGTL to file the following information with its next toll filing:

Policies Affecting Capital Spending for System Extensions

An analysis of how NGTL's Tariff and Guidelines for New Facilities 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. 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, 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 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 B.C. or Northwest Alberta to the B.C. 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 NGTL System.

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.

Views of the Commission

In the Application NGTL put forth a mix of the existing rate design methodology with some proposed amendments. The Commission finds that the proposed changes were generally responsive to the NEBC Decision as they introduced stronger cost accountability for receipt shippers. The Commission commends NGTL and its shippers for making this progress. However, the Commission finds that NGTL could have gone further in some areas as discussed below.

Regarding information to be filed on Policies Affecting Capital Spending for System Extensions, the Commission remains concerned with ensuring appropriate cost accountability for shippers requiring receipt extensions. Therefore, NGTL must share detailed information on capital spending with its shippers. If shippers have concerns with the adequacy of the information being shared, they may raise their concerns with the Commission for determination.

Regarding the information provided on NGTL's depreciation policies and practices, the Commission acknowledges that NGTL typically files an updated depreciation study every three to five years, and recently submitted one to the NEB in 2017. In Section 6.1, the Commission required NGTL to file a depreciation study in 2023.

For the purposes of responding to the NEB's direction related to Tolling Methodology and Tariff Provisions, NGTL indicated that it had proposed an alternate methodology and therefore did not file information specifically responding to points i) to vii) above as excerpted from the Examination Decision. The Commission accepts that the proposed Settlement was filed and acknowledges significant improvement to NGTL's tolling methodology. However, the Commission considers the issues raised in points i) to vii) in the Examination Decision to be relevant and of ongoing concern.

Regarding filing requirements i) to iii) and vii), the Commission finds that the portions of NGTL's Application explaining its proposed changes to the FT-R pathing methodology, the FT-R floor and ceilings and the FT-D1 floor address the NEBC Decision concerns regarding:

- the distance of haul methodology and its capability to recognize current flow patterns;
- any updates required to align the current methodology with current system utilization;
- the appropriateness of the floor and ceiling for receipt tolls; and
- how the tolling methodology sends the proper price signals, and whether it promotes the economically efficient use of the NGTL System.

However, regarding filing requirements iv) through vi), the Commission was not persuaded that NGTL submitted sufficient evidence with its Application to be fully responsive to the NEBC Direction. The Commission remains concerned with the capability of the distance of haul methodology to recognize future flow patterns including potential future flows to Canada's west coast as well as flows to delivery locations within the basin. Furthermore, parties such as Centra and WEG raised concerns throughout the proceeding about the level of detail in system utilization data that is available to shippers. In response to concerns raised by Centra and WEG, the Commission notes its view that NGTL must share information with shippers about system utilization. If shippers have concerns with the adequacy of the information being shared, they may raise these concerns with the Commission for determination.

The *Toll Information Regulations* require companies that charge tolls to file quarterly surveillance reports and traffic data. Pursuant to Guide BB.2 of the CER's Filing Manual, NGTL files traffic data at key points on its system. This data is available to shippers and the public on the CER's website. The key points are currently East Gate, West Gate, Upstream of James River, and North and East. The Commission directs that in addition to the existing key points, data must be filed for the other major markets that are not already key points (Calgary, Edmonton, OSDA Leige, and OSDA Kirby). The Saturn receipt meter station must also be a key point in order to capture NMML flows.

Overall, the Commission finds that the NGTL's Application included evidence that was responsive to most of the direction provided by the NEBC Decision. As outlined above, the Commission directs NGTL to file, and continue to make available, a number of types of information for the benefit of the Commission and interested parties.

6.3 Future toll impacts

The Final List of Issues included Issue 3 d), which states: Toll Impacts of Capital Spending Plans through 2023. NGTL stated that it currently does not prepare such a forecast and submitted that one is not necessary. Centra argued that the lack of detailed evidence or analysis on the toll impacts of NGTL's plan to add approximately $9.2 billion of assets to the NGTL System is an unacceptable evidentiary gap.

Although NGTL does not include a discrete process step in its commercial contracting and facilities design process to assess the cumulative impact of capital spending projects on future System tolls, NGTL actively considers the competitiveness of its tolls. NGTL stated that it regularly assesses competitive access to downstream markets, inclusive of transportation costs, mindful of the need to maintain the viability of the WCSB into the numerous markets served by NGTL through various inter-connecting systems.

Given its consideration of toll competitiveness, its approach to minimize project costs and toll impacts of expansions, and its publishing of the unit cost of transportation data in its Annual Plan, NGTL submitted that it would not be necessary to add a discrete step to consider cumulative toll impacts in its commercial and design processes that assess facility requirements.

Views of the Commission

The Commission acknowledges NGTL's position at this time regarding the production of a five-year toll forecast to assess the cumulative impacts of its capital spending program. Because of the inherent risks associated with downstream natural gas demand markets and NGTL's responsibility to mitigate the materialization of fundamental risk, the Commission supports NGTL's efforts to continue to monitor these markets to help it identify disruptive factors that may affect NGTL and gas producers operating in the WCSB. Instead of a five-year toll forecast, the Commission directs NGTL to extend the narrative accompanying the unit cost of transportation data in its Annual Plan to include the following:

- A commentary on whether NGTL considers the trend in unit transportation costs to be a reasonable proxy for the general trend in transportation tolls for the same period. If not, NGTL must explain the reasons for the divergence. The Commission encourages NGTL, where appropriate to use scenarios to illustrate the influence of market forces on pipeline transportation costs.
- NGTL's views on the future competiveness of its tolls and its perspective on emerging market factors that might affect the long-term viability of NGTL and the competitiveness of the WCSB.

The Commission requires NGTL to file this information with the Commission as part of its Annual Plan. NGTL must file this information commencing in 2020 and each year thereafter.

7 Decision and Further Direction

The Commission approves the Application. The Commission finds that the Settlement will result in tolls that are just and reasonable and not unjustly discriminatory. In particular, the Commission is of the view that the Settlement is consistent with the cost-based/user-pay principle, and promotes proper price signals in alignment with the economic efficiency principle. Further, the Commission is of the view that the Settlement and associated processes comply with the Settlement Guidelines.

In reaching this determination, the Commission gave significant weight to the rate design improvements that are expected to produce tolls that better reflect the costs of providing service to the various receipt and delivery points on the NGTL System. In particular, the Settlement includes rate design amendments that enhance how the major cost drivers of distance of haul and pipeline diameter are reflected in tolls. Overall, the proposed amendments represent an improvement in aligning tolls with the underlying costs of providing service.

The operation of the NGTL System has evolved since the last review of NGTL's rate design in 2010, notably with supply migrating to the northwest portion of the System as well as significant growth in intra-basin demand. The Settlement is responsive to these and other changing market dynamics. For example, the FT-R pathing methodology is updated to include additional major markets and the FT-R floor and ceiling rates are expanded. The Commission finds that the rate design amendments, in addition to meeting the requirements of sections 62 and 67 of the NEB Act, are generally responsive to the NEB's guidance in the NEBC Decision.

The Commission also finds that the NMML Surcharge Formula will fully recover the incremental cost of the NMML and still provide a meaningful contribution to the cost the NGTL System. The proposed NMML Surcharge Formula will produce just and reasonable tolls aligned with the cost-based/user-pay principle and will adhere to the economic efficiency principle.

Notwithstanding its approval of the Application, the Commission sees a need for continued improvements in NGTL's rate design and services. Throughout the decision, the Commission provided direction to NGTL regarding additional obligations to disclose information and facilitate discussions among the TTFP and interested parties regarding areas of concern.

The CER's Guidelines for Negotiated Settlements require that all parties having an interest in a pipeline company's traffic, tolls and tariffs should have a fair opportunity to participate and have their interests recognized and appropriately weighed in a negotiated settlement. The settlement process should be open and all interested parties should be invited to participate in the settlement negotiations. Similarly, pipeline companies that file a toll application with the CER must provide detailed information with that application.

In Chapter 6, the Commission noted that NGTL must share information regarding cost accountability for receipt extensions, capital spending and its impacts on transportation costs, and system utilization. More broadly, the Commission expects a pipeline company to share sufficient information with shippers on an ongoing basis. Shippers should be able to obtain information from a pipeline company during negotiations without having to resort to the information request process of a hearing.

The Commission approves the Application, including:

a) the amendments to the current rate design and services methodology resulting from the Settlement;

b) the additional FT-P Amendments;

c) the NMML Tolling Methodology, including the NMML Surcharge Formula; and

d) the revisions to the NGTL System Tariff in accordance with Appendix 4 to the NGTL Evidence contained in the Application.

The Commission directs NGTL to:

1. Initiate additional evaluation of potential cross subsidization between delivery points and further consultation with the TTFP regarding the Major Market proposal. NGTL is directed to file with the Commission within three years after the date of Reasons for Decision RH-001-2019 a report that summarizes:
   a) an assessment of the current methodology used to allocate costs to FT-D2 and FT-D3 services;
   b) the appropriateness, including strengths and weaknesses, of alternative allocation methodologies to allocate costs to FT-D2 and FT-D3 services;
   c) the consultation process that NGTL undertook; and
   d) the next steps that NGTL would recommend to rectify any unreasonable cross subsidization in the current cost allocation methodology for the intra-basin delivery services.

2. Modify its Guidelines for New Facilities to include guidelines to inform shippers of the quantitative and qualitative factors NGTL considers in determining whether the default tolling methodology for new facilities should apply, and whether minimum contract terms longer than the Tariff-defined minimum are appropriate. NGTL must file with the Commission its revised Guidelines for New Facilities that incorporates that information within six months after the issuance of Reasons for Decision RH-001-2019.
3. Include in its filings for interim and final tolls under the approved rate design the type of information provided in Table 1.5-9 in response to NEB IR No. 1.5 in the RH-001-2019 proceeding and attached as Appendix I to Toll Order TG-001-2020, updated information, for each FT-D1, FT-D2 and FT-D3 delivery point.
4. File with the Commission, at the time of its final 2020 rates application, its updated NGTL System Tariff in its entirety incorporating the revisions approved in Reasons for Decision RH-001-2019 and the final 2020 rates, tolls and charges that NGTL is seeking the Commission's approval to implement.
5. Maintain accounting records capable of providing separate and verifiable information in support of the amounts reported for the NMML (NMML Accounting Records). The NMML Accounting Records must be maintained for the life of the NMML in a manner consistent with NGTL's system of accounts and corporate accounting policies. NGTL must record sufficient information in the plant and other balance sheet accounts and income and

expense accounts in the NMML Accounting Records so that NGTL can provide the Commission with the following financial information for the NMML:

a) revenue requirement summary, including operating expense components and depreciation;

b) income summary;

c) rate base summary;

d) return on rate base, including cost of debt and equity components;

e) abandonment accounts;

f) summary of revenue by rate class of service;

g) inter-cost pool transactions; and

h) any balances held in deferral accounts.

NGTL must file the information set out above at the same time that NGTL files its year-end Financial Surveillance Report.

6. Re-apply to the Commission for approval of a revised tolling methodology on the NMML if, over the operating life of the NMML, some or all of the gas transported on the NMML is delivered to new large markets, such as the LNG market on the Pacific coast.

7. File a depreciation study in the second-half of 2023, which:

   a) includes all expansion capital additions, forecast out to at least 2026; and

   b) describes the treatment of capital maintenance expenditures over the Economic Planning Horizon and the rationale for that treatment.

8. Provide in NGTL's 2023 depreciation study and any other future depreciation studies, detailed evidence on supply, market, competitiveness of the pipeline, and throughput factors to support any proposed Economic Planning Horizon.

9. Include in the Quarterly surveillance report commencing with the report to be filed on 14 August 2020, for the purposes of filing traffic data pursuant to the *Toll Information Regulations* and Guide BB.2 of the CER's *Filing Manual,* the following key points:

   a) East Gate,

   b) West Gate,

   c) Upstream of James River,

   d) North and East,

   e) Calgary,

   f) Edmonton,

   g) OSDA Leige,

   h) OSDA Kirby, and

   i) Saturn.

10. Extend the narrative accompanying the unit cost of transportation data in its Annual Plan to include the following:

    a) A commentary on whether NGTL considers the trend in unit transportation costs to be a reasonable proxy for the general trend in transportation tolls for the same period. If not, NGTL must explain the reasons for the divergence. The Commission encourages NGTL, where appropriate to use scenarios to illustrate the influence of market forces on pipeline transportation costs; and

    b) NGTL's views on the future competiveness of its tolls and its perspective on emerging market factors that might affect the long-term viability of NGTL and the competitiveness of the WCSB.

11. To file the information in paragraph 10 with the Commission as part of and at the same time that NGTL files its Annual Plan. NGTL must file this information commencing in 2020 and each year thereafter.

Toll Order TG-001-2020 and Toll Order TG-002-2020 give effect to this decision.

P. Davies
Presiding Commissioner

D. Côté
Commissioner

S. Luciuk
Commissioner

Calgary, Alberta
March, 2020

Appendix I – List of Issues

The NEB identified but did not limit itself to the following issues for discussion in the RH-001-2019 proceeding:

1. Appropriateness of the rate design methodology and terms and conditions of service matters addressed in the Contested Settlement, including the extent to which the following result in just and reasonable tolls, and align with relevant tolling principles:

    a. attributes and tolling of Firm Transportation – Receipt and Firm Transportation – Delivery services;

    b. the amendments to the Firm Transportation – Points to Point service that are contained within the Settlement;

    c. allocation of the NGTL Revenue Requirement;

    d. contracting practices;

    e. transfer provisions;

    f. rural gas interconnections;

    g. other services and attributes matters;

    h. the framework for the tolling methodology for the Post Provisional Phase on the North Montney Mainline; and

    i. the appropriateness of setting rolled-in tolls as the default methodology for new extensions.

2. Whether the Contested Settlement is valid under the Board's Negotiated Settlement Guidelines, including the level of information available to interested parties and the Board, and the adherence of the Contested Settlement to the *National Energy Board Act*, including whether the resulting tolls will be just and reasonable and not unjustly discriminatory.

3. Appropriateness of matters not addressed in the Contested Settlement, including:

    a. additional changes to FT-P service;

    b. the specific formulaic approach to establish the surcharge in the NMML Tolling Methodology, including the proposed Surcharge Coefficient; and the extent to which the NMML tolls contribute to the cost of the NMML facilities and the NGTL System;

    c. the extent to which the information directed to be filed in the NEB Examination to Determine Whether to Undertake an Inquiry of the Tolling Methodologies, Tariff Provisions and Competition in Northeast British Columbia supports NGTL's applied-for relief and is responsive to the Board's requirements in the NEBC Decision; and

    d. Toll Impacts of Capital Spending Plans through 2023.