

**Ontario Energy
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November 9, 2018

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor, 2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Nipigon LNG Corporation
Application for certificate of public convenience and necessity to construct
a pipeline in the unincorporated Township of Ledger
Ontario Energy Board File Number EB-2018-0248**

Please find attached OEB staff's submission in the above-noted proceeding.

Yours truly,

Original signed by

Azalyn Manzano
Case Manager

/ attach.



ONTARIO ENERGY BOARD

OEB STAFF SUBMISSION

November 9, 2018

**Nipigon LNG Corporation on behalf of
Nipigon LNG LP**

**Application for a certificate of public convenience
and necessity to construct works in the
unincorporated Township of Ledger**

EB-2018-0248

Introduction

These are the submissions of Ontario Energy Board (OEB) staff on the application filed by Nipigon LNG Corporation (Nipigon LNG) on behalf of Nipigon LNG LP on August 10, 2018, under section 8 of the *Municipal Franchises Act, 1990*. The application is for an order approving a certificate of public convenience and necessity (certificate) to construct works to supply natural gas in the unincorporated Township of Ledger.

Nipigon LNG is the general partner for Nipigon LNG LP, and is incorporated under the laws of the Province of Ontario, with its head office in the City of Vaughan. Nipigon LNG was created as a special purpose entity for the sole purpose of conducting the business and affairs associated with the Nipigon LNG project (the Project).

The Project was approved for funding by the Ontario Ministry of Infrastructure under the Natural Gas Grant Program (NGGP). Nipigon LNG states that the total estimated capital cost of the Project, as proposed in the NGGP application, is \$54 million, of which the NGGP award will cover \$27 million.¹ On October 3, 2018, Nipigon LNG filed a letter from the Ministry of Infrastructure confirming that the Ontario government would continue to honour the Transfer Payment Agreement related to the Project, despite the fact that the government has now introduced Bill 32, the proposed *Access to Natural Gas Act, 2018*, which if passed, will enable the creation of a new Natural Gas Expansion Support Program.

Background

As part of the Project, Nipigon LNG is proposing to build and operate a liquefied natural gas production plant (LNG Plant) in the unincorporated Township of Ledger. Nipigon LNG is also proposing to construct an approximately 500-metre, 8-inch diameter pipeline (Connecting Pipeline) for the sole purpose of obtaining gas from, and connecting the LNG Plant, to the nearby TransCanada Mainline. Nipigon LNG requires a certificate under section 8 of the *Municipal Franchises Act* to be able to construct this pipeline. Nipigon LNG states the Connecting Pipeline will be mostly located within its property, aside from traversing 50 metres of Crown land between the TransCanada right-of-way and Nipigon LNG's property boundary. Constructing the Connecting Pipeline will cost \$200,000. As such, Nipigon LNG submits that the Connecting Pipeline does not require leave to construct pursuant to section 90(1) of the *Ontario*

¹ EB-2018-0248, Nipigon LNG Corporation Interrogatory Response to Union Interrogatory #1c

Energy Board Act, 1998 (the OEB Act).

Nipigon LNG submits that the proposed Connecting Pipeline is not a bypass of another utility's existing franchise rights, as no other entities have applied for or been granted a certificate, conditional or otherwise, to serve the area. In its interrogatory response, Nipigon LNG cited Union Gas Limited's (Union Gas) letter to the National Energy Board dated October 24, 2018, where Union Gas confirmed that it currently does not hold any certificate rights within the unincorporated Township of Nipigon.²

Nipigon LNG also states that the Connecting Pipeline will not allow for the supply of natural gas for local distribution to any existing buildings or structures within the Township of Ledger. Rather, in letters filed as part of Nipigon LNG's evidence, the applicant expects to liquefy the natural gas it obtains from the TransCanada Mainline. The liquefied natural gas (LNG) will then be transported by truck from the LNG Plant to LNG depots at industrial locations, where it will be converted to natural gas for distribution within the customer's property. The Project is also expected to provide a platform to extend natural gas service where feasible to Northern, First Nation, and Metis communities in the future.³ In Nipigon LNG's interrogatory responses however, it states that the Project does not include the construction of distribution systems.⁴

OEB Staff Position

From OEB staff's understanding, Nipigon LNG is requesting a certificate to construct the Connecting Pipeline in the unincorporated Township of Ledger, specifically to be able to supply its proposed LNG Plant, as opposed to a certificate to be able to generally serve the unincorporated Township of Ledger. OEB staff has no concerns regarding the issuance of a certificate to Nipigon LNG for the sole purpose of supplying the LNG Plant, given that the Connecting Pipeline is mostly located on Nipigon LNG's property, and no ratepayers will be affected by its construction. OEB staff's understanding is consistent with Nipigon LNG's assertions that the area requested by Nipigon LNG is currently not covered by a certificate. OEB staff agrees that given the specifications of the Connecting Pipeline to be constructed, Nipigon LNG does not require leave to construct approval from the OEB.

² EB-2018-0248, Nipigon LNG Corporation Interrogatory Response to Union Interrogatory #3a

³ EB-2018-0248, Nipigon LNG Application, Appendix D, First Nation Consultation

⁴ EB-2018-0248, Nipigon LNG Corporation Interrogatory Response to Union Interrogatory #1c

The certificate application is limited to a request for authorization to construct the Connecting Pipeline to supply the LNG Plant; OEB staff submits that in setting out the certificate's boundaries, the OEB could issue a point-to-point certificate like it did for Greenfield South Power Corporation⁵ and more recently, OM Limited Partnership⁶, which would then give Nipigon LNG the authorization to construct a pipeline from the TransCanada Mainline to the LNG Plant. The OEB could also choose to issue a metes and bounds certificate instead, with either the Lot and Concession that the Connecting Pipeline will be on, or a reasonable area bounded by GPS coordinates. OEB staff suggests that Nipigon LNG provide the Lot and Concession information and the GPS boundary coordinates to provide the OEB with both options.

OEB staff understands that Nipigon LNG intends to construct the LNG Plant and the Connecting Pipeline as part of a broader project which will eventually serve industrial customers and communities. OEB staff submits that Nipigon LNG should confirm that it will apply for the appropriate certificates and franchise agreement approvals if it intends to construct gas works and supply any customers other than the LNG Plant, either within the Township of Ledger or in the industrial locations or other communities it intends to serve.

OEB staff also notes that rate orders under section 36 may be required to ultimately serve all consumers with LNG; however as this is an application for a certificate, it is not necessary to explore these issues in this submission.

All of which is respectfully submitted.

⁵ EB-2014-0299, Decision and Order, Greenfield South Power Corporation Certificate Application

⁶ EB-2017-0289, Decision and Order, OM Limited Partnership Certificate Application