



# **Ontario Energy Board Commission de l'énergie de l'Ontario**

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## **DECISION AND ORDER**

**EB-2018-0248**

## **NIPIGON LNG CORPORATION ON BEHALF OF NIPIGON LNG LP**

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

**By Delegation, before: Pascale Duguay**

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**November 22, 2018**

## INTRODUCTION AND SUMMARY

This Decision and Order grants Nipigon LNG Corporation on behalf of Nipigon LNG LP (Nipigon LNG) a certificate of public convenience and necessity to construct works to supply Nipigon LNG's liquefied natural gas plant (LNG plant) in the unincorporated Township of Ledger.

## THE PROCESS

Nipigon LNG filed an application with the Ontario Energy Board (OEB) on August 9, 2018 under section 8 of the *Municipal Franchises Act, 1990*. The application was for an order of the OEB approving a certificate of public convenience and necessity to construct works to supply natural gas in the unincorporated Township of Ledger.

The OEB held a written hearing. A Notice of Hearing was published in the local newspaper on October 16, 2018. The Ministry of Natural Resources and the Ministry of Municipal Affairs, which serve as authorities for public lands and for areas with ministerial zoning orders within unincorporated townships, such as the unincorporated Township of Ledger, were served with a copy of the application and Notice of Hearing. Union Gas Limited (Union Gas) and TransCanada PipeLines Limited (TransCanada) applied and were awarded intervenor status.

On October 31, 2018, the OEB issued Procedural Order No. 1, which established dates for the filing of interrogatories, responses to interrogatories and written submissions.

## BACKGROUND

Nipigon LNG is a corporation 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 LNG Project).

As part of the LNG Project, Nipigon LNG expects to liquefy natural gas obtained from TransCanada's Mainline. The LNG would then be transported by truck from the LNG plant to LNG depots at industrial locations where it would then be converted to natural gas on the customer's property.

The LNG Project was approved for funding by the Ontario Ministry of Infrastructure under the Natural Gas Grant Program (NGGP). On October 3, 2018, Nipigon LNG filed a letter from the Ministry of Infrastructure (MOI) confirming that the Ontario government would continue to honour the Transfer Payment Agreement related to the LNG 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.

## THE APPLICATION

As part of the LNG Project, Nipigon LNG is proposing to build and operate an 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 stated 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. Nipigon LNG applied for a certificate under section 8 of the *Municipal Franchises Act, 1990* to be able to construct the connecting pipeline, and requested a certificate limited to the whole of Lot 11 and the south half of Lot 12 in Concession 4 in the unincorporated Township of Ledger. Nipigon LNG stated that 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 submitted that the Connecting Pipeline does not require leave to construct pursuant to section 90(1) of the *Ontario Energy Board Act, 1998* (the OEB Act).

Nipigon LNG submitted 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' 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 Ledger.

Union Gas submitted that the proposed certificate should not be considered a stand-alone administrative item, but rather as part of a broader project to provide LNG to

various communities in northwestern Ontario (i.e. the LNG Project). Union Gas noted that Nipigon LNG's statement regarding the provision of LNG services in Ontario as a competitive business was based in part on the OEB's decision in the proceeding regarding Union Gas' proposed liquefaction service at Union Gas' Hagar facility<sup>1</sup>. Union Gas argued that this decision only indicated that there was sufficient competition to protect the public interest specifically for Union Gas' proposed liquefaction service at Hagar. Union Gas stated that regarding the competition for expansion of gas service to new communities, it expected the OEB to issue a competition letter inviting submissions from those interested in serving these communities. Union Gas also argued that there was insufficient information on the record of this proceeding to make a determination on the public interest aspect of this application.

OEB staff submitted that it had no concerns regarding the issuance of a certificate to Nipigon LNG for the sole purpose of supplying the LNG plant, and stated its understanding that the area being requested is currently not covered by a certificate. OEB staff agreed with Nipigon LNG that given the specifications of the connecting pipeline, Nipigon LNG does not require leave to construct from the OEB. OEB staff submitted 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. OEB staff also noted that rate orders under section 36 of the Ontario Energy Board Act, 1998 may be required to serve consumers with LNG, but recognized that this was out of scope for this certificate application.

Nipigon LNG's reply submission reiterated that the application currently before the OEB is for a certificate to construct a Connecting Pipeline to supply gas from the TransCanada Mainline to Nipigon LNG's proposed LNG plant, and is not for OEB approval to provide LNG to various communities in northwestern Ontario. Nipigon LNG submitted that the information requested by Union Gas is outside the scope of the application and that all of the evidence supporting the application, as well as whether or not the certificate is in the public interest, is before the OEB. Nipigon LNG also argued that the OEB's decision regarding Union Gas' proposed liquefaction service at Hagar was a generic determination to forbear from regulating the provision of LNG as opposed to only forbearing to regulate Union Gas' LNG service at the Hagar facility.

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<sup>1</sup> EB-2014-0012

## OEB FINDINGS

The purpose of the application is to obtain a certificate of public convenience and necessity for an area that will allow Nipigon LNG to construct an approximately 500 meter, 8-inch diameter pipeline to access natural from the TransCanada Mainline to feed the LNG plant. The proposed LNG plant and most of the connecting pipeline will be located on a 160-acre property that is owned by Nipigon LNG in the unincorporated Township of Ledger.

Section 8 of the MFA provides that no person shall construct any work to supply natural gas in any municipality without obtaining a certificate of public convenience and necessity from the OEB. The OEB previously determined that the fact that a pipeline connection might only be serving the party that constructed it does not negate the need for a certificate<sup>2</sup>.

The OEB will approve the requested certificate. The certificate will cover the area limited to the south half of Lot 12 in Concession 4, and the whole of Lot 11 in Concession 4 in the unincorporated Township of Ledger. The OEB finds that it is in the public interest to approve the certificate as this pipeline is expected to provide a platform to eventually extend natural gas services where feasible to Northern, Métis and First Nation communities. While Union argued that the proposed certificate should not be considered as a stand-alone but rather as part of a broader project to provide LNG to various communities in northwestern Ontario, the OEB notes that these matters are outside the scope of the application currently before it. The OEB also notes that other approvals will be required as the project evolves to further extend the availability of natural gas to unserved communities. Union Gas can bring any relevant matters at that time. The need for further OEB approvals was recognized by Nipigon LNG in its reply submission.

Both Nipigon LNG and Union Gas brought the issue of forbearance of LNG regulation in Ontario. The OEB will not opine on this matter as forbearance from the regulation of LNG is out of scope for this proceeding.

Nipigon LNG also stated that the design, installation and testing specifications of the pipeline will conform to the Canadian Standards Association Z662-15 Oil and Gas

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<sup>2</sup> RP-2005-0022

Pipeline Systems Code and the requirements of the Ontario Regulation 210/01 under the Technical Standards and Safety Act, 2000. Nipigon LNG also retained the services of Stantec Consulting Limited to prepare an environmental screening report for both the proposed LNG plant and the connecting pipeline. A review of the potential impacts of the project was provided. Nipigon LNG stated that based on identified potential impacts, mitigation measures were developed to minimize their effects. Nipigon LNG also stated that all provincial and local agency requirements, including permits and licences will be obtained where necessary.

**IT IS ORDERED THAT:**

1. A certificate of public convenience and necessity, attached as Schedule A to this Decision and Order, is granted to Nipigon LNG Corporation on behalf of Nipigon LNG LP to construct works or supply gas in the unincorporated Township of Ledger, limited to the south half of Lot 12 in Concession 4, and the whole of Lot 11 in Concession 4. A map of the area granted within the unincorporated Township of Ledger is attached as Schedule B.
2. Nipigon LNG Corporation shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

**DATED** at Toronto, November 22, 2018

**ONTARIO ENERGY BOARD**

*Original signed by*

Pascale Duguay  
Manager, Application Policy and Climate Change

**SCHEDULE A**

**EB-2018-0248**

**DATED: November 22, 2018**

**Certificate of Public Convenience and Necessity**

## **Certificate of Public Convenience and Necessity**

The Ontario Energy Board grants

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

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55, as amended, to construct works to supply gas in the

### **Unincorporated Township of Ledger**

limited to the south half of Lot 12, Concession 4, and the whole of Lot 11 in Concession 4, as outlined in the map attached to this Decision and Order as Schedule B.

**DATED** at Toronto, November 22, 2018

**ONTARIO ENERGY BOARD**

Pascale Duguay  
Manager, Application Policy and Climate Change



**SCHEDULE B**

**EB-2018-0248**

**DATED: November 22, 2018**

**Map of the Service Area Granted to Nipigon LNG Corporation on behalf of  
Nipigon LNG LP in the Unincorporated Township of Ledger**

Township of Ledger

