

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Downeast LNG, Inc.)	Docket No.	CP07-52-000
Downeast Pipeline, LLC)	Docket Nos.	CP07-53-000
)		CP07-54-000
)		CP07-55-000

**MOTION OF THE PROVINCE OF NEW BRUNSWICK
TO SUSPEND PROCEEDINGS**

Pursuant to Rule 212 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2006), the Province of New Brunswick, Canada ("New Brunswick" or "Province") hereby submits its Motion to Suspend Proceedings in the captioned dockets. The Canadian Government, which has exclusive jurisdiction over navigation in Head Harbour Passage, has announced its decision to deny LNG vessels permission to transit through these Canadian waters.¹ As a result of this vessel ban, the LNG receiving terminal and related facilities proposed by Downeast LNG, Inc. and Downeast Pipeline, LLC (collectively, "Downeast") cannot receive LNG vessels and hence are not viable. In light of these circumstances, considerations of administrative economy and efficiency should lead the Commission to suspend further consideration of the applications in these proceedings. In support of this motion, New Brunswick respectfully states the following:

I. BACKGROUND

On December 22, 2006, Downeast filed applications pursuant to Sections 3(a) and 7(c) of the Natural Gas Act ("NGA") for authorization to site, construct and operate a liquefied natural gas ("LNG") receiving terminal, associated facilities and pipelines to be located in Washington

¹ *Downeast LNG, Inc.*, Docket No. CP07-52 *et al.*, Letter from Amb. Michael Wilson to Chairman Joseph T. Kelliher, Federal Energy Regulatory Commission (dated Feb. 14, 2007).

County, Maine.² The Province filed a timely intervention and comments on January 22, 2007. According to the LNG terminal application and other materials submitted to date, LNG vessels attempting to reach the proposed Downeast LNG import terminal would have to transit through Head Harbour Passage, between Campobello Island and the New Brunswick mainland, which is wholly Canadian waters.³

On February 14, 2007, Canadian Ambassador to the United States Michael Wilson sent a letter to the Commission's Chairman Joseph Kelliher informing Chairman Kelliher that "the Government of Canada has decided it will not permit LNG tankers to pass through Head Harbour Passage."⁴ Ambassador Wilson cited the concerns of the Government of Canada ("Government" or "Canada") regarding the environmental and navigational risks associated with such vessel transits as the foundation for that decision. The letter also noted that the Government was informing the Commission early in the regulatory process so that the applicants may take appropriate actions in light of the decision.

II. REQUEST FOR SUSPENSION

In view of the Canadian Government's decision on LNG vessels transiting Head Harbour Passage, a decision solely within the jurisdiction of the federal Canadian Government,⁵ considerations of administrative economy and efficiency should lead the Commission to suspend

² *Downeast LNG, Inc.*, Docket No. CP07-52 *et al.*, "Application for Authorization Under Section 3(A) of the Natural Gas Act to Site, Construct and Operate Liquefied Natural Gas Facilities and Application Under Section 7(c) of the Natural Gas Act to Construct and Operate Pipeline Facilities" (filed Dec. 22, 2007) (herein "December 22 Applications").

³ *Downeast LNG, Inc.*, Docket No. CP07-52 *et al.*, Comments of the U.S. Coast Guard, Captain of the Port Northern New England on the Downeast LNG Resource Reports (filed Feb. 5, 2007)("Head Harbor [*sic*] Passage is Canadian waters").

⁴ Wilson Letter at 1.

⁵ Recent comments of the United States Coast Guard ("U.S. Coast Guard") filed with the Commission confirm the Canadian Government's jurisdiction. Coast Guard Comments at p. 2 ("Head Harbor [*sic*] Passage is Canadian waters and during the majority of the transit route the LNG carriers will be straddling the U.S. Canadian boundary.").

these proceedings. As a Province within Canada, New Brunswick supports the decision of the federal Government with regard to LNG vessel transit through Head Harbour Passage. Vessel transit through Head Harbour Passage, located between the mainland of New Brunswick and Campobello Island, is a critical component of the Downeast LNG terminal proposal. LNG vessels are the only proposed means of transporting LNG supplies to the terminal and such ships must pass through this waterway; such passage is now precluded by the Canadian Government.

As the Commission and its Staff are well aware, the review of LNG terminal applications is a complex and lengthy process. While the quickest approval of a new terminal has been just under one year,⁶ a majority of the applications are in the regulatory review process for closer to 18 months, and at least two applications for new terminals consumed 21 months or more.⁷ In this proceeding, Downeast has identified at least 30 federal, state, and local agencies whose participation is required in order to complete the NEPA review for the project.⁸

The costs imposed on all of these administrative agencies and public resources in the review of the Downeast LNG terminal, which as a result of the Canadian Government's decision has no physical means of receiving LNG supplies, are substantial. As a smaller Canadian province with limited means, the Province is particularly concerned about the likely costs associated with an 18-month regulatory review process for two LNG terminals proposed for Maine, including the costs of required studies and analyses to assess the potential impacts of the proposed terminals. There is simply no need at this time for the Commission and the parties to expend resources through the lengthy and complex NEPA process given that the Downeast

⁶ *Sabine Pass LNG*, Docket No. CP04-47 *et al.* (filed Dec. 22, 2003, authorized Dec. 21, 2004, at 109 FERC ¶ 61,324).

⁷ *Sound Energy Solutions*, Docket No. CP04-58 (filed Jan. 26, 2004; application pending); *Crown Landing LLC*, Docket No. CP04-411 (filed Sep. 16, 2004; authorized June 20, 2006, at 115 FERC ¶ 61,348).

⁸ December 22 Applications, Resource Report 1, Table 1-16.

terminal cannot become operational due to the Canadian Government's prohibition on LNG vessel transit through Head Harbour Passage.

In addition, the Province notes that recently the Commission's Office of Energy Projects ("OEP") sent a letter to SES Terminal, LLC, the proponent of the LNG terminal in Long Beach, California, requesting the terminal developer to show cause why the Commission should continue to review its LNG terminal application after the Long Beach Board of Harbor Commissioners declined to lease a site to the terminal developer.⁹ OEP noted that the lease was "essential for the project to go forward." Transit through Head Harbour Passage is just as "essential" for Downeast's project to go forward—if no vessels can transit to the proposed terminal, then the terminal is not viable.

Therefore, in the interest of administrative efficiency and preserving the limited resources of the Commission, the Province, and all parties to these proceedings, the Province of New Brunswick respectfully moves to suspend the regulatory review of the December 22 Applications.

⁹ *Sound Energy Solutions*, Docket No. CP04-58, Letter from J. Mark Robinson, Director, Office of Energy Projects, to Thomas E. Giles, Executive Vice President, SES Terminal, LLC, dated Jan. 31, 2007.

WHEREFORE, in consideration of the foregoing, the Province of New Brunswick respectfully requests that the Commission suspend its review of the December 22 Applications.

Respectfully submitted,

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February 26, 2007

CERTIFICATE OF SERVICE

In accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2006) I hereby certify that I have this day served a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Washington, D.C., this 26th day of February, 2007.

/s/ David L. Wochner