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This monthly report summarizes energy decisions or resulting proceedings from applications before the Alberta Energy Regulator (“**AER**”), the Alberta Utilities Commission (“**AUC**”) and the National Energy Board (“**NEB**”). For further information, please contact Rosa Twyman at Rosa.Twyman@RLChambers.ca or 403-930-7991 or Lynn McRae at Lynn.McRae@RLChambers.ca or 403-930-7995.

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ALBERTA ENERGY REGULATOR

ConocoPhillips Canada Operations Ltd. Application for Two Wells and Multiwell Battery Willesden Green Field (Decision 2014 ABAER 001)
Location - Groundwater - H₂S - Noise

ConocoPhillips Canada Operations Ltd. (“ConocoPhillips”) applied for a licence to drill two horizontal sweet gas wells and for a licence to construct and operate a multiwell battery in the Glauconitic Formation.

The AER received Statements of Concern from interveners (the “Interveners”) outlining a number of issues. The AER granted the Interveners standing and went on to consider the following issues:

- (a) The need for the proposed wells and multiwell battery;
- (b) Location of the well sites;
- (c) Participation involvement;
- (d) Water well and groundwater protection;
- (e) Potential for H₂S; and
- (f) Traffic and noise.

The AER approved all three applications:

- The need for the wells and battery was not seriously in dispute, and consultation efforts were adequate.
- The higher elevation of the residence relative to the placement of the wells, and the presence of a visual barrier of trees contributed to the finding that the proposed well locations were suitable, although not ideal from a resource extraction standpoint.
- Proposed wells would not pose any risk to nearby groundwater, and adverse affects from surface spills from storage tanks would be mitigated by secondary containment around the tanks.
- Likelihood of encountering H₂S was very low, based upon the applicant's experience in developing and producing from the Glauconitic Formation.
- There would be no increase in noise or traffic caused by approval of the application, as proposed access to the well site was the alternative route away from the residence.

Husky Oil Operations Ltd. and Gear Energy Ltd. Applications for Off-Target Penalty and Pool Delineation – Wildmere Sparky G Pool (Decision 2014 ABAER 002)
Pool Delineation - Off Target Penalty

Husky Oil Operations Ltd. (“Husky”) had applied for an off-target penalty to be applied on the Gear Energy Ltd. (“Gear”) 00/03-22-049-06W4/0 well in the Wildmere Sparky G Pool. Gear had separately applied for a pool delineation under section 33 of the *Oil and Gas Conservation Act* to remove the well in question from the Wildmere Sparky G Pool. Husky objected to the Gear application.

Husky withdrew both its objection to the Gear application and the application for an off-target penalty. The AER accordingly cancelled the public hearing in the absence of any objections, and referred the application to AER staff for review and disposition.

Coalspur Mines (Operations) Ltd. Applications for Coal Mine Permit Amendment, Coal Processing Plant Approval Amendment, Coal Mine Pit Licence, and Coal Mine Dump Licence (Decision 2014 ABAER 004)
Positive and negative economic impacts - Adaptive Management - Information required for license applications

Coalspur Mines (Operations) Ltd. (“Coalspur”) applied for an amendment to Mine Permit No. C 2011-5 that included:

- (a) A 1,091 hectare expansion of the project area to accommodate a larger tailings area and a conveyor from the coal processing plant to a load-out facility to a railway line northwest of the project area;
- (b) The construction, operation and reclamation of a coal processing facility, a change to the location of the fines settling pond, the addition of a freshwater pond, and an increase in production capacity to 5 million tonnes of coal per year; and
- (c) The construction, operation and reclamation of a mine pit and three external waste dumps.

The AER considered three main issues:

- (a) Social and economic effects;
- (b) Environmental effects; and
- (c) Land use impacts on landowners.

The AER found that the project would have a net benefit to local residents. The AER noted that a quantitative



comparison of both positive impacts (such as capital spending and increased employment) and negative economic impacts (such as increased reliance on social services and higher infrastructure costs) greatly assisted the AER in making a determination. The AER suggested that future applicants use such comparative quantitative analyses to expedite both the review of an application and the decision making process.

The AER found that the adverse effects on the environment resulting from the application could be mitigated through conditions imposed on the decision, and monitoring of the project. The end-pit lake would be among the largest in Alberta for a coal mining operation. However, as the end-pit lake would be developed late into the project lifecycle, the AER noted possible opportunities to reduce the footprint of the end-pit lake and suggested that Coalspur review its proposed in-pit disposal practices. The AER recommended that these reviews should attempt to increase the mean depth of the end-pit lake, and increase the littoral zone of the end-pit lake in order to attain a higher probability of achieving a self-sustaining lake with native fish populations.

Due to uncertainty in the final design of the tailing fines pond, the AER limited the elevation of the fines settling pond to an approximate five year capacity.

The AER directed Coalspur to implement an adaptive management strategy in mitigating any possible effects on water quality. The AER also directed Coalspur to include enhanced mitigation options for sensitive fish species, such as rainbow trout, in the event that significant adverse ecological effects are detected.

The AER was not entirely satisfied with the proposed mitigation, and issued conditions to address any issues.

The AER accepted a 100m buffer around McPherson Creek, and a 30m buffer along other riparian areas as an acceptable mitigation of wildlife effects, but directed Coalspur to maintain monitoring of wildlife movement through the buffer areas.

As the project would occur solely on Crown land, the AER found that public and aboriginal use of the lands may be impacted through reduced access, but that access would be maintained for traditional users and surface disposition holders.

The AER approved the applications, but noted that some changes and further work may be necessary. The AER accordingly limited the approvals for the pit and dump licences to ten years, which may be renewed or amended at a later date.

ALBERTA UTILITIES COMMISSION

Heritage Wind Farm Development Inc. (Decision 2014-043)

Time Extension

Heritage Wind Farm Development Inc. submitted that due to lack of a suitable remedial action scheme and transmission facilities in southern Alberta, the power plant would not be complete before May 30, 2014. The AUC granted the time extension on the basis that it would not directly and adversely affect the rights of a person pursuant to Section 9 of the *Alberta Utilities Commission Act*.

GTE Solar Inc. Brooks Solar Power Plant (Decision 2014-041)

Time Extension

Due to winter ground freeze up, the planned construction activities for GTE Solar Inc.'s ("GTE") Brooks Solar Power Plant were delayed in the 2013/2014 winter period into the spring of 2014. After developing a new schedule that accounts for delays in the 2014/2015 winter ground freeze up period, GTE anticipates a completion date of June 30, 2015.

The AUC granted the time extension to GTE on the basis that it is in the public interest pursuant to Section 17 of the *Alberta Utilities Commission Act*.

ATCO Pipelines Urban Pipeline Replacement Project (Decision 2014-010 (Errata))

ATCO Pipelines proposed the Urban Pipeline Replacement project ("UPR") to meet its obligations under EUB Directive 041 and Alberta Energy Regulator Directive 077 (each of which adopts CSA Z662 Annex N for pipeline integrity management). The decision was issued January 17, 2014 with an errata issued on February 21, 2014.

The UPR proposal reconfigures the existing high-pressure natural gas pipeline transmission systems within the cities of Edmonton and Calgary (the "Edmonton and Calgary Systems") by constructing new high pressure systems in the Edmonton and Calgary transportation and utility corridors ("TUC").

Although gas utilities in Alberta generally seek approval of a forecast capital expenditure, then seek approval to construct and operate a new gas utility pipeline under the *Pipeline Act*, there is no statutory requirement that they proceed in this fashion. In this case, the AUC considered the need for the project, the alternatives, and the specific routing, all within the facility proceeding, without approving the forecast rate increases necessary to recover the project's costs.

The AUC found that a need existed because there would be significant consequences from a supply interruption, but also found the evidence insufficient to conclude that growth could form the basis for the need.

Upon finding that a need existed, the AUC considered the following alternatives to upgrade or replace the existing systems to reduce the existing risk associated with the continued operation of the systems:

1. UPR proposal;
2. Integrity alternative - investigation of existing systems to determine that the consequence of failure remains acceptably low;
3. Replacement in place alternative - installation of new pipelines of the same size in the same location and alignment as the existing pipelines;
4. Distribution alternative - conversion of urban high-pressure facilities to distribution pressure pipelines; and
5. Hybrid alternative - inline inspection and hydrostatic pressure testing in conjunction with the implementation of the UPR project.

The AUC rejected the replacement in place alternative, because although it would reduce the probability of failure given its new construction, it would not address the consequence of failure while the pipelines remain in densely populated areas.

In assessing the three remaining alternatives, the AUC considered the extent to which each alternative ensures the safe, economic, orderly and efficient operation of the Edmonton and Calgary Systems and facilitates on-going integrity management.

The AUC found that:

- UPR was superior to the other two alternatives having regard to risk management, system integrity and security of supply, because it resulted in the greatest reduction of consequence of failure and it enhances system reliability and security of supply because of its ring structure;
- UPR will result in materially less public disruption than either the integrity or hybrid alternatives;
- UPR has less technical feasibility challenges than either the integrity or hybrid alternatives; and
- Hybrid proposal may result in duplication of cost.

Finally, the AUC found that the incrementally higher cost of the UPR proposal was not sufficient to offset the foregoing advantages of UPR.

Matters for Other Proceedings

1. Facility Application - to address such issues as the exact location of the proposed facilities, the optimal sizing of those facilities and construction timing, the onus will be on ATCO Pipelines to demonstrate that approval of each of the 12 individual projects comprising UPR is in the public interest having regard to its social, economic and environmental effects;
2. General Rate Application (ATCO Pipelines) - for the approval of UPR related costs and any prudence review of ATCO Pipelines' historical management of the integrity of its system; and
3. General Rate Application (ATCO Gas) – to review the integrity condition of transferred assets.

ATCO Electric Ltd. Sale and Transfer of the Delburne West Rural Electrification Association (Decision 2014-044)

Sale of electrical distribution system and related assets – Y factor adjustment

The AUC authorized:

1. The sale of the Delburne West Rural Electrification Association (the "REA") electric distribution system and related assets to ATCO Electric Ltd.;
2. The cessation of service; and
3. The discontinuance of operations of the REA.

The AUC also approved ATCO Electric Ltd.'s application to address the resulting rate implications of this as a Y factor adjustment in its next annual performance-based regulation rate adjustment filing.

AltaLink Management Ltd. 2014 Interim Transmission Facility Owner Tariff (Decision 2014-046) ***Interim Rate Level***

AltaLink Management Ltd. ("AltaLink") filed an application for approval of its 2014 Tariff on an interim basis. The shortfall of \$191.0 million represented a material amount and warranted an interim decision in order to avoid financial hardship to the applicant and any rate shock impacts. The AUC approved an interim refundable rate increase reflecting only 90 percent of the revenue shortfall effective March 1, 2014. The approved interim rate was consistent with the recommendation of the Consumers' Coalition of Alberta.

EPCOR Energy Alberta Inc. and EPCOR Alberta GP Inc. Approval of Arrangement to Provide Regulated Rate Option Service (Decision 2014-045) ***Reorganization – Transfer pricing – Naming convention – Taxable status – RRO***

EPCOR Energy Alberta Inc. ("EPCOR Inc.") and EPCOR Energy Alberta GP Inc. ("EPCOR GPI") filed an application requesting approval for EPCOR GPI, in its capacity as the general partner of EPCOR Energy Alberta Limited Partnership ("EPCOR LP"), to provide regulated rate option ("RRO") service to eligible customers in EPCOR Distribution & Transmission Inc.'s ("EPCOR D&T") and FortisAlberta Inc.'s distribution service.

The AUC adopted the "no harm" test in its consideration of the issues raised.

On the general issue of impact to customers, the AUC found that the safeguards present in Section 104 of the *Electric Utilities Act* ensure that ultimate liability to provide RRO service rests with the AUC regulated distribution system owner. Further, there are ample regulatory safeguards embodied in the AUC's broad regulatory authority over the provision of RRO service and the legislative framework governing the RRO in Alberta to ensure that no harm will arise for RRO customers, including any changes to debt structure.

The purpose behind the planned corporate restructuring is to create a structure under which available non-capital tax loss carry-forward balances within EPCOR Power Development Corporation ("EPCOR Power") (the limited Partner in EPCOR LP) can be used to offset income tax liability within the EPCOR group. Interveners suggested that it was unfair that EPCOR GPI would be collecting income taxes from customers through its rates, knowing that those income tax charges would not be paid to Revenue Canada. The AUC found that the fact that EPCOR LP will be able to offset EPCOR GPI's tax liability against EPCOR Power's losses does not change the status of the RRO provider as a taxable entity. The savings in income tax payable by EPCOR Power (as opposed to tax savings of the RRO provider) accrues to EPCOR Power's shareholders and not to RRO customers.

A concern was raised that the proposed Section 85 rollover may contravene transfer pricing provisions of the EPCOR group of companies' code of conduct, and there was no indication of how fair market value was to be determined. The AUC deferred the valuation issue to a future review by the AUC in EPCOR GPI's non-energy RRO tariff applications.

The AUC found that the proposed naming convention was not misleading and was consistent with the AltaLink approach. Restructuring is proposed to take place after

the June 30, 2014 Energy Price Setting Plan (“EPSP”) expiry date, so EPSP-related issues were not addressed.

Alberta Electric System Operator 2012 Deferral Account Reconciliation (Decision 2014-034)
Deferral Account – Surplus Allocation

The Alberta Electric System Operator (“AESO”) applied for approval of its reconciliations of deferral account balances for 2012 and additional changes to deferral account balances for 2005 through 2011. The application included approval of the allocation of a \$7.5 million net deferral account surplus.

ATCO Electric Ltd., FortisAlberta Inc., and the Consumers’ Coalition of Alberta intervened in the proceeding.

The AUC approved the AESO methodology for reconciliations. The methodology was consistent with previous reconciliation applications in 2008, 2009, and 2010-2011.

The AESO also requested a determination on the prudence of its costs incurred with respect to 2012. As no interveners made submissions on the prudence of the AESO’s administrative costs for 2012, the administrative costs, TFO wires-related costs and ancillary services costs were approved as filed.

The AESO applied to have the 2005 through 2012 deferral surplus amounts allocated based on each customer’s percentage of total revenues collected through approved rates on a monthly basis for each period. As no interveners made submissions on the reasonableness of the allocation, the allocation was approved as filed.

Alberta Electric System Operator Sunken Lake 221S Substation Upgrade Needs Identification Document; AltaLink Management Ltd. Sunken Lake 221S Substation Upgrade Facility Application (Decision 2014-035)

No concerns were raised by stakeholders in respect of the Needs Identification Document, and subsequently, the AUC approved the need for the upgrade.

AltaLink Management Ltd. (“AltaLink”) applied to upgrade the Sunken Lake 221S Substation including expansion of twenty metres by thirty metres (20m x 30m) on the eastern side to accommodate the necessary upgrades. No concerns were raised by stakeholders in respect of the facility application to expand the Sunken Lake 221S Substation. As there were no outstanding concerns or objections from stakeholders, the AUC found the expansion was in the public interest and approved the application.

Enbridge Pipelines (Athabasca) Inc. Time Extension to Operate Temporary Generation for the Bonnyville Pump Station Site (Decision 2014-037)
Temporary Power Plant

Enbridge Pipelines (Athabasca) Inc. (“Enbridge”) had approval to operate a 16 megawatt temporary power plant near Bonnyville until March 1, 2014. Enbridge applied for an extension on February 4, 2014 to continue the operation of the temporary power plant until May 31, 2014, as a result of other delays in securing a permanent power supply. No concerns were raised by stakeholders in respect of the time extension application. Accordingly, the time extension was approved.

TransAlta Corporation Time Extension to Complete Alteration to the Fly Ash Disposal System at Keephills Power Plant (Decision 2014-038)

No concerns were raised by stakeholders in respect of the time extension application. Accordingly, the time extension was approved.

ATCO Electric Ltd. Dawes Substation and Telecommunications Tower Project Facility Application (Decision 2014-039)

ATCO Electric Ltd. filed a facility application for a 240/144 kilovolt (kV) substation, two 240 kV single circuit transmission lines, and one 144 kV double circuit transmission line near the Regional Municipality of Wood Buffalo. No concerns were raised by stakeholders in respect of the facility application. Accordingly, the AUC approved the project as filed.

AltaGas Utilities Inc. Phase II Review and Variance Decision on Decision 2013-072 2012 Performance-Based Regulation Compliance Filings (Decision 2014-042)
PBR – Capital Costs

AltaGas Utilities Inc. (“AltaGas”) requested a review of Decision 2013-072 on the issue of whether AltaGas would be able to include capital costs for its Natural Gas Settlement System Code (“NGSSC”) project in the going-in revenue for its performance based regulation (“PBR”) filings.

The Utilities Consumer Advocate had originally intervened in the proceeding, but withdrew its opposition by letter dated February 4, 2014.

The AUC found the 2013 revenue requirement associated with a portion of the NGSSC project was not adequately funded under the I-X mechanism of PBR and that the capital investment in this project should be treated in the

same manner as the investment and calculations used in relation to other capital tracking adjustments.

The AUC therefore granted a variance to allow full year recovery outside of the I-X mechanism of PBR, and directed AltaGas to update its compliance filings to reflect the collection of the shortfall arising from the variance in this decision.

1646658 Alberta Ltd. Bull Creek Wind Project (Decision 2014-040)
Need – Noise & Noise Modelling – Infrasound – Health Impacts – Environmental Impacts

1646658 Alberta Ltd., a wholly owned subsidiary of BluEarth Renewables Inc. (“BluEarth”) applied to construct and operate the Bull Creek Wind Project near the Municipal District of Provost No. 52 and the Municipal District of Wainright No. 61 (the “Bull Creek Wind Project”).

In establishing the burden of proof for the Bull Creek Wind Project, the AUC rejected the assertion that the burden of proof is larger in the absence of an established need or other certificates of public convenience and necessity.

The AUC considered issues of low frequency noise, infrasound, various noise modelling techniques and standards, and cumulative noise impacts. The AUC found deficiencies in BluEarth’s initial sound modelling due to receptors not having been properly calibrated within a one year time frame. However, due to the conservative nature of the estimates, the AUC accepted the balance of the noise modelling performed by BluEarth, but ordered further sound field noise measurement data within three months of an approval being granted.

The AUC also found that cumulative night-time noise levels would be 41.2 dBA and 40.6 dBA for two residences, which is in excess of the allowable 40 dBA limit. However, the AUC allowed the higher sound level on the basis that the contribution to noise levels by the turbines would be insignificant compared with pre-existing noise levels. The AUC also held that at a distance of at least 700m, infrasound and low frequency noise would be inaudible at the nearest noise receptor point.

Health impacts associated with audible and inaudible noise were discussed in the AUC’s ruling, including expert evidence from 8 expert witnesses on the subjects. The AUC held that no persuasive evidence was provided that showed night-time noise levels of less than 40 dBA would cause any sleep disturbance to nearby residents. The AUC also rejected comparisons of Alberta’s night-time sound limit standards to other jurisdictions, because not all jurisdictions use cumulative sound impacts. The AUC also found that there would be no adverse health impacts from

infrasound sources, as any project noise would be equivalent to natural or man-made sources of infrasound. Other sources of stress and annoyance, such as shadow flicker from turbine operations would be mitigated through strict application of operational controls.

The AUC also held that there was insufficient evidence to demonstrate adverse health impacts on domestic animals from wind turbines. However, the AUC held that some turbines may be curtailed or feathered at low wind speeds or at night time, if required, to meet either the night-time permissible sound limits, or if effects on bat, bird, and other wildlife populations from turbine operations exceed estimates as set out in the application.

Owing to outstanding concerns related to pipeline integrity for pipelines containing H₂S nearby, and electrical interference from the Bull Creek Wind Project, BluEarth committed to perform an electrical study and implement the appropriate mitigation measures. The AUC held that this was a reasonable course of action.

With respect to environmental impacts, the AUC held that sign off from Alberta Environment and Sustainable Resource Development (“AESRD”) on impacts to various environmental components suggested an acceptable degree of impact, but added pre- and post-construction bat and bird monitoring, and further consultation with AESRD, once results are available, as a condition of approval.

The AUC did not find that BluEarth was required to post a security bond for decommissioning or reclamation, but did state as a condition that BluEarth was to maintain insurance coverage during the construction and operation of the Bull Creek Wind Project.

The AUC approved the application to construct and operate the Bull Creek Wind Project.

EPCOR Distribution & Transmission Inc. 2014 Interim System Access Service Rates (Decision 2014-047)

EPCOR Distribution & Transmission Inc. (“EPCOR D&T”) applied for the approval of its 2014 interim service access rates effective April 1, 2014, which are to remain in effect until final service access rates are determined. EPCOR D&T applied to the AUC for final service access rates on January 27, 2014 and requested that the final rates become effective on October 1, 2014.

EPCOR D&T used the same methodologies approved by the AUC in Decision 2012-272, and consistent with previous service access rate applications. EPCOR D&T estimated its revenue requirement from April 1, 2014 through to June 30, 2014 to be \$49.5 million.

The AUC approved the 2014 interim service access rates application of EPCOR D&T as filed.

Alberta Electric System Operator Spring Coulee 385S Substation Upgrade Needs Identification Document; AltaLink Management Ltd. Spring Coulee 385S Substation Upgrade Facility Application (Decision 2014-048)

The Alberta Electric System Operator (“AESO”) applied for approval of a needs identification document (“NID”) for an upgrade to the Spring Coulee 385S Substation.

AltaLink Management Ltd. (“AltaLink”) applied for approval to alter and to operate the Spring Coulee 385S Substation. The proposed alteration was the addition of one 69/25 kV, 15/20/25-megavolt-ampere transformer, and an expansion of the substation facilities 20 metres by 24 metres to the west.

No concerns were raised by stakeholders in respect of the NID or the facility application. Accordingly, the AUC approved both the NID and the alteration as filed.

ATCO Gas and Pipelines Ltd. (South) Construction of the S.E. Red Deer 219.1-mm Pipeline in the City of Red Deer (Decision 2014-050)

ATCO Pipelines (“ATCO”) applied to add:

- (a) Line 188 to Licence No. 2029 for the construction of 8.1 km of new 219.1 mm steel pipe; and
- (b) Line 189 to Licence No. 2029 for the construction of 0.78 km of new 88.9 mm steel pipeline.

Line 188 would be constructed for the transportation of natural gas, tying into existing facilities from 01-01-38-27W4M to 04-25-38-27W4M. Line 189 would be constructed from a tie-in point on Line 188 to existing facilities at 13-12-38-27W4M.

The purpose of the new construction would be to remove from high pressure service, existing facilities within Red Deer. In particular, ATCO proposed to decommission and abandon its 168.3mm Nevis transmission pipeline within the city of Red Deer after the proposed pipelines have been commissioned. The Nevis transmission pipeline was originally built in 1956 and was welded using low-frequency electric resistance welding, and was not hydrotested, in keeping with the standards of the day. By current CSA Z662 standards, the Nevis transmission pipeline does not meet a number of specifications.

ATCO raised several concerns with respect to the Nevis transmission pipeline, namely its age and compatibility of construction standards associated with when the pipeline was built and depth of cover concerns. The AUC noted that recent assessments found that the Nevis transmission pipeline was in excellent condition, and had a good operating history. The AUC noted only one leak due to a line hit in 1965, and no other failures on record.

The AUC found that the replacement of the Nevis transmission pipeline was more economically efficient than hydrotesting and performing integrity digs on the Nevis transmission line due to the existing piping configuration.

No concerns were raised by stakeholders in respect of the pipeline application, or the proposed decommissioning. Accordingly, the AUC approved the new pipeline construction application as filed.

NATIONAL ENERGY BOARD

BP Canada Energy Company ULC – Application requesting the National Energy Board amend certain contracts resulting from TransCanada Pipelines Limited Daily Existing Capacity Open Season(s) for firm transportation, firm transportation-short notice and non-renewable firm transportation services (Letter Decision dated 5 February 2014)
Unfiled Tariff Changes – NEB

On July 2, 2013, BP Canada Energy Company ULC (“BP Canada”) filed a complaint (“BP Complaint”) with the NEB regarding a recent change that TransCanada Pipelines Limited (“TransCanada”) made to the Canadian Mainline Gas Transportation Tariff (“Mainline Tariff”) and, in particular, to the terms and conditions under which a shipper can access and contract for firm transportation (“FT”), firm transportation-short notice and non-renewable firm transportation services.

BP Canada requested that any shipper, including BP Canada, who committed to a term of more than 12 months in the Daily Existing Capacity Open Season(s) (“DECOS”) as a result of the inappropriate exercise of discretion by TransCanada should be permitted, but not required, to amend their FT commitment such that the service ends 12 months after the commencement date of the service.

The NEB ordered TransCanada to remove the restrictions which required more than a one-year term for FT, or which prescribed specific commencement and end dates for FT service, from its DECOS documentation. At the time, the NEB declined to grant BP Canada the relief it requested for the first time in its reply submissions, because the NEB did not have a record that allowed it to order the relief requested.

Upon receiving and reviewing an application by BP Canada on November 21, 2013 containing the required record (the “Application”) the NEB exercised its jurisdiction under Part IV of the *NEB Act* to order that the contracts listed in the Application be deemed to not confer any rights or obligations on BP Canada and on TransCanada following one-year from the start dates of each contract.

The NEB did so notwithstanding that the contracts included in the Application were entered into by BP Canada after it filed its Complaint with the NEB, because the NEB found that BP Canada registered its Complaint with the NEB expeditiously and took steps, such as submitting two bids, to demonstrate that its access to FT service, given the terms and conditions on the Tariff, had been harmed.

The NEB also rejected the argument that the approval of the Application will result in parties bidding and securing

capacity and then reducing the contract term later on the basis that such actions are not allowed by the Mainline Tariff.

Jordan Cove LNG L.P. – Application for a Licence to Export Natural Gas (Letter Decision dated 20 February 2014)

Environmental concerns in gas export licences – reporting on gas exports vs. natural gas liquids exports

The proposed export is via existing natural gas pipelines near Kingsgate, British Columbia and near Huntingdon, British Columbia. The licence was granted to Jordan Cove LNG L.P. (“Jordan Cove LNG”) on the basis that the application met the surplus criterion requirements under section 118 of the *NEB Act*.

Citizens Against LNG Inc. challenged the applicant’s assumption that adequate Canadian and U.S. water supplies will be available to sustain increased production by hydraulic fracturing, and questioned the potential impact of hydraulic fracturing bans by countries, states, regions and cities. The NEB noted that no moratoria related to hydraulic fracturing exist in the provinces where most of the project supply is expected to be sourced.

In response to concerns that natural gas exports could result in price increases, the NEB found price was only one indicator of market conditions as North American natural gas supply and demand adjusts to changes in price signals.

As it has done in previous decisions the NEB denied Chemistry Industry Association of Canada’s request to include a natural gas liquids composition reporting requirement as a condition of this natural gas export licence.

In response to the environmental and public interest concerns raised, the NEB held these matters were outside the NEB’s jurisdiction on natural gas export licence applications. The sole consideration of an export licence application is the surplus criterion identified in section 118 of the *NEB Act*.

The application does not trigger the environmental assessment requirement of the *Canadian Environmental Assessment Act, 2012* (the “*CEAA 2012*”) as the issuance of an export licence is not a designated physical activity under the *CEAA 2012*.

The NEB is of the view that the licence is a standalone authorization. The *NEB Act* does not require that a licence be issued before, concurrently, or after the issuance of



authorizations required for any facilities or activities that may be necessary to enable the export.

As in previous decisions, the NEB clarified that Section 116 of the *NEB Act* does not require the holder of the licence to also be the owner of the gas.

The NEB denied Jordon Cove LNG's request for exemption from the *National Energy Board Export and*

Import Reporting Regulations (the "*Reporting Regulations*"), on the basis that reporting on pipeline exports to the U.S. is a well-established practice in which the *Reporting Regulations* apply to all exporters in a similar manner. The NEB noted that the licence holder is also responsible for reporting exports carried out as an agent.