



## LETTER DECISION

File OF-EI-Gas-GL-P757-2016-01 01  
13 October 2016

Mr. Afendy Ali  
Head of Finance  
Pacific NorthWest LNG Ltd.  
Park Place Tower, Suite 2500  
666 Burrard Street  
Vancouver, BC V6C 3B1  
Email: aali@pnwlng.com

Ms. Julie G. Hopkins  
Borden Ladner Gervais LLP  
1900-520 3<sup>rd</sup> Avenue SW  
Calgary, AB T2P 0R3  
Email: jghopkins@blg.com

Dear Mr. Ali and Ms. Hopkins:

**Pacific NorthWest LNG Ltd. as General Partner of Pacific NorthWest LNG Limited Partnership (Pacific NorthWest or Applicant)**  
**Application dated 16 February 2016 for a 40-Year Licence to Export Natural Gas in the form of Liquefied Natural Gas (LNG) pursuant to Section 117 of the *National Energy Board Act***  
**National Energy Board Reasons for Decision**

On 16 February 2016, Pacific NorthWest 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.

Pacific NorthWest seeks:

- a 40-year Licence, starting on the date of first export;
- an early expiration clause where, unless otherwise authorized by the Board, the Licence will expire ten years after the date of Governor in Council approval of the Licence, unless exports have commenced on or before that date;
- a maximum annual export quantity of 34.62 billion cubic metres ( $10^9 \text{ m}^3$ ) of natural gas, including a 15 per cent annual tolerance;
- a maximum quantity of  $1\,368.8 \times 10^9 \text{ m}^3$  of natural gas over the term of the Licence<sup>1</sup>; and
- the point of export of LNG from Canada shall be at the outlet of the loading arm of the proposed natural gas liquefaction terminal to be located on Lelu Island within the district of Port Edward, on Federal land administered by the Prince Rupert Port Authority, British Columbia, Canada.

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<sup>1</sup> Applied for term quantity is adjusted for ramp-up and includes the requested annual tolerance.

## **Background**

Pacific NorthWest first applied to the Board on 5 July 2013 for a licence authorizing the export of LNG for a term of 25 years. The Board approved this application on 16 December 2013. On 31 March 2014, the Board notified Pacific NorthWest that Governor in Council approved the issuance of Licence GL-303.

Since the Board issued Licence GL-303, the legislative regime has changed. The *Economic Action Plan 2015 Act*, which received Royal Assent on 23 June 2015, amended, in part, subsection 119.01(1.1) of the NEB Act. This amendment permits the issuance of natural gas export licences for a maximum term of 40 years, an increase from the previous maximum term of 25 years, if the gas to be exported meets the definition of natural gas set out in the *National Energy Board Act Part VI (Oil and Gas) Regulations* (Regulations). On 31 July 2015, the Regulations were amended to include section 10.1, outlined below:

For the purposes of subsection 119.01(1.1) of the Act, *natural gas* means a mixture of gas that is composed of at least 85% methane and that may also contain other hydrocarbons that, at a temperature of 15°C and an absolute pressure of 101.325 kPa, are in a gaseous state, as well as minor amounts of non-hydrocarbon gas and impurities.

On 16 February 2016, Pacific NorthWest applied to the Board pursuant to section 117 of the NEB Act for a Licence to export natural gas, in the form of LNG, for a term of 40 years. The Applicant, in its evidence, confirmed that the LNG exported under the Licence will meet the definition of natural gas set out in the Regulations.

## **Summary of Information Request, Public Notice, and Comment Period**

The Board issued Information Request (IR) No. 1 to Pacific NorthWest on 19 April 2016 and Pacific NorthWest filed its response on 9 May 2016.

On 22 July 2016, Pacific NorthWest published a Notice of Application and Comment Period (Notice) for impacted persons in *The Globe and Mail* and *La Presse*. The Notice stated that any impacted person who wished to file submissions relevant to the Surplus Criterion<sup>2</sup> could do so by 29 August 2016 and that Pacific NorthWest had the opportunity to respond to any submissions by 8 September 2016.

The Board received a submission from Atlantic Pacific Spaceline Enterprise Incorporated (APSE) on 29 August 2016. Pacific NorthWest filed its response to APSE's submission on 7 September 2016. APSE filed a second submission dated 14 September 2016, and Pacific NorthWest responded on 16 September 2016.

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<sup>2</sup> 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."

## **Surplus Determination**

Pacific NorthWest submitted that, as required by the Surplus Criterion, the quantity of natural 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, having regard to the trends in the discovery of gas in Canada. To support this submission, Pacific NorthWest submitted the *Implications and Surplus Assessment Report* (Report) by Mr. Roland Priddle (Mr. Priddle).

Mr. Priddle stated that resource assessments continue to grow, and the enormous natural gas resource base can accommodate reasonably foreseeable Canadian demand, including Pacific NorthWest's proposed LNG exports. Mr. Priddle examined supply and demand conditions in Canada assuming 6.0 Bcf/d of gross LNG exports from Canada, which includes the 3.35 Bcf/d<sup>3</sup> export quantity requested by Pacific NorthWest for its project.

Mr. Priddle submitted that growing gas resource assessments are largely due to the revolutionary development of unconventional gas through innovative technologies such as horizontal drilling, increased drilling rig productivity, and industry competition. The Report stated that the resource base, including the supply capability of that resource base, can accommodate a plausible potential increase in demand<sup>4</sup> in addition to the exports proposed in the Application, other LNG exports, and projected net pipeline exports.

The Report stated that historically, Western Canada exported gas to the Northeast U.S. through Ontario and Québec. As a result of rapid development of U.S. gas production, Mr. Priddle noted that natural gas exports from Canada to the U.S. have been decreasing.

Mr. Priddle submitted that the integrated North American gas sector presents a functioning market, the largest and best-operating in the world. Mr. Priddle stated that since gas commodity deregulation was initiated in 1985, Canadians have been able to meet their gas requirements in full at prices determined by this increasingly sophisticated functioning market. The Report stated that the gas market is transparent, efficient, open to participants, liquid, competitive, flexible, and price responsive. The Report stated that the gas marketplace in Canada and North America is characterized by a large number of buyers and sellers, an extensive and growing pipeline and storage network, and a sophisticated commercial structure.

Mr. Priddle stated that the incremental cost of adding new production to supply any exported LNG is low, and Canadian gas consumers are likely to be affected only marginally, if at all. Mr. Priddle submitted that the market structure, characteristics, and functioning cannot be adversely affected by the exports proposed by Pacific NorthWest, which are relatively small compared to the aggregate supply available during their term. The Report stated that Canadians will continue to be able to meet their gas requirements easily, adequately, cost-competitively, and securely in the presence of the applied-for export quantities over the requested licence term within the integrated North American market.

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<sup>3</sup> 3.35 Bcf/d corresponds to the requested export volume of 34.62 10<sup>9</sup> m<sup>3</sup> per year.

<sup>4</sup> The Report shows surplus exists even with a 20 per cent increased demand sensitivity.

Mr. Priddle stated that production is assumed to be demand-driven, consistent with the strong expectation of continuing natural gas resource abundance in Canada and North America. The Report also stated that there is no evidence that Canadian gas markets would not continue to perform efficiently into the mid-2060s and beyond.

When considering the level of LNG exports from Canada, Mr. Priddle noted that no proposed LNG export project has reached a final investment decision. Mr. Priddle also stated that project-related factors and global considerations could limit the LNG export volumes from Canada. The project-related factors include the distance from Canadian gas supplies, the creation of gas supply infrastructure in geographically remote areas and greenfield sites, financing issues, commercial project complexity, completion risk, and project economics while the global factors include global and regional gas demand, modest gas market growth, and global competition.

Mr. Priddle concluded that the Board can be satisfied that the Canadian natural gas resource base is large and can accommodate reasonably foreseeable Canadian demand as well as the results of the increased 20 per cent demand growth sensitivity analysis.

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

The Board has decided to issue a 40-year Licence to Pacific NorthWest, subject to Governor in Council approval, to export natural gas subject to 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 natural gas in Canada. 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 natural gas supply or natural gas demand. It is in this context that we consider whether the Surplus Criterion is satisfied.

We have determined that the quantity of natural gas proposed to be exported by Pacific NorthWest, for a term of 40 years, is surplus to Canadian needs. The Board is satisfied that the natural gas resource base in Canada, as well as North America overall, is large and can accommodate reasonably foreseeable Canadian demand, including the natural gas exports proposed in this Application, and a plausible potential increase in demand.

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. Consistent with the evidence submitted in Pacific NorthWest's Application, the Board believes that not all LNG export licences issued by the Board will be used or used to the full allowance. The Board also evaluates each application based on the merit of its own evidence.

In order to ensure that Pacific NorthWest exports natural gas that meets the specifications set out in the Regulations throughout the term of its Licence, the Board has included a condition that the natural gas to be exported must meet the definition of natural gas in the Regulations.

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. The North American natural 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. Since deregulation of Canadian natural gas markets in 1985, natural gas markets in North America have functioned efficiently and there is no evidence to suggest that they will not continue to do so into the long-term future, up to the applied for 40 year term.

### **Issues Raised During the Comment Period**

On 29 August 2016, APSE submitted its comments to the Board. APSE's letter recommended that the Board delay its decision on the Application for at least six months and that the Board consider the aggregate impacts of the proposed liquefaction projects in Canada. In the alternative, APSE recommended that the Board reject the Application and keep Licence GL-303 in place. APSE asserted that the Board considers the economic viability of LNG export facilities when considering export applications. APSE commented on the level of industrial infrastructure development required by the LNG industry and stated that LNG project proposals get delayed or go dormant instead of dying. APSE further submitted that the aggregate production quantities required if all exports go ahead could reduce the available natural gas supply for the Canadian market and for APSE.

In response to APSE, Pacific NorthWest stated that the Board does not assess the economic viability of liquefaction facility projects. Pacific NorthWest also stated that the comments related to infrastructure development are irrelevant to any considerations of the Board mandated under section 118 and that the LNG export licences issued by the NEB will expire if exports have not commenced by a certain date. Pacific NorthWest further submitted that APSE failed to demonstrate any reasonable basis for the Board changing the assessment approach it has consistently taken in previous applications. Pacific NorthWest noted that not all of the currently proposed Canadian LNG projects will be built, and LNG export volumes are well below the aggregate levels submitted by APSE.

On 14 September 2016, APSE filed a rebuttal to the Pacific NorthWest's reply in support of the recommendations listed in its 29 August 2016 letter. On 16 September 2016, Pacific NorthWest filed a response with the Board stating that it relies on its 7 September 2016 letter and makes no further response.

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

Under section 118 of the NEB Act, the Board's role 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 natural gas in Canada. The Board does not assess the economic viability or the impacts related to the proposed LNG infrastructure, including liquefaction facilities and marine terminals. Furthermore, an export licence is a standalone authorization that does not authorize construction of LNG export facilities. The Board also notes that all of the recently issued gas export licences include an early expiry condition where the licences will expire if exports of gas do not commence within a ten-year period.

As noted above, 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. Accordingly, the Board is of the view that not all LNG export licences issued by the Board will be used or used to the full allowance.

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. For these reasons, the Board rejects all recommendations made by APSE.

### **Revocation of Licence GL-303**

In its Application, Pacific NorthWest stated that if Pacific NorthWest is issued the Licence, with Governor in Council approval and the requested terms and conditions, Pacific NorthWest will consent to the Board exercising its authority under subsection 119(3) of the NEB Act to revoke Licence GL-303 upon the expiry or exhaustion of any rights of appeal or judicial review related to the Application and issuance of the Licence.

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

The Board, upon Governor in Council approval, will require a letter from Pacific NorthWest requesting that the Board exercise its authority under subsection 119(3) of the NEB Act to revoke Licence GL-303 upon the expiry or exhaustion of any rights of appeal or judicial review related to the Application and issuance of the Licence.

### **Relief Requested**

Pacific NorthWest requested relief from the filing requirements for gas export licence applications under section 12 of the Regulations, except where those requirements are addressed within its Application. Pacific NorthWest also requested any further terms the Board may consider appropriate in the circumstances.

***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 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 Regulations. The Board is in the process of updating the Regulations to align with changes to the NEB Act. The Board further recognizes that not all of the filing requirements contained in section 12 of the Regulations are relevant to its assessment of this Application. Therefore, the Board exempts Pacific NorthWest from the filing requirements contained in section 12 of the Regulations that were not included in the Application.

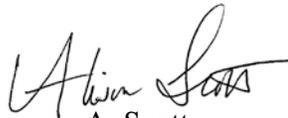
In the Board's view, no further relief is required in the granting of this Application.



S. J. Kelly  
Presiding Member



M. Lytle  
Member



A. Scott  
Member

October 2016  
Calgary, Alberta

## Appendix I

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

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#### General

1. Pacific NorthWest LNG Ltd. as General Partner of Pacific NorthWest LNG Limited Partnership (Pacific NorthWest) 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 and shall continue for a period of 40 years thereafter.
3. This Licence shall expire ten years from the date of Governor in Council approval of the Licence unless exports of LNG have commenced on or before that date, or the Board otherwise directs.
4. The maximum quantity of natural gas, inclusive of tolerance, that can be exported by Pacific NorthWest under the authority of this Licence is:
  - a.  $34.62 \times 10^9 \text{m}^3$  annually, in any 12-month period; and
  - b.  $1\,368.8 \times 10^9 \text{m}^3$  for the term.
5. The point of export of natural gas from Canada shall be at the outlet of the loading arm of the liquefaction terminal to be located on Lelu Island within the District of Port Edward, on Federal land administered by the Prince Rupert Port Authority, British Columbia.
6. The natural gas exported by Pacific NorthWest shall meet the definition of natural gas set out in the *National Energy Board Act Part VI (Oil and Gas) Regulations*.