LETTER DECISION

File OF-EI-Gas-GL-S834-2015-01 01
3 September 2015

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Dear Mr. Keough, Ms. Prentice and Ms. Allen:

Saint John LNG Development Company Ltd.
11 February 2015 Application for a Licence to Export Natural Gas and a Licence to Import Natural Gas
National Energy Board Reasons for Decision

On 11 February 2015 Saint John LNG Development Company Ltd. (Saint John 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 natural gas in the form of liquefied natural gas (LNG) and a licence (Import Licence) to import natural gas (Application).

In respect of the Export Licence, Saint John LNG seeks:

- a 25-year Licence, starting on the date of first export;
- a maximum annual export quantity of 8.12 billion cubic metres ($10^9 m^3$) or 286.78 billion cubic feet (Bcf)[1];

…/2

[1] Applied-for quantity of 7.06 $10^9 m^3$ (249.37 Bcf) plus the 15 per cent annual tolerance

- a maximum term quantity of 203.1 billion cubic metres (10^9m^3) or 7 169.39 billion cubic feet (Bcf) over the term of the licence[2];
- the point of export to be the outlet of the loading arm of the proposed gas liquefaction terminal to be located in the vicinity of Saint John, New Brunswick, Canada;
- an early expiration clause where, unless otherwise authorized by the Board, the Licence will expire ten years from the date of Governor in Council approval of the issuance of the Licence if exports have not commenced on or before that date.

In respect of the applied for Import Licence, Saint John LNG seeks:

- a 25-year Licence, starting on the date of first import;
- a maximum annual import quantity of 8.86 billion cubic metres (10^9m^3) or 312.77 billion cubic feet (Bcf)[3];
- a maximum quantity of 221.51 10^9m^3 (7 819.14 Bcf) over the term of the licence[4];
- the point of import to be where the Maritimes & Northeast Pipeline crosses the Canada-United States border near St. Stephen, New Brunswick, or such other point as may be accessible over the import licence term.

<u>Summary of the Public Notice, Comment Period and Information Requests</u>

On 15 April 2015, Saint John LNG published a Notice of Application and Comment Period (Notice) for impacted persons in both the *Globe and Mail* and *La Presse*. The Notice requested that any impacted person who wished to file submissions that are relevant to the Surplus Criterion in section 118[5] of the NEB Act do so by 19 May 2015 and that Saint John LNG respond to any comments by 27 May 2015.

On 19 May 2015, the Board received a Letter of Comment from Heritage Gas Limited.

On 27 May 2015, Saint John LNG filed a reply to the comments filed by Heritage Gas.

The Board issued Information Requests (IR) to Saint John LNG, on 9 March 2015 and on 28 April 2015. Saint John LNG filed its responses on 17 March 2015 and 20 May 2015, respectively. The Board sought comments from Saint John LNG on potential import licence conditions on 11 June 2015. Saint John LNG filed its response on 18 June 2015.

The Board addressed Heritage Gas Limited's comments regarding the assessment process on 11 June 2015.

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[2] Applied-for quantity of 176.61 10^9m^3 (6234.25 Bcf) plus the 15 per cent tolerance
[3] Applied-for quantity of 7.70 10^9m^3 (271.97 Bcf) plus the 15 per cent annual tolerance
[4] Applied-for quantity of 192.61 10^9m^3 (6799.25 Bcf) plus the 15 per cent tolerance
[5] 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."

Surplus Determination

Saint John 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, Saint John LNG submitted the following studies: (1) *Long Term Natural Gas Supply and Demand Forecast to 2050* for Saint John LNG Development Company Ltd. (Canada) Ltd. prepared by Ziff Energy – A Division of HSB Solomon Associates Canada Ltd. (Ziff); and (2) *A Description of the Implications of Saint John LNG's Development Company Ltd. 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* 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. Ziff noted that these developments have led to an abundance of low-cost natural gas available in North American and Canadian tight and shale gas plays. Ziff expects natural gas markets in North America to continue to function in a rational manner during the forecast period and to provide appropriate market signals for the development of resources to meet Canadian domestic and export demand.

Ziff stated that Canadian gas markets have been adequately supplied and this trend is forecast to continue as these markets are a component of the integrated North American market. Ziff submitted that the North American gas market is highly liquid, open, and efficient. Ziff also provided a Canadian demand sensitivity analysis considering a 20 per cent increase in Canadian demand which assumed that additional demand would be met by a combination of increased Canadian natural gas production and increased imports from the Lower-48 states, within a well-functioning North American market. Mr. Priddle observed that the marketplace will generally operate in such a way that Canadian requirements for natural gas will be met. Ziff concluded that the export of gas proposed by the Applicant will not cause Canadians any difficulty in meeting their natural gas requirements.

In its supply/demand forecast, Ziff included nearly all NEB approved exports, to date, to a maximum of 18 Bcf per day when considering the total level of LNG exports from Canada. Ziff considered the approach as a stress test for the Canadian natural gas market but also stated that it did not consider the current level of NEB-approved LNG export volumes to be likely and noted limiting factors such as significant capital costs, consolidation within Canadian LNG projects, and the existence of global competition. Ziff noted that economics and market differentials will ultimately determine if increased liquefaction investment is warranted.

Saint John LNG submitted that it agrees with the statement in the Board's report, "Canadian Energy Dynamics: Review of 2014 – Energy Market Assessment – February 2015", that Canadian LNG project economics are affected by factors such as: remote resource locations, remote plant sites, significant environmental and regulatory requirements, cost considerations and the existence of global competition. Saint John LNG concluded that these same factors will bring a measure of market discipline to the development of LNG export projects and that market forces will not support all of the proposed projects. Saint John LNG further noted that a similar situation occurred several years ago with respect to the development of LNG import terminals in Eastern Canada, where numerous proposals were advanced, but market forces and economic realities resulted in only one of the projects actually proceeding.

Views of the Board

We have decided to issue an Export Licence to Saint John LNG, subject to the approval of the Governor in Council, to export natural gas with the terms and conditions described in Appendix I to this letter. In addition, we have decided to issue an Import Licence to Saint John 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. In fulfilling this mandate, we recognize that Canadian 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 gas proposed to be exported by Saint John 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 Saint John 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 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 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 gas resources indicate that advances in drilling and hydraulic fracturing have resulted in greatly increased estimates of recoverable resources in the Western Canada Sedimentary Basin 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 faced with a robust, but limited, global market and face numerous development and construction challenges. The Board acknowledges Saint John LNG's evidence that cites several factors that could limit Canadian LNG export volumes including: significant capital costs; consolidation within Canadian LNG projects; global competition; and significant environmental and regulatory requirements. The Board will not predict which licences will be used or used to the full allowance and, therefore the Board evaluates each application on its own merit.

Issues Raised During the Comment Period

On 19 May 2015, Heritage Gas Limited filed a Letter of Comment which stated that Maritimes & Northeast Pipeline (M&NP) is the only pipeline connecting the Maritimes with production basins in other parts of North America and that Saint John LNG's plan to source and transport natural gas to the proposed Terminal will have an impact on capacity available on the M&NP system. Heritage Gas also stated that depending on Saint John LNG's natural gas procurement plan, additional gas infrastructure development in Nova Scotia may be required which could impact the gas procurement of other natural gas users in the province, including Heritage Gas.

On 27 May 2015, Saint John LNG filed its reply to the comments filed by Heritage Gas. Saint John LNG stated that the Saint John LNG Project will not utilize the M&NP pipeline in Canada and will not negatively impact the development of natural gas infrastructure in Nova Scotia. Saint John LNG also noted that it is evaluating the prospect of sourcing feed gas supply from Western Canada and/or the United States. Saint John LNG stated that given the location of the Saint John LNG Project, it does not anticipate that its natural gas sourcing plan will "call for gas infrastructure development in Nova Scotia", as referenced by Heritage Gas. Saint John LNG further submitted that to the extent that Heritage Gas has concerns relating to a potential reversal of the M&NP pipeline, those concerns are more appropriately raised in a future pipeline reversal proceeding rather than in the context of an LNG Export Application.

Views of the Board

The Board considers comments that are relevant to its consideration of the Surplus Criterion in section 118 of the NEB Act. The Board finds that the comments relating to the capacity available on M&NP and infrastructure development are matters outside the scope of the Board's jurisdiction on gas export licence applications.

The Board is of the view that Canadian gas requirements are met in the context of free trade within an integrated North American gas market. Saint John LNG has submitted evidence, supported by the Board's market monitoring, that the North American gas market is functioning effectively to match supply and demand, and it is expected to continue to do so in the future.

Relief Requested

Relief from Filing Requirements

Saint John LNG requested relief from the information requirements for gas export licence applications and gas import applications set out in sections 12 and section 13 of the *National Energy Board Act Part VI (Oil and Gas) Regulations* (Part VI Regulations) that are not specifically addressed in the Application.

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 Saint John 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.

R.R. George
Presiding Member

P.H. Davies
Member

J. Gauthier
Member

September 2015
Calgary, Alberta

Appendix I

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

General

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1. Saint John LNG Development Company Ltd. shall comply with all of the terms and conditions contained in this licence unless the National Energy 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 exports of natural gas 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 8.12 10^9 m^3.

    b. Maximum term quantity, including the 15 per cent tolerance, may not exceed 203.1 10^9 m^3.

5. Natural gas will be exported at a point at the outlet of the loading arm of the liquefaction terminal to be located in the vicinity of Saint John, New Brunswick.

Appendix II

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

General

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1. Saint John LNG Development Company Ltd. shall comply with all of the terms and conditions contained in this licence unless the National Energy 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 imports of natural gas 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 8.86 10^9 m^3; and

   b. Maximum term quantity, including the 15 per cent tolerance, may not exceed 221.51 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 such other point as the Board may approve.