



LETTER DECISION

File OF-EI-Gas-GL-P757-2013-01 01
16 December 2013

Mr. Wilfred Barke
Pacific NorthWest LNG Ltd.
1900, 1066 West Hastings Street
Vancouver, BC V6E 3X1
Facsimile 604-630-3181

Mr. Frank R. Foran, Q.C.
Ms. Julie G. Hopkins
Borden Ladner Gervais LLP
1900, 520 – 3rd Avenue SW
Calgary, AB T2P 0R3
Facsimile 403-266-1395

Dear Mr. Barke, Mr. Foran and Ms. Hopkins:

**Pacific NorthWest LNG Ltd. (Pacific NorthWest LNG), as General Partner of the
Pacific NorthWest LNG Limited Partnership
5 July 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 5 July 2013, Pacific NorthWest LNG applied to the Board pursuant to section 117 of the NEB Act for a licence (licence) authorizing the export of LNG (Application). Pacific NorthWest LNG seeks a licence duration of 25 years, starting on the date of first export, with an annual volume of 19,680,000 tonnes of LNG (19.68 MMt/y)¹, which corresponds to a natural gas equivalent of 2.74 billion cubic feet per day (Bcf/d)², and a maximum term quantity of 555,000,000 tonnes (555 MMt)³. The proposed export point would be located on Lelu Island within the District of Port Edward, British Columbia, on federal land administered by the Prince Rupert Port Authority.

¹ Applied-for annual quantity not including tolerance

² As calculated by the Board from Pacific NorthWest LNG applied for export volume of 1,001 Bcf/year divided by 365 days. This is equivalent to 28 10⁹ m³/year as stated by Pacific Northwest LNG

³ As calculated by the Board, Pacific Northwest LNG's applied for maximum term quantity of 555,000,000 tonnes is equivalent to 798.96 10⁹ m³ given the annual volume, tolerance and ramp-up

Board Decision

We have decided to issue a licence to Pacific NorthWest 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 Pacific NorthWest 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 proposed LNG exports, 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 licence⁴;
- that the Board must satisfy itself that the gas to be exported by licence is surplus to Canadian requirements⁵; and
- that all exports are reported⁶.

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.

⁴ Section 116 of the NEB Act

⁵ Section 118 of the NEB Act

⁶ Section 4 of the *National Energy Board Export and Import Reporting Regulations*

Summary of the Notice, Comment Process and Submissions

On 26 July 2013, the Board directed Pacific NorthWest 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 4 September 2013. The Board received submissions from the Industrial Gas Consumers Association of Alberta (IGCAA) on 2 September 2013 and the Chemistry Industry Association of Canada (CIAC) on 27 August 2013, which are discussed below. Pacific NorthWest LNG provided reply comments to these submissions on 16 September 2013

The Board issued one Information Request (IR) to Pacific NorthWest LNG on 28 August 2013. Pacific NorthWest LNG filed its response to the IR on 20 September 2013.

Surplus Determination

Pacific NorthWest 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, Pacific NorthWest LNG submitted the following studies: (1) *Natural Gas Supply and Demand Forecast to 2044* prepared by the Ziff Energy Group (Ziff), and (2) an *Export Impact Assessment and Surplus Evaluation* prepared by Mr. Roland 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 highly liquid, open and efficient, and that Canadian gas markets have been adequately supplied and this is expected to continue. Mr. Priddle also observed that Canadian and North American natural gas markets have effectively managed supply and demand fluctuations in response to market price signals, and that Canadians meet their energy and natural gas requirements from very large, functioning, integrated, and robust natural gas markets.

Mr. Priddle's surplus evaluation concluded that the large Canadian and North American resource base can easily accommodate reasonably foreseeable requirements of gas for use in Canada and that the gas markets from which the exports will be drawn are large, integrated, transparent, liquid, flexible and price-responsive. Priddle submitted that the quantity of gas proposed to be exported by Pacific NorthWest LNG in the form of LNG meets the Surplus Criterion in the NEB Act.

In an IR, the Board requested that Pacific Northwest LNG provide a Canadian demand sensitivity analysis (additional Canadian demand) and discuss its impact, if any, on Pacific Northwest LNG's surplus conclusions. Pacific Northwest LNG consulted with Ziff to provide its

response. The more robust demand scenario requested by the IR did not disturb the 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 Pacific Northwest 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 easily 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, North American gas markets 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 Pacific NorthWest 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.

Issues Raised During Comment Period

Industrial Gas Consumers Association of Alberta (IGCAA)

The IGCAA, in its letter of comment dated 2 September 2013, stated it continues to rely on the mandate of the NEB to ensure that export quantities do not negatively impact the price and availability of natural gas for domestic consumption and further stated that it was concerned that the aggregate impact of multiple LNG export licence applications before the Board was not being considered. The IGCAA took no position on the application but urged the NEB to consider the aggregate impact of the LNG exports.

Pacific NorthWest LNG stated, in its reply comments dated 16 September 2013, that it does not agree with IGCAA's view that the mandate of the Board is to ensure that export quantities do not negatively impact the price and availability of natural gas for domestic consumption. Pacific NorthWest LNG states that the Board should reject IGCAA's submission for two reasons. First, aggregate impact cannot be quantified. The cumulative amount of LNG exports cannot be predetermined, neither can the cumulative or aggregate impact of LNG exports. Second, the submission has, in Pacific NorthWest LNG's view, no apparent regulatory purpose. An approach that involved consideration of aggregate or cumulative impacts of LNG exports would risk denying exports which it may turn out could have been allowed and it is contrary to the principle of reliance on market forces.

Views of the Board

The Board's mandate is limited to the Surplus Criterion as stated in section 118 of the NEB Act. The Board has discretion in how to assess that criterion. The Board notes that there are multiple outstanding licences and applications to export LNG. 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, proposed LNG exports, and plausible potential increases in demand. IGCAA provided a table that added up approved and proposed LNG export volumes. The Board did not find this exercise useful in making its surplus determination in the context of a dynamic natural gas market. The Board considers price as one indicator of market conditions as North American natural gas supply and demand adjust to changes in price signals.

The Board is of the view that Pacific NorthWest LNG's application meets the information requirements for an LNG export licence application.

Chemistry Industry Association of Canada (CIAC)

The CIAC, in a letter of comment dated 27 August 2013, indicated concern that the Board has not, in the past, imposed licence conditions to report the natural gas liquids (NGL) composition contained in exported LNG. The CIAC requested a NGL reporting requirement as a condition for export licences.

In its 16 September 2013 reply comments, Pacific NorthWest LNG submitted that there is no evidence in this proceeding that the NGL market has ceased to be well functioning and, in its view, the requirement to report the average heating value of the gas exported is sufficient to monitor the NGL entrained in the exported LNG. Further, the Applicant said no existing gas export licence is subject to such a reporting requirement. For these reasons, Pacific NorthWest LNG submits that the requested reporting condition should be rejected.

Views of the Board

The Board denies CIAC's request to include a NGL liquids composition reporting requirement as a condition of this LNG export licence. The Board may only impose those terms and conditions on gas export licences as are listed in section 14 of the *National Energy Board Part VI (Oil and Gas) Regulations* (Oil and Gas Regulations).

In addition, the Board is of the view that imposing an NGL reporting requirement on individual licences would not be useful. The Board notes that all licence holders are required to report the average heating value of the gas exported, permitting some monitoring of NGL entrained in the exported LNG, under the *National Energy Board Export and Import Reporting Regulations*.

Relief Requested

Relief from Filing Requirements

Pacific NorthWest LNG requested relief from the information filing requirements for gas export licences under section 12 of the Oil and Gas Regulations, including Schedules I and II, and the Board's Filing Manual, that are not otherwise met in 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 Oil and Gas 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 Pacific NorthWest 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 Manual⁷. In the Board's view, the information included in Pacific NorthWest LNG's Application met the requirements outlined in Guide Q.

The Board notes that Pacific NorthWest LNG filed some information using an approach consistent with the Board's Market Based Procedure (MBP)⁸. 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.

⁷ Guide Q of the Filing Manual: http://www.neb-one.gc.ca/clf-nsi/rpblectn/ctsndrgltn/flngmnl/flngmnsrt2013_03-eng.pdf

⁸ 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)

Additional Licence Terms and Conditions

Pacific NorthWest 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 accommodate temporary operating conditions.

Pacific NorthWest LNG also requested a sunset clause where, unless otherwise authorized by the Board, the term of the licence shall end ten years after the date of Governor in Council approval of the licence if the export of LNG has not commenced on or before that date.

Views of the Board

The Board accepts Pacific NorthWest 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 year of operation.

The Board accepts Pacific NorthWest LNG’s request for a ten year sunset clause, from the date of Governor in Council approval 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

cc: Industrial Gas Consumers Association of Alberta
Attention: Mr. Greig Sproule Executive Director, email greigsproule@shaw.ca

Chemistry Industry Association of Canada
David Podruzny, Vice-President, Business & Economics and Board Secretary
Facsimile 613-237-4061

December 2013
Calgary, Alberta

Appendix I

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

General

1. Pacific NorthWest LNG Ltd. (Pacific NorthWest LNG), as General Partner of the Pacific NorthWest LNG Limited Partnership 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 Pacific NorthWest LNG's application dated 5 July 2013, which is to be located on Lelu Island within the District of Port Edward, British Columbia, (the Liquefaction Terminal) 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 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 $32.61 \times 10^9 \text{m}^3$;
 - b. Maximum term quantity may not exceed $798.96 \times 10^9 \text{m}^3$.
5. Natural gas will be exported at a point at the outlet of the loading arm of the Liquefaction Terminal.