



File 185-A000-53
20 September 2005

To: All Respondents to the Board's Request for Letters of Comment on the Information to be
Furnished by Applicants to Import Liquefied Natural Gas (LNG)

Dear Sir or Madam:

Information to be Furnished by Applicants to Import LNG

On 19 April 2005 the National Energy Board sought letters of comment from prospective LNG import applicants on a draft guidance document to supplement the requirements of the Filing Manual and the *National Energy Board Act Part VI (Oil and Gas) Regulations* on the information to be furnished by applicants to import LNG. Letters were sent to interested parties and a notice was posted on the NEB website.

Based on the comments received, the Board has made some revisions to the guidance document titled "Information to be Furnished by Applicants to Import LNG". Attached in Appendix A is a summary of the comments received and the Board's disposition of these matters. The revised guidance document is also attached for your reference. This document will be added to the NEB Filing Manual and will also be available from the NEB website.

The Board wishes to thank all respondents for their letters of comment. Board staff would also be available to meet with respondents, should there be any questions with respect to the Board's guidance document, as revised, on "Information to be Furnished by Applicants to Import LNG". To arrange a meeting, please contact Rudy Singer, Project Manager at (403) 299-3623.

Yours truly,

A handwritten signature in black ink, appearing to read "Michel L. Mantha".

Michel L. Mantha
Secretary

Handwritten initials "for" in black ink, positioned to the left of the signature block.

Attachments



Information to be Furnished by Applicants to Import LNG

The following document provides guidance on the information required to support an application to the National Energy Board to import LNG. Filing requirements for such applications are set out in the *National Energy Board Act Part VI (Oil and Gas) Regulations* (the Part VI Regulations). The Part VI Regulations do not adequately address the physical and market characteristics of the LNG trade and therefore the following supplemental guidance is provided to applicants with respect to the information required by the Board to assess an application. In this document, the relevant Part VI Regulations are quoted in italics with the guidance comments pertaining to LNG import applications in bold.

Part VI Regulations

I Units of Measurement

- 8.** *(1) For the purposes of these Regulations, all gas shall be measured in units of measurement that meet the requirements of the Electricity and Gas Inspection Act, and*
- (a) in the case of volume measurement, shall be expressed as the number of cubic metres the gas would occupy at the standard conditions, namely, at a temperature of 15°C and at an absolute pressure of 101.325 kPa; and*
 - (b) in the case of thermal measurement, shall be computed as the number of joules on a dry basis where dry gas has a moisture content of less than 110 mg/m³.*
- (2) Where volume is measured under conditions of temperature and pressure other than the standard conditions described in paragraph (1)(a), the volume shall be converted to the equivalent under the standard conditions, in accordance with the Ideal Gas Laws, and shall be corrected for deviations from the Ideal Gas Laws in accordance with subsection (3), where the amount of the deviation exceeds one percent.*
- (3) Correction for deviation from the Ideal Gas Laws shall be based on the tables published in American Gas Association (AGA) Report No. 3, Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, as amended from time to time.*
- (4) Notwithstanding subsections (1) to (3), propane, butanes and ethane may be measured in liquid form, in which case the volume measurement shall be computed in cubic metres.*
- 9.** *For the purposes of these Regulations, the units of measurement of liquids, other than liquids determined by the Board to be cryogenic liquids, shall be computed at a temperature of 15°C.*

Guidance: Applicants proposing to import LNG would need to measure import quantities in cryogenic, liquid form at the point of ship offloading. This volume must be converted into the standard measurement conditions as prescribed in Sections 8 and 9 of the Part VI Regulations.

Purpose: The Board is required to monitor the amount of LNG imported into Canada authorized under any gas licence or order issued by the Board. Given the physical nature of LNG, which changes throughout the re-gasification process, and to ensure consistent measurement, a specific point of measurement is prescribed.

II Section 13: Information to be Furnished by Applicants for Licences for Importation

An applicant for a licence for the importation of gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

a) the terms that the applicant is requesting for the licence, including:

(i) the duration of the licence,

(ii) the maximum daily, annual and term quantities of gas proposed to be imported,

Guidance: Applicants proposing to import LNG need only provide information on annual and term quantities and not the maximum daily quantities.

Purpose: The Board is required to monitor the amount of LNG imported into Canada authorized under any gas licence or order issued by the Board. Since LNG is delivered by ship, the maximum daily quantity that is applicable to pipeline transportation does not apply.

(iii) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions, and

Guidance: Applicants proposing to import LNG need only provide information on an annual tolerance and not a maximum daily tolerance.

Purpose: The Board is required to monitor the amount of LNG imported into Canada authorized under any gas licence or order issued by the Board does not exceed tolerance levels. Since LNG is delivered by ship, the maximum daily tolerance that is applicable to pipeline transportation does not apply.

(iv) the points of importation of the gas into Canada;

Guidance: Applicants proposing to import LNG would identify the LNG receiving terminal.

Purpose: The Board is required to monitor the point of importation of gas into Canada authorized under any gas licence or order issued by the Board. This would be the point of first landing of the LNG on land or Canadian territorial waters.

b) information respecting the applicant's gas supply supporting the proposed importation, including:

- (i) a summary of the quantities of gas under contracts for the purchase of gas, including the total daily and annual volumes and reserves under those contracts, and the termination date for each of those contracts, and*

Guidance: Applicants proposing to import LNG would provide a summary of the annual quantities of LNG under every contract and the termination date for each of those contracts (excluding spot purchases).

Purpose: The Board is required to monitor the source of long-term gas supply underpinning the term of a proposed gas licence. Since LNG is delivered by ship a summary of daily volumes does not apply. The termination date of each of the contracts is required to ensure that supply is adequate to cover the period of the applied for gas licence. The Board's interests are in long-term arrangements and not spot transactions.

- (ii) a copy of each pro forma contract for each type of gas purchase contract;*

Guidance: Applicants proposing to import LNG need not provide a copy of each pro forma contract for each type of gas purchase contract.

Purpose: Pro forma contracts are standard industry contracts that apply to different types of gas purchase agreements. These contracts do not apply to the LNG industry.

c) information respecting the applicant's gas market, including:

- (i) details of the applicant's gas import purchase, including:*

- (A) a copy of every gas import purchase contract for the proposed importation, and*

- (B) a detailed summary of the terms and conditions of every such contract, and*

- (ii) a description of the market to be served by the proposed importation;*

d) details of the transportation arrangements pertaining to the proposed importation, including:

- (i) *the details and status of all contractual arrangements for the movement of the gas in and outside Canada,*
 - (ii) *a copy of every transportation contract for the movement of gas in Canada, and*
 - (iii) *a description of any existing or proposed gathering, storage or transmission facility, and of any new facility other than a gathering, storage or transmission facility, that is required to move the gas to market, whether the facility is, or will be, in or outside Canada;*
- e) *information respecting the potential environmental effects of the proposed importation and any social effects that would be directly related to those environmental effects; and*
- f) *a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to*
 - (i) *the removal of gas from the country of production,*
 - (ii) *the importation of gas into a province,*
 - (iii) *transportation services,*
 - (iv) *tariffs and tolls,*
 - (v) *facilities,*
 - (vi) *environmental reviews, and*
 - (vii) *contractual arrangements necessary for the importation of gas.*

III Section 15: Information to be Furnished by Applicants for Orders for Importation of Gas or Orders for Importation of Gas for Subsequent Export

Pursuant to section 15 of the Part VI Regulations, the application for an order must contain all the information necessary to dispose of the application. This includes the information outlined in the NEB Filing Manual. In the following section, the Filing Manual requirements are quoted in italics. There is no further Board guidance for applicants.

An application for an order for the import of LNG for a period not exceeding two years shall provide:

- *the legal company name and the address of the importer or exporter;*
- *commencement date;*
- *termination date;*
- *for imports from the United States (U.S.), the U.S. Department of Energy FE order number that authorizes the export.*

For orders authorizing the applicant to import gas for subsequent export for a period not exceeding 25 years, an application shall provide:

- *the legal company name and the address of the importer and exporter;*
- *a description of the proposed transportation arrangements in Canada and the U.S.;*
- *the points of export and import;*
- *estimated annual quantity;*
- *status details of regulatory authorizations;*
- *the commencement date; and*
- *the termination date.*

Appendix A:

Summary of Board Disposition on Comments Received Regarding Draft Guidance on Information to be Furnished by Applicants to Import Liquefied Natural Gas (LNG)

Issues Identified by Respondents	Comments Received	Board Disposition
Accommodation of Spot Purchases	Section 13 of the <i>National Energy Board Act Part VI (Oil and Gas) Regulations</i> (Part VI Regulations), [Information to be Furnished by Applicants for Licences for Importation] would not allow sufficient flexibility to accommodate spot purchases of LNG.	Board guidance on the information to be furnished by applicants under subparagraph 13(b)(i) of the Part VI Regulations is amended by adding the phrase “(excluding spot purchases)”. The amended guidance now reads “Applicants proposing to import LNG would provide a summary of the annual quantities of LNG under every contract and the termination date for each of those contracts (excluding spot purchases).” Section 15 of the Part VI Regulations [Orders for Exportation or Importation] can accommodate spot purchases without the need to provide the Board with the same level of documentation as required for a licence for importation.
Additional LNG Information Requirements for Import for Subsequent Export Orders	The proposal of additional information requirements (provision or copies of gas purchase and gas export sales contracts and/or contract summaries), for applicants for an Order to Import for Subsequent Export under Section 15 of the Part VI Regulations were seen to be unique to LNG applicants and inconsistent with other hydrocarbon imports.	Board guidance has been amended by removing the additional information requirement (provision or copies of gas purchase and gas export sales contracts and/or contract summaries) for applicants for an Order to Import for Subsequent Export under Section 15 of the Part VI Regulations. Thus, the existing scheme remains unchanged.

Issues Identified by Respondents	Comments Received	Board Disposition
Confidentiality of Information	The disclosure of commercially sensitive information could be detrimental to LNG importers.	The matter of confidentiality is outside the scope of the Board’s request for letters of comment regarding its guidance to be provided to applicants on the information to be furnished by applicants proposing to import LNG. Confidentiality of information is a generic issue which can be dealt with pursuant to Section 16.1 of the <i>National Energy Board Act</i> (the Act).
Environmental Information Requirements	Paragraph 13(e) of the Part VI Regulations pertaining to the environmental information to be furnished by applicants for Licences for Importation would cause redundant environmental reviews of LNG terminals as well as any connecting pipeline facilities.	The Board did not offer additional guidance on this paragraph and remains of the view that no further guidance is required. However, it should be noted that the Board will have regard to environmental reviews conducted under other jurisdictions.
Gas Quality	LNG could be imported that had a variety of gas quality parameters including heat content and gas composition that was “off spec”.	The issue of gas quality is outside the Board’s request for letters of comment regarding its guidance to be provided on the information to be furnished by applicants proposing to import LNG. The issue of gas quality can be dealt with through Part III [Construction and Operation of Pipelines] and/or Part IV [Traffic, Tolls and Tariffs] of the Act.
LNG Import Exemption	There are similarities between the importation of LNG and crude oil and as with crude oil there should not be a requirement to obtain any import authorization for LNG.	The matter of exempting LNG imports from NEB oversight is outside the scope of the Board’s request for letters of comment regarding its guidance to be provided on the information to be furnished by applicants proposing to import LNG. However, the Board will keep this matter under advisement.

Issues Identified by Respondents	Comments Received	Board Disposition
Measurement	The guidance proposed by the Board for Sections 8 and 9 of the Part VI Regulations [Units of Measurement] would not reflect industry practice or alternative measurement proposals.	Board guidance has been changed to read “Applicants proposing to import LNG would need to measure import quantities in cryogenic, liquid form at the point of ship offloading. This volume must be converted into the standard measurement conditions as prescribed in Sections 8 and 9 of the Part VI Regulations.” The phrase “e.g. valve to the landing jetty” after the word offloading has been removed. This would be consistent with comments to measure LNG quantities discharged to shore by using the ship’s tank gauges.