Query, Inquiry? NEB Announces There Will Be No Inquiry of Tolls, Tariffs and Competition in Northeast BC

March 14, 2018

In March of 2017, the National Energy Board ("NEB" or the "Board") announced it was initiating a process to determine whether to hold an inquiry of the tolling methodologies and tariff provisions in regulated natural gas pipelines in Northeastern British Columbia. NOVA Gas Transmission Ltd. ("NGTL"), Westcoast Energy Inc. carrying on business as Spectra Energy Transmission ("Westcoast") and Alliance Pipeline ("Alliance") all operate natural gas pipelines in the area and compete with one another to supply gas, but have distinct tolling methodologies and tariff provisions.

Northeast BC currently lacks takeaway capacity and there is a highly competitive environment between pipeline operators which has led to disputes, in particular between NGTL and Westcoast as to whether the tolling methodologies and tariff provisions unduly favour one party over another. Tolling and tariff issues are dealt with on an application-by-application basis for each pipeline. Accordingly, a general inquiry into competition in the area would be a departure from the NEB's past practice.

The NEB issued a Letter Decision on March 8, 2018 (the "Decision"). In the Decision, the NEB acknowledged a number of potential issues regarding the competitive landscape in Northeast BC however, it determined an inquiry was not warranted and would "introduce undue uncertainty to the Northeast BC supply basin and may not effectively resolve these potential issues". The Decision determined that revisions to the NEB's Filing Manual and upcoming individual toll applications would be a better forum to deal with issues.

Decision

The NEB requested comments from the pipelines and interested stakeholders in March, 2017. The NEB received comments from a number of interested parties, including from producers and First Nations groups. The Board then issued information requests to NGTL, Westcoast, Alliance, the Canadian Association of Petroleum Producers and 11 Northeast BC producers.

After review of the submissions from interest parties, the Board issued the Decision. In the Decision the NEB stated an inquiry was not warranted and that the Board will address issues relating to competition in individual tolling applications by each party.

The Board stated it will consider revising its Filing Manual in order to ensure that issues relating to fair competition can be dealt with in individual tolling applications. The Board did not indicate what those revisions would specifically include, but stated as an example that the revisions may modify notifications for commercial third parties and may require parties to discuss tolling methodologies including "whether the project could proceed on a stand-alone basis and a justification of rolled-in tolling treatment for proposed facilities, including quantification of costs and benefits".

The Decision also stated that competition issues between NGTL and Westcoast would be dealt with in their individual, upcoming toll applications. In particular, the Board noted the issue of whether NGTL's tolls adhere to the principles of cost causation and economic efficiency would need to be addressed. In order to address this issue, the NEB directed NGTL and Westcoast to file specific information with the Board, with each company's respective 2019 final toll application.

The Board directed NGTL to file:

- an analysis of how NGTL's Tariff and Guidelines for New Facilities ensure appropriate cost accountability for shippers requiring receipt extensions;
- an analysis of NGTL's current depreciation study;
- and an analysis of NGTL's tolling methodology and tariff provisions that addresses whether the current methodology should be retained for all or part of the existing NGTL system.

The Board directed Westcoast to file:

- Westcoast's internal policies, procedures and practices for capital investments in expansion and extension facilities in Zone 3;
- an analysis of how they ensure appropriate cost accountability for Westcoast and shippers requiring facility additions in Zone 3;
- an analysis of Westcoast's depreciation study and an analysis of Westcoast's Zone 3 tolling methodology and tariff provisions that addresses whether the current methodology should be retained.

Implications

The Decision acknowledges the issues relating to competition in Northeast BC. It does not address how those issues will be ultimately be resolved. As it stands currently, NGTL and Westcoast will be impacted by more onerous submissions as part of their upcoming toll applications. However, the impacts to other stakeholders will not be apparent until after competition issues are specifically considered and addressed by the Board in the toll applications

By

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