

**Corporation of the Town of Marathon**

**Application for approval to construct a natural gas  
pipeline and associated facilities in the  
Town of Marathon, the Township of Manitouwadge, the  
Township of Schreiber, the Township of Terrace Bay  
and the Municipality of Wawa**

**PROCEDURAL ORDER NO. 1**

**October 7, 2019**

The Corporation of the Town of Marathon (Town of Marathon), Township of Manitouwadge, Township of Schreiber, Township of Terrace Bay and the Municipality of Wawa (the Municipalities) have resolved to form a new natural gas distribution company to distribute natural gas in their respective municipalities.

The Town of Marathon, on its own behalf and as a representative of the Municipalities listed above, applied to the Ontario Energy Board (OEB) on August 2, 2019 under section 90 of the *Ontario Energy Board Act*<sup>1</sup> for approval granting leave to construct approximately 116.5 kilometers of natural gas pipeline for the North Shore LGN Project. The Town of Marathon also applied to the Ontario Energy Board under sections 8 and 9 of the *Municipal Franchises Act*<sup>2</sup> for certificates of public convenience and necessity and for approval of a municipal franchise agreement for each Municipality. The Town of Marathon also applied for an order or orders for a gas supply plan to serve each Municipality, and for pre-approval, under section 36 of the *Ontario Energy Board Act*, of the cost consequences of a long-term liquefied natural gas supply contract with Nipigon LNG Limited Partnership. On August 15, 2019, the Town of Marathon updated its application and also applied to the OEB under section 97 of the *Ontario Energy Board Act* for approval of the forms of easement agreement.

The OEB issued a Notice of Hearing on September 12, 2019.

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<sup>1</sup> *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B)

<sup>2</sup> *Municipal Franchises Act R.S.O. 1990, c. M.55*

## Interventions

Each of Certarus Ltd. (Certarus), Enbridge Gas Inc. (Enbridge Gas), Jackfish Metis Association, Nipigon LNG Corporation (NLNG), Red Rock Indian Band and Vulnerable Energy Consumers Coalition (VECC) applied for intervenor status. Jackfish Metis Association and VECC also applied for cost eligibility.

### *Certarus and NLNG*

The Town of Marathon has objected to the intervention request of Certarus. The OEB has also received a letter from NLNG objecting to the intervention request of Certarus. The OEB understands that Certarus will be filing its reply to the objections. Certarus is directed to file its response by **October 11, 2019**. The OEB will make its decision on the intervention request of NLNG and Certarus at a later date.

### *VECC*

In its Notice of Intervention, VECC states that its interest in this proceeding, relates to ensuring “that the interests of both existing and new natural gas consumer[s], particularly low-income, consumers of natural gas are fully represented in the delivery of natural gas and the determination of just and reasonable rates for that service. This application will have impacts beyond the service of natural gas as it may also establish the means and regulatory rules under which proponents accessing the recently announced Natural Gas Expansion Support Program may establish greenfield natural gas service. VECC intends to scrutinize all aspects of the Applicant’s proposal and, if it should arise, the competitive response of other proponents including Enbridge Gas.”

VECC’s Notice of Intervention also states that it is comprised of The Federation of Metro Tenants Association (FMTA) and The Ontario Coalition of Senior Citizens’ Organizations (OCSCO). VECC states that the FMTA, encourages the organization of tenants and the promotion of decent and affordable housing, and the OCSCO aims to improve the quality of life for Ontario’s seniors. VECC noted that it advocates on behalf of the interests of Ontario’s vulnerable consumers with respect to energy issues.

The Town of Marathon objected to VECC’s request for intervention, noting that VECC had failed to demonstrate a material and valid interest in the application. The Town of Marathon noted that the FMTA represents tenants in the City of Toronto and does not represent tenants who live in the five municipalities affected by this application. Similarly, the Town of Marathon noted that it is not clear whether the OCSCO represents any senior citizen groups in the affected municipalities. The Town of Marathon also noted that VECC had failed to demonstrate valid grounds for intervening. With respect to VECC’s interest in reviewing competing proposals, the Town of Marathon noted that the OEB had determined that it did not expect to undertake a

competitive process with respect to the provision of natural gas service to the affected municipalities.

The OEB has also received an objection from NLNG in relation to VECC's intervention request. In response, VECC noted that the OEB should not consider the submissions of NLNG because NLNG does not have "legitimate standing to object otherwise or comment on VECC's request." VECC also noted that it has participated in similar proceedings before the OEB and that if the OEB grants Enbridge Gas status then it should consider granting VECC status.

The OEB determines interventions on a case by case basis. Based on the objections raised by the Town of Marathon, the OEB requires additional information from VECC before it can make a determination on VECC's request. Therefore, the OEB requires that VECC file additional information in respect of the constituents it represents in the affected municipalities. Further, given the nature of this application, the OEB requires that VECC file additional information outlining its specific interest in this proceeding. The OEB will make its determination on VECC's request after the noted information is filed. VECC is directed to file the noted information by **October 11, 2019**.

#### *Enbridge Gas*

In its Notice of Intervention Enbridge Gas states that it "has a direct interest in all matters of jurisdiction, substance and procedure in the regulation of public utilities, and in any decision of this Board, which may create a precedent affecting Enbridge Gas' operations and/or rates." Enbridge Gas further states that it intends to "monitor this proceeding while reserving the right to adduce evidence, submit interrogatories, cross-examine witnesses, advance argument and participate in the hearing as circumstances may require."

The OEB is not satisfied that Enbridge Gas has a substantial interest in this proceeding within the meaning of Rule 22.02 of the *Rules of Practice and Procedure*. The OEB also notes that Enbridge Gas has withdrawn its expression of interest in serving the Municipalities<sup>3</sup> and, by letter dated March 13, 2019, the OEB confirmed that it does not expect to undertake a competitive process with respect to the provision of natural gas service to the Municipalities. If Enbridge Gas wishes to follow the proceeding it may wish to consider registering as a monitor.

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<sup>3</sup> Enbridge Gas letter to OEB, dated February, 4, 2019.

*Jackfish Metis Association and Red Rock Indian Band*

Jackfish Metis Association and Red Rock Indian Band are approved as intervenors. The list of parties in this proceeding is attached as Schedule A to this Procedural Order. Jackfish Metis Association is eligible to apply for an award of costs under the OEB's *Practice Direction on Cost Awards*.

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party, unless a compelling reason is provided when cost claims are filed.

**Confidentiality Request**

By the letter dated August 2, 2019 and pursuant to the OEB's *Rules of Practice and Procedure* and the OEB's *Practice Direction on Confidential Filings*, the Town of Marathon requested confidential treatment for Appendix A of its application. The Town of Marathon states that Appendix A contains confidential information that was supplied to it by an investment bank regarding the financing of the project. The Town of Marathon states that the investment bank requested the document not be disclosed to anyone except to OEB Board members who will be hearing this application.

The OEB's general policy is that all records should be open for inspection by any person unless disclosure of the record is prohibited by law. This reflects the OEB's view that its proceedings should be open, transparent, and accessible. At this time, the OEB is making provision for the filing of submissions on the Town of Marathon's request that the confidential information in Appendix A only be disclosed to OEB members.

It is necessary to make provision for the following matters related to this proceeding.

**IT IS THEREFORE ORDERED THAT:**

1. Certarus shall file its reply to the objections to its intervention request, if any, by **October 11, 2019**.
2. VECC shall file additional information in relation to its intervention request, if any, by **October 11, 2019**.
3. Those wishing to make submissions on the Town of Marathon's request for confidentiality shall file their submissions, if any, by **October 11, 2019**.

Further procedural orders will be issued by the OEB in due course.

All filings to the OEB must quote the file number, EB-2018-0329, be made in searchable/unrestricted PDF format electronically through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.oeb.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a USB memory stick in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Registrar at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Ritchie Murray at [Ritchie.Murray@oeb.ca](mailto:Ritchie.Murray@oeb.ca) and OEB Counsel, Michael Millar at [Michael.Millar@oeb.ca](mailto:Michael.Millar@oeb.ca).

### **ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4  
Attention: Registrar

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)  
Tel: 1-888-632-6273 (Toll free)  
Fax: 416-440-7656

**DATED** at Toronto, **October 7, 2019**

### **ONTARIO ENERGY BOARD**

*Original signed by*

Christine E. Long  
Registrar and Board Secretary  
Office of the Registrar

**SCHEDULE A**

**LIST OF APPLICANT AND INTERVENORS**

**TOWN OF MARATHON**

**EB-2018-0329**

**DATED: OCTOBER 7, 2019**

The Corporation of the Town of Marathon  
EB-2018-0329  
North Shore Project  
**APPLICANT & LIST OF INTERVENORS**

October 7, 2019

**APPLICANT**

**Rep. and Address for Service**

**The Corporation of the Town  
of Marathon**

**Daryl Skworchinski**

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**INTERVENORS**

**Rep. and Address for Service**

**Jackfish Metis Association**

**Jon MacDonald**

Zone II representative, OCIP  
Jackfish Metis Association  
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The Corporation of the Town of Marathon  
EB-2018-0329  
North Shore Project  
**APPLICANT & LIST OF INTERVENORS**

October 7, 2019

**INTERVENORS**

**Rep. and Address for Service**

**Red Rock Indian Band**

**Marcus Hardy**

Chief  
Red Rock Indian Band  
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**Alyssa Ray**

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