



LETTER DECISION

File OF-EI-Gas-GL-K090-2014-01 01
21 January 2016

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Dear Mr. Brady, Mr. Suthanthiran, and Ms. Bergin:

**Kitsault Energy Ltd. (Kitsault Energy or the Applicant),
Application for a Licence to Export Natural Gas as Liquefied Natural Gas (LNG)
National Energy Board Reasons for Decision**

On 4 April 2014, Kitsault Energy applied to the National Energy Board (NEB or Board) pursuant to section 117 of the *National Energy Board Act* (NEB Act) for a licence (Licence) to export natural gas (Application), in the form of LNG. Kitsault Energy seeks:

- a Licence of 20 years starting on the issue date of the Licence and not extending beyond 31 December 2035;
- including a 15 per cent annual tolerance, a maximum annual export quantity of 32.2 billion cubic metres (10^9 m^3), or 1 136 billion cubic feet, of natural gas¹;
- a maximum term quantity of $644 \times 10^9 \text{ m}^3$ (22.7 trillion cubic feet) of natural gas over the term of the Licence, including tolerance²;
- the point of export will be at the outlet of the loading arm of the natural gas liquefaction terminal to be located near Kitsault, British Columbia; and,
- an expiration clause where, unless otherwise authorized by the Board, the Licence will expire at the end of 31 December 2024 if LNG exports have not commenced on or before that date.

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¹ The $32.2 \times 10^9 \text{ m}^3$ equals the applied for annual quantity of $28 \times 10^9 \text{ m}^3$ plus the 15 per cent annual tolerance, and also equals the applied for term quantity, including tolerance, of $644 \times 10^9 \text{ m}^3$ divided by 20.

² As stated in the Application (Efile [A59590](#))

Summary of Public Notice and Information Requests

As directed by the Board, Kitsault Energy published a Notice of Application and Comment Period (Notice) for impacted persons in *The Globe and Mail* on 28 September 2015 and in *La Presse* on 29 September 2015. The Notices requested that any impacted person who wished to file submissions related to the Surplus Criterion³ do so by 26 November 2015, providing Kitsault Energy with the opportunity to reply by 10 December 2015.

The Board issued the first Information Request (IR) to Kitsault Energy on 8 July 2014. The deadline to respond to IR No. 1 was 19 March 2015, and the Board extended this deadline to 1 June 2015 at Kitsault Energy's request. Kitsault Energy filed its response to IR No. 1 on 1 June 2015. On 17 September 2015, IR No. 2 was sent to Kitsault Energy with a deadline of 8 October 2015 for the Applicant to respond. The Board granted an extension for the response time to 9 November 2015, and Kitsault Energy filed its response on 28 October 2015.

Surplus Determination

Kitsault Energy submitted that, as required by the Surplus Criterion, a sufficient surplus of Canadian production exists in excess of domestic demand to exceed the amounts proposed for export by Kitsault Energy. In support of this submission, Kitsault Energy relied on the National Energy Board's November 2013 *Canada's Energy Future 2013 – Supply and Demand projections to 2035 – An Energy Market Assessment* report as evidence. Kitsault Energy also applied its own analysis and modifications to the NEB's projections.

Kitsault Energy submitted that the Western Canadian gas resource base is large, such that not only is there sufficient marketable reserves to serve the cumulative domestic demand over the twenty year term and forecasted pipeline exports to the United States, there is also a surplus left for additional growth in domestic demand and for other proposed projects. Kitsault Energy noted that the extraction of natural gas from shale and tight deposits has become viable by new horizontal drilling and fracking technology. Kitsault Energy noted that the rapid shift occurring in the natural gas trade flows in North America has led to a steady loss of Western Canada Sedimentary Basin (WCSB) natural gas market share in Central Canada over the last few years due to lower cost United States imports.

Kitsault Energy also noted that because of the proximity of Western Canadian reserves to West Coast ports and the proximity of those Canadian ports to off-shore markets in Asia, especially in Japan and Malaysia, Western Canadian producers can compete in that market. Kitsault Energy believes there will always be a minimum differential sufficient for low-cost Canadian suppliers and that the differential will be sustainable due to the dependency on natural gas in Asia.

³ 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."

Kitsault Energy also provided a Canadian demand sensitivity analysis considering a twenty per cent increase in the Canadian demand growth rate⁴ over the forecast period and found that there is also a surplus of marketable reserves over the supply/demand forecast period. Kitsault Energy concluded that the export of gas it proposes will not cause Canadians any difficulty in meeting their natural gas requirements.

When considering the level of LNG exports from Canada in its supply/demand forecast, Kitsault Energy considered only its export volumes and noted that it is not realistic to consider the total quantities of natural gas proposed for licences by other applicants. Kitsault Energy also noted that the supply side has the potential to far exceed any expectation of future demand of LNG and that market forces will limit the number of operational Canadian LNG facilities.

Views of the Board

The Board decided to issue a Licence to Kitsault Energy, subject to the approval of the Governor in Council, to export natural gas as liquefied natural gas with the terms and conditions described in Appendix I 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 Kitsault Energy 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 Kitsault Energy that the North American gas market is 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.

⁴ The rate is 3.01 per cent per year, equal to 20 per cent over the Reference Case demand growth rate of 2.51 per cent per year.

The Board notes that the evidence in this Application is 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 Kitsault Energy's evidence which notes that the supply side has the potential to far exceed any expectation of future demand of LNG and that market forces will limit the number of operational Canadian LNG facilities. 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.

Issues Raised During the Comment Period

On 10 November 2015, the NEB received a phone message from Mr. Keith William Steeves from Atlantic Pacific Spaceline Enterprise Incorporated (APSE) that the Application was not available at Kitsault Energy's Vancouver office.⁵ Upon learning this, the Board contacted Kitsault Energy to inform them that as per the Board's 17 September 2015 Notice requirement letter, Kitsault Energy was required to have a copy of its Application for public viewing at its Counsel's Vancouver Office. On 11 November 2015, Kitsault Energy filed a letter stating that a paper copy of its Application was now available at its Vancouver office. Kitsault Energy explained that it had, through a misunderstanding, made the Application available in its Ottawa office rather than its Vancouver office.

On 12 November 2015, Mr. Steeves from APSE filed a letter with the Board stating that Kitsault Energy had not stored information for its Application at Kitsault Energy's Vancouver office. APSE asked for disciplinary action to be taken against Kitsault Energy for having failed to respect the Board's Notice requirement set out in the Board's 17 September 2015 letter. APSE also inquired whether the taking of such action would impact the deadline for the comment process due to end on 26 November 2015. Board staff contacted APSE to advise that the matter had already been promptly remedied. APSE stated that it would file a comment by the end of the Notice period deadline of 26 November 2015.

⁵ On 12 November 2015, a letter from Mr. Steeves was subsequently filed regarding the unavailable application (Efile [A73932](#))

On 26 November 2015, in a letter of comment, APSE suggested that the NEB's natural gas export approvals would impact its access to supply. APSE stated that the summation of the proposals that have been approved by the Board and that are currently before the Board could 'lock out' APSE from obtaining its desired quantity of natural gas. In a response submitted on 4 December 2015, Kitsault Energy stated that the Board's approach to considering each application on its own merits remains valid and is sufficient, and that Kitsault Energy's Application and information contained therein is sufficient for the Board to make its decision.

Views of the Board

The Board acknowledges that production forecasts are typically based on assumptions which carry some uncertainties. However, the Board is satisfied that the gas resource base in Canada, as well as North America, is large and can easily accommodate reasonably foreseeable Canadian demand as well as the Applicant's proposed LNG exports.

As discussed, the Board considers that the applications approved by 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. Not all LNG export licences issued by the Board will be used or used to the full allowance. The Board evaluates each application on its own merit.

In regard to the issue about the Application not being available at the Vancouver office, the Board accepts that it may have been a misunderstanding, since Kitsault Energy had a copy of its Application available at its Ottawa office instead. The situation was promptly remedied to the Board's satisfaction and APSE was able to provide its comments by the deadline for the comment process. The Board is of the view that disciplinary measures against Kitsault Energy are therefore not required in the circumstances.

Terms, Conditions, and Relief Requested

Kitsault Energy did not request relief from the information requirements for gas export licence applications set out in section 12 of the *National Energy Board Act Part VI (Oil and Gas) Regulations* (Part VI Regulations) but the Board can nonetheless grant such relief.

Views of the Board

The Board notes that it may exempt applicants for gas export licences from filing requirements contained in section 12 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 National Energy Board 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). The Board further recognizes that not all of the filing requirements contained in section 12 of the Part VI Regulations are relevant to its assessment of this Application.

Therefore, the Board exempts Kitsault Energy from the filing requirements contained in section 12 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.



S. J. Kelly
Presiding Member



R. R. George
Member



J. Gauthier
Member

January 2016
Calgary, Alberta

Appendix I

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

General

1. Kitsault Energy shall comply with all of the terms and conditions contained in this Licence unless the Board otherwise directs.

Licence Term, Conditions and Point of Export

2. The term of this Licence shall be for 20 years commencing on the issue date of the Licence but shall not extend beyond 31 December 2035.
3. This Licence shall expire at the end of 31 December 2024, unless natural gas exports have commenced on or before that date, or the Board otherwise directs.
4. The quantity of 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 $32.2 \times 10^9 \text{ m}^3$.
 - b. Maximum term quantity, including the 15 per cent tolerance, may not exceed $644 \times 10^9 \text{ m}^3$.
5. Natural gas will be exported at the outlet of the loading arm of the natural gas liquefaction terminal to be located near Kitsault, British Columbia, Canada.