

TOLLS, TARIFF, FACILITIES & PROCEDURES COMMITTEE	
Resolution: T2024-02: Treatment of the benefit derived from constitutionally protected tax status of potential Indigenous Partners	Issue: T2024-02: Treatment of the benefit derived from constitutionally protected tax status of potential Indigenous Partners
Date of Resolution Vote: 2024.07.25	Issue Adoption Date: 2024.07.17
Issue Sponsor: NGTL GP Ltd., as a general partner on behalf of NGTL Limited Partnership (“NGTL”)	

Resolution

Treatment of the benefit derived from constitutionally protected tax status of potential Indigenous Partners

The Tolls, Tariff, Facilities and Procedures Committee (TTFP) agrees to the treatment of the benefit derived from the constitutionally protected tax status of potential Indigenous partners as per the resolution below.

Vote Result

Majority Supported

Background

In June 2023, NGTL presented to the TTFP its intent to reorganize from a corporation to a partnership which provides flexibility for potential future minority interest participation, including the possibility of Indigenous partners.

NGTL committed to transparently share information with the TTFP once the impacts from the reorganization were known. In August 2023, NGTL filed an application with the CER (Canada Energy Regulator) for the required approvals. During subsequent TTFP meetings in October 2023, February 2024, and March 2024, NGTL provided verbal updates on the reorganization progress. The CER approved NGTL's application on February 16, 2024, and the reorganization to a partnership was effective April 1, 2024.

On July 17, 2024, a Special TTFP Meeting was held to share information on the impacts from the reorganization to a partnership. As presented at the June 2023 TTFP, the only financial impact to customers from the reorganization to a partnership is a change in how the applicable income tax rate is determined. For 2024, the rate will increase from 23.08% to an estimated 23.88%, resulting in an approximate \$5M impact based on the 2024 full year.

At the same meeting on July 17, 2024, NGTL provided an overview of an indigenous partnership opportunity whereby by Indigenous communities have an ownership interest up to 8%. The TTFP voted to adopt Issue Statement T2024-02 to review and discuss the treatment of the benefit derived from the constitutionally protected tax status of potential Indigenous partners.

Resolution

The Tolls, Tariff, Facilities and Procedures Committee (TTFP) resolves that: 100% of the benefit derived from the constitutionally protected tax status of Indigenous communities will be directed to the Indigenous partners. The amount related to the income tax status of Indigenous partners will be equal to the income tax amount that Indigenous Partners would recover through the NGTL System Revenue Requirement if their income tax rate were equal to TCPL's income tax rate. This amount will be recovered through the Revenue Requirement and directed to the Indigenous partners.

This resolution is specific to the minority Indigenous partnership opportunity in NGTL of up to 8% and is expressly not intended to set a precedent for treatment on any other pipeline systems or any future partnership opportunity in NGTL.

Next Steps

With sufficient support, and with completion or anticipated completion of the Indigenous partnership opportunity, NGTL will include the amount related to the income tax status of Indigenous partners in future rate filings with the Canada Energy Regulator (CER), based on the percentage of Indigenous ownership. In the event TTFP does not achieve resolution on this issue, NGTL reserves the right to take the issue to the CER.