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June 24, 2019

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Metalore Resources Limited
Application for Certificate of Public Convenience and Necessity in Norfolk County
Ontario Energy Board File No. EB-2019-0089**

METALORE RESOURCES LIMITED RESPONSE TO ONTARIO ENERGY BOARD AND ENBRIDGE GAS INC. INTERROGATORIES

In accordance with Procedural Order No. 1, Budd Energy Inc., on behalf of Metalore Resources Limited, hereby submits its responses to the interrogatories provided by the Ontario Energy Board and Enbridge Gas Inc. on June 13, 2019.

Sincerely,

[Original Signed By]

Mr. Stephen Sangiuliano
Energy Policy & Regulatory Specialist
Budd Energy Inc.
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cc: Peter Budd, pbudd.bei@rogers.com
Armen Chilian, armen.chilian@gmail.com
Patrick McMahon, patrick.mcmahon@enbridge.com
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Scott Lewis, slewis@onenergy.ca

ONTARIO ENERGY BOARD (“OEB”) STAFF:
OEB Submission, dated June 13, 2019

OEB Staff

Ref.: *1 Introduction* (page 2)

Preamble

To date, one landowner has provided Metalore with a letter supporting the Pipeline project, and Metalore says that it anticipates that the three other landowners will soon provide similar letters supporting the Pipeline project

Response: Please find appended to this submission all four landowner support letters

OEB Staff

Ref.: *2.3 Is a certificate and the MFA required for the Pipeline?* (pages 4-6)

Response: Metalore Resources Limited (“MRL”) respectfully submits that it is in the interest of the Ontario Energy Board (“OEB”), Staff, Canadian Standards Association (“CSA”), MRL and New Leaf Canada Inc. (“NLC”) that the specific regulatory and technical standards be upheld as they were intended to be and were established many years ago.

MRL believes that the preferred manner by which to classify the pipe configurations and maintain conformity with the technical standards (CSA Z662-15: Oil and Gas Pipeline Systems) is to recognize that in the pipes running from the production wells to the tie-in, which pipes move non-odorized, non-spec gas (wet, dirty and raw), these lines should properly be classified as they are: gathering lines - according to the CSA regulations. Once the raw gas reaches the tie-in (where the gas is cleaned to distribution standards), then from that tie-in point onward (even if only 1 foot in length), that is the beginning of the actual distribution system. Please see appended the Memorandum of Understanding (“MoU”) between the Technical Standards and Safety Authority (“TSSA”) and the Ministry of Natural Resources and Forestry (“MNRF”), Lands and Waters Branch, Petroleum Resources Centre (“PRC”) on jurisdiction of pipelines between the two agencies.

Please note that section 1.3 of the MoU speaks to distribution or supply of gas to an end user by necessary implication, where the word “gas” must be in accordance with the CSA Z662-15: Oil and Gas Pipeline Systems specifications. Please note in Figure 1 of the MoU that there are no Field Line Customers (“FLCs”) on the drawing, however, if there were FLCs, they would be north of the MNRF border.

This approach respects the CSA definition, and fits with the actual configuration of what is proposed to be built, for the purposes of distribution past the tie-in point, to the customer’s facility. The approach also respects the reality that the gas coming to the NLC Walsh Facility, past the tie-in, is, at that point, precisely for distribution purposes.

OEB Staff

Ref.: 2.4 *Is this a case of system bypass?* (pages 7-9)

Response: MRL agrees with the ultimate recommendation of the Board Staff, but has a practical suggestion for the Staff for future considerations, and for the Board in reaching its decision on a bypass application or issue. MRL does not believe that it is practically bypassing any distribution system as explained below.

MRL accepts the two key tests referred to by the Board Staff, and is keenly aware of the subsequent principles the Board may apply when considering a pipe proposal to meet a new customer's needs.

MRL would encourage the Board and Board Staff to revisit the presumption that if a proposal to build a pipeline is in a certificated area, that should not automatically mean that a bypass is the correct category.

First, there is no law or regulation in Ontario which accords an existing franchise holder an absolute or exclusive right to serve; that is a convention, but not cast in concrete that no other party may come to serve in a specific area, if the party meets the legal and regulatory requirements.

Secondly, and this is where the practical reality of rural Ontario crystallizes: there are many thousands of acres of settled southern Ontario farmland and residences, which are simply not (maybe never) going to be practical or economically efficient to serve from the existing certified distributor. These farms and few communities use other fuels as they cannot get gas service – and yet there is a certificated utility registered with rights to serve, but unable to expand its service to meet the needs.

In NLC's situation, the facts of the distances (525m of 8" steel transmission reinforcement, and 2,743m 2" steel distribution main) and costs (\$2,314,700.00) for Enbridge to connect NLC¹ speak directly to the reality that new rural distribution systems are an expensive challenge. MRL submits that the fact that a certificated utility may indeed have the wide geographical coverage specified in its certificate, but is unable to serve economically, should not automatically catapult a prospective customer into the regulatory categorization of bypassing a gas distribution system, which, for all practical purposes, is not built, and is not going to be built, as in this case.

MRL believes that a bypass situation should be limited to where there is already a certified utility pipe that is truly proximate (close by) and available for service, with minimal upgrades required.

OEB Staff

¹ November 22, 2018 EGI cost estimate for gas supply to the NLC Walsh Facility, directly referenced in EB-2019-0089: MRL Response to interrogatory EGI 3 (pages 14-15), dated June 3, 2019

Ref.: 2.4 *Is this a case of system bypass?* (page 8)

Preamble

The FLCs currently consume between 10-50% of Metalore's production depending on the season with the balance being sold to Enbridge Gas. Metalore estimates that NLC will consume up to 50% of Metalore's production. OEB staff notes that, depending on the season, the FLCs and NLC will together consume 100% of Metalore's production. OEB staff notes that NLC intends to install a propane back-up system to mitigate the risk of a natural gas service disruption. As alternative fuel backup systems are not likely practical for the FLCs, OEB staff recommends that Metalore should clarify in its reply submission any strategy that it has, or will have, in place that will address supply risks to existing FLCs. Metalore should also comment in its reply submission as to whether a condition of approval that requires curtailment of supply to NLC in such circumstances is appropriate and if not, why not.

Response: As per the OEB Staff recommendation above, please find appended to this submission MRL's *Supply Risk Discussion & Strategy for Existing FLCs*

OEB Staff

Ref.: *APPENDIX A: MRL Application for CPCN – REVISED PROPOSED CONDITIONS OF APPROVAL* (page 11)

Response: MRL agrees to the "Revised Proposed Conditions of Approval" put forth by OEB Staff submission, dated June 13, 2019.

OEB Staff

Ref.: *APPENDIX B-1: MRL DRAFT CPCN – PIPELINE FACILITIES* (page 12-13)

Response: MRL agrees to the "Draft CPCN – Pipeline Facilities" put forth by OEB Staff submission, dated June 13, 2019.

OEB Staff

Ref.: *APPENDIX B-2: MRL DRAFT CPCN – TIE-IN STATION FACILITIES* (page 14-15)

Response: MRL agrees to the "Draft CPCN – Tie-In Facilities" put forth by OEB Staff submission, dated June 13, 2019.

ENBRIDGE GAS INC. (“EGI”):
Patrick McMahon, Specialist, Regulatory Research & Records:
EGI Submission, dated June 13, 2019

EGI 9

Ref.: *B – Cost Estimates* (page 3)

Preamble

Metalore submits that if New Leaf consumes 90,000 GJ/year, Enbridge would be invoicing New Leaf at an annual all-in gas bill of \$514,140 as a Rate M2 customer while Metalore would be invoicing New Leaf an annual all-in gas bill of \$503,7005. It is unclear whether this includes all charges that would need to be applied to the customer (e.g., federal carbon charges). Also, pursuant to Enbridge’s April 2019 rates, the annual bill from Enbridge would be approximately \$504,0006. It is noteworthy that while utilities distributing less than 3,000,000 m³ of gas are exempt from rate regulation⁷, the proposed 90,000 GJ/year consumption by New Leaf equates to approximately 2,300,000 m³/year. Even a slight increase in actual consumption from forecast would require Metalore’s rates to be OEB regulated so this should be monitored through a reporting process.

Please confirm whether this will be the only service location to which Metalore intends to provide service. If other service locations are contemplated, please identify the other municipal addresses being considered and when gas service would be provided at these locations.

Response: The suggestion that MRL would be subject to an additional regulatory monitoring process is unnecessary. This is what is termed ‘regulatory creep’, where a regulation has been set perhaps years ago, but now someone urges the regulatory body to extend the monitoring well past what was set by lawmakers and standards setters previously. The purpose of an exemption is to avoid more red tape as Enbridge is suggesting.

The 3,000,000 m³ threshold will be respected as it is the law; any consumption in excess of this would require MRL to visit the OEB regarding a regulatory compliance process.

EGI 10

Ref.: *C – Legislated and Other Requirements* (page 4)

Preamble

When asked to provide a copy of the current Field Line Customer Agreement (“FLC Agreement”) between Metalore and Enbridge, Metalore submitted a copy of the 1991 Gas Purchase Agreement and FLC Agreement with Union Gas. These agreements have been superseded by the current FLC Agreement and Gas Purchase Agreement (see Attachment 2). Contrary to Metalore’s submission that the FLC Agreement makes no mention of a requirement for any CPCN from the OEB, the FLC Agreement clearly states in section 9.05

that the FLC Agreement is “subject to any applicable laws, taxes, orders, rules and regulations of any governmental authority having jurisdiction therein, now or hereafter in effect during the term of this Agreement”. It is therefore Metalore’s obligation to ensure that it has all required regulatory approvals in place to not only run its existing gas supply system but also to add any new customers to that system. It is not Enbridge’s responsibility to direct Metalore to obtain required approvals and licenses. Metalore’s operations are and always have been subject to applicable laws and regulatory authorities such as the OEB, the Technical Standards and Safety Authority (TSSA) and the Ministry of Natural Resources and Forestry (MNRF).

Response: The MRL Gas Gathering System (“GGs”) is and has always been a gathering system to gather raw natural gas from the company gas wells. As such, the GGS is regulated by the MNRF under the Oil, Gas, and Salt Resources Act (“OGSRA”). The OGSRA requires MRL to construct and maintain the GGS under the minimum requirements of CSA Z662: Oil and Gas Pipeline Systems, the same minimum requirement standard that is referenced by the TSSA to regulate pipelines regulated by them. MRL has updated their pipeline system map with the MNRF and is paying municipal taxes to Charlotteville Township based on the value of the GGS under the Assessment Act.

The Schedule 3: Field Line Customer Agreement appended to the September 1, 2017 Ontario Production Gas Purchase Agreement is substantially identical to the Schedule B: Field Line Customer Agreement that was appended to the April 1, 1991 Ontario Production Gas Purchase Agreement.

EGI 12

Ref.: *C – Legislated and Other Requirements* (page 4)

Preamble

Regarding Metalore’s proposed service to New Leaf’s Walsh Facility, Enbridge understands Ontario Regulation 212/01 under the Technical Standards and Safety Act to require Metalore to hold a gas distributor licence from the TSSA because Metalore would be supplying gas to an end user.

Response: MRL will be applying for a gas distributor license under the TSSA once MRL and NLC have received OEB approval for the CPCN. The gas distributor license requires that the TSSA conducts a field inspection of Metalore’s gas distribution facilities which will be performed after the facilities are constructed, prior to starting gas flow. The only portion of the new pipeline and facilities that transports “gas” as defined by the OEB and EGI in their Schedule A of the Gas Purchase Agreement is downstream of the gas treatment facilities at the NLC site once the gas is dehydrated and odorized.

EGI 13

Ref.: *C – Legislated and Other Requirements* (page 4)

Preamble

Any portion of Metalore's system deemed to be providing distribution services should be regulated by the OEB and the TSSA like any other Ontario gas distribution system. It seems clear that Metalore will be a gas distributor once it begins deliveries to New Leaf.

Response: MRL agrees with EGI that it will be a gas distributor once gas is supplied to the NLC Walsh Facility. The only portion of the new construction that is part of the gas distribution system is the pipeline between the gas treatment facilities at the NLC Walsh Facility and the boilers within the Facility.

EGI 14

Ref.: *C – Legislated and Other Requirements* (page 4)

Preamble

When asked to explain how Metalore's existing and proposed pipeline systems are different from the OMLP pipeline used to provide distribution services to a greenhouse facility in Norfolk County, Metalore states that only the new pipeline construction identified in OMLP's EB-2017-0289 CPCN application required a CPCN from the OEB10. As was noted in the preamble to the question submitted to Metalore, in its EB-2017-0289 Decision and Order, the OEB did not accept that the proposed OMLP pipeline was a "gathering system" and found instead that it will be providing distribution services. As is the case with Metalore's proposed project, the sole purpose of the proposed OMLP pipeline was to distribute gas to the Maricann greenhouse facility so the OEB found that the new pipeline provided a distribution function. The same findings should be made with respect to Metalore's proposed pipelines and facilities to provide service to New Leaf.

Response: As in the OMLP EB-2017-0289 ruling, all of the MRL new pipeline construction is solely required to provide gas service to the NLC Walsh Facility. Like in the OMLP ruling, MRL states that the new pipeline upstream of the gas treatment facilities at NLC Walsh Facility, defined as a gas gathering system under CSA Z662: Oil and Gas Pipeline Systems, will be transporting non-spec natural gas. This pipeline will be constructed, pressure tested, and rated as gas gathering pipeline under CSA Z662. MRL welcomes the TSSA to review the construction and testing procedures used during this pipeline construction.

EGI 19

Ref.: *C – Legislated and Other Requirements* (page 5)

Preamble

According to Metalore, the gas upstream of the processing facilities at the New Leaf Walsh Facility does not meet the definition of "natural gas" as defined by Enbridge in its standard contracts because the gas contained in the pipeline is saturated with water vapour and may

contain free water and other “objectionable matter”. Enbridge’s contracts refer to the definition of “gas” as defined in the Ontario Energy Board Act (i.e., gas means natural gas, substitute natural gas, synthetic gas, manufactured gas, propane-air gas or any mixture of any of them) so it is not clear what point Metalore is trying to make with its statement. While there are quality standards associated with any gas that would be accepted into Enbridge’s pipeline systems, this would not exempt sub-standard gas from being defined as gas.

Response: EGI does not accept non-spec natural gas into their distribution or transmission systems because of the inherent issues dealing with wet natural gas, including hydrate formation, liquid water holdup in pipelines, and free liquid entrained in natural gas at end-user’s burner tip. “Gas” as defined under the OEB Act must be free of the excess water and other objectionable materials at all practical pressures and temperatures. Under the definition of “gas” under the Oil, Gas, and Salt Resources Act, gas is “a mixture of hydrocarbons that is located in or recovered from an underground reservoir and that is gaseous at the temperature at which its volume is measured or estimated”. “Gas” as defined under the Oil, Gas, and Salt Resources Act can become “gas” as defined by the OEB plus liquid as the pressure and temperature changes.

EGI 20

Ref.: *D – Capacity to Provide Service* (pages 5-6)

Preamble

Metalore notes in its IR responses that there are no future expansion phases planned for the New Leaf Walsh Facility as of the date of its IR responses, but in its application, Metalore refers to the first phase of the replacement of New Leaf’s current 4,000 square foot Walsh facility with a 31,000 square foot facility being completed by October 1, 2019. A news article published on December 28, 2018 indicates that phase one of the New Leaf project will focus on building the proposed indoor facility while phase two includes more than 40 acres of greenhouse growing plans on the site. This indication of future development requires further examination of Metalore’s claim that it has 23.6 years of remaining reserve life in its wells. Enbridge is concerned that the addition of New Leaf to Metalore’s system will put the service to existing and future field line customers in jeopardy especially given that Enbridge does not currently have any other sources of gas or infrastructure with which to supply existing field line customers in this area.

Response: There are no other future expansion phases planned for the New Leaf Walsh Facility as of the current date. The news article published on December 28, 2018, predates NLC’s current projections for the future. Furthermore, MRL has agreed to the OEB’s most recently added condition of which requires MRL to advise the OEB of any changes to the proposed Facilities as described in its application and evidence, prior to implementing the change²

EGI 22

² EB-2019-0089: OEB Submission to MRL, *2.6 Conditions of Approval* (page 10)

Ref.: *D – Capacity to Provide Service* (page 6)

Preamble

Metalore testifies that much of the natural gas entering the Enbridge franchise area is produced from shale gas reservoirs, with significant carbon emissions produced during the completion processes. Metalore implies that high volume fracturing processes have been used to complete these shale gas wells used to provide gas to Enbridge. These invalid submissions by Metalore are not supported by any evidence nor are they useful in supporting the OEB's review of the Application.

Response: MRL's response relative to the source of EGI system gas was to point out that gas produced by MRL from local gas wells does not have the same environmental footprint to get to a Charlottesville end-user's burner tip when compared to EGI system gas.

APPENDIX A-1:

Landowner Support Letters for Metalore Resources Limited for the Development of the New Leaf Walsh Facility and the Construction of a Pipeline on Landowner Property for the Purposes of Supplying Natural Gas Thereto

**Mark DeVos
Earthworks Contractors**

APPENDIX A-2:

Landowner Support Letters for Metalore Resources Limited for the Development of the New Leaf Walsh Facility and the Construction of a Pipeline on Landowner Property for the Purposes of Supplying Natural Gas Thereto

**John Cooper
Strawberry Tyme Farms Inc.**

APPENDIX A-3:

Landowner Support Letters for Metalore Resources Limited for the Development of the New Leaf Walsh Facility and the Construction of a Pipeline on Landowner Property for the Purposes of Supplying Natural Gas Thereto

**Scott Biddle
Scotlynn Commodities Inc.**

APPENDIX A-4:

Landowner Support Letters for Metalore Resources Limited for the Development of the New Leaf Walsh Facility and the Construction of a Pipeline on Landowner Property for the Purposes of Supplying Natural Gas Thereto

Larry and Janis Benz

APPENDIX B:

Memorandum of Understanding:

**Technical Standards and Safety Authority &
The Ministry of Natural Resources and Forestry, Lands and Waters Branch, Petroleum
Resources Centre:
Jurisdiction of Pipelines**

APPENDIX C:

**Metalore Resources Limited
Supply Risk Discussion & Strategy for Existing Field Line Customers**