

November 9, 2018

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

Dear Ms. Walli:

**Re: Nipigon LNG Corporation
Certificate of Public Convenience and Necessity
Ontario Energy Board File No. EB-2018-0248**

Pursuant to Procedural Order No. 1 in the above noted proceeding, Union Gas Limited (“Union”) hereby submits its final arguments with respect to the application and evidence of Nipigon LNG.

The proposed Certificate should not be considered a stand-alone and isolated administrative item but rather as part of a broader project to provide LNG to various communities in northwestern Ontario. Nipigon LNG indicates that its project is a “transformative and regionally significant initiative for the economic development of Northern Ontario” which will “provide a platform to extend natural gas service where feasible to Northern and First Nation communities”. The proposed LNG production plant is described as simply part of the overall project.¹ While Nipigon LNG relies on the overall economic development project to support the need for building the proposed LNG plant, they limit the scope of their current request to exclude the overall project specifics.

The CEO of Nipigon LNG has testified that 5 municipalities (Marathon, Schreiber, Terrace Bay, Wawa and Manitouwadge) have signed agreements with Northeast Midstream which will result in the buildout and operating of a regional natural gas delivery system to 5600 customers supplied with LNG from the proposed Nipigon LNG production plant.²

Nipigon LNG has applied for a Certificate of Public Convenience and Necessity to allow it to construct the proposed Connecting Pipeline in the unincorporated Township of Ledger in order for the proposed LNG Plant to access the natural gas from the TransCanada Mainline.³ The OEB has previously determined that Certificates will only be granted for the area required to encompass any currently non-certificated works.⁴

¹ EB-2018-0248 – Application, page 1, paragraphs 2 and 3

² October 31, 2018 - Testimony to Standing Committee on General Government debate on proposed *Access to Natural Gas Act* (https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2018/2018-11/31-OCT-2018_G005.pdf)

³ EB-2018-0248 – Application, page 4, paragraph 18

⁴ EB-2017-0106 et al – OEB Letter dated December 13, 2017

The OEB has also determined that the area of a Certificate shall cover only the area necessary for the construction of a pipeline including permanent and temporary workspace.⁵ The OEB has also determined that applicants for Certificates must provide: (1) a written metes and bounds description outlining the boundary of the minimum area that would be required to encompass the currently non-certificated works; and (2) one or more density maps of the area within the boundary provided in item #1 above.⁶

Nipigon LNG describes the metes and bounds of the requested Certificate as South ½ Lot 12, Concession 4 Ledger; S/T LPA23462, District of Thunder Bay.⁷ From Union's reading of the evidence, it appears that the requested Certificate does not cover all of the length of the pipeline connection to TCPL.

Nipigon LNG admits that they have lists of potential customers but have decided to keep any information related to other parts of the overall project away from the OEB including proposed distribution systems, marketing plans, customer density maps and franchise agreements between its affiliate Northeast Midstream and municipalities.⁸

Union disagrees with Nipigon LNG's position that the public interest requirement of this application has been met by the approval of Natural Gas Grant Program (NGGP) funding by the Ministry of Infrastructure.⁹ The OEB must make a determination of public interest based on the evidence on the record in this current proceeding before making any determination regarding the requested Certificate.

When determining whether issuing a Certificate is in the public interest, the Ontario Energy Board typically examines the need for the project, the economics, impact on ratepayers, environmental impact, the impact on landowners and pipeline design technical requirements. The public interest can incorporate many aspects including customers, investors, utilities, the market and the environment. There is an astonishingly lack of information on the record of this proceeding upon which the OEB can deliberate whether the proposed project is in the public interest.

One of the OEB's objectives is to protect the interests of consumers with respect to prices and the reliability and quality of gas service. By refusing to provide any information regarding its marketing plan or the customers it intends to serve, Nipigon LNG has made it impossible for the OEB to properly address its mandate. There is no way for the OEB to identify benefits of the proposed facilities to the potential customers if no information is provided regarding the communities for which service is proposed.

⁵ RP-2005-0022 / EB-2005-0441 / EB-2005-0442 / EB-2005-0443 / EB-2005-0473 Decision and Order dated January 6, 2006, page 40

⁶ EB-2017-0106 et al – OEB Letter dated December 13, 2017

⁷ EB-2018-0248 – Nipigon LNG Response to Union IR #3(b)

⁸ EB-2018-0248 – Nipigon LNG Response to Union IR #3(c) and #3(e)

⁹ EB-2018-0248 – Nipigon LNG Response to Union IR #1

There has been no evidence presented by Nipigon LNG regarding other approvals that are necessary for them to construct the LNG plant including land rights and agency permits. There is no evidence that Nipigon LNG has explored obtaining natural gas from other sources and what the comparative costs would be versus using the TCPL source.

Nipigon LNG states that the provision of LNG services in Ontario is a competitive business as is the expansion of access to natural gas to new customers.¹⁰ Nipigon LNG makes this claim based on the Decision with Reasons dated April 9, 2015 in the proceeding addressing Union's proposed service at its LNG facility in Hagar (EB-2014-0012) and the Decision with Reasons dated November 17, 2016 in the Generic Proceeding on Community Expansion (EB-2016-0004).

To be clear, the OEB's Decision in the EB-2014-0012 proceeding only indicated that the OEB was satisfied that there was competition sufficient to protect the public interest for Union's proposed liquefaction service at Hagar.¹¹

Regarding the competition for expansion of gas service to new communities, Union would expect that the OEB will follow the same procedure as it used for communities proposed to be served by Union, Enbridge Gas Distribution and EPCOR, and issue a competition letter inviting submissions from those interested in serving the communities.¹²

Nipigon LNG indicates that Union confirmed in a letter to the National Energy Board dated October 24, 2018 that it does not have plans to expand in the area of the proposed LNG plant.¹³ To be accurate, Union's letter indicated that we do not have plans to expand in the Township of Ledger but may in the future, including the area of the proposed plant.

Union takes exception to the claims by Nipigon LNG that:

- "it is entirely possible that Union Gas is requesting disclosure of our confidential and commercially sensitive information in order to share this information with Union Gas's affiliates, collaborators, partners or customers and serve the private interests of its parent company, Enbridge"
- "Furthermore, Nipigon LNG is concerned that Union Gas, and its parent Enbridge, might use our commercially sensitive information to exploit its market power to frustrate, delay or deny Nipigon LNG access to new natural gas facilities and create insurmountable barriers for Nipigon LNG."
- "Our concerns about the abuses of market power by Union Gas have become more grave as Enbridge announced it will move forward with the amalgamation of Enbridge Gas Distribution and Union Gas, effective January 1, 2019."¹⁴

¹⁰ EB-2018-0248 – Nipigon LNG Response to Union IR #1

¹¹ EB-2014-0012 – Decision with Reasons, pages 6 - 7

¹² EB-2016-0137 / EB-2016-0138 / EB-2016-0139 – Procedural Order No. 1 dated January 5, 2017;
EB-2017-0147 – OEB Letter to All Natural Gas Distribution Service Providers dated April 24, 2017

¹³ EB-2018-0248 – Nipigon LNG Response to Union IR #3(a)

¹⁴ EB-2018-0248 – Nipigon LNG Response to Union IR #1 (November 6, 2018)

The Affiliate Relationships Code for Gas Utilities contains the standards and conditions for the interaction between gas distributors, transmitters and storage companies and their respective affiliated companies. The standards established in the Affiliate Relationships Code and rigorously followed by Union minimize the potential for a utility to cross-subsidize competitive or non-monopoly activities; protect the confidentiality of consumer information collected by a transmitter, distributor or storage company in the course of provision of utility services; and ensure there is no preferential access to regulated utility services. To accuse Union of attempting to acquire information within a regulatory proceeding simply to serve the interests of its affiliates or to abuse the competitive market is not appropriate nor warranted.

In any event, Nipigon LNG could provide this requested information in confidence to the OEB in order to allow the OEB to properly execute its mandate to consider need / public interest aspects of a proposed project before determining whether a requested Certificate would be issued for this significant LNG station and pipeline development.

In Union's opinion, there is a lack of evidence to support a determination by the OEB on the public interest related to allowing Nipigon LNG to proceed with a project that involves much more than simply the building of a LNG production plant. The current application for a Certificate of Public Convenience and Necessity should be considered as part of the larger project to provide natural gas to communities within northwestern Ontario.

Should you have any questions on this submission, please do not hesitate to contact me.

Yours truly,

[Original signed by]

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