

**NATIONAL ENERGY BOARD**

**IN THE MATTER OF** the *National Energy Board Act*, RSC, 1985, c. N-7, as amended, and the Regulations thereunder;

**AND IN THE MATTER OF** an application by Petrogas Energy Corp. for a licence pursuant to section 117 of the *National Energy Board Act* authorizing the export of propane.

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**PETROGAS ENERGY CORP.  
APPLICATION FOR A LICENCE TO EXPORT PROPANE**

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**March 21, 2016**

**To: Ms. Sheri Young, Secretary  
National Energy Board  
517 - 10th Avenue SW  
Calgary, AB T2R 0A8**

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## I APPLICATION OVERVIEW

1. Petrogas Energy Corp. (the "Applicant"), a Canadian corporation established under the laws of Alberta, applies to the National Energy Board ("NEB" or "Board"), pursuant to section 117 of the *National Energy Board Act* ("*NEB Act*"), for a licence authorizing the export of propane for a term of 25 years (the "Licence"), subject to the following terms and conditions<sup>1</sup>:

- **Term:** The term of the Licence shall be 25 years commencing on the date of first export of propane hereunder (the "Licence Term");
- **Annual Quantity:** The quantity of propane that may be exported in any 12-month period shall not exceed 6,206,160 m<sup>3</sup> (39,036,750 bbls) (the "Annual Quantity"), subject to the annual tolerance set out below;
- **Annual Tolerance:** The quantity of propane that may be exported in any 12-month period may exceed the Annual Quantity by the aggregate of any Annual Quantity not exported in each of the preceding years of the Licence Term;
- **Term Quantity:** The quantity of propane that may be exported over the Licence Term shall not exceed 155,154,000 m<sup>3</sup> (975,918,750 bbls) (the "Term Quantity");
- **Export Point:** The point of export shall include any and all land and marine points on the international boundary of Canada;

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<sup>1</sup> The requested terms for the Licence as set out below have been calculated based on the NEB conversion factors set out in the NEB Filing Manual, as revised in Release 2015-01 (cubic metre = 6.29 bbl).

- **Agency:** The Applicant may export propane on its own behalf and as an agent on behalf of third parties; and
- **Other:** Such further or other related relief as to the Board may seem just and proper.

2. In the preparation of this application, the Applicant has relied on section 117 and section 118 of the *NEB Act*, section 20 of the *National Energy Board Act Part VI (Oil and Gas) Regulations*, SOR/96-244 (the "*Part VI Regulations*"), the *Jobs, Growth and Long-Term Prosperity Act*, SC 2012, c 19, the *Interim Memorandum of Guidance Concerning Oil and Gas Export Applications and Gas Import Applications Under Part VI of the National Energy Board Act*, July 11, 2012, the *Part VI Consultation Letter: Oil and Gas Import and Exports*, September 20, 2012, and Guide Q to the National Energy Board Filing Manual. Taking the foregoing into account, together with the Board's Letter Decision of November 5, 2015 approving the propane export application of Pembina NGL Corporation and related entities (the "Pembina Decision"), the Applicant requests relief from certain of the filing requirements set out at section 20 of the *Part VI Regulations*, except to the extent that those requirements have been addressed by this application.

## II THE SURPLUS CRITERION

3. Section 117 of the *NEB Act* indicates that the Board may issue licences for the exportation or importation of oil and gas on "such terms and conditions as it may impose". Section 118 of the *NEB Act* specifies what the Board is legally mandated and authorized to consider in a gas or oil export licence application. Section 118, also referred to as the "Surplus Criterion", provides:

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.

4. The Pembina Decision confirmed that the Board's role in respect of propane export applications "is to assess whether the gas proposed to be exported, in this case propane, 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)" (at page 5).
5. The reports submitted as **Appendix A – Canadian Propane Supply and Demand** and **Appendix B - Implications and Surplus Assessment** to this application demonstrate that the Surplus Criterion will be met in this case. The quantity of propane proposed to be exported by the Applicant will 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 propane in Canada.

### **III BACKGROUND**

6. The Applicant provides propane marketing and supply services across North America.
7. The Applicant may export propane from Canada at any point on the international boundary by any means as may be accessible during the Licence Term including truck, rail, pipeline, ship or barge.
8. The Applicant owns and operates a propane storage and distribution facility in Ferndale, Washington, with rail, truck and pipeline capability. The Applicant may also export propane to other storage and distribution facilities.
9. The Applicant expects to commence exports under the authority of the applied for Licence as soon as possible after the Licence goes into effect.

### **IV SOURCE AND VOLUMES OF EXPORTS**

10. Supply for the proposed exports will include volumes owned by the Applicant, as acquired through commercial agreements with Canadian producers, refiners and petrochemical companies, and may also include volumes owned by third parties and volumes imported into Canada.

11. The Term Quantity requested (155,154,000 m<sup>3</sup> or 975,918,750 bbls) is calculated by multiplying the Annual Quantity (6,206,160 m<sup>3</sup> or 39,036,750 bbls) times the 25 year Licence Term.

## V SUPPLY AND DEMAND FORECAST

12. Gas Processing Management Inc. has prepared the report *Canadian Propane Supply and Demand through 2050*, which is attached as **Appendix A – Canadian Propane Supply and Demand**.
13. The Canadian Propane Supply and Demand report assesses Canadian propane supply and demand and "forecasts a large and continuing surplus of Canadian propane through 2050" (at page 35). The Canadian Propane Supply and Demand report concludes that "[t]he total supply of propane in Canada is expected to continue to exceed domestic demand and therefore Canada will remain a net exporter of propane for the foreseeable future" (at page 35).

## VI IMPLICATIONS ON CANADIAN REQUIREMENTS

14. Mr. Roland Priddle has prepared the report *Implications of Petrogas Energy Corp. Export Licence Application: Implications and Surplus Assessment Report*, which is attached as **Appendix B – Implications and Surplus Assessment**.
15. The Implications and Surplus Assessment concludes that "[i]n the period through 2050 and beyond, the ability of Canadians to meet their propane requirements easily, adequately, price competitively and securely will be unimpaired by the proposed Petrogas propane export volumes which, as noted, would be small in relation to total North American requirements" (at page 32).

## VII CONCLUSION AND RELIEF REQUESTED

16. The Applicant respectfully submits that this application fulfills the requirements of Part VI of the *NEB Act*.

17. The evidence filed before the Board in respect of the proposed propane export Licence supports the conclusion that the requested Term Quantity 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.
18. As such, the Applicant respectfully requests, pursuant to section 117 of the *NEB Act*, that the Board issue the Licence in accordance with the terms set out above. The Applicant further requests relief from certain of the filing requirements set out at section 20 of the *Part VI Regulations*, except to the extent that those requirements have been addressed by this application.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of March, 2016.**

Petrogas Energy Corp.

by its counsel, Bennett Jones LLP

Per:

  
L. E. Smith, Q.C.

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