Final Submission

BC Utilities Commission of Inquiry Into Gasoline and Diesel Prices in British Columbia

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As interveners to the BCUC Commission of Inquiry into Gasoline and Diesel Prices in British Columbia, Allan & Eliesen submitted evidence related to the factors influencing gasoline and diesel prices, and the mechanisms the Province could use to moderate the fluctuations and increases.

The evidence is contained in Exhibits C1-2 to C1-6.

In summary, the evidence—corroborated by evidence filed by other interveners—confirms that:

a) **The BC Market is Highly Concentrated:** The wholesale provision of gasoline and diesel to the BC marketplace is highly concentrated with five suppliers in total—Parkland, Suncor, Imperial, Shell and Husky, with only four suppliers in the lower mainland and on Vancouver Island since Husky does not supply refined product to these regions. (Exhibit C1-2 page 17-20, and Transcript, July 30, 2019, Volume 4, page 693-696);

b) **Barriers to Entry are Significant:** The five suppliers to BC's market have confirmed that they control not only the international export and import of refined products in BC, but also interprovincial imports. Barriers to entry for prospective suppliers are significant since the limited infrastructure is owned and controlled by these existing suppliers and are not available for use by others. (Husky, Exhibit C7-7, page 2, Parkland, Transcript, July 30, 2019, Volume 4, page 659 lines 13-21 and page 661 lines 7-11, Super Save, Transcript, July 30, 2019, Volume 4, page 732 line 16 to 733 line 1;

c) **Price not Determined By Competition:** Suppliers confirmed they do not price on the basis of costs plus a reasonable return on profit which would be the pricing outcome if the market were workably competitive. Parkland, Exhibit C5-6, page 11, Suncor, Exhibit C2-2, page 7 and Transcripts, July 18, 2019, Volume 2, page 351, and Imperial, Exhibit C8-2, page 6. In a market that is not workably competitive marginal cost pricing arguments are without merit.

d) **Price is not due to Lack of Supply:** There was no lack of supply of gasoline or diesel to British Columbia during the period 2015 – 2019 and the BC market does not suffer from a supply shortage, chronic or otherwise. (Exhibit C1-5). The supply constrained narrative is an excuse to justify unfair pricing. Regrettably, refiners have allowed this narrative to gain traction by refusing to step up and set the record straight when pundits offer it as an excuse for volatile and high prices. (Exhibit C1-2, page 25).

e) **BC does not Rely on the US Market for Supply:** BC is both an **exporter** and importer of gasoline and diesel and is not dependent on the US for supply since the cross-border trade that takes place is for business reasons, not to ensure adequate supply in a constrained market. In the period 2015 – 2019, BC was a **net exporter** of diesel and in 2016 and 2017 a **net exporte**r of gasoline. In 2019, data shows that BC continues to be a net exporter of diesel and a modest importer of gasoline. A region that is a net exporter is not dependent on international markets for supply. The international import

data relied on by Deetken for its Phase 1 and 2 reports is unreliable, while Port Metro Vancouver data is more reliable. (Exhibit C1-5).

f) **Trans Mountain's Capacity Problems:** Trans Mountain has confirmed that the available capacity of the pipeline **is not fully utilize**d. During the first four months of 2019, January to April, "Deliveries as Percentage of Hydraulic Capacity (were) 82%", calculated with "5.74% heavy" during January – April. (Trans Mountain 2019 Final Tolls, NEB Exhibit C4-6, page ITS-34.) A reliance on Trans Mountain capacity issues as a rationale for higher prices in BC, is without substance. The first issue that needs to be addressed is a redesign of the flawed nomination process that favours Washington State and Westridge dock shippers over refined product suppliers to the BC market. (Transcripts, July 18, 2019, Volume 2, page 305 - 314). Even if pipeline capacity were authentically constrained such that rail is a necessary substitute, there was no evidence provided regarding the price per litre rail would represent. However, evidence was filed that showed rail substituted for pipeline had very little if any impact on refinery margins. (Exhibit C1-4, page 21-23). Finally, even if rail were more expensive, suppliers do not rely on cost to determine price, and therefore, any suggestion that Trans Mountain capacity issues are related to high prices is without substance.

g) **Suppliers Charge What the Market Will Bear:** Numerous excuses are relied upon by suppliers to justify volatile and abnormally high prices. Prior to 2015, suppliers asserted that it was the cost of crude. Once crude costs fell, however, the relationship became disconnected. (Exhibit C1-2, page 39-45). Now suppliers wish to assert that BC prices are determined by US based pricing services sources such as OPIS or the Chicago Spot Market, plus an exchange rate and transportation factor. This is absurd. BC is not reliant on the US market for refined product supply, and even if it were, marginal barrel pricing is an irrelevant concept in a concentrated market with barriers to entry. Assertions from the suppliers that they rely on US pricing services is an excuse to price gouge.

h) **BC's Wholesale Market is a 'Complex Monopoly'**: When there are few suppliers—as is the case in BC—and these suppliers have access to similar information and engage in ongoing relationships that provide them with insight into the pricing practices of their peers, it is in their profit maximizing interest for them to behave as if they were a single supplier. This market structure is known as a complex monopoly and the prices determined in this market result in excess profits. All suppliers at the wholesale level in BC—Parkland, Suncor, Imperial, Shell and Husky—charge prices that allow them to consistently capture these excess profits as reflected in their refinery margins. (Exhibit C1-6).

i) **BC's Wholesale Market has Failed:** Suppliers who use their market power to set price is a practice commonly known as 'price gouging' and in classical economic lexicon, indicates that the market has failed;

j) **Market Failure Requires Government Intervention;** Intervention must be carefully designed. It must recognize the reasons why the market has failed and how best to address the failure given the complement of suppliers that operate within it. The process we recommend is two levels of involvement by the regulator—the first level provides suppliers with an opportunity to regulate their pricing behaviour and if unwilling to do so, the second level enables direct intervention from a regulator to mandate fair and predictable prices based on costs plus a reasonable return on profit. (Exhibit C1-4, page 2-3 and Exhibit C1-2, page 46-47).