



RIDLEY TERMINALS INC.

May 15, 2019  
British Columbia Utilities Commission  
Sixth Floor, 900 Howe Street  
Vancouver, British Columbia  
V6Z 2N3

Attention:  
Mr. Patrick Wruck  
Commission Secretary and Manager, Regulatory Support

**RE: APPLICATION FOR AN ORDER PURSUANT TO SECTION 88(3) OF THE *UTILITIES COMMISSION ACT* (BRITISH COLUMBIA) (the “UCA”)**

## **1. Introduction**

This is an application requesting that the British Columbia Utilities Commission (the “**Commission**”) grant an Order pursuant to section 88(3) of the UCA exempting Ridley Terminals Inc. (“**RTI**”) from Part 3 of the UCA in respect of certain activities as set out below.

RTI owns transmission voltage electrical facilities that are interconnected with British Columbia Hydro and Power Authority’s (“**BC Hydro**”) bulk transmission system and through which BC Hydro supplies electricity to the RTI site in Prince Rupert, British Columbia (the “**RTI Site**”). RTI and Ridley Island LPG Export Limited Partnership (“**RILE LP**”) have entered into a wheeling agreement dated as of February 1, 2019 (the “**Wheeling Agreement**”), pursuant to which RILE LP will be indirectly interconnected to BC Hydro’s bulk transmission system through RTI’s electrical infrastructure on the RTI Site for the purpose of receiving electricity from BC Hydro. RILE LP has also entered into a Facilities Agreement and an Electricity Supply Agreement with BC Hydro for the provision of transmission voltage service via an indirect interconnection.

We understand that the foregoing will result in RTI falling within the UCA’s definition of a “public utility”. For the reasons set out below, RTI submits this application for exemption from regulation as a public utility under the UCA.

Please keep the contents of this application confidential.

## **2. The Parties**

RTI is 100% owned by the federal government, and as such, is a federal crown corporation. RTI was established in 1983 to implement the federal government’s policy objective of supporting coal developments in northeastern British Columbia.

RILE LP is a limited partnership formed under the laws of British Columbia between (a) AltaGas LPG Limited Partnership (“**AltaGas LPG**”), a wholly-owned subsidiary of AltaGas Ltd., and AltaGas Ltd. is a



public corporation with its shares listed on the Toronto Stock Exchange, and (b) Vopak Development Canada Inc. (“Vopak Canada”), a wholly-owned subsidiary of Royal Vopak, and Royal Vopak is a public corporation with its shares listed on Euronext Amsterdam. AltaGas owns a 70% interest in RILE LP, and Vopak Canada owns a 30% interest in RILE LP.

As such, all of the parties relevant to this application are sophisticated parties.

### 3. The Project and the Relevant Agreements

RILE LP is seeking to develop and operate a facility for the export of natural gas condensates, propane (C<sub>3</sub>H<sub>8</sub>) and butane (C<sub>4</sub>H<sub>10</sub>) on a portion of the RTI Site. For the purposes of this project, RILE LP requires electricity from BC Hydro through RTI’s electrical infrastructure on the RTI Site.

RILE LP and BC Hydro have entered into a facilities agreement (TS 88 Form) dated as of November 28, 2017, which governs the provision of indirect interconnection to the BC Hydro transmission system for RILE LP. Pursuant to this facilities agreement, (a) RILE LP and BC Hydro have agreed on the physical location and cost obligations for installation of new revenue metering equipment for RILE LP, and (b) BC Hydro has agreed to install, own, operate and maintain such meter. The revenue meter has been installed and is operational.

A copy of the Wheeling Agreement, which governs the commercial arrangements between RTI and RILE LP as to the electricity wheeling services that RTI will provide to RILE LP is attached hereto as **SCHEDULE A**. Appendix I to the Wheeling Agreement is a schematic map of the proposed interconnection of RILE LP with BC Hydro’s bulk transmission system through RTI’s electrical infrastructure on the RTI Site.

As detailed in the Wheeling Agreement, RTI has agreed to provide wheeling service to RILE LP up to a maximum of five (5) megawatts, in exchange for RILE LP paying RTI (a) an annual fee of \$1 during each year of the term of the Wheeling Agreement, and (b) RILE LP’s proportionate share of the maintenance costs of the relevant infrastructure of RTI. Given that the relevant infrastructure is rated for twenty (20) megawatts, and assuming RILE LP will need the full five (5) megawatts for its operations, RILE LP will have to pay 25% of such maintenance costs. The Wheeling Agreement is a long-term agreement; barring any events of default or any termination notice, RTI and RILE LP expect the term of the Wheeling Agreement to go at least until March 31, 2039.

BC Hydro has entered into separate electricity supply agreements with each of RTI (TS 5 Form) and RILE LP (TS 87 Form), each dated as March 14, 2019 and which reflect the above-discussed interconnection arrangements and unique site billing requirements.

BC Hydro, RTI and RILE LP have also entered into a monitoring agreement dated as of March 14, 2019. Given that the proposed configuration of revenue metering for the purposes of supplying RILE LP with electricity through RTI’s facilities results in a calculated quantity of metered electricity (energy volume and kVA demand) using deductive totalizing as defined by Measurement Canada, pursuant to this monitoring agreement, BC Hydro, RTI and RILE LP have agreed to implement a monitoring program to monitor the results of calculating a quantity of metered electricity using a deductive totalizing metering configuration.

BC Hydro and RTI have also entered into an interconnection agreement dated as of March 13, 2019 which



provides for interconnection of RTI's system with BC Hydro's system at the agreed point of interconnection.

Finally, BC Hydro, RTI and RILE LP have also executed a BC Hydro Joint Local Operating Order 3T-RTI-01 dated as of March 14, 2019 which describes the procedures necessary to facilitate interconnected operations between BC Hydro, RTI and RILE LP.

#### **4. Letters of Support**

BC Hydro supports this application, and its letter of support is attached as **SCHEDULE B** to this application.

RILE LP also supports this application, and its letter of support is attached as **SCHEDULE C** to this application.

#### **5. Need for Exemption under Section 88(3) of the UCA**

By interconnecting RILE LP with BC Hydro's bulk transmission system through RTI's electrical infrastructure on the RTI Site, for compensation, RTI will fall within the UCA definition of "public utility" according to the following analysis:

1. with reference to the definition of "public utility" in the UCA, RTI will be a "person..., who owns or operates in British Columbia, equipment or facilities for (a) the... transmission,... delivery or provision of electricity,... to or for... a corporation [that is, RILE LP] for compensation"; and
2. no existing exclusion or exemption from such public utility status applies in respect of such activity.

The UCA provides a solution for the situation where a person falls within the UCA definition of "public utility" but the regulation of such person as a public utility is not warranted. Specifically, section 88(3) of the UCA provides as follows:

"88(3) The commission may, on conditions it considers advisable, with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act*, exempt a person, equipment or facilities from the application of all or any of the provisions of this Act or may limit or vary the application of this Act."

We believe that such exemption of RTI supports the public interest as discussed in the following section.

#### **6. Public Interest in Granting this Application**

The Commission has described the test for granting an exemption under section 88(3) of the UCA as follows:

"The Commission is of the view that a section 88(3) exemption order should be issued, with the advance approval of the [Lieutenant Governor in Council], when such exemption serves the objects and purposes of the Act and it is in the public interest to do so."<sup>1</sup>

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<sup>1</sup> Commission Order No. G-41-06, page 6. Note that Section 88(3) of the UCA has been amended such that the



Recently, the Commission reviewed and commented on the objects and purposes of regulation under the UCA as follows:

“Regulation exists to protect the public from potential monopolistic behaviour on the part of a public utility while ensuring the continued quality of an essential service.

It is the regulator’s function to prevent the abuse of monopoly power, so that customers have access to the utility product or service at a fair price, but at the same time allow the utility the opportunity to earn a fair return on its investment so that it can continue to operate and attract the capital required to sustain and/or grow its business.

The *Utilities Commission Act* is an example of public utility regulation that balances the public interest between monopoly, where monopoly is accepted as necessary, and the consumer protection provided by competition.”<sup>4</sup>

Although RTI will fall within the UCA definition of “public utility” as a result of the above-discussed interconnection, regulating RTI as a “public utility” under the UCA is neither necessary to protect the public from potential monopolistic behavior nor is such regulation needed to ensure access to the public to reasonable service or a fair price. Further, regulating RTI as a “public utility” under the UCA will impose a significant and unnecessary cost and administrative burden on both RTI and the Commission. In our view such regulation is not needed or appropriate in the circumstances for the following reasons:

1. RTI is allowing RILE LP to interconnect with BC Hydro’s bulk transmission system through RTI’s existing electrical infrastructure on the RTI Site because this is, by far, the most cost effective interconnection solution for all of the relevant parties and is a much better use of limited resources than any alternative.
2. The interconnection service will be provided only to RILE LP, and not to the public generally.
3. RILE LP is a sophisticated party and has been represented by legal counsel throughout the negotiation of this interconnection arrangement.
4. RTI is only providing the means for RILE LP to obtain its electricity through BC Hydro.
5. The rights and obligations of RTI and RILE LP are specified in the Wheeling Agreement that has been negotiated between, and executed by, both RTI and RILE LP.
6. Each of BC Hydro and RILE LP support this application.

Furthermore, this application is supported by precedent. The Commission has previously approved exemptions for parties proposing to engage in similar activities. For example:

1. By Order No. G-51-17 dated March 31, 2017, the Commission granted exemption to Pingston Power Inc. (“**Pingston**”) in respect of Pingston allowing a third party to interconnect to Pingston’s substation in order to transmit electricity to BC Hydro.
2. By Order No. G-196-15 dated December 10, 2015, the Commission granted exemption to Tolko Industries Ltd. (“**Tolko**”) in respect of Tolko allowing a third party wood pellet manufacturing

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advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act* is now required, instead of an advance approval of the Lieutenant Governor in Council.



plant to interconnect to Tolko's Lavington substation (and also in respect of Tolko reselling electricity to the third party).

3. By Order No. G-141-15 dated August 27, 2015, the Commission granted exemption to Canadian Forest Products Ltd. ("Canfor") in respect of Canfor allowing third parties to interconnect to Canfor's NOS substation (and also in respect of Canfor reselling electricity to the third parties).

RTI will not be reselling electricity so the need for regulation is even less than it was for in the applications submitted by Tolko and Canfor.

#### 7. Proposed Terms of Exemption

We propose and request the same basic form of exemption for RTI that the Commission granted to Pingston pursuant to Order No. G-51-17 dated March 31, 2017, with the appropriate amendments to such form. For convenience, a copy of Order No. G-51-17 dated March 31, 2017 is attached as **SCHEDULE D** to this Application.

Specifically, we request that RTI be exempt from Part 3 of the UCA except for sections 25, 38, 42 and 43 for its transmission and interconnection facilities used to deliver BC Hydro's electricity to RILE LP.

RTI does not require exemption from section 71 of the UCA because it is not entering into an "energy supply contract" (as such term is defined in the UCA) with RILE LP.

#### 8. Conclusion

In our view, regulation of RTI as a "public utility" under the UCA is not necessary or reasonable due to reasons discussed above, and it is appropriate for RTI to be exempted from the UCA on the terms requested.

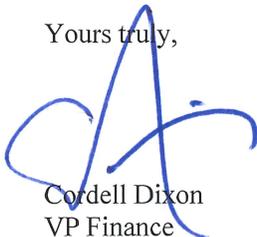
We would be pleased to answer any questions the Commission might have regarding this application.

Please forward communications related to this application to:

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Yours truly,

  
Cordell Dixon  
VP Finance

  
Ron Coolin  
Electrical Manager



RIDLEY TERMINALS INC.

**SCHEDULE A**  
**Wheeling Agreement**

**WHEELING AGREEMENT**

**BETWEEN:**

**RIDLEY TERMINALS INC.**

**AND:**

**RIDLEY ISLAND LPG EXPORT LIMITED PARTNERSHIP**

Dated: February 1, 2019

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## WHEELING AGREEMENT

This Wheeling Agreement is made as of the 1<sup>st</sup> day of February, 2019.

BETWEEN:

**RIDLEY TERMINALS INC.**, a Crown corporation incorporated pursuant to the laws of Canada and having its head office at Ridley Island, 2110 Ridley Road, Prince Rupert, B.C. V8J 4H3

("RTI")

AND:

**RIDLEY ISLAND LPG EXPORT LIMITED PARTNERSHIP**, a limited partnership formed pursuant to the laws of British Columbia and having its head office at 2500, 1066 West Hastings Street, Vancouver, B.C. V6E 3X2

("RILE LP")

**WHEREAS:**

- A. Pursuant to the Project Agreement and Infrastructure Agreement, RTI and RILE LP have agreed to carry out certain activities and complete certain transactions and arrangements in furtherance of RILE LP developing and operating a facility for the export of natural gas condensates, propane (C<sub>3</sub>H<sub>8</sub>) and butane (C<sub>4</sub>H<sub>10</sub>) on a portion of the site RTI leases from PRPA (the "**RTI Site**");
- B. RTI owns transmission voltage electrical facilities that are interconnected with British Columbia Hydro and Power Authority's ("**BC Hydro**") bulk transmission system and through which BC Hydro supplies electricity to the RTI Site;
- C. RILE LP wishes to interconnect to BC Hydro's bulk transmission system through RTI's electrical infrastructure, specifically the Shared Electrical Facilities, for the purpose of receiving electricity from BC Hydro;
- D. Upon execution of this Agreement, the Facilities Agreement, and the Load Interconnection Agreement, BC Hydro is prepared to enter into an Electricity Supply Agreement with RILE LP respecting electricity purchases from BC Hydro;
- E. The Facilities Agreement requires RILE LP and RTI to enter into commercial arrangements to govern the wheeling services that RTI provides to RILE LP;
- F. Therefore the Parties wish to enter into this Agreement to enable BC Hydro to provide electricity to RILE LP through the Shared Electrical Facilities owned and operated by RTI and the RILE LP Facilities, owned and operated by RILE LP; and
- G. In the Facilities Agreement, (i) RILE LP and BC Hydro have agreed on the physical location and cost obligations for installation of new revenue metering equipment for RILE LP (the "**RILE LP Meter**"), and (ii) BC Hydro has agreed to install, own, operate and maintain the RILE LP Meter.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set out in this Agreement, and for other good and valuable consideration (the receipt and sufficiency of which is hereby irrevocably acknowledged), the Parties agree as follows:

## **1.0 DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In addition to those terms used and defined elsewhere in this Agreement (including in the recitals), in this Agreement, unless the context requires otherwise, the following terms have the following meanings:

**“Affiliate”** in the case of a corporation, has the meaning specified in the *Canada Business Corporations Act* (Canada) and in the case of any other Person, means a Person that controls or is controlled by such other Person or is under the same or common control as that Person. A Person shall be deemed to control a Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise; and the term “controlled” shall have a similar meaning.

**“Agreement”** means this Agreement, as amended, restated and/or supplemented from time to time, and any schedules, appendices, or exhibits referred to in it as being attached to it.

**“Applicable Laws”** means, at any given time, all applicable federal, state, provincial, municipal, local and foreign statutes, codes, ordinances, decrees, rules, regulations and by-laws, and judicial, executive, arbitral, administrative, ministerial, departmental or regulatory judgments, decrees, decisions, rulings, awards, policies, requirements, standards, guidelines, permits, licences, authorizations, approvals and orders, and all applicable common law, in each case having the force of law and in effect at that time.

**“Business Day”** means any calendar day which is not a Saturday, Sunday or other day recognized as a statutory holiday in British Columbia.

**“Commission”** means the British Columbia Utilities Commission established pursuant to the *Utilities Commission Act* (British Columbia), or a successor thereto.

**“Effective Date”** means the date on which all of the following agreements have been entered into:

- (a) Load Interconnection Agreement;
- (b) Electricity Supply Agreement;
- (c) an electricity supply agreement between BC Hydro and RTI; and
- (d) a monitoring agreement between RTI, RILE LP and BC Hydro.

**“electricity”** means inclusively electric capacity and electric energy.

**“Electricity Supply Agreement”** means the electricity supply agreement to be entered into between BC Hydro and RILE LP, as amended, restated and/or supplemented from time to time.

**“Emergency”** means any condition where, whether by reason of a forced outage or concern for a forced outage, or otherwise there is an imminent risk of equipment failure, or of danger to a Party’s personnel, the public or others, or an imminent risk of material damage to a property or a risk to the security or reliability of the Transmission Facilities.

**“Facilities”** means electricity transmission, distribution and substation equipment.

**“Facilities Agreement”** means the Facilities Agreement (TS 88 form) between BC Hydro and RILE LP dated November 28, 2017, as amended, restated and/or supplemented from time to time, governing the provision of indirect interconnection service to the BC Hydro system for RILE LP.

**“Force Majeure”** means any cause which is beyond a Party’s reasonable control, in each case that directly affects the Party’s ability to perform hereunder; a Force Majeure event does not include an act of negligence or intentional wrongdoing or lack of money or credit or economic hardship.

**“General Wheeling”** means the transmission by RTI of RILE LP’s electricity from the Point of Delivery to the Point of Load Interconnection to serve RILE LP’s Wheeling Demand at the Point of Load Interconnection.

**“Good Utility Practice”** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the WECC region.

**“Governmental Authorizations”** means all of RTI’s interests in material permits, licences and other authorizations from, or with, governmental entities relating to the Shared Electrical Facilities.

**“Infrastructure Agreement”** means the Infrastructure Agreement which may be entered into, between RILE LP and RTI, as amended, restated, and/or supplemented from time to time.

**“Load Interconnection Agreement”** means the Load Interconnection Agreement which may be entered into between RTI and BC Hydro, as amended, restated, and/or supplemented from time to time, and governing operational matters pertaining to the interconnection of BC Hydro’s transmission system with the Shared Electrical Facilities owned and operated by RTI.

**“Maintenance Costs”** means normal course costs incurred by RTI in connection with RTI maintaining, repairing and preserving substations 1 and 1A, the 20 MVA transformers and the 69 kV yard switchgear on the RTI Site.

**“Parties”** means the parties to this Agreement and **“Party”** means either of them.

**“Planned Outage”** means outages that are planned by RTI or RILE LP and are expected to impact the Wheeling Service.

**“Point of Delivery”** means the point of connection between the Shared Electrical Facilities and the Facilities owned by BC Hydro, as shown in Appendix I.

**“Point of Load Interconnection”** means the point of connection between the Shared Electrical Facilities and the RILE LP Facilities, as shown in Appendix I.

**“Power Factor”** means the ratio, expressed as a percentage of kW to kV.A when both are measured simultaneously over a specified time interval.

**“Project Agreement”** means the Project Agreement between RTI and AltaGas LPG Limited Partnership dated October 16, 2015, as amended, restated or supplemented from time to time and as assigned by AltaGas LPG Limited Partnership to RILE LP with effect from May 5, 2017.

**“PRPA”** means the Prince Rupert Port Authority and its successors and assigns.

**“Regulatory Support”** means:

- (a) an order made by the Commission granting authorizations or exemptions related to this Agreement; or
- (b) such other regulatory support as the Parties may mutually agree upon.

**“RILE LP Facilities”** means all Facilities owned by RILE LP required to receive the supply of electricity for the RILE LP Plant, as shown in Appendix I.

**“RILE LP Plant”** means all RILE LP-owned facilities including the control room, tanks and equipment used for the unloading, compression, refrigeration, storage, pumping and exporting of products, rail offloading racks, rail offloading bullets and any and all associated infrastructure, buildings, connecting pipes and pipelines, meters, flare line and site and all other ancillary equipment and improvements and ongoing changes or additions to same, other than the RILE LP Facilities.

**“Service Termination Date”** means the earliest of:

- (a) the date specified by either Party in a notice of termination delivered to the other Party, which date is no less than 30 days after the date of receipt by such other Party; or
- (b) the date of the termination of the Project Agreement.

**“Shared Electrical Facilities”** means the Facilities owned and operated by RTI identified in Appendix I and located between the Point of Delivery and the Point of Load Interconnection, as shown in Appendix I.

**“Substation Megawatt Rating”** means the amount of megawatts that substations 1 and 1A on the RTI Site are rated for at any given time and from time to time.

**“Transmission Facilities”** means the Shared Electrical Facilities and the RILE LP Facilities and does not include any metering or other equipment owned by BC Hydro.

**“WECC”** means the Western Electricity Coordinating Council, or a successor organization.

**“Wheeling Demand”** means five (5) megawatts.

**“Wheeling Facilities Real Property Interests”** means all of RTI’s interests in real property relating to the Shared Electrical Facilities.

**“Wheeling Facilities Standard”** has the meaning given to it in Section 5.4.1.

**“Wheeling Service”** means the wheeling service to be provided by RTI pursuant to and as described in this Agreement.

**“Wheeling Term”** means the time period commencing on the Effective Date and ending on the Service Termination Date.

## 1.2 Interpretation

In this Agreement, except where otherwise expressly provided:

- (a) unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing gender include all genders, “or” is not exclusive, “including” is not limiting, whether or not non-limiting language (such as “without limitation”) is used with reference to it, a grammatical variation of a defined term shall have a corresponding meaning, and reference to any person includes such person’s successors and assigns but, if applicable, only if the succession or assignment is permitted under this Agreement;
- (b) the inclusion of headings in this Agreement is for convenience only and shall not affect the construction or interpretation of this Agreement;
- (c) any reference to an hour, day or month is a reference to a calendar hour, day or month, unless specified otherwise;
- (d) any reference to a specified Section, subsection or other subdivision of this Agreement or to an Appendix is to the designated Section, subsection or other subdivision of, or Appendix to, this Agreement, unless the context otherwise requires;
- (e) any reference to a statute includes and is a reference to such statute and to the regulations made pursuant to it, with all amendments to them in force from time to time, and to any statute or regulations that may be passed which supplement or supersede such statute and such regulations;
- (f) all monetary amounts referred to in this Agreement are stated and shall be paid in Canadian currency;
- (g) the language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against either Party; and

- (h) in the event of any express conflict or inconsistency between this Agreement and the Project Agreement or Infrastructure Agreement, this Agreement shall have priority and prevail.

## **2.0 TERM & TERMINATION**

This Agreement shall commence on the Effective Date and automatically terminate on the Service Termination Date.

## **3.0 WHEELING SERVICE**

### **3.1 General Wheeling Obligation**

Subject to the terms and conditions of this Agreement, RTI shall, during the Wheeling Term and to the extent specified herein, provide General Wheeling up to the Wheeling Demand, provided that RILE LP (a) shall use the Wheeling Demand only for its own activities on the RTI Site, and (b) shall not use the Shared Electrical Facilities to sell any electricity to BC Hydro.

### **3.2 Point of Load Interconnection and Delivery**

The Point of Load Interconnection between RTI and RILE LP to which electricity may be wheeled from the Point of Delivery under this Agreement is as shown in Appendix **Error! Reference source not found.**, which may be amended from time to time by agreement in writing between the Parties.

### **3.3 Limits of Obligation**

RTI shall not be required to provide General Wheeling above the applicable Wheeling Demand under this Agreement unless otherwise agreed to in writing and in advance by the Parties.

## **4.0 RATES AND PAYMENT**

### **4.1 Wheeling Charge**

The charge applicable to the General Wheeling (the "**Wheeling Charge**") shall be equal to \$1/year during the Wheeling Term.

### **4.2 Invoices**

RTI shall render an invoice yearly in respect of the Wheeling Charge and RILE LP's proportionate share of any Maintenance Costs calculated pursuant to Section 6.3.2 applicable to the immediately preceding year. Invoices shall be due and payable within thirty (30) days of receipt by RILE LP thereof.

### **4.3 All Charges Exclusive of Applicable Taxes**

All amounts payable hereunder by either Party, including the Wheeling Charge and RILE LP's proportionate share of any Maintenance Costs, are exclusive of all applicable taxes, including federal goods and services tax and provincial sales tax, which shall also be paid by such Party.

## **5.0 INTERCONNECTED OPERATION**

### **5.1 Preservation of Wheeling Service**

5.1.1 RTI shall use its commercially reasonable efforts during the Wheeling Term to maintain in effect the Governmental Authorizations, the Wheeling Facilities Real Property Interests and the Regulatory Support. If at any time during the Wheeling Term it appears to RTI that there is a material risk of termination of any of the Governmental Authorizations, the Wheeling Facilities Real Property Interests or the Regulatory Support, RTI shall promptly advise RILE LP, and the Parties shall cooperate, acting reasonably, to maintain the Governmental Authorizations, Wheeling Facilities Real Property Interests and Regulatory Support in effect.

5.1.2 RTI shall not during the Wheeling Term use the Shared Electrical Facilities or sell, transfer or otherwise dispose of any rights or interest in the Shared Electrical Facilities in any manner that could prevent RTI from providing the Wheeling Service without first requiring the purchaser or transferee to first enter into an agreement with RILE LP, acceptable to RILE LP acting reasonably, pursuant to which the purchaser or transferee agrees to assume RTI's obligations to RILE LP hereunder to the extent of the transferred interest.

### **5.2 Curtailments and Interruptions**

5.2.1 The Wheeling Service is a firm transmission service and RTI will not curtail, interrupt or suspend the Wheeling Service except in the event of:

- (a) an Emergency;
- (b) a Planned Outage scheduled pursuant to Section 5.2.2; or
- (c) Force Majeure.

RTI shall provide prompt notice to RILE LP of any curtailment, interruption or suspension of the Wheeling Services that RTI is aware of. In the event of a curtailment, interruption or suspension of the Wheeling Services, RTI shall take all necessary steps in accordance with Good Utility Practice to resume the Wheeling Services to the Wheeling Facilities Standard as soon as practicable.

5.2.2 RTI shall discuss with RILE LP the schedule for any Planned Outage of the Shared Electrical Facilities, provided, for greater clarity, that RTI shall not require RILE LP's consent to any such schedule. In addition, and without limiting the foregoing, RTI will give RILE LP at least 30 days' notice of all Planned Outages, unless the Parties agree to a shorter notice period. RTI will use reasonable commercial efforts to ensure Planned Outages will be of minimal frequency and duration and cause minimal inconvenience to the provision of the Wheeling Service consistent with the Wheeling Facilities Standard and Good Utility Practice.

5.2.3 At the request of either Party, RTI and RILE LP shall establish an operating procedure, or amend existing operating procedures, to better describe the communication protocols and isolation procedures to be followed pursuant to this Section 5.2.

### 5.3 Curtailement

5.3.1 If any curtailment, interruption or suspension of the Wheeling Service pursuant to Section 5.2.1 is initiated by BC Hydro, then such curtailment, interruption or suspension will apply to RTI and RILE LP on an equitable and non-discriminatory basis which takes into account the different electricity usage requirements of RTI and RILE LP at the time of such curtailment, interruption or suspension.

### 5.4 Service Standards

5.4.1 During the Wheeling Term, RTI shall own, operate, repair, maintain and preserve the Shared Electrical Facilities, and maintain the capability of the Shared Electrical Facilities, as would a prudent owner acting in accordance with Applicable Laws, the Governmental Authorizations and Good Utility Practice, and in material compliance with applicable contracts to which RTI is bound, on the basis that, collectively, the Shared Electrical Facilities are required to supply electricity to RTI and RILE LP and on the basis that the Shared Electrical Facilities will be maintained and sustained as a whole (but not necessarily an individual component) during the Wheeling Term (the "**Wheeling Facilities Standard**").

5.4.2 Without limiting Section 5.4.1 if there are more than two instances where the Wheeling Service is interrupted or curtailed during any 12-month period during the Wheeling Term for reasons other than an event or events described in Section 5.2.1 (b) then at RILE LP's request, the Parties shall meet to discuss and use commercially reasonable efforts to agree on, measures, to be taken by RTI to improve the performance of the Shared Electrical Facilities consistent with the Wheeling Facilities Standard.

5.4.3 If there are more than two instances where the Wheeling Service is interrupted or curtailed during any 12-month period during the Wheeling Term due to any action or omission of RILE LP, or due to RILE LP Facilities, then, RTI may, in its discretion, curtail, interrupt or suspend the Wheeling Service until RILE LP takes such measures as are reasonably requested by RTI.

## 6.0 INTERCONNECTION FOR SHARED ELECTRICAL FACILITIES

### 6.1 Basic Transmission Extension

6.1.1 RILE LP will be responsible for the costs associated with interconnecting at the Point of Load Interconnection (as detailed in Section 5 of the Facilities Agreement and defined therein as the "Basic Transmission Extension").

### 6.2 Construction

6.2.1 RILE LP will, at its sole expense, design, procure, construct and install, and control the RILE LP Facilities.

### 6.3 Repair and Maintenance

6.3.1 RILE LP will, at its sole expense, be responsible for maintaining, repairing and preserving the RILE LP Facilities downstream of the Point of Load Interconnection during the Wheeling Term, as would a prudent owner acting in accordance with Applicable Laws, the Governmental Authorizations and Good Utility Practice, and in material compliance with applicable contracts to which RILE LP is bound.

6.3.2 RTI will be responsible for maintaining, repairing and preserving the Shared Electrical Facilities upstream of the Point of Load Interconnection during the Wheeling Term in accordance with the Wheeling Facilities Standard provided that RILE LP shall reimburse RTI on an annual basis for its proportionate

share of any Maintenance Costs which such proportionate share shall be equal to the quotient of the Wheeling Demand divided by the Substation Megawatt Rating. However, under no circumstances shall RILE LP be required to reimburse RTI for any Maintenance Costs incurred by RTI as a result of RTI not complying with the Wheeling Facilities Standard, the negligence of RTI or a lack of due diligence by RTI.

#### 6.4 Ownership

6.4.1 RILE LP shall own, operate and control the RILE LP Facilities downstream of the Point of Load Interconnection.

6.4.2 RTI shall own, operate and control the Shared Electrical Facilities upstream of the Point of Load Interconnection. RILE LP shall not access or enter the Shared Electrical Facilities without the prior written consent of RTI.

#### 6.5 Modifications, alterations, upgrades

6.5.1 Either Party may propose at any time during the Wheeling Term a modification, addition, repair or upgrade to its respective Transmission Facilities (each, a "**Facilities Upgrade**"). The Parties will meet to discuss and agree on mutually acceptable arrangements for completion of a proposed Facilities Upgrade. The Party proposing the Facilities Upgrade will be responsible for the work and costs associated with any Facilities Upgrade.

6.5.2 If RILE LP has proposed a Facilities Upgrade, but the Parties are unable to agree on such mutually acceptable arrangements, RILE LP may nevertheless proceed with the Facilities Upgrade provided it does not diminish or alter RTI's rights hereunder, unless RTI has been adequately compensated therefor.

6.5.3 If RTI has proposed a Facilities Upgrade, but the Parties are unable to agree on such mutually acceptable arrangements, RTI may nevertheless proceed with the Facilities Upgrade provided it does not diminish or alter RILE LP's rights hereunder, unless RILE LP has been adequately compensated therefor.

### 7.0 INFORMATION

#### 7.1 General Information Requests

RTI and RILE LP agree to reasonably cooperate with each other, and shall provide, such planning and operating information as may be reasonably necessary for the timely and efficient performance of the Parties' obligations or the exercise of the Parties' rights under this Agreement. Such information shall be provided on a timely basis and no reasonable request shall be refused

#### 7.2 Insurance Information

RTI will provide RILE LP with copies of any information that it provides to RTI's insurers relating to the Shared Electrical Facilities that is necessary for the purposes of RILE LP complying with the requirements of its insurers. Further, upon reasonable notice provided by RILE LP to RTI, RTI shall allow RILE LP or any representative of RILE LP with access to the Shared Electrical Facilities for the purposes of performing any visual inspections or assessments of the Shared Electrical Facilities necessary for the purposes of RILE LP complying with the requirements of its insurers, provided that (a) any such visual inspection or assessment shall be at RILE LP's sole cost and expense, (b) RILE LP shall coordinate the

timing of any such visual inspection or assessment with RTI, and (c) RILE LP may conduct any such visual inspection or assessment only once in a calendar year.

## **8.0 METERING FACILITIES**

### **8.1 Metering**

8.1.1 RILE LP and RTI acknowledge that BC Hydro has agreed, in the Facilities Agreement, at its cost, to install at the location indicated on Appendix I, own, operate, maintain, and be responsible for reading, the RILE LP Meter.

8.1.2 RILE LP and RTI will comply with all regulatory requirements and Applicable Laws governing the RILE LP Meter.

### **8.2 Access to Meter**

RILE LP grants RTI, at RTI's sole cost and expense, remote, limited access to the RILE LP Meter, via internet electronic meter monitoring tools such as eMeter, only to the extent necessary to verify volume calculations for RTI's load.

### **8.3 Calculation and allocation of line losses**

Transmission losses associated with the General Wheeling are to be allocated based on line loss factors as approved and agreed with BC Hydro in the Electricity Supply Agreement and Load Interconnection Agreement.

## **9.0 PROTECTIVE EQUIPMENT AND ADVERSE EFFECTS**

### **9.1 Power Factor**

RILE LP will maintain the Power Factor required by the Facilities Agreement, which is 0.95.

### **9.2 Protective Equipment**

9.2.1 Each Party agrees that each Party is responsible for installing, maintaining and regularly testing protection devices (collectively, the "**Protective Equipment**") on its Transmission Facilities to minimize the possibility of trips in the other Party's Transmission Facilities.

9.2.2 RTI agrees that it will, at its sole expense, maintain and regularly test the Protective Equipment upstream of the Point of Load Interconnection. RILE LP agrees that it will, at its sole expense, maintain and regularly test the Protective Equipment downstream of the Point of Load Interconnection.

### **9.3 Occurrence of an Adverse Effect**

9.3.1 Subject to the terms and conditions of this Agreement, each Party hereto covenants and agrees that it will not take any action, fail to take any action or do any other thing under this Agreement which would, or could reasonably be expected to, have any material adverse effect on the Transmission Facilities, the RILE LP Plant or RTI's facilities and operations on the RTI Site.

9.3.2 In the event of an adverse effect on the Shared Electrical Facilities attributable to RTI, the Parties will promptly consult and coordinate to take remedial measures to address the adverse effect.

9.3.3 In the event an adverse effect on the RILE LP Facilities attributable to RILE LP, the Parties will promptly consult and coordinate to take remedial measures to address the adverse effect.

## **10.0 EVENTS OF DEFAULT**

10.1.1 Any breach of this Agreement by either Party will be deemed to be a breach under the Project Agreement by such Party, and will be addressed pursuant to the terms of the Project Agreement.

## **11.0 DISPUTE RESOLUTION**

If any dispute, question or difference of opinion between the Parties arises out of or under the Agreement, such dispute will be resolved as if such dispute arose under the Project Agreement.

## **12.0 REGULATORY APPROVALS**

12.1.1 RTI will file an application with the Commission pursuant to Section 88(3) of the *Utilities Commission Act* (British Columbia) for exemption from regulation under Part 3 of the *Utilities Commission Act* (British Columbia) (the "**Exemption Application**") for the provision of electricity to RILE LP.

12.1.2 RTI will use commercially reasonable efforts to (i) complete the Exemption Application, and (ii) obtain the necessary exemptions and authorizations from the Commission as soon as practicable.

12.1.3 RILE LP shall support the Exemption Application, including intervening in support of the Exemption Application, provided that RILE LP reserves the right to oppose any changes proposed during proceedings before the Commission with which RILE LP, acting reasonably, does not agree. RILE LP shall cooperate with RTI and provide such assistance as RTI may reasonably request towards obtaining necessary exemptions and authorizations from the Commission.

12.1.4 A Party responsible for the installation and construction of any Transmission Facilities shall use all reasonable efforts to obtain all required approvals, permits, licences, easements and right-of-ways. The other Party to the Agreement shall provide all reasonable assistance.

## **13.0 FORCE MAJEURE**

Neither Party to this Agreement shall be considered to be in default in the performance of any of its obligations under this Agreement to the extent that performance of those obligations is prevented or delayed by Force Majeure. If either Party is delayed or prevented from its performance at any time by Force Majeure, the Party so prevented or delayed shall give notice to the other Party of the cause of the prevention or delay but notwithstanding giving of that notice, the Party shall promptly and diligently use its commercially reasonable efforts to remove the cause of the prevention or delay.

## **14.0 CONFIDENTIALITY**

The Parties expressly confirm that Section 11.5 of the Project Agreement, *mutatis mutandis*, applies to this Agreement.

## **15.0 INDEMNITY AND LIABILITY**

### **15.1 Indemnity**

The Parties expressly confirm that Section 10.1 of the Project Agreement, *mutatis mutandis*, applies to this Agreement. For the Purposes of this Section 15.1 a “default by the Indemnitor” (as that phrase appears in Section 10.1 of the Project Agreement) will be deemed to include a breach or other default of a provision of this Agreement.

### **15.2 Liability**

The Parties expressly confirm that Section 10.2 of the Project Agreement, *mutatis mutandis*, applies to this Agreement.

### **15.3 Mitigation**

The Parties expressly confirm that Section 10.3 of the Project Agreement, *mutatis mutandis*, applies to this Agreement.

## **16.0 NOTICES**

### **16.1 Notices**

All notices, directions and other instruments required or permitted to be given under this Agreement shall be in writing, and shall be sufficient in all respects if delivered, or if sent by fax, or if sent by prepaid registered post mailed in British Columbia to the Parties at the following addresses respectively:

(a) if to RTI:

Ridley Terminals Inc.  
1610 – 400 Burrard Street,  
Vancouver, B.C. V6C 3A6

Attention: Marc Dulude, President and COO  
Fax Number: (604) 428-2206  
Email: mdulude@rti.ca,

with a copy to:

Ridley Terminals Inc.  
P.O. Bag 8000  
Prince Rupert, B.C. V8J 4H3

Attention: Cordell Dixon, VP Finance  
Email: cdixon@rti.ca;

(b) if to RILE LP:

Ridley Island LPG Export GP Inc.  
2500 – 1066 West Hastings Street  
Vancouver, B.C. V6E 3X2

Attention: Senior Vice President and General Manager, Energy Exports  
Fax Number: (604) 623-4751  
Email: dan.woznow@altagas.ca,

with a copy to:

AltaGas Ltd.  
1700, 355 – 4th Avenue SW  
Calgary, A.B. T2P 0J1

Attention: Executive Vice President and Chief Legal Officer  
Fax Number: (403) 691-7508  
Email: gc@altagas.ca.

Either Party shall have the right at any time to change its address by notice in writing sent to the other Party at the address in effect hereunder.

#### 16.2 Delivery of Notices

Any notice, direction or other instrument shall be deemed to have been received on the following dates:

- (a) if sent by fax, on the Business Day next following the date of transmission;
- (b) if delivered, on the Business Day next following the date of delivery; or
- (c) if sent by registered mail, on the seventh day following its mailing, provided that if there is at the time of mailing or within seven days thereafter a mail strike, slowdown, lockout or other labour dispute which might affect the delivery, then any notice, direction or other instrument, shall only be effective upon actual delivery or if delivered or sent by fax.

#### 16.3 Electronic Mail Notices

As an alternative to the methods of giving notice described in Section 16.1, a Party may give notices, directions and other instruments required or permitted to be given under this Agreement by electronic mail to the other Party's representative(s) identified in Section 16.1 who continues to be employed by the other Party and is not to the knowledge of the sending Party unavailable; provided (i) the notice, direction or other instrument is stated to be a notice, direction or other instrument required or permitted to be given under this Agreement; and (ii) the notice, direction or other instrument is concurrently also given by electronic mail to the Corporate Secretary of the other Party. Any notice, direction or other instrument given by electronic mail shall be deemed to have been received on the Business Day next following the date of sending, provided that no such notice shall be effective unless such notice is actually received by the representative(s).

## **17.0 MISCELLANEOUS**

### **17.1 Time is of the Essence**

If a Party persistently fails to perform any of its obligations hereunder by the time(s) provided for herein (and the result or effect of such failure is not provided for in this Agreement), then the other Party may, by notice to the Party, require that from the date specified in the notice, time shall be of the essence with respect to such obligations.

### **17.2 Assignment and Succession**

17.2.1 If RILE LP assigns the Project Agreement to one or more assignees pursuant to the terms of the Project Agreement, then RILE LP may assign this Agreement to such assignees pursuant to the terms of Section 11.6 of the Project Agreement. RTI's covenant in Section 11.6.1(c) of the Project Agreement will apply to this Agreement, with such changes as may be necessary.

17.2.2 If RTI assigns the Project Agreement to one or more assignees pursuant to the terms of the Project Agreement, then RTI may assign this Agreement to such assignees pursuant to the terms of Section 11.7 of the Project Agreement.

17.2.3 This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

### **17.3 Further Assurances**

Each of the Parties agrees that it shall take from time to time such actions and execute such additional instruments as may be reasonably necessary or convenient to implement and carry out the intent and purpose of this Agreement or as may be required by the Commission in connection with this Agreement.

### **17.4 Waivers**

The failure of a Party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach hereof shall not constitute a waiver of any provision of this Agreement or limit that Party's right thereafter to enforce any provision or exercise any right.

### **17.5 Governing Law**

This Agreement and all the terms and conditions contained in it shall be governed and construed in accordance with the laws of British Columbia and the applicable laws of Canada and, to the extent applicable, shall be subject to (a) the provisions of the *Utilities Commission Act* (British Columbia), as amended or re-enacted from time to time; and (b) to the jurisdiction of the Commission.

### **17.6 Amendments**

No amendment of this Agreement will be binding on RILE LP and RTI, unless made in writing and executed by the appropriate duly authorized signatories of the Parties (and approved by the Commission to the extent required by law) or unless ordered by the Commission in accordance with its authority under the *Utilities Commission Act* (British Columbia), either upon its own motion or upon the application of either Party. A Party seeking amendment of this Agreement by the Commission shall give reasonable

prior notice thereof to the other Party and the Parties shall negotiate in good faith to reach agreement on appropriate amendments, if any, before applying to the Commission.

17.7 Survival

Section 11, Section 14, Section 15, and Section 17 shall survive the termination of this Agreement.

17.8 Severability

If any provision of this Agreement shall be determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

17.9 Counterpart Execution

This Agreement may be executed in counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same.

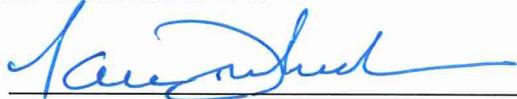
17.10 Electronic Delivery

Delivery by a Party of an executed copy of this Agreement by electronic means shall be effective delivery.

*[Signature page follows]*

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

**RIDLEY TERMINALS INC.**

Per:   
\_\_\_\_\_  
Authorized Signatory  
Name: Marc Dulude  
Title: President and Chief Operating Officer

**RIDLEY ISLAND LPG EXPORT LIMITED PARTNERSHIP,  
by its General Partner, RIDLEY ISLAND LPG EXPORT GP INC.**

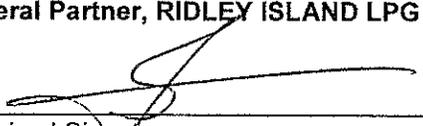
Per: \_\_\_\_\_  
Authorized Signatory  
Name: Dan Woznow  
Title: Senior Vice President and General Manager, Energy Exports

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

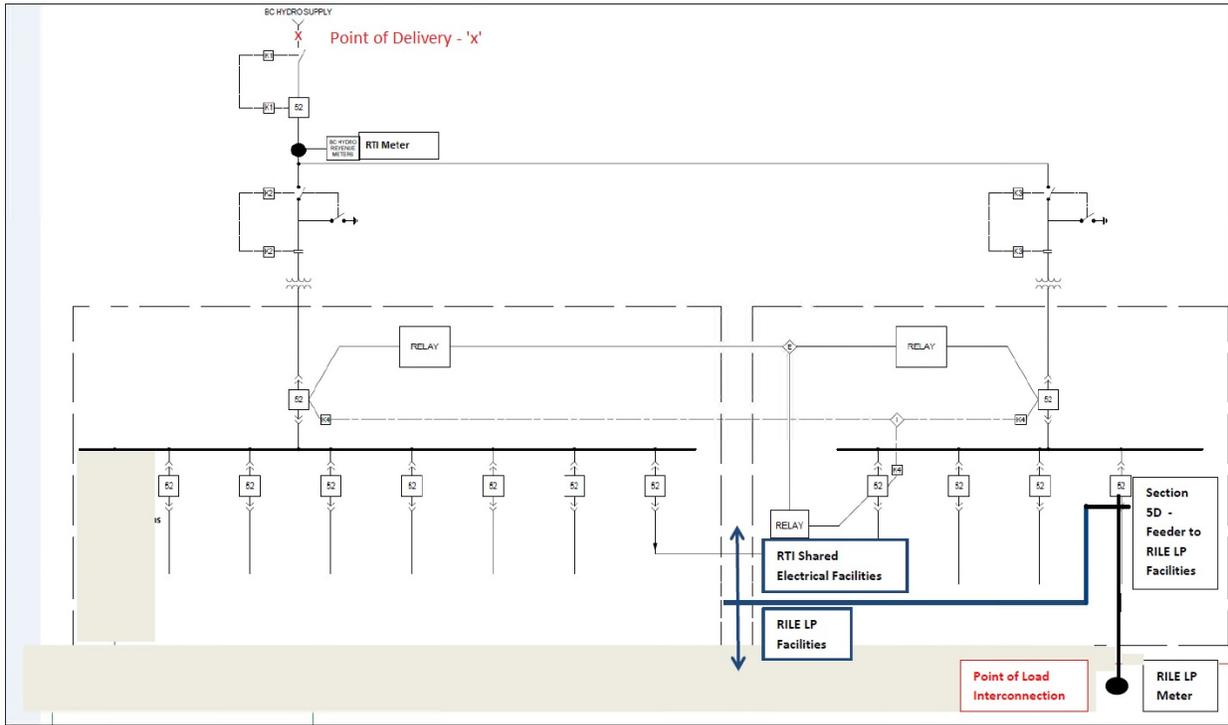
**RIDLEY TERMINALS INC.**

Per: \_\_\_\_\_  
Authorized Signatory  
Name: Marc Dulude  
Title: President and Chief Operating Officer

**RIDLEY ISLAND LPG EXPORT LIMITED PARTNERSHIP,  
by its General Partner, RIDLEY ISLAND LPG EXPORT GP INC.**

Per: \_\_\_\_\_  
  
Authorized Signatory  
Name: Randy Toone  
Title: Executive Vice President and President, Gas

# APPENDIX I





RIDLEY TERMINALS INC.

**SCHEDULE B**

**Letter of Support – BC Hydro**

April 30, 2019

**Ridley Terminals Inc. (“RTI”)**  
Ridley Island, Prince Rupert BC  
Bag 8000, V8J 4H3

**Attention: Cordell Dixon**  
VP Finance

**Letter of Support for RTI’s Exemption Application to the Commission for the Provision of Indirect Interconnection Service to Ridley Island LPG Export Limited Partnership (“RILE LP”)**

Dear Cordell,

I write to confirm that BC Hydro has reviewed and supports RTI’s application to the Commission for exemption from regulation as a public utility pursuant to Section 88(3) of the Utilities Commission Act (UCA) for the provision of Indirect Interconnection Service to RILE LP.

BC Hydro supplies transmission voltage electricity supply to RILE LP through transmission voltage electrical facilities owned by RTI and which are interconnected both to BC Hydro’s 69 kV transmission system and to RILE LP’s electrical infrastructure. This interconnection arrangement enables the provision of Indirect Interconnection Service by BC Hydro to RILE LP in accordance with BC Hydro Tariff Supplements 87 and 88 (**TS 87 and TS 88**).

BC Hydro is pleased to confirm that the following agreements have been executed in support of this indirect service arrangement. With the exception of the tariff form of these agreements, BC Hydro considers the business information in these agreements to be confidential.

1. RTI and RILE LP have executed a Wheeling Agreement which governs the commercial arrangements for electricity wheeling services provided by RTI to RILE LP. It is the provision of such electricity wheeling services that are the subject of RTI’s exemption application. BC Hydro has reviewed, but is not a party to the Wheeling Agreement.
2. BC Hydro and RILE LP have executed a Facilities Agreement (TS 88 form).
3. BC Hydro and RILE LP have executed an Electricity Supply Agreement (TS 87 form).
4. BC Hydro and RTI have executed a Load Interconnection Agreement to govern operational matters pertaining to the interconnection of BC Hydro’s transmission system with the transmission facilities owned and operated by RTI.
5. Each of RTI and RILE LP has executed a Revenue Metering and Deductive Totalizing Monitoring Program Agreement with BC Hydro to enable electricity billing using deductive totalizing as defined by Measurement Canada and in accordance with each customer’s Electricity Supply Agreement.

6. RTI and RILE LP have jointly executed a Local Operating Order with BC Hydro to describe the procedures and communication protocols necessary to ensure the safety of interconnected system operations with RTI and RILE LP facilities.

**BRITISH COLUMBIA HYDRO & POWER AUTHORITY**

By:   
\_\_\_\_\_

Name: David G. Keir

Title: Senior Manager, Transmission Rates and Large Customer Operations



RIDLEY TERMINALS INC.

**SCHEDULE C**

**Letter of Support – RILE LP**

February 14, 2019

Via Courier

**British Columbia Utilities Commission**

6th Floor – 900 Howe Street  
Vancouver, BC  
V6Z 2N3

**Attention: Patrick Wruck,  
Commission Secretary and Manager, Regulatory Support**

Dear Mr. Wruck

**Re: Letter of Support for Ridley Terminals Inc.'s ("RTI") application dated February [●], 2019 (the "RTI Application") requesting that the British Columbia Utilities Commission (the "Commission") grant an Exemption Order pursuant to section 88(3) of the *Utilities Commission Act (British Columbia)***

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Ridley Island LPG Export Limited Partnership ("**RILE LP**") is currently developing a facility (the "**Facility**") for the export of natural gas condensates, propane (C3H8) and butane (C4H10) on a portion of RTI's site in Prince Rupert, British Columbia (the "**RTI Site**") and in connection therewith, it has entered into a wheeling agreement with RTI dated February 1, 2019.

Pursuant to the Wheeling Agreement, RILE LP and RTI have agreed that RILE LP will be interconnected to the British Columbia Hydro and Power Authority's ("**BC Hydro**") bulk transmission system through RTI's electrical infrastructure on the RTI Site for the purpose of receiving electricity from BC Hydro for the Facility.

RILE LP has reviewed and supports the RTI Application.

If you have any questions regarding the foregoing, please call Marco Tsang at 604-623-4773.

Regards



Dan Woznow  
Senior Vice President Energy Exports

Cc: Ron Coolin – Ridley Island Terminals Inc.



RIDLEY TERMINALS INC.

**SCHEDULE D**

**Order No. G-51-17 dated March 8, 2017**



TransAlta Corporation

Box 1900, Station "M"  
110 - 12<sup>th</sup> Avenue SW  
Calgary, Alberta  
T2P 2M1

T (403) 267-7110  
www.transalta.com

**Cameron Stonestreet**  
**Senior Regulatory Advisory**

Direct Line: 1 (403)-267-3694  
Email: cameron\_stonestreet@transalta.com

March 8, 2017  
British Columbia Utilities Commission  
Sixth Floor, 900 Howe Street  
Vancouver, British Columbia  
V6Z 2N3

Attention: Commission Secretary

**RE: APPLICATION FOR AN ORDER PURSUANT TO  
SECTION 88(3) OF THE *UTILITIES COMMISSION ACT***

## 1. Introduction

This is an application requesting that the British Columbia Utilities Commission ("Commission") grant an Order pursuant to section 88(3) of the *Utilities Commission Act* ("UCA") exempting Pingston Power Inc. ("Pingston") from Part 3 of the *UCA* in respect of certain activities as set out below.

Pingston is requesting an exemption because it plans to allow Fosthall Creek Power Ltd. and Sargent.e Hydro Canada Corporation to interconnect their generating facility to Pingston's substation and transmit their electricity through the substation to the BC Hydro system. We understand that this will result in Pingston falling within the *UCA*'s definition of "public utility" and we believe that an exemption from regulation as a public utility is appropriate as explained below.

## 2. THE APPLICANT

Pingston is a company incorporated under the laws of Alberta with offices in Calgary, and is a subsidiary of TransAlta Corporation as shown on the corporate diagram provided in **Appendix A** to this Application.

Pingston owns and operates a 45 MW run-of-river hydroelectric facility located on Pingston Creek (the "Pingston Creek Hydro Project") southwest of Revelstoke, British Columbia.

Pingston also owns and operates a transmission line and interconnection facilities, which are used to deliver electricity from the Pingston Creek Hydro Project to the BC Hydro system.

The Pingston facilities supply electricity to BC Hydro pursuant to an Energy Purchase Agreement (“EPA”) dated May 10, 2002 among BC Hydro, Canadian Hydro Developers, Inc. and GLP Pingston Creek Limited Partnership.

Pursuant to Minister’s Order M202-M022-0205 the Pingston Creek Hydro Project is exempt from Part 3 of the *UCA*, except section 22, with respect to the production and sale of power to BC Hydro.

### **3. THE FOSTHALL CREEK HYDRO PROJECT**

Fosthall Creek Power Ltd. and Sorgent.e Hydro Canada Corporation (together, the “Interconnecting Party”) are undertaking to construct a 15 MW hydroelectric project on Fosthall Creek (the “Fosthall Creek Hydro Project”) approximately 20 km northwest of Nakusp, British Columbia. The Interconnecting Party has an EPA with BC Hydro for the sale of electricity produced at the Fosthall Creek Hydro Project.

The Interconnecting Party and BC Hydro considered two options to interconnect the Fosthall Creek Hydro Project directly to the BC Hydro system: (i) interconnect to the distribution feeder in the area, and (ii) interconnect to the BC Hydro transmission substation in Nakusp. The first option is not viable because other generating facilities are already connected to the distribution feeder. The second option is not viable because it would require the construction of approximately 16 km of overhead transmission line, a subaquatic cable to cross Arrow Lake and substantial upgrades to BC Hydro’s substation.

The best solution for the Fosthall Creek Hydro Project to deliver electricity to the BC Hydro system is for the project to connect to Pingston’s interconnection facilities and for the electricity to be transmitted through Pingston’s facilities to BC Hydro’s system. Pingston agreed to the study of this solution to identify any technical system impact issues. A system impact study has been completed and it determined that this solution is viable. A facilities study is currently underway to determine the detailed modifications required to complete the proposed interconnection.

**Appendix B** to this Application provides schematic maps in respect of the generating stations and transmission lines, and a single line drawing of the proposed interconnection.

Pingston and the Interconnecting Party have entered into an Interconnection Agreement dated April 19, 2016 in respect of the interconnection arrangements, a copy of which is attached as **Appendix C**. The key terms of the Interconnection Agreement are as follows:

- each party shall perform its obligations under the agreement in accordance with applicable regulations including the Canadian Electrical Code, *Safety Standards Act* (BC), *Electricity and Gas Inspection Act* (Canada), agreed to operating procedures, and good electric operating practices (section 2.1)
- the agreement will continue indefinitely unless an event specified in section 3.1 occurs, and if the agreement terminates as a result of Pingston ceasing commercial operation the interconnection facilities may be transferred to the Interconnecting Party (section 3.2)
- the Interconnecting Party shall comply with the terms of Pingston's interconnection agreement with BC Hydro to the extent applicable (section 5.10)
- the Interconnecting Party is responsible to design, construct, operate and maintain their own facilities; operate their facilities in a manner that does not interfere with or interrupt the operation of Pingston's facilities; and indemnifies Pingston for incremental costs, expenses or losses related to the interconnection (sections 5.1, 5.11 and 5.13)
- Pingston allows the Interconnecting Party to construct a one kilometer transmission line along Pingston's right of way (section 9.4)
- the Interconnecting Party shall pay to Pingston:
  - an interconnection fee in an amount of \$1,500,000 (the amount reflects a proration of initial capital costs) (section 7.1), and
  - 25% of Pingston's expenses or costs incurred in connection with the operation and maintenance of Pingston's interconnection facilities (the 25% share reflects the portion of interconnection capacity that will be used by the Interconnecting Party) (section 7.2)

The Interconnecting Party will use approximately 25% of the capacity of Pingston's interconnection facilities. Accordingly, the fees and disbursements payable by the Interconnecting Party under the Interconnection Agreement reflect an allocation of approximately 25% of Pingston's initial capital costs and ongoing operating and maintenance costs related to facilities used to deliver the Interconnecting Party's electricity to the BC Hydro system.

BC Hydro has indicated their support for these proposed arrangements for interconnection of the Fosthall Creek Hydro Project. We are working with BC Hydro on changes to the existing interconnection agreement and EPA between BC Hydro and Pingston as needed to reflect these new arrangements. Final revisions to the interconnection agreement and EPA with BC Hydro are awaiting completion of the detailed facilities study and the issuance of the exemption order requested in this application.

#### **4. NEED FOR EXEMPTION UNDER SECTION 88(3)**

By allowing the Interconnecting Party to interconnect with the Pingston Substation and by transmitting or delivery the Interconnecting Party's electricity through to the BC Hydro system, for compensation, Pingston will fall within the *UCA* definition of "public utility" according to the following analysis:

- with reference to the definition of "public utility", Pingston will be a "person..., who owns or operates in British Columbia, equipment or facilities for (a) the... transmission,... delivery or provision of electricity,... to or for... a corporation [that is, the Interconnecting Party] for compensation", and
- no existing exclusion<sup>1</sup> or exemption<sup>2</sup> from public utility status applies in respect of such activity.

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<sup>1</sup> None of the exclusions in paragraphs (c) to (g) of the *UCA* definition of public utility apply.

<sup>2</sup> None of the existing exemptions issued under section 22 or section 88(3) of the *UCA* apply. Minister's Order M202-M022-0205 will continue to exempt Pingston and its facilities with respect to the production and sale of power to BC Hydro, but it does not apply with respect to transmitting or delivering electricity for the Interconnecting Party.

The *UCA* provides a solution for the situation where a person falls within the definition of “public utility” but regulation as a public utility is not warranted. Specifically, section 88(3) of the *UCA* provides as follows:

88(3) The commission may, on conditions it considers advisable, with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act*, exempt a person, equipment or facilities from the application of all or any of the provisions of this Act or may limit or vary the application of this Act.

We believe that exemption of Pingston supports the public interest as discussed in the next section.

## **5. PUBLIC INTEREST IN GRANTING THE EXEMPTION**

The Commission has described the test for granting an exemption under section 88(3) of the *UCA* as follows:

"The Commission is of the view that a section 88(3) exemption order should be issued, with the advance approval of the LGIC, when such exemption serves the objects and purposes of the Act and it is in the public interest to do so."<sup>3</sup>

Recently, the Commission reviewed and commented on the objects and purposes of regulation under the *UCA* as follows:

“Regulation exists to protect the public from potential monopolistic behaviour on the part of a public utility while ensuring the continued quality of an essential service.

It is the regulator’s function to prevent the abuse of monopoly power, so that customers have access to the utility product or service at a fair price, but at the same time allow the utility the opportunity to earn a fair return on its investment

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<sup>3</sup> Commission Order No. G-41-06 Decision at page 6. Section 88(3) of the *UCA* has been amended such that now the advance approval of the Minister is required instead of the Lieutenant Governor in Council (“LGIC”).

so that it can continue to operate and attract the capital required to sustain and/or grow its business.

The *Utilities Commission Act* is an example of public utility regulation that balances the public interest between monopoly, where monopoly is accepted as necessary, and the consumer protection provided by competition.”<sup>4</sup>

Although Pingston will fall within the *UCA* definition of “public utility” as a result of the proposed activity, in Pingston's circumstances regulation is not needed to protect the public from potential monopolistic behaviour nor is regulation needed to ensure access to reasonable service, a fair price or the continued financial wellbeing of Pingston. On the other hand, regulation would impose a significant, unnecessary cost and administrative burden on both Pingston and the Commission. In our view regulation is not needed or appropriate in the circumstances for the following reasons:

- Pingston is allowing the Interconnecting Party to connect to Pingston's facilities and transmit or deliver electricity through to the BC Hydro system because this is by far the most cost effective interconnection solution and is a much better use of resources than all alternative options
- the interconnection and transmission service will be provided only to the Interconnecting Party and not to the public generally
- Pingston is not supplying electricity to the Interconnecting Party, it is only providing the means for the Interconnecting Party to deliver its electricity to the BC Hydro system
- the rights and obligations of the parties are specified in a long-term Interconnection Agreement that has been agreed to by both parties
- the Interconnection Agreement provides for Pingston to recover a reasonable portion of its costs from the Interconnecting Party

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<sup>4</sup> Commission's report dated December 27, 2012 regarding an *Inquiry into the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives* at page 8.

Furthermore, the Commission has previously approved exemptions for parties proposing to engage in similar activities. For example, by Order No. G-196-15 dated December 10, 2015, the Commission granted exemption to Tolko Industries Ltd. (“Tolko”) in respect of Tolko allowing a third party wood pellet manufacturing plant to interconnect to Tolko’s Lavington substation (and also in respect of Tolko reselling electricity to the third party). By Order No. G-141-15 dated August 27, 2015, the Commission granted exemption to Canadian Forest Products Ltd. (“Canfor”) in respect of Canfor allowing third parties to interconnect to Canfor’s NOS substation (and also in respect of Canfor reselling electricity to the third parties). As discussed above Pingston will not be reselling electricity or providing electricity to the Interconnecting Party so the need for regulation is even less than it was for these two example cases where exemption was granted.

## 6. PROPOSED TERMS OF EXEMPTION

We propose and request the same basic form of exemption for Pingston that the Commission granted to Canfor pursuant to Order No. G-141-15. For convenience, a copy of Order No. G-141-15 is attached as **Appendix D** to this Application.

Specifically, we request that Pingston be exempt from Part 3 of the *UCA* except for sections 25, 38, 42 and 43 for its transmission and interconnection facilities used to deliver the Interconnecting Party’s electricity to the BC Hydro system.

Pingston does not require exemption from section 71 of the *UCA* because it is not entering into an electricity supply contract with the Interconnecting Party. Pingston’s EPA with BC Hydro remains exempt pursuant to Minister’s Order M202-M022-0205.

## 7. CONCLUSION

In our view regulation is not needed in the circumstances and it is appropriate for Pingston to be exempted from the *UCA* on the terms requested.

In consideration of the requirement for the Minister’s advance approval before the Commission grants the exemption, we note that the Province of British Columbia will be having a general election this spring and the election is expected to be officially called on April 11, 2017. We respectfully request that the Commission review this application on a timetable that will allow the

Minister to grant approval for the exemption before the Legislative Assembly is dissolved for the general election.

We would be pleased to answer any questions the Commission might have regarding this application.

Please forward communications related to this application to:

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Yours truly,

Cameron Stonestreet