



October 26, 2012

**Sent Via Email** ([PartVIConsultation@neb-one.gc.ca](mailto:PartVIConsultation@neb-one.gc.ca))

Ms. Sheri Young  
Secretary of the Board  
National Energy Board  
444 - 7th Avenue SW  
Calgary AB T2P 0X8

Dear Ms. Young:

**Re: Part VI Oil and Gas Consultation  
NEB File No. Ad-GA-ActsLeg-Fed-NEBA-Amend 0101  
Letter of Comment**

BG International Limited is in receipt of the National Energy Board ("NEB" or "Board") letter, dated 20 September 2012, wherein the Board requests interested parties to submit comments regarding proposed amendments to the regulatory framework relating to, *inter alia*, natural gas or liquefied natural gas ("LNG") export applications. The Board has referred to this effort as the Part VI Oil and Gas Consultation initiative.

BG International Limited's comments relating to the NEB's Part VI Oil and Gas Consultation initiative are set out below.

### **Introduction**

By way of background, BG International Limited is a corporation organized under the laws of England and Wales. It is extra-provincially registered in British Columbia and conducts its business in Canada as BG Canada ("BG").

As the Board may be aware, BG is examining the development of an LNG export project on the west coast of British Columbia (the "LNG Project"). Although BG's LNG Project is still in the initial development stages, BG has: (a) recently executed a project development agreement with Spectra Energy to develop a potential new natural gas transportation system from northeast B.C. to serve the LNG Project; and (b) entered into an exclusive rights agreement with the Prince Rupert Port Authority in relation to assessing the feasibility of Ridley Island, located in Prince Rupert, as a potential LNG plant site. In the event that BG's LNG project proceeds, BG intends to file a long-

term NEB LNG export licence application. On this basis, BG has an interest in the NEB's revised framework relating to export licence applications.

### **Comments on Part VI Oil and Gas Consultation Initiative**

#### **(1) General Comments**

In general terms, BG welcomes and is supportive of proposed amendments to the regulatory framework provided these are designed to be more focused in scope and reduce uncertainty and risk.

As the Board is aware from previous LNG export applications, LNG project proponents need certainty that Canada is prepared to provide timely approval for exports of gas supplies (and LNG derived from such gas) on a long term basis to: (a) support the very significant capital investments required for LNG projects; and (b) enter into long term agreements with LNG customers. BG respectfully requests that in considering the proposed amendments to the regulatory framework, the Board take into account the significant opportunities represented by LNG related investments in both the Canadian upstream and midstream sectors.

#### **(2) Surplus Test for Oil and Gas Exports**

In terms of the scope of the NEB's assessment of an export licence application under the new legislation, the Board recently commented as follows:<sup>1</sup>

Section 118 of the Act specifies what the Board is legally mandated and authorized to consider in a gas export licence application. Accordingly, the Board will assess whether the LNG 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. The Board cannot consider comments that are unrelated to section 118, such as those relating to potential environmental effects of the proposed exportation and any social effects that would be directly related to those environmental effects. [Emphasis added.]

In BG's opinion, it is critical for the Board to outline how it intends to ascertain whether the gas in question is "surplus" as contemplated by the new legislation. In this regard, BG believes the Board should establish a broad approach for such determination.

BG is of the view that the Board's "surplus" test should focus on factual evidence examining the totality of the Canadian upstream sector's ability to supply sufficient gas to meet both domestic and the relevant proponent's export project. As such, BG's view is that the Board should require evidence similar to that provided in the KM LNG proceeding (GH-001-2011) and BC LNG proceeding (GH-003-2011) relating to the export impact assessment. In particular, in GH-001-2011, KM LNG filed evidence from Ziff Energy Group (entitled, the *Natural Gas Demand and Supply Forecast*) and Roland Priddle (entitled, *Export Impact Assessment Report*). Similar evidence was also presented in

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<sup>1</sup> See NEB letter, dated September 25, 2012, filed in the context of LNG Canada Development Inc.'s export licence application.

the BC LNG proceeding (see Wood Mackenzie's evidence, entitled *Douglas Channel Energy Project: LNG & North America Natural Gas Market Assessment (2011-2033)*). This evidence demonstrated that the exports of KM LNG, as well as BC LNG, would be "surplus" to Canadian requirements.

Of equal importance, BG submits that once the Board has reached a conclusion consistent with the test outlined above, a proponent of a west coast LNG project should not be prevented from satisfying the Board's "surplus" test in situations where that proponent proposes to source some, all or a substantial part of its gas for the LNG project from third parties (whether through liquid hubs, such as Spectra Station 2 of the NIT system, or otherwise) at market rates. Specifically, on the basis that the new legislation narrows the scope of the Board's assessment to a "surplus" test, BG submits that it is unnecessary for the Board to assess the actual physical source of the proponent's gas supply arrangements.

BG believes there will be very substantial benefits to the wider community of upstream producers if the Board adopts this approach and allows the LNG proponent and the market to decide the actual and most efficient means of securing available supply. Allowing an LNG proponent the flexibility to contract for significant volumes of feed-gas with third party producers will both better facilitate development of Canada's resource base and permit those producers to develop and produce their reserves on a timely and economic basis.

In sum, BG submits that based upon work completed for the above referenced LNG export projects, Canada has an abundant supply of natural gas capable of meeting both the nation's domestic long-term demand for natural gas as well as becoming a significant supplier of LNG to the global market. Therefore, a proponent of a west coast LNG project should be: (a) able to satisfy the Board's "surplus" test notwithstanding that it secures all or some of the required feed-gas for the project from liquid receipt and/or delivery points at market rates; and (b) allowed to source its gas in this manner for exportation.

### **(3) Information to be Furnished by Export Licence Applicants**

BG respectfully requests that the Board should reflect at least the same degree of flexibility exhibited in recent LNG export licence decisions in relation to the information/filing requirements for export licence applications.

By way of example, in the KM LNG Decision (GH-001-2011), KM LNG sought relief from the Section 12 NEB Act Part VI Regulations requirement to file: (a) pro forma contracts for each type of gas purchase contract; (b) details of gas export sales contracts; and (c) details of transportation service contracts. The Board granted the request on the basis that "not all of the filing requirements are relevant" in the context of an LNG export application.

The Board reached a similar conclusion in the context of BC LNG's export licence application (GH-003-2011). In this case, BC LNG sought relief from a number of requirements set out in the NEB Act Part VI Regulations regarding: (a) details of gas export sales contracts; (b) information related to facilities that would be required to import natural gas into the importing country; and (c)

information related to the status and approvals or authorizations pertaining to the importation of gas into the country of destination. The NEB, citing current realities of the LNG market, granted BC LNG's requested exemptions.

On the basis of the above, BG submits that similar filing requirements as provided in GH-001-2011 and GH-003-2011 should be codified for the purposes of future export licence applications. Indeed, as noted in these decisions, the realities of the LNG market are such that the filing requirements where exemptions were obtained are unnecessary.

Finally, BG urges the NEB to set out the filing requirements in the near term so that there is certainty on this issue. In this regard, it is noted that the LNG Canada Development Inc.'s LNG export licence application was recently filed pursuant to the new legislation. Due to the uncertainty relating to the NEB's filing requirements, LNG Canada Development Inc. requested the NEB's guidance in the event that specific relief from any additional information/filing requirements under the NEB Act Part VI Regulations is required.

### **(3) Authorizations for Natural Gas Imports**

BG has no comments on this particular issue.

### **(4) Reporting Requirements**

BG submits that the NEB should continue to allow flexibility in terms of the reporting requirements, similar to that approved in the context of the KM LNG proceeding. Specifically, in the context of the GH-001-2011 proceeding, KM LNG indicated that it would seek exemption from Section 4 of the *National Energy Board Export and Import Reporting Regulations* ("Reporting Regulations") in the event that it was successful in obtaining the export licence. In place of the Section 4 Reporting Regulations requirements, KM LNG agreed to file the following information on a quarterly basis: (i) aggregate volumes of LNG shipped from the Terminal; (ii) aggregate value, expressed in Canadian dollars, of the export revenue; (iii) average heating value of the aggregate export volume; and (iv) breakdown of the total aggregate export volume by destination country as designated at the time LNG is loaded at the Terminal.

In its Decision (GH-001-2011), the Board agreed with KM LNG that an exemption from Section 4 of the Reporting Regulations is warranted, after Governor-in-Council approval of the export licence is issued. The Board also agreed to KM LNG's undertaking to file the four above-note matters on a quarterly basis. The relevant excerpt from GH-001-2011 is set out below (page 21).

The Board confirms that every holder of an export licence is subject to the reporting requirements pursuant to the Reporting Regulations. The Board notes that under subsection 129(1.1) of the NEB Act, the Board may exempt a company or person from the application of the Reporting Regulations.

The Board has decided to grant KM LNG's request for exemption from the Reporting Regulations. The Board accepts, as reasonable, KM LNG's quarterly

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reporting of the aggregate volumes of LNG shipped from the Terminal; the aggregate value, expressed in Canadian dollars, of the export revenue; the average heating value of the aggregate export volume; and the breakdown of the total aggregate export volume by destination country as designated at the time the LNG is loaded at the Terminal. Accordingly, the Board will issue an order exempting KM LNG from the Reporting Regulations upon Governor-in-Council approval of the issuance of a gas export licence to KM LNG. [Emphasis added.]

BG submits that limiting the reporting obligations to the four above-noted matters reflects the realities of LNG development.

**(5) Short-Term Hydrocarbon Export Authorizations**

BG has no comments on this particular issue.

**Conclusion**

BG appreciates the opportunity to provide comments to the Board in regard to its Part VI Oil and Gas Consultation initiative. If the Board has any questions with respect to any of the above comments, please contact the undersigned.

Sincerely,

For and on behalf of BG Canada

*[Filed Electronically]*

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Director, Regulatory Affairs  
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