



LETTER DECISION

File OF-EI-Gas-GL-T293-2013-01 01
16 April 2014

Ms. Wendy Thomas
Triton LNG Limited Partnership
1700, 355 4th Avenue SW
Calgary, AB T2P 0J1
Facsimile 403-269-5700

Mr. D. G. Davies, QC
Norton Rose Fulbright Canada LLP
3700 Devon Tower
400 Third Avenue SW
Calgary, AB T2P 4H2
Facsimile 403-264-5973

Mr. Takumi Sato
Triton LNG Limited Partnership
1700, 355 4th Avenue SW
Calgary, AB T2P 0J1
Facsimile 403-264-7313

Dear Ms. Thomas, Mr. Sato and Mr. Davies:

Triton LNG Limited Partnership (Triton LNG LP) 29 October 2013 Application for a Licence to Export Liquefied Natural Gas 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 develop access to overseas gas markets.

On 29 October 2013, Triton LNG LP applied to the Board pursuant to section 117 of the NEB Act for a licence authorizing the export of liquefied natural gas (Application). Triton LNG LP seeks a licence duration of 25 years, starting on the date of first export with an annual volume of 3,260,000 thousand cubic meters (10^3m^3)¹ of natural gas, which corresponds to a natural gas equivalent of 0.32 billion cubic feet per day², and a maximum quantity of 93,725,000 10^3m^3 over the term of the licence³. The proposed export point would be located near either Kitimat or Prince Rupert, British Columbia at the outlet of the loading arm of a proposed natural gas liquefaction terminal.

¹ Applied-for annual quantity not including tolerance

² As calculated by the Board from Triton LNG LP's applied for export volume of 3,260,000 10^3m^3 using a conversion of 35.301 cf/m³ and divided by 365 days

³ Includes the applied-for tolerance

Board Decision

We have decided to issue a licence to Triton LNG Inc. on behalf of Triton LNG Limited Partnership, 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. Our role, under Section 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 Triton LNG LP is surplus to Canadian needs. 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 (U.S.). 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 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 19 November 2013, the Board directed Triton LNG LP 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 9 January 2014. The Board received no submissions from any parties.

The Board issued one Information Request (IR) to Triton LNG LP on 29 January 2014. Triton LNG LP filed its response to the IR on 20 February 2014.

Surplus Determination

Triton LNG LP 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, Triton LNG LP submitted the following studies: (1) *Long Term Natural Gas Supply And Demand Forecast To 2050* prepared by Ziff Energy – A Division of HSB Solomon Associates LLC (Ziff), and (2) *Triton LNG Limited Partnership Gas Export Licence: Impact Description and Surplus Evaluation* 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 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 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. 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 noted that the market is integrated and price and demand responsive, and the market will continue to be highly liquid, open, and efficient for the foreseeable future. Mr. Priddle concluded that the export of gas proposed by the Applicant will not impair Canadians' ability to adequately meet their gas requirements with supplies at prices which will derive from the normal functioning of the large, dynamic, integrated North American market and with a variety of options to meet their needs.

Ziff also provided a Canadian demand sensitivity analysis (additional Canadian demand) and concluded that additional demand would be met by a combination of increased Canadian natural gas production and increased imports from the Lower-48 states from a well-functioning North American market.

In an Information Request, the Board requested that Triton LNG LP state the effects, if any, the December 2013 NEB export licence decisions⁷ would have on the Applicant's analysis or surplus conclusion. Triton LNG LP consulted with Ziff Energy and Mr. Priddle to provide its response. Ziff Energy stated that it doesn't believe the licence decisions materially affect the analysis filed in support of the application. Mr. Priddle submitted that the December 2013 licence decisions would have no effect on the Applicant's analysis or surplus conclusions.

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 Ziff's analysis of Canadian demand and concludes that given the size of Canadian natural gas resources and the integrated and well-functioning nature of the North American gas market, Canadian gas requirements will be met.

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 Triton LNG LP 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

Licence for Triton LNG LP

The Applicant requested that a licence be issued to Triton LNG LP, a limited partnership formed under the laws of Alberta. In its response to IR 1.5, the Applicant stated that Triton LNG LP is a person able to hold a gas export licence and noted that the Board has previously issued export licences to partnerships, including KM LNG Operating General Partnership (a British Columbia partnership) as well as several United States partnerships. The Applicant also stated that there should be no distinction between an Alberta partnership and an Alberta limited partnership for this purpose. The Applicant requested that in case the Board determined that it is unable to issue an export licence to an Alberta limited partnership, the licence be issued to Triton LNG Inc. on behalf of Triton LNG Limited Partnership.

⁷ 13-12-16 National Energy Board – Letter Decision Prince Rupert LNG Exports Limited, [A55992](#)
13-12-16 National Energy Board – Letter Decision WCC LNG Ltd., [A55993](#)
13-12-16 National Energy Board – Letter Decision Pacific NorthWest LNG Ltd., [A55995](#)
13-12-16 National Energy Board – Letter Decision Woodfibre LNG Export Pte. Ltd., [A55997](#)

Views of the Board

The Board has decided to issue the licence to Triton LNG Inc. on behalf of Triton LNG Limited Partnership. The Board notes that while the Applicant provided one example of a licence being issued to a partnership under Canadian law, the Board, in its consideration of this application, is not bound by previous decisions. The status of partnerships under foreign law can be different. The Board prefers to maintain consistency with its practice on Part VI applications with respect to Canadian partnerships, including limited partnerships, and issue the licence to the general partner on behalf of the partnership, in keeping with Board practice and the Applicant's alternative request in the response to IR 1.5.

Relief from Filing Requirements

Triton LNG LP requests 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), 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 Triton LNG LP 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 Manual⁸. In the Board's view, the information included in Triton LNG LP's Application met the requirements outlined in Guide Q.

Exemption from Reporting Requirements

Triton LNG LP also seeks relief from the reporting requirements set out in section 4 of the *National Energy Board Export and Import Reporting Regulations* (Reporting Regulations) and requests that the reporting requirements of the licence be limited to quarterly reporting.

⁸ Guide Q of the Filing Manual: http://www.neb-one.gc.ca/clf-nsi/rpblctn/ctsndrgltn/flngmnl/flngmnsrt2013_03-eng.pdf

In a response to an Information Request from the Board, Triton LNG LP stated that the reporting requirements will place it at a competitive disadvantage. The Reporting Regulations require the Applicant to file detailed information, including the names of export customers and the price of the LNG, on a monthly basis. According to Triton LNG LP, buyers will be reluctant to have this information disclosed and will have access to alternative suppliers in other jurisdictions. Triton LNG LP stated that the quarterly reporting as submitted in its application will address both its competitive concerns and the Board's monitoring function.

Views of the Board

The Board has decided to deny Triton LNG LP's request for exemption from the Reporting Regulations.

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 Triton LNG LP 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.

Additional Licence Terms and Conditions

Triton LNG LP requested a 15 per cent annual tolerance to the amount of gas that may be exported under the licence in any 12-month period.

Triton LNG LP also requested a sunset clause where, unless otherwise authorized by the Board, the licence will expire ten years from the date of issuance of the licence if exports have not commenced on or before that date.

Triton LNG LP requested that the point of export of LNG from Canada be specified as the outlet of the loading arm of a proposed natural gas liquefaction terminal to be located in the vicinity of either Kitimat or Prince Rupert, British Columbia, Canada.

Views of the Board

The Board accepts Triton LNG LP's request for a 15 per cent annual tolerance. The maximum term quantity permitted under the licence is inclusive of the annual tolerance amount.

The Board accepts Triton LNG LP's request for a ten year sunset clause, from the date of Governor-in-Council approval 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.

The Board accepts Triton LNG LP's request that the point of export of LNG from Canada be at the outlet of the loading arm of a proposed natural gas liquefaction terminal to be located in the vicinity of either Kitimat or Prince Rupert, British Columbia, Canada.



R.R. George
Presiding Member



P.H. Davies
Member



J. Gauthier
Member

April 2014
Calgary, Alberta

Appendix I

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

General

1. Triton LNG Inc. on behalf of Triton 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 Triton LNG Limited Partnership's application dated 29 October 2013, which is to be located in the vicinity of either Kitimat or Prince Rupert, 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 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 3,749,000 10^3m^3 ;
 - b. Maximum term quantity, including the 15 per cent tolerance, may not exceed 93,725,000 10^3m^3 .
5. Natural gas will be exported at a point at the outlet of the loading arm of the Liquefaction Terminal.