



## LETTER DECISION

File OF-EI-Gas-GL-P756-2013-01 01  
16 December 2013

Ms. Lisa Yoho  
Mr. James R. Stevens III  
Prince Rupert LNG Exports Limited  
1330 - 1075 West Georgia St.  
Vancouver, BC V6E 3C9  
Facsimile 713-599-3781

Mr. L.E. Smith, Q.C.  
Bennett Jones LLP  
4500 Bankers Hall East  
855 - 2nd Street S.W.  
Calgary, AB T2P 4K7  
Facsimile 403-265-7219

Dear Ms. Yoho, Mr. Stevens, and Mr. Smith:

**Prince Rupert LNG Exports Limited (Prince Rupert LNG)  
17 June 2013 Application for a Licence to Export Liquefied Natural Gas (LNG)  
pursuant to Section 117 of the *National Energy Board Act* (NEB Act)  
National Energy Board (Board) Reasons for Decision**

Recent developments in gas production technology have resulted in a significant increase in the Canadian gas resource base and North American gas supply. One of the major impacts of this increase is lower demand for Canadian gas in traditional gas markets in the United States and eastern Canada. As a result, the Canadian gas industry is seeking to access overseas gas markets through exports of LNG.

On 17 June 2013, Prince Rupert LNG applied to the Board pursuant to section 117 of the NEB Act for a licence (licence) authorizing the export of LNG (Application). Prince Rupert LNG seeks a licence duration of 25 years, starting on the date of first export with an annual volume of 21,600,000 tonnes of LNG (21.60 MMt/y)<sup>1</sup>, which corresponds to a natural gas equivalent of 2.91 billion cubic feet per day (Bcf/d)<sup>2</sup>, and a maximum term quantity of 592,000,000 tonnes (592 MMt)<sup>3</sup>. The proposed export point would be located on Ridley Island, British Columbia at the outlet of the loading arm of a proposed natural gas liquefaction terminal.

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<sup>1</sup> Applied-for annual quantity not including tolerance

<sup>2</sup> As calculated by the Board from Prince Rupert LNG's applied for export volume of 1062 Bcf/year divided by 365 days. This is equivalent to 30.08 10<sup>9</sup> m<sup>3</sup>/year using a conversion of 35.301 cf/m<sup>3</sup>

<sup>3</sup> As calculated by the Board, Prince Rupert LNG's applied for maximum term quantity of 592, 000,000 tonnes is equivalent to 824.58 10<sup>9</sup> m<sup>3</sup> given the annual volume, tolerance, and ramp-up

## **Board Decision**

We have decided to issue a licence to Prince Rupert 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.

Our role, under s. 118 of the NEB Act, is to assess whether the natural 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 (Surplus Criterion).

In fulfilling this mandate, we recognize that Canadian natural gas requirements are met within a North American integrated market. Depending on regional characteristics, exports and imports contribute to either gas supply or gas demand. It is in this context that we must consider whether the Surplus Criterion in the NEB Act is satisfied.

We have determined that the quantity of gas proposed to be exported by Prince Rupert LNG is surplus to Canadian need. The Board is satisfied that the gas resource base in Canada, as well as North America, is large and can accommodate reasonably foreseeable Canadian demand, the LNG exports proposed in this Application, and a plausible potential increase in demand.

We note that the evidence in this Application is generally consistent with the Board's own market monitoring. Recent studies of natural gas resources uncovered significant amounts in the Western Canada Sedimentary Basin and in the United States. The North American gas market is a mature marketplace characterized by a large number of buyers and sellers, an extensive and growing pipeline and storage network and a sophisticated commercial structure. 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.

## **Natural Gas Export Regulation**

The Board's regulation of natural gas exports is governed by a statutory framework that includes the following three components:

- that all natural gas exports must be authorized by an order or licence<sup>4</sup>;
- that the Board must satisfy itself that the gas to be exported by licence is surplus to Canadian requirements<sup>5</sup>; and
- that all exports are reported<sup>6</sup>.

A mandatory hearing for gas export licences is no longer required by the amended NEB Act. For this application, the Board decided to utilize a written process providing a Notice of Application by the applicant and a Comment Period for impacted persons.

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<sup>4</sup> Section 116 of the NEB Act

<sup>5</sup> Section 118 of the NEB Act

<sup>6</sup> Section 4 of the *National Energy Board Export and Import Reporting Regulations*

### **Summary of the Notice, Comment Process and Submissions**

On 18 July 2013, the Board directed Prince Rupert LNG to publish a Notice of Application and Comment Period in the *Globe and Mail* and *La Presse* and to serve the Notice of Application and Comment Period on specified persons and agencies. The Notice of Application and Comment Period requested that any impacted person who wished to file submissions on the merits of the Application do so by 28 August 2013. The Board received no submissions from any parties.

The Board issued one Information Request (IR) to Prince Rupert LNG on 28 August 2013. Prince Rupert LNG filed its response to the IR on 19 September 2013.

### **Surplus Determination**

Prince Rupert LNG submitted that the quantity of gas it seeks to export, does not exceed the surplus as required by the Surplus Criterion. In support of this submission, Prince Rupert LNG submitted the following studies: (1) *Natural Gas Supply and Demand Forecast to 2050* prepared by the Ziff Energy Group (Ziff), (2) an *Export Impact Assessment Report* and (3) an *Evaluation of Surplus*, with both of the latter having been prepared by Mr. Roland Priddle (Mr. Priddle).

Ziff submitted that the North American and Western Canadian gas resource bases are robust and continue to grow with the development of horizontal drilling and multi-stage fracture technologies and there is an abundance of low cost natural gas available in North American and Canadian shale and unconventional gas plays. Ziff expects natural gas markets in North America to continue to function in a rational manner during the forecast period and continue to provide appropriate market signals for development of resources to meet Canadian domestic and export demand.

Ziff and Mr. Priddle submitted that the North American gas market is large, highly liquid, open, efficient, integrated, flexible, and responsive to changes in supply and demand. Ziff and Mr. Priddle concluded that the export of gas proposed by the Applicant will not cause Canadians any difficulty in meeting their natural gas requirements at fair market prices over the forecast period.

Mr. Priddle also observed that Canadian energy and gas markets have been functioning satisfactorily for more than 25 years and are now fully integrated with those of the United States where similar market functioning has been confirmed many times. Mr. Priddle's *Evaluation of Surplus* concluded that the export volume proposed by the Applicant meets the Surplus Criterion, supported by the fact that Canadian gas requirements are met within an integrated North American market and the gas resource base is large and can accommodate reasonably foreseeable Canadian demand as well as the LNG export proposed by the Applicant.

In an IR, the Board requested that Prince Rupert LNG provide a Canadian demand sensitivity analysis (additional Canadian demand) and discuss its impact, if any, on Prince Rupert LNG's surplus conclusions. Prince Rupert LNG consulted with Ziff and Mr. Priddle to provide its response. The more robust demand scenario requested by the IR did not disturb the fundamental conclusions that the LNG exports would not cause Canadians any difficulty in meeting their gas requirements over the forecast period and that the quantity of gas Prince Rupert LNG seeks to export does not exceed the surplus as required by the Surplus Criterion.

### ***Views of the Board***

The Board is satisfied that the gas resource base in Canada, as well as North America, is large and can accommodate reasonably foreseeable Canadian demand, the LNG exports proposed by this Application, and a plausible potential increase in demand. The Board further accepts that the incremental cost of adding new production to supply any exported LNG or to satisfy a plausible demand increase is low. The Board agrees with Ziff and Mr. Priddle that the North American gas market is large, highly liquid, open, efficient, integrated, flexible, and responsive to changes in supply and demand.

The Board notes that the evidence in this Application is generally consistent with the Board's own market monitoring. 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.

Based on all of the foregoing, the Board is satisfied that the quantity of gas proposed to be exported by Prince Rupert LNG 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 gas in Canada.

### **Relief Requested**

#### **Agent on behalf of Affiliates and Third Parties**

Prince Rupert LNG seeks authorization to export LNG on its own behalf, and as an agent on behalf of affiliates and third parties.

### ***Views of the Board***

Section 116 of the NEB Act prevents any person, except as otherwise authorized by the regulations, from exporting gas except under and in accordance with a licence issued by the Board. In the Board's view, this section does not require the holder of the licence to also be the owner of the gas proposed for export; therefore the Board does not find it necessary to include a term on the licence permitting Prince Rupert LNG to act as agent on behalf of its affiliates and third parties, as it proposes. The Board notes that Prince Rupert LNG, when acting in its capacity as an agent, would be exporting under its licence and reporting those exports under the *National Energy Board Export and Import Reporting Regulations* (Reporting Regulations).

#### **Relief from Filing Requirements**

Prince Rupert LNG requested 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* (Oil and Gas Regulations) and the Board's Filing Manual, except where those requirements are addressed within its application.

The Board notes that it is in the process of updating the Oil and Gas Regulations to align with recent changes to the NEB Act.

### ***Views of the Board***

The Board notes that it may exempt applicants for gas export licences from the filing requirements contained in section 12 of the Oil and Gas 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) of the Part VI Regulations. The Board also recognizes that not all of the other filing requirements contained in section 12 of the Oil and Gas Regulations are relevant to its assessment of this Application. Therefore, the Board exempts Prince Rupert LNG from the filing requirements contained in section 12 of the Oil and Gas Regulations that were not included in the Application.

As stated previously, the Board focused its assessment of the Application on the Surplus Criterion contained in section 118 of the NEB Act. The requirements that are needed for the Board's assessment are identified in Guide Q of the Filing Manual<sup>7</sup>. In the Board's view, the information included in Prince Rupert LNG's Application met the requirements outlined in Guide Q.

The Board notes that Prince Rupert LNG filed some information using an approach consistent with the Board's Market Based Procedure (MBP)<sup>8</sup>. However, the Board would like to make it clear that the MBP is no longer in effect. For LNG export applications filed since the NEB Act was amended in June 2012, the Board has utilized a written public notice and comment process in place of an oral public hearing and the Complaints Procedure. In addition, the Board has issued Guide Q of the Filing Manual which provides guidance on information requirements for gas export licence applications. The Board notes that Guide Q does not prescribe a specific format or specific application content, such as a discussion on energy conservation or fuel switching. The Guide Q information requirements may be met in a variety of ways, including qualitatively or quantitatively.

### **Exemption from Reporting Requirements**

Prince Rupert LNG also seeks relief from the reporting requirements set out in section 4 of the Reporting Regulations in accordance with the realities of LNG development.

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<sup>7</sup> Guide Q of the Filing Manual: [http://www.neb-one.gc.ca/clf-nsi/rpblctn/ctsndrgltn/flngmnl/flngmnsrt2013\\_03-eng.pdf](http://www.neb-one.gc.ca/clf-nsi/rpblctn/ctsndrgltn/flngmnl/flngmnsrt2013_03-eng.pdf)

<sup>8</sup> The MBP is a comprehensive procedure by which the Board assessed applications for natural gas export licences described in the Board's Reasons for Decision in GHR-1-87 Review of Natural Gas Surplus Determination Procedures (July 1987)

In a response to an Information Request from the Board, Prince Rupert stated the effect of exporting from a unique export point is that by reporting the information required under the Reporting Regulations on a monthly basis, Prince Rupert LNG would be unable to maintain the confidentiality of the details of export sales contracts between Prince Rupert LNG and its buyers, which are commercially sensitive documents. Prince Rupert LNG submitted that if the Board is satisfied with not requiring the disclosure of individual export sales contracts, it should also be prepared to relieve Prince Rupert LNG from requirements of the Reporting Regulations that would otherwise have the effect of disclosing the same. Prince Rupert LNG foresees that the requested relief of aggregated quarterly reporting would overcome the problems associated with the Reporting Regulations by aggregating LNG volume and values over a period of time such that identification of individual arrangements between buyer and seller is unlikely.

### ***Views of the Board***

The Board has decided to deny Prince Rupert LNG's request for exemption from the Reporting Regulations. The Applicant, in its response to IR 1.1<sup>9</sup> relating to the applied-for exemption from Reporting Regulations, relied on the Board's reasons for decision on the KM LNG application. The Board, in its consideration of this application, is not bound by previous decisions and is not persuaded by the Applicant's submissions which consisted primarily of a reference to a previous decision.

The Board is currently modernizing the gas export application process as well as enhancing its market monitoring to ensure that Canadian gas markets continue to function well. While the Board no longer requires details of export contracts, the Board's enhanced market monitoring relies on information that is required to be submitted by export authorization holders in compliance with the Reporting Regulations. The Board monitors the energy markets, including supply, demand and inter-regional flows to assess whether markets are well-functioning and to remain informed on any emerging issues.

The Board notes that the information supplied by an export licence holder to the Board is not necessarily the information that is published by the Board. The Board will continue to support market transparency while exercising discretion with respect to the information it chooses to release to the public. The Board is currently in the process of reviewing and updating the Reporting Regulations.

The Board reminds Prince Rupert LNG that, as required by the Reporting Regulations, it must submit to the Board, on or before the last day of each month during the term of the licence, a return for the previous month containing specified information pertaining to transactions under the licence.

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<sup>9</sup> NEB "Information Request No 1.1: Request for Relief from Reporting Requirements" dated 28 August 2013

**Additional Licence Terms and Conditions**

Prince Rupert LNG requested a 15 per cent annual tolerance to the amount of gas that may be exported under the licence in any 12-month period to allow for operational and design optimization, variability in gas specification, and operating and maintenance variables. Prince Rupert LNG also requested a sunset clause where, unless otherwise authorized by the Board, the licence will expire ten years from its date of issuance if exports have not commenced on or before that date.

***Views of the Board***

The Board accepts Prince Rupert LNG’s request for a 15 per cent annual tolerance. The maximum term quantity permitted under the licence is inclusive of the annual tolerance amount, and takes into consideration the ramp up of export volumes in the liquefaction terminal’s first two years of operation.

The Board accepts Prince Rupert LNG’s request for a ten year sunset clause, from the date of issuance of the licence, as reasonable. It has generally been Board practice in issuing a gas export licence to set an initial period during which, if the export of gas commences, the licence becomes effective for the full term approved by the Board. This condition in the licence is referred to as a sunset clause because the licence would expire if the export did not commence within the specified timeframe.



R.R. George  
Presiding Member



P.H. Davies  
Member



J. Gauthier  
Member

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December 2013  
Calgary, Alberta

## Appendix I

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

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### General

1. Prince Rupert LNG Exports Limited (Prince Rupert LNG) 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. Subject to Condition 3, the term of this licence shall commence on the date of first export from the liquefaction terminal referred to in Prince Rupert LNG's application dated 17 June 2013, which is to be located on Ridley Island, British Columbia, Canada (the Liquefaction Terminal) and shall continue for a period of 25 years thereafter.
3. This Licence shall expire 10 years from the date of issuance, unless exports from the Liquefaction Terminal 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  $34.60 \times 10^9 \text{ m}^3$ ;
  - b. Maximum term quantity may not exceed  $824.58 \times 10^9 \text{ m}^3$ .
5. Natural gas will be exported at a point at the outlet of the loading arm of the Liquefaction Terminal.