



BY EMAIL and RESS

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Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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November 12, 2019
Our File: EB20180329

Attn: Christine Long, Registrar & Board Secretary

Dear Ms. Long:

Re: EB-2018-0329 – Marathon North Shore LNG Project– SEC Interrogatories

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 2, please interrogatories on behalf of SEC.

Yours very truly,
Shepherd Rubenstein P.C.

Original signed by

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant and interested parties (by email)

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c. 15 (Sched. B), as amended (the “OEB Act”) and the Municipal Franchises Act, R.S.O. 1990, c. M.55, as amended;

AND IN THE MATTER OF an application by the Corporation of the Town of Marathon under Section 8 of the *Municipal Franchises Act* for an order or orders granting Certificates of Public Convenience and Necessity to the Corporation for the construction of works in the Town of Marathon, Township of Manitouwadge, Township of Schreiber, Township of Terrace Bay, and Municipality of Wawa.

AND IN THE MATTER OF an application by the Corporation of the Town of Marathon under Section 90 of the OEB Act for an order or orders granting leave to construct natural gas distribution pipelines and ancillary facilities to serve the Town of Marathon, Township of Manitouwadge, Township of Schreiber, Township of Terrace Bay, and Municipality of Wawa;

AND IN THE MATTER OF an application by the Corporation of the Town of Marathon under Section 97 of the OEB Act for an order or orders approving the form of easement agreements;

AND IN THE MATTER OF an application by the Corporation of the Town of Marathon for an order or orders for a gas supply plan to serve the Town of Marathon, Township of Manitouwadge, Township of Schreiber, Township of Terrace Bay, and Municipality of Wawa.

**INTERROGATORIES ON BEHALF
OF THE
SCHOOL ENERGY COALITION**

SEC-1

[A-1-2, p.1] The Applicant states that it is seeking certain conditional approvals:

- a. Please detail what specific approvals are being sought on a conditional basis and what specific conditions it is seeking the Board apply to those approvals.
- b. When does the Applicant expect to be in a position to fulfill these conditions, and what processes does the Applicant envision the OEB using to demonstrate the conditions have been fulfilled?

SEC-2

Please provide details regarding the expected ownership structure of the yet to be formed utility corporation.

SEC-3

[A-3-1, p.2, A-9-1, p.1-2] With respect to construction of the distribution system:

- a. Please confirm that Cornerstone will be responsible for construction of the distribution system. If not, who will be responsible?
- b. Please describe the experience Cornerstone (or whomever is responsible for construction) have in the construction or management of construction of a natural gas distribution system.
- c. How was Cornerstone (or whomever will be responsible for construction) selected (i.e. RFP, RFQ) and what is the structure of the construction contract (i.e. fixed price contract, etc.)?
- d. What class of estimate of construction costs is the forecast construction cost based on?
- e. What variance in construction costs does the Applicant believe is reasonable?

SEC-4

[A-9-1] Does the Applicant expect that the utility will enter into a shared service agreement with any of the five municipalities for the purpose of receiving certain services (i.e. billing, IT, etc.)? If so, please provide details.

SEC-5

When does the Applicant expect to file a rate application for approval of distribution rates to charge customers?

SEC-6

[A-4-2; Decision with Reasons, EB-2016-0004, p.20-21] Please confirm the rates that the Applicant will ultimately seek approval from the OEB which will include a rate-stability period of at least 10 years.

SEC-7

[A-4-2, p.2] Please provide the underlying spreadsheet used to create Figure 1. Please explain all assumptions made in the underlying calculations.

SEC-8

[A-8-1, Attach 1, p.52-53] For a number of the identified risks, the Applicant states as a risk mitigation measure that it would “[s]eek out the potential for replacement LNG supplies from alternate supplier.” Please provide details regarding potential viable alternative suppliers of LNG.

SEC-9

[A-9-1] The Applicant has provided forecast total capital and annual OM&A costs for the proposed project. What margin of error in the forecast costs can the Applicant sustain while maintaining the financial viability of the project?

SEC-10

[A-4-1, p.18] The Applicant has provided forecast customer conversion rates for the proposed project. What margin of error in the forecast conversion rate for each customer type can the Applicant sustain while maintaining the financial viability of the project?

SEC-11

[A-3-1, p.2] The Applicant states: “Without pre-approval of the cost consequences of the proposed Contract, the Utility’s investors would not commit the capital to finance the Utility, in turn, Nipigon LNG could not commit to build and operate the LNG Depots to supply the Utility with natural gas.”

- a. Are the referenced investors different from the 5 municipalities? If so, please provide details.
- b. Is the pre-approval of the LNG Services Agreement a requirement for Nipigon LNG to, construct only the LNG Depots or also the LNG Facility?

SEC-12

[A-13, p.12] Please explain the basis for the forecast Nipigon LNG Variable Operating Cost and Trucking costs.

SEC-13

[A-13-1, Attach 5] With respect to the LNG Services Agreement:

- a. Please describe how the LNG Services Agreement was negotiated.
- b. What information on Nipigon LNG’s forecast costs did the Applicant have when it negotiated the LNG Services Agreement? Please provide the information.
- c. Considering that the Nipigon LNG is itself a greenfield project, how did the Applicant determine that the fee provisions that it has agreed to are reasonable?
- d. Did the Applicant undertake any third-party assessments of the terms for the LNG Services Agreement with Nipigon LNG? If so, please provide a copy of that assessment.
- e. Certain material terms of the LNG Services Agreement have yet to be negotiated (e.g. section 12.2, 12.13, Schedule B, Schedule). When does the Applicant expect to finalize these terms and will it seek further OEB approval?
- f. Please confirm the following aspects of the Variable Charge provision (section 4.1(b)). If not confirmed, please explain how the Applicant interpretation differs.
 - i. Will be updated annually.
 - ii. Will depend not just on the Applicants actual nominated daily volumes but also total nominated daily volumes of all customers of Nipigon LNG.
 - iii. Is intended to recover the variable costs of the LNG Facility and LNG Depot, but both the type and quantity of those variable costs are not defined.
 - iv. There is no prohibition of any ‘markup’ on those variable costs.
- g. Please explain how the Variable Charge provision (section 4.1(b)) is reasonable.
- h. Please explain how the Applicant will verify that fees and charges for Truck Transportation Services (section 4.1(c)) will not include any mark-up.

- i. Under the LNG Services Agreement, is Nipigon LNG required to maintain a minimum quantity of LNG in the tanks located at the LNG Storage Depots? If so, please point to the provision that requires this.

SEC-14

[A-13-1, Attach 5] Considering the Applicant is likely to be the largest customer for Nipigon LNG, please explain why the LNG Services Agreement does not contain a MFN (Most Favored Nations) or similar clause to ensure no other customers will receive service on more favorable terms.

SEC-15

[A-13-1] Please confirm the following:

- a. Pursuant to the LNG Services Agreement, the Applicant is committed to paying over the 10 year term of the contract \$86.7M in capacity charges (Adding the annual amounts in A-13-1, p.7, Table 2).
- b. Based on information filed in Nipigon LNG's CPCN application (EB-2018-0248), the total capital cost of its facility is \$54M (EB-2018-0248 Nipigon LNG Response to Union Gas IR 1c).
- c. The Ontario Government has awarded the Nipigon LNG project \$27M in funding. (<https://news.ontario.ca/moi/en/2019/01/province-bringing-jobs-and-affordable-heating-to-northern-ontario.html>).

SEC-16

[A-13-1, Attach 5] Based on the inclusion of the LNG Services Agreement, which includes terms related to rates and charges, SEC assumes the Applicant believes that Nipigon LNG does not require approval from the OEB pursuant to section 36 of the *Ontario Energy Board Act* for the setting of its rates and charges. If so, please explain why the Applicant believes that Nipigon LNG does not require approval for rates and charges for some or all of the services under the LNG Services Agreement?

SEC-17

[A-13-1, Attach 1] On the Nipigon LNG Fact Sheet under the section "About Northeast Midstream LP", it references the North Shore Gas Distribution Project which it appears to indicate that it is a project that it either is responsible for or has some role in. Besides the LNG Services Agreement contained in the application, please provide details regarding any legal and financial relationships, that currently and are expected to exist between one or more of the: Applicant (and any of its affiliates), the utility yet to be formed, and Northeast Midstream LP (or any of its affiliates including Nipigon LNG).

SEC-18

With respect to Nipigon LNG:

- a. Please provide details, of all legal and/or financial protections the Applicant has put in place to protect itself, and its customers, of any default on services by Nipigon LNG. Please provide copies of any such protections.

- b. Please explain what the Applicant would do if Nipigon LNG ceased operating and defaulted on its obligations under the contract.
- c. Please explain what steps the Applicant has undertaken to mitigate the risk outlined in part (b).
- d. Please describe what due diligence the Applicant has done on Nipigon LNG and its affiliates.
- e. Please provide details regarding what experience Nipigon LNG or any of its affiliates have in constructing and operating an LNG facility.
- f. Please provide a schedule for construction of the Nipigon LNG project and the TCPL-Nipigon interconnection point.

SEC-19

Please confirm that nothing contractually precludes the Applicant from offering a direct purchase option to customers if they deliver their gas to the proposed TCPL-Nipigon receipt point.

SEC-20

Has the Applicant sought funding for its distribution system under the program set up by Bill 32 - *Access to Natural Gas Act, 2018*? If so, please provide details.

Respectfully submitted on behalf of the School Energy Coalition this November 12, 2019.

Original signed by

Mark Rubenstein
Counsel for the School Energy Coalition