

September 3, 2019

Sent By E-mail

British Columbia Utilities Commission
6th Floor – 900 Howe Street
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Attention: Patrick Wruck, Commission Secretary

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Project No.	Our reference
1598984	1000385944

Dear Sir:

Kinder Morgan (Jet Fuel) Inc. (“KMJF”) 2019 Tariff Filing – Vancouver Airport Fuel Facilities Corporation (“VAFFC”) – Request for Further Process Steps and Schedule

We are legal counsel to VAFFC in this matter and write on its behalf.

KMJF filed a new, Final Site-specific Abandonment Cost Estimate Report (the “**Abandonment Report**”)¹ on August 16, and amended its Application to seek substantial new relief, with significant potential new ratepayer costs, on August 23 (the “**Amended Application**”).² Also, on August 22 KMJF filed information request (“**IR**”) responses to both the BCUC and interveners. With respect to each, VAFFC will require more information before it is properly able to respond with intervenor evidence. In addition, a second round of IRs would be standard and useful in these circumstances.

In many cases, KMJF refused to respond to VAFFC’s IRs, or referred VAFFC to responses to the BCUC that did not fully answer the VAFFC requests. KMJF also refused to respond to some BCUC IRs in which the content sought is material to VAFFC’s participation in this proceeding. Proper and complete responses are necessary for VAFFC’s intervenor evidence.

VAFFC therefore writes to: (i) advise that it is preparing an application under Rule 14.05 to seek further and better information request responses, which should be in addition to and separate from a second round of information requests; and (ii) request a schedule to manage those processes. A proposed initial regulatory timetable is attached as Appendix “A”. VAFFC sets out its concerns in more detail below.

1. KMJF’s New Application Materials

(a) New Abandonment Report

KMJF’s new Abandonment Report is nearly three times as lengthy as the first version, and more than doubles the abandonment estimate to \$11,861,577. The report reflects very significant potential toll impacts based on new technical information. The BCUC’s regulatory process must provide KMJF’s customers the ability to understand and test this new content, and VAFFC therefore seeks an IR process.

¹ Exhibit B-10.

² Exhibit B-14.

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(b) Amended Application

KMJF's Amended Application seeks Commission approval of an entirely new proposal. Under KMJF's new Abandonment Cost True-up Proposal, shippers will be refunded or billed for any surplus or shortage in estimated abandonment costs collected compared to actuals.³ This is a significant new remedy to request now, and difficult to reconcile with some of the content of the information request responses. Parties must be given an adequate opportunity to test the assumptions and implications of the new relief and how it fits with the rest of the Application, and VAFFC therefore seeks an IR process here too.

2. KMJF IR Responses

(a) Incomplete / Deficient IR Responses

In addition to the new content, KMJF filed unresponsive and/or deficient IR responses. In numerous instances, KMJF asserted that the IRs posed were either immaterial to the proceeding, improperly required KMJF to engage in "legal interpretation" (but did so selectively), or referred VAFFC to responses to the BCUC that were only partially applicable.⁴ VAFFC is entitled to know the legal basis for the relief KMJF seeks and principles it relies on before it responds with evidence, particularly in light of the Amended Application, and is preparing an application to the Commission to compel responses as appropriate. In many cases the nature of KMJF's refusals requires BCUC adjudication and cannot be remedied through the second round of IRs proposed below.

(b) Second Round of IRs

Some of KMJF's responses are substantial, however, particularly in response to the BCUC. The BCUC frequently establishes a second round of IRs, especially in written proceedings without an oral hearing, to ensure a complete record. That approach is appropriate here concerning the undisputed IR responses. Those IRs could occur at the same time as IRs on the New Abandonment Report and the Amended Application.

3. VAFFC's Proposed Procedural Steps and Schedule

The regulatory timetable proposed in Appendix "A" only deals with the process to adjudicate disputed IR responses. VAFFC expects that the BCUC would establish second round IR deadlines (i.e., on the Amended Application and Abandonment Report, as well as follow-up IRs on the Round 1 IR responses) later.

Some of the withheld information from the Round 1 IRs is necessary for parties to understand the legal and factual basis of the Amended Application and properly draft information requests on the new material. VAFFC may also have follow-up IRs on any disputed responses that the BCUC requires KMJF to provide. While a limited second round of IRs could theoretically proceed in parallel with the disputed IR application process, VAFFC does not expect that doing so would be efficient. VAFFC therefore suggests a filing deadline for second round IRs one to two weeks after KMJF's response to the direction of the Commission, if any.

Please contact the writer with any questions.

Yours very truly,



Matthew D. Keen
MDK/roe

³ Updated Application at para 53.

⁴ E.g., KMJF response to BCUC IR 2.2, where KMJF discusses its common carrier understanding at length.

Appendix "A"

Process Step	Proposed Further Process
KMJF response to BCUC IR No. 2 and Intervener IR No. 1	Thursday, August 22 (Completed)
KMJF files amendments to Application	Friday, August 23 (Completed)
VAFFC files application for further and better IR responses	Monday, September 9
KMJF files reply regarding provision of adequate IR responses	Monday, September 16
VAFFC reply to KMJF response	Friday, September 20
BCUC Ruling on VAFFC application	---