LETTER DECISION

File OF-EI-Gas-GL-A783-2015-01 0101
22 December 2015

Mr. Andrew Parsons
A C LNG Inc.
1959 Upper Water Street
Suite 1301
Halifax, NS B3J 3N2
Email aparsons@henergy.com

Mr. Dufferin Harper, Partner
Blake, Cassels and Graydon LLP
855 – 2nd Street S.W.
Suite 3500 Bankers Hall East Tower
Calgary, AB T2P 4J8
Email duff.harper@blakes.com

Dear Mr. Parsons and Mr. Harper:

A C LNG Inc.
26 May 2015 Application for a Licence to Export Liquefied Natural Gas and a Licence to Import Natural Gas (Application)
National Energy Board Reasons for Decision

On 26 May 2015, A C LNG Inc. (A C LNG or Applicant) applied to the National Energy Board (NEB or Board) pursuant to section 117 of the *National Energy Board Act* (NEB Act) for a licence (Export Licence) to export liquefied natural gas (LNG), and a licence to import natural gas (Import Licence).

In respect of the Export Licence, A C LNG seeks:

- a 25-year Licence, starting on the date of first export;
- including a 15 per cent annual tolerance, a maximum annual export quantity of 21.4 billion cubic metres (10^9m^3), or 755.7 billion cubic feet (Bcf), of natural gas;
- a maximum export term quantity of 454.3 10^9m^3 (16,038 Bcf) of natural gas over the term of the Licence, including tolerance;
- the point of export located at the outlet of the loading arm of the natural gas liquefaction terminal which is anticipated to be located in the vicinity of Middle Melford, Nova Scotia, Canada; and,
- an early expiration clause where, unless otherwise authorized by the Board, the Export Licence shall expire ten years after the date of Governor in Council approval of the issuance of the Export Licence, if exports have not commenced on or before that date.

In respect of the Import Licence, A C LNG seeks:

- a 25-year Licence, starting on the date of first import;

…/2

- a maximum annual import quantity of 23.8 10^9m^3, or 839.7 Bcf, of natural gas, not including tolerance;
- a maximum import term quantity of 504.8 10^9m^3 (17,821 Bcf) of natural gas over the term of the Licence, not including tolerance;
- the point of import will be at the point at which the Maritimes & Northeast Pipeline crosses the Canada-United States border near the town of St. Stephen, New Brunswick, or such other border point as may become accessible over the Import Term; and any further terms as may be requested and as the Board may impose in the circumstances.

Summary of Public Notice, Comment Period and Information Requests

A C LNG published a Notice of Application and Comment Period (Notice) for impacted persons in the *Globe and Mail* on 9 October 2015 and in *La Presse* on 8 October 2015. The Notices requested that any impacted person who wished to file submissions relevant to the Surplus Criterion[1] do so by 14 November 2015, providing A C LNG with the opportunity to respond by 24 November 2015. The Board received no submissions from the public.

The Board issued an Information Request to A C LNG on 29 October 2015. A C LNG filed its response on 10 November 2015. The Board sought comments from A C LNG on potential import licence conditions on 20 November 2015. A C LNG filed its response on 27 November 2015.

Surplus Determination

A C LNG submitted that, as required by the Surplus Criterion, the quantity of gas it seeks to export does not exceed the surplus remaining after due allowance has been made for the reasonably foreseeable requirements for use in Canada. In support of this submission, A C LNG submitted the following studies: (1) *Supply and Demand Market Assessment in Support of A C LNG Export Licence* by ICF Consulting Canada (ICF), and (2) *A Description of the Implications of A C LNG INC.'s applied-for exports on the ability of Canadians to meet their natural gas requirements and an Assessment whether this gas is surplus to reasonably foreseeable Canadian requirements* by Roland Priddle (Mr. Priddle).

ICF submitted that the North American gas resource base is robust and continue to grow with the development of horizontal drilling and hydraulic fracturing technologies. ICF stated that North America's gas resources are very large, with shale resources accounting for over half of the remaining, economically recoverable gas. Additionally, Mr. Priddle noted there is currently an abundance of low-cost natural gas resource available in North America.

[1] The Surplus Criterion, set out in Section 118 of the NEB Act, states: "On an application for a licence to export oil or gas, the Board shall satisfy itself that the quantity of oil or gas to be exported does not exceed the surplus remaining after due allowance has been made for the reasonably foreseeable requirements for use in Canada, having regard to the trends in the discovery of oil or gas in Canada."

ICF indicated that North American natural gas resources are more than adequate to meet domestic demand, as well as the volume of LNG exports proposed by A C LNG. ICF stated that North American natural gas markets are integrated and highly developed, and both it and Mr. Priddle assume the normal functioning of these markets to continue. Mr. Priddle described the North American gas market as highly liquid, open, efficient, integrated and responsive to changes in supply and demand. ICF concluded that there are substantial resources available at moderate prices to meet future demand for natural gas in North America and Canada. ICF also considered a scenario where Canadian gas demand increases by 20 per cent by 2035 and holds steady through 2050. It concluded that the resource base is adequate to accommodate such an increase in demand, and stated that the excess demand would be met with increased Western Canadian Sedimentary Basin (WCSB) production, as well as increased imports from the Marcellus Basin. Mr. Priddle concluded that the exports of gas proposed by the Applicant will not affect the ability of Canadians to meet their natural gas requirements.

In its supply and demand forecast, ICF included 2.7 Bcf/d of Canadian West Coast LNG exports by 2022 and maintained the same level of exports through to 2050, due to long term uncertainty about LNG demand and competition from other sources. ICF stated that many projects that have received regulatory approval will not become commercial. In its report, ICF also evaluated the implications of its LNG export assumptions using the total volume of exports authorized by the Board at the time, which was 24.4 Bcf/d. ICF concludes that the natural gas reserve estimates are adequate, but that a more intensive drilling program in the WCSB would be required to accommodate this level of LNG exports, as well as extensive new pipeline capacity to the West Coast.

ICF identified several factors that would limit North American LNG exports, including long term contracts with LNG buyers and producers (global competition); approval of liquefaction facilities; obtaining pipeline capacity; construction of new pipelines; and infrastructure costs. ICF stated that the major barrier most likely to affect A C LNG's export volumes would be obtaining adequate pipeline capacity from the supply sources into Nova Scotia. ICF concluded that the restrictions on LNG exports will not arise due to market disruptions or lack of resources, but will only be based on the commercial viability of individual projects.

Views of the Board

The Board has decided to issue an Export Licence to A C LNG, subject to the approval of the Governor in Council, to export liquefied natural gas with the terms and conditions described in Appendix I to this letter. In addition, the Board has decided to issue an Import Licence to A C LNG, subject to the approval of the Governor in Council, to import natural gas with the terms and conditions described in Appendix II to this letter.

Our role, under section 118 of the NEB Act, is to assess whether the gas proposed to be exported does not exceed the surplus remaining after due allowance has been made for the reasonably foreseeable requirements for use in Canada, having regard to trends in the discovery of gas in Canada (the Surplus Criterion). In fulfilling this mandate, we recognize that Canadian natural gas requirements are met in the context of free trade within a North American energy market. Depending on regional characteristics, exports and imports contribute to either gas supply or gas demand. It is in this context that we consider whether the Surplus Criterion in the NEB Act is satisfied.

We have determined that the quantity of natural gas proposed to be exported by A C LNG is surplus to Canadian needs. The Board is satisfied that the gas resource base in Canada, and the overall North American gas resource base, is large and can accommodate reasonably foreseeable Canadian demand, including the LNG exports proposed by the Applicant, and a plausible potential increase in demand. The Board agrees with the evidence of A C LNG that the North American gas market is highly liquid, open, efficient, integrated, and responsive to changes in supply and demand. The Board further accepts the Applicant's analysis of Canadian demand and, given the size of Canadian natural gas resources and the integrated and well-functioning nature of the North American gas market, concludes that Canadian gas requirements will be met.

The Board monitors Canada's natural gas supply and demand, including LNG developments. Monitoring assists the Board in identifying where markets may not be functioning properly or where the evolution of supply and demand casts doubt on the ability of Canadians to meet future energy requirements. The Board notes that the evidence in this Application is generally consistent with the Board's own market monitoring information. Recent studies of natural gas resources indicate that advances in drilling and hydraulic fracturing have resulted in greatly increased estimates of recoverable resources in the WCSB and in the United States. Furthermore, since deregulation of Canadian gas markets in 1985, gas markets in North America have functioned efficiently and there is no evidence to suggest that they will not continue to do so in the future. The North American gas market is characterized by a large number of buyers and sellers, an extensive and growing pipeline and storage network, and a sophisticated commercial structure.

In aggregate, the LNG export licence applications submitted to the Board to date represent a significant volume of LNG exports from Canada. However, all of these LNG ventures are competing for a limited global market and face numerous development and construction challenges. The Board acknowledges A C LNG's evidence which cites the factors that are likely to limit Canadian LNG export volumes including: long-term contracts with LNG buyers and producers (global competition); approval of liquefaction facilities; obtaining adequate pipeline capacity from supply sources into Nova Scotia; construction of new pipelines; and project costs. The Board will not predict which licences will be used or used to the full allowance. The Board evaluates each application on its own merit.

<u>Relief Requested</u>

A C LNG requested relief from the information requirements for gas import and export licence applications set out in sections 12 and 13 of the *National Energy Board Act Part VI (Oil and Gas) Regulations* (Part VI Regulations) that are not specifically addressed in its Application. A C LNG also requested any further terms as may be requested and as the Board may impose in the circumstances.

Views of the Board

The Board notes that it may exempt applicants for gas export and import licences from the filing requirements contained in section 12 and 13 of the Part VI Regulations. In its *Interim Memorandum of Guidance Concerning Oil and Gas Export Applications and Gas Import Applications under Part VI of the NEB Act*, dated 11 July 2012, the Board indicated that it no longer requires applicants for gas export licences to file the information contained in section 12(f) or 13(e) of the Part VI Regulations.

The Board further recognizes that not all of the other filing requirements contained in sections 12 and 13 of the Part VI Regulations are relevant to its assessment of this Application. Therefore, the Board grants A C LNG's request to be exempted from the filing requirements contained in section 12 and 13 of the Part VI Regulations that were not included in the Application.

In the Board's view, no further relief is required in the granting of this Application.

R. R. George
Presiding Member

P.H. Davies
Member

J. Gauthier
Member

December 2015
Calgary, Alberta

Appendix I

Terms and Conditions of the Licence to be Issued for the Export of Liquefied Natural Gas

General

1. A C LNG Inc. shall comply with all of the terms and conditions contained in this licence unless the National Energy Board (Board) otherwise directs.

Licence Term, Conditions and Point of Export

2. Subject to Condition 3, the term of this licence shall commence on the date of first export, and shall continue for a period of 25 years thereafter.

3. This Licence shall expire 10 years from the date of Governor in Council approval of its issuance, unless liquefied natural gas exports have commenced on or before that date, or the Board otherwise directs.

4. The quantity of liquefied natural gas that can be exported under the authority of this licence is:

   a. Maximum annual quantity that may be exported in any 12-month period, including the 15 per cent tolerance, may not exceed 21.4 10^9m^3.

   b. Maximum term quantity, including the 15 per cent tolerance, may not exceed 454.3 10^9m^3.

5. Natural gas will be exported at a point at the outlet of the loading arm of the natural gas liquefaction terminal which is anticipated to be located in the vicinity of Middle Melford, Nova Scotia.

Appendix II

Terms and Conditions of the Licence to be Issued for the Import of Natural Gas

General

1. A C LNG Inc. shall comply with all of the terms and conditions contained in this licence unless the National Energy Board (Board) otherwise directs.

Licence Term, Conditions and Point of Import

2. Subject to Condition 3, the term of this licence shall commence on the date of first import, and shall continue for a period of 25 years thereafter.

3. This Licence shall expire 10 years from the date of Governor in Council approval of its issuance, unless natural gas imports have commenced on or before that date, or the Board otherwise directs.

4. The quantity of natural gas that can be imported under the authority of this licence is:

    a. Maximum annual quantity that may be imported in any 12-month period, including the 15 per cent tolerance, may not exceed 27.37 $10^9 m^3$.

    b. Maximum term quantity, including the 15 per cent tolerance, may not exceed 580.52 $10^9 m^3$.

5. Natural gas will be imported at the point where the Maritimes & Northeast Pipeline crosses the Canada-United States border near St. Stephen, New Brunswick, or other such point as the Board may approve.