

CANADA ENERGY REGULATOR

IN THE MATTER of the *Canadian Energy Regulator Act*, S.C. 2019, c. 28, s. 10, and the Regulations made thereunder;

AND IN THE MATTER of an Application by Ksi Lisims LNG GP Ltd. on behalf of Ksi Lisims LNG Limited Partnership for authorization pursuant to Sections 344 of the *Canadian Energy Regulator Act* for a licence authorizing the exportation of natural gas.

**APPLICATION OF KSI LISIMS LNG GP LTD.,
ON BEHALF OF KSI LISIMS LNG LIMITED PARTNERSHIP,
FOR A LICENCE TO EXPORT NATURAL GAS**

April 25, 2022

To: Ms. Ramona Sladic, Secretary of the Commission
Canada Energy Regulator
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Schedule A *Roland Priddle - Ksi Lisims LNG Application for a 40-year gas export licence: Gas Supplies, Requirements, Implications and Surplus Assessment Report (April 2022)*

Ksi Lisims LNG GP Ltd. on behalf of Ksi Lisims LNG Limited Partnership

**Application to the Commission of the Canada Energy Regulator for a
Licence to Export Liquefied Natural Gas**

I. Application

1. This Application is filed by Ksi Lisims LNG GP Ltd. on behalf of Ksi Lisims LNG Limited Partnership (the **Applicant** or **Ksi Lisims**) to the Commission of the Canada Energy Regulator (**Commission**) pursuant to section 344 of the *Canadian Energy Regulator Act*, SC 2019, c 28, s. 10 (**CER Act**) and the *National Energy Board Act Part VI (Oil and Gas) Regulations*, SOR/96-244 (**Part VI Regulations**) for a licence authorizing the export of liquefied natural gas (**LNG**) from Canada (the **Licence**), authorizing the export of approximately $22.4 \times 10^9 \text{ m}^3$ of gas per year for a term of 40 years, inclusive of tolerance (the **Application**). The target markets for the exported LNG will include, but will not be limited to, diverse Asian markets in the Pacific Rim (e.g. Japan, South Korea and China).

2. The Applicant proposes that the Licence be subject to the following terms and conditions:

Term: The term shall be for a period of 40 years commencing on the date of first export of LNG under the Licence;

Export start date: Unless otherwise authorized by the Commission, the Licence shall expire 10 years after the date of the Minister's approval of the issuance of the Licence, if the export of LNG has not commenced on or before that date, or the Commission otherwise directs;

Term quantity: During the term of the Licence, the quantity of LNG that may be exported under the Licence shall not exceed $778.3 \times 10^9 \text{ m}^3$;

Annual quantity: The total annual quantity of LNG export volume in any 12-month period shall not exceed $22.4 \times 10^9 \text{ m}^3$, inclusive of a 15% tolerance for operational purposes;

Export point: The point of export will be at a point on the outlet side of the liquefaction terminal at Wil Milit located on or near the northern point of Pearse Island, British Columbia;

Natural gas: The natural gas exported under the Licence will meet the definition of “natural gas” as set out in the *Part VI Regulations* for the duration of the 40 year term of the Licence; and

Further and other terms: Any further and other terms as may be requested and as the Commission may consider appropriate in the circumstances.

3. The Applicant further seeks relief from the requirements of section 12 of the *Part VI Regulations* that are not otherwise met in this Application and such further and other terms as may be requested herein and as the Commission may consider appropriate in the circumstances.

II. Overview of export licence application

A. Ksi Lisims LNG Export Facility

4. Ksi Lisims LNG Export Facility (the **Export Facility**) will be located at Wil Milit on lands owned by the Nisga’a Nation within the Nass Area, as defined in the Nisga’a Treaty, on or near undeveloped land, District Lots 5231 and 7235, on British Columbia’s northwest coast.¹ These lots are located at the far northern end of Pearse Island in Portland Canal. The site is approximately 15 km west of the Nisga’a community of Gingolx at the mouth of the Nass River.
5. The Export Facility will convert Canadian natural gas to LNG. Natural gas will be transported to the site via a natural gas transmission pipeline originating in northeastern BC. It is anticipated that the Export Facility will connect to existing or new natural gas pipeline infrastructure.
6. The proposed Export Facility is comprised of floating LNG barges with supporting upland infrastructure and a marine terminal for LNG carriers. At full build-out, the Export Facility would receive approximately 2 billion standard cubic feet per day (i.e., 56.6 million m³ per day) of natural gas, and produce approximately 12 million tonnes per annum of LNG.
7. Maximum annual output of the Export Facility in any year is anticipated to be up to 15% above its annual sustainable capacity in order to manage variability of operations, such as ambient temperature, necessary maintenance downtime, seasonal demand, scheduling of cargo and economic opportunity.

¹ The Nisga’a Final Agreement, also known as the “**Nisga’a Treaty**”, is a negotiated agreement between the Nisga’a Nation, the Government of British Columbia, and the Government of Canada. It came into effect on May 11, 2000. The Nisga’a Treaty is a treaty and a land claims agreement within the meaning of section 35 of the *Constitution Act, 1982* and was the first “modern treaty” in British Columbia. It was officially approved, given effect and declared valid by the Province of British Columbia through the *Nisga’a Final Agreement Act, SBC 1999, c 2*, and by the Government of Canada through the *Nisga’a Final Agreement Act, SC 2000, c 7*. The Nisga’a Treaty sets out the Nisga’a’s right to self-government, and the authority to manage lands and resources.

8. The construction and operation of the Export Facility will require the approval of multiple provincial and federal regulatory authorities, which will be sought independently from this Application. The commissioning of the Export Facility is anticipated to be as early as late 2027, depending on the pace of regulatory approvals and a final investment decision. Timing could be influenced by a number of variables, including project economics.

B. Applicant

9. Ksi Lisims LNG Limited Partnership is a limited partnership formed under the laws of British Columbia. Ksi Lisims LNG GP Ltd. is a corporation incorporated under the laws of British Columbia and is the general partner of Ksi Lisims LNG Limited Partnership.
10. There are three parties participating in the development group for the project: (i) Western CA Holdco ULC, whose management team consists of experienced LNG export facility developers, (ii) the Nisga'a Nation, which owns the site at Wil Milit and (iii) Rockies LNG Limited Partnership (**Rockies**), whose partners are Canadian natural gas producers.

III. Regulatory framework

A. The Canadian Energy Regulator Act

11. The Application for the Licence is made pursuant to section 344 of the *CER Act*. Section 344(1) reads as follows:

Issuance

344 (1) Subject to the regulations, the Commission may, with the Minister's approval, issue licences for the exportation of oil or gas and impose conditions on them.

12. Section 345 of the *CER Act* describes the surplus criteria the Commission must consider in assessing whether to issue an LNG export licence. Section 345 of the *CER Act* reads as follows:

345 The Commission must not issue a licence unless it is satisfied that the quantity of oil or gas to be exported does not exceed the surplus remaining after allowance has been made for the reasonably foreseeable requirements for use in Canada, having regard to trends in the discovery of oil or gas in Canada.

13. Accordingly, the Commission is authorized to and must consider the surplus criterion contained in section 345 when assessing an application to export LNG.

B. Transition from the *National Energy Board Act* to the *Canadian Energy Regulator Act*

14. On 28 August 2019, the *CER Act* came into force, replacing the former National Energy Board (**Board**) with the Canada Energy Regulator (**CER**).
15. Under the former regulatory regime, Applications for Export Licences were made pursuant to section 117(1) of the former *National Energy Board Act*, RSC 1985, c N-7 (***NEB Act***), which was substantively similar to section 344(1) of the *CER Act*. A comparison of the provisions from the prior *NEB Act* and the current *CER Act* is below:

<i>National Energy Board Act</i>	<i>Canadian Energy Regulator Act</i>
<p>Issuance of licences</p> <p>117 (1) Subject to the regulations, the Board may, on such terms and conditions as it may impose, issue licences for the exportation or importation of oil or gas.</p>	<p>Issuance</p> <p>344 (1) Subject to the regulations, the Commission may, with the Minister’s approval, issue licences for the exportation of oil or gas and impose conditions on them.</p>

16. Under the former regulatory regime, Section 118 of the *NEB Act* described the criteria by which the Board must assess an application to export LNG prior to issuing such a licence. The criteria were substantively similar to what the Commission must assess under section 345 of the *CER Act*:

<i>National Energy Board Act</i>	<i>Canadian Energy Regulator Act</i>
<p>Criteria</p> <p>118 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.</p>	<p>Criteria</p> <p>345 The Commission must not issue a licence unless it is satisfied that the quantity of oil or gas to be exported does not exceed the surplus remaining after allowance has been made for the reasonably foreseeable requirements for use in Canada, having regard to trends in the discovery of oil or gas in Canada.</p>

17. Accordingly, the “surplus test” described in numerous National Energy Board decisions (and discussed further below) remains apposite for the Commission under the *CER Act*.

C. The Part VI Regulations and Guide Q

18. This Application has been prepared generally in accordance with the Filing Manual and the *Part VI Regulations*.²
19. The *Part VI Regulations* were enacted pursuant to the former *National Energy Board Act*; however, they remain in force under the *CER Act*. A statement on the CER’s website explains that the *Part VI Regulations* (among others) remain in force:

“On 28 August 2019, the National Energy Board became the Canada Energy Regulator (CER). Regulations made under the *National Energy Board Act* remain in force under the *Canadian Energy Regulator Act* (CER Act). New regulations and updates to existing regulations are being implemented through a phased approach.”³

20. The Applicant has considered the *Filing Manual Guide Q-Export and Import Authorizations (ss. 344 – 347 of the CER Act and Associated Regulations)* (**Guide Q**).⁴

² Pursuant to s. 44(g) of the *Interpretation Act*, RSC, 1985, c. I-21, all regulations made under a repealed enactment remain in force and are deemed to have been made under the new enactment, in so far as they are not inconsistent with the new enactment, until they are repealed or others are made in their stead. The *Part VI Regulations* were in force under the *National Energy Board Act*, RSC 1985, c N-7 which was repealed and replaced by the *CER Act*. The *Part VI Regulations* have not been repealed, and, to date, no regulations have been made in their stead.

³ <https://www.cer-rec.gc.ca/en/about/acts-regulations/frequently-asked-questions-regulations.html#s8> As noted above, the *Part VI Regulations* remain in force under the *CER Act*.

⁴ <https://www.cer-rec.gc.ca/en/applications-hearings/submit-applications-documents/filing-manuals/filing-manual/filing-manual-guide-q-export-import-authorizations-ss-344-347-cer-act-associated-regulations.html?=&wbdisable=true>

Guide Q describes the filing requirements for LNG export licence applications, indicating that an applicant must provide:

1. The source and volume of gas to be exported.
 2. A description of gas supplies, including Canadian gas supply, expected to be available to the Canadian market (including underlying assumptions) over the requested licence term.
 3. A description of expected gas requirements (demand) for Canada (including underlying assumptions) over the requested license (*sic*) term.
 4. The implications of the proposed export volumes on the ability of Canadians to meet their gas requirements.
21. Guide Q provides further guidance to applicants in stating that the filing requirements are not prescriptive and can be met in a number of ways, and the Applicant may want to consider:
- trends in Canadian gas demand and supply and the availability of the sources of gas to Canadians.
 - available gas supply from the United States and other global sources.
 - past trends in gas discoveries and whether, in the Applicant's opinion, these trends can be extrapolated into the future and why.
 - the expected technological improvements in resource assessment and innovations.
22. Guide Q also directs applicants to review the Board's Reasons for Decision [Filing A50334] respecting the LNG Canada Development Inc. (**LNG Canada**) application for a licence to export LNG, issued on 4 February 2013 (the **2013 LNG Canada Decision**).
23. The Applicant has reviewed the 2013 LNG Canada Decision. In addition, the Applicant has reviewed and considered the Board's approach in the LNG Canada application for a 40-year licence⁵ and the Board's decision in that application dated 7 January 2016; the Board's approach in the WCC LNG Ltd. application for a 40-year licence and decision dated 28 July 2016; the Board's approach in the Pacific North West LNG Ltd. application for a 40-year licence and decision dated 13 October 2016; and generally, the Board's

⁵ Section 353(2)(a) of the *CER Act* (which is analogous to s. 119.01(1.1) of the *NEB Act*) allows for a licence to be issued for a period of up to 40 years, in the case of a licence for the exportation of natural gas as defined by the regulations. On 31 July 2015, regulations amending the *Part VI Regulations* came into effect, including a provision of the definition of natural gas at s. 10.1 of the *Part VI Regulations*. The Applicant's proposed exports meet this definition of natural gas.

approach in other recent export licence decisions. Most recently, the Applicant has reviewed and considered the Board and Commission's approach in the Chevron Canada Limited application for a 40-year licence and the Commission's decision in that application dated 4 December 2019.⁶

24. The Applicant notes that the Board's findings in the 2013 LNG Canada Decision, as well as in other decisions, indicate that not all of the filing requirements contained in section 12 of the *Part VI Regulations* were relevant to its assessment of those applications.
25. In light of the guidance documents and decisions referenced above, the Applicant seeks relief from the requirements contained in section 12 of the *Part VI Regulations* that are not specifically addressed in this Application.

IV. Source and volume of gas to be exported

26. This section addresses the source and volume of gas to be exported, as required by Guide Q. The requested total term export volume for the Ksi Lisims LNG Export Facility is 778.3 10⁹ m³.
27. Gas supply for the Ksi Lisims LNG Export Facility will come from Western Canada, from equity gas resources owned by limited partners of Rockies and potentially from third parties, including short, medium, and long term gas purchases.
28. The Applicant anticipates that the Ksi Lisims LNG Export Facility will be connected to the Western Canada natural gas gathering and transmission grid by the time of commissioning. This provides certainty and optionality for the supply of gas to the Export Facility.

V. Surplus criterion

29. This section addresses the following criteria for the requested Licence, as required by Guide Q:
 1. the expected gas supplies in the Canadian Market;
 2. the expected gas demand for Canada; and

⁶ Chevron Canada Limited's application was filed 1 April 2019, under the *NEB Act*. On 28 August 2019, the *CER Act* came into force, replacing the NEB with the CER. The transitional provisions associated with the *CER Act* specified that applications pending before the NEB before the coming into force of the *CER Act* were to be dealt with by the Commission of the CER under the *NEB Act*. On 4 October 2019, the Commission issued Ruling No. 1. The Commission confirmed that the Application would continue to be assessed by a three member panel of the Commission, under the relevant provisions of the *NEB Act*. See: [C02062 Canada Energy Regulator - Ruling No. 1 – Chevron Canada Limited – Application for a Licence to Export LNG for 40 years – Request for further process](#). Accordingly, the application was decided by the Commission, but applying the criteria found in section 118 of the *NEB Act*. See: [03430-1 CER – Letter Decision – Chevron Application for a 40-year Licence to Export LNG - A7A5Z5](#) at page 2 of 8.

3. the implications of the Applicant's proposed export volumes on the ability of Canadians to meet their gas requirements.⁷
30. In support of the present Application, the Applicant retained Roland Priddle (**Priddle**) to produce the report attached as **Schedule A**, entitled *Ksi Lisims LNG Application for 40-Year Gas Export Licence: Gas Supplies, Requirements, Implications and Surplus Assessment Report (Priddle Report)*, which covers the period through 2073.
31. The main conclusions of the Priddle Report are:
1. Canadian natural gas requirements are met within a North American integrated market, which is a mature marketplace characterized by many buyers and sellers and a sophisticated commercial structure.⁸ The total market is large, growing steadily, and is liquid, flexible, and responsive.⁹ These characteristics grant market participants a variety of options for securing gas supplies.¹⁰
 2. As to expected gas supplies in the Canadian market, the gas resource base in Canada and North America overall is large.¹¹ Exports and imports contribute to either Canadian gas demand or supply.¹² Gas supply is driven essentially from a projection of expected gas requirements because it is anticipated that, in view of the size of the resource base, the Canadian and North American gas market will continue not to be supply-constrained.¹³ Demand will drive production, rather than production being constrained by the resource.¹⁴ It is considered that the resource base is so large that it can satisfy projected Canadian requirements, including those of the Applicant, through 2073.¹⁵
 3. Concerning the implications of the applied-for exports on the ability of Canadians to meet their gas requirements, the incremental cost of gas supply is low—which is another indication of a well-supplied market—and there are no unfavourable implications to Canadians to meet their gas requirements if the Applicant's proposed exports are permitted.¹⁶ By very marginally enlarging the total market,

⁷ The fourth criterion listed in Guide Q, namely the source and volume of gas to be exported, is addressed in the section above.

⁸ Priddle Report, p. 7 – 8, and p. 23.

⁹ Priddle Report, p. 7 – 8.

¹⁰ Priddle Report, p. 20.

¹¹ Priddle Report, p. 8.

¹² Priddle Report, p. 17.

¹³ Priddle Report, p. 9.

¹⁴ Priddle Report, p. 9.

¹⁵ Priddle Report, p. 11.

¹⁶ Priddle Report, p. 51.

the Applicant's proposed exports will tend to enhance competitive behaviours within the gas market, to the benefit of Canadian consumers.¹⁷

32. Regarding expected gas demand for Canada, the Priddle Report applies the projections from the Evolving Policy Scenario in the CER's *Energy Future 2021 (EF2021)* extrapolated to 2073.¹⁸ The Priddle Report takes a deliberately conservative approach to projecting both supply and demand.¹⁹ This means that Priddle has deliberately erred on the "high side" for the purposes of quantifying the demands that would be placed on the resource base.²⁰ The Priddle Report adopts the requirements projected for the Canadian market in *EF2021* to 2050, and then extrapolates to 2073 at the 2050 level unchanged, whereas the *EF2021* projects a steady decline from about 2025 to its 2050 end-year.²¹ The Priddle Report is also based upon the addition of a 20% increment to the Canadian market for every year 2022 – 2073 to test upside sensitivity.²²
33. The risks in projecting Canadian gas requirements and supply 50 years out are acknowledged and discussed.²³ The assessed gas demand for Canada in the 2060s falls within the range of forecasts filed with the Board and Commission in support of previous successful applications for 40-year licences.²⁴

VI. Proposed conditions

34. The Applicant respectfully requests that the Licence be issued subject to terms and conditions reflecting the specific characteristics and limitations set out in paragraph 2 and proposes the following conditions:

General

1. The Applicant shall comply with all of the terms and conditions contained in this Licence unless the Commission 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 Ksi Lisims LNG Export Facility referred to in the Applicant's Application dated 25 April 2022, and shall continue for a period of 40 years thereafter.

¹⁷ Priddle Report, p. 51.

¹⁸ Priddle Report, p. 31 -32.

¹⁹ Priddle Report, p. 26.

²⁰ Priddle Report, p. 9; p. 35 – 37.

²¹ Priddle Report, p. 35 -37.

²² Priddle Report, p. 9.

²³ Priddle Report, p. 35.

²⁴ Priddle Report, p. 37.

3. Unless otherwise authorized by the Commission, the term of the Licence shall end 10 years after the date of the Minister's approval of the issuance of the Licence if the export of LNG has not commenced on or before that date.
4. The quantity of LNG that can be exported under the authority of this Licence is:
 - a) Annual quantity not exceeding $22.4 \times 10^9 \text{ m}^3$, inclusive of a 15% tolerance for operational purposes.
 - b) Term quantity not exceeding $778.3 \times 10^9 \text{ m}^3$.
5. Natural gas will be exported at a point on the outlet side of the Ksi Lisims LNG Export Facility to be located at Wil Milit Bay on the northern end of Pearse Island, British Columbia.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated this 25 day of April 2022.

Per: 

Keith B. Bergner
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Communications with respect to this Application should be directed to:

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LIST OF SCHEDULES

Schedule A Roland Priddle - *Ksi Lisims LNG Application for a 40-year gas export licence: Gas Supplies, Requirements, Implications and Surplus Assessment Report (April 2022)*