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Our matter #: 1081.001

September 13, 2019

VIA E-Filing

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Patrick Wruck, Commission Secretary

Dear Mr. Wruck,

**Re: Project No. 1598984
British Columbia Utilities Commission ("BCUC")
Kinder Morgan Canada (Jet Fuel) Inc. ("KMJF") 2019 Tariff Filing
Receipt of Vancouver Airport Fuel Facilities Corporation ("VAFFC")
Submission Regarding Adequacy of KMJF Information Request Responses**

KMJF is in receipt of VAFFC's application requesting the BCUC order that KMJF provide further responses to information requests ("IRs") from VAFFC.¹ KMJF notes that VAFFC's application for further IR responses is substantial and provides lengthy argument, including submissions regarding more than thirty specific IR responses from KMJF.

Preliminary Comments Regarding VAFFC's Application

KMJF notes that Rule 13.01 of the BCUC Rules of Practice provides that:

13.01 In an information request, the Commission, applicant or intervener may request another party within the time limit set by the Commission, to provide information necessary

- (a) to clarify any documentary evidence filed by the other party;
- (b) to facilitate a better understanding of the issues relevant to the proceeding; or
- (c) to assist with the resolution of the proceeding.

KMJF supports a process that allows for interveners to file evidence in this proceeding and believes that it has provided all the underlying cost data it has available relevant to the present

¹ Ex. C2-5.

toll application. Information requests are not intended to facilitate fishing expeditions.² Nor is KMJF obligated to produce new evidence for interveners.³ VAFFC is a sophisticated party fully capable of producing its own evidence and calculations based on the same data on which KMJF relies, and that has been provided to VAFFC.

As a general matter, KMJF confirms that it expended great effort, devoted significant resources, and endeavored to be fully responsive to IRs from the BCUC and all interveners, including VAFFC. KMJF provided over 500 pages of responses including attachments. KMJF in no way withheld any information, and takes exception to VAFFC's allegation that, "[i]n many cases KMJF evaded fully answering IRs by providing partial responses."

In certain instances, VAFFC alleges that KMJF "fails to confirm" that something was not done or some analysis was not conducted. As stated, KMJF produced all requested information that was available, subject to limited claims of settlement privilege regarding shipper communications. In such instances, KMJF notes VAFFC did not ask KMJF to confirm the matter in question, but a proper reading of its responses is that it was providing what it had identified.

KMJF continues to review VAFFC's specific requests and will address matters further when providing its responses to the relevant requests subject of VAFFC's application.

Request for Extension

In Order No. P-8-19, dated September 12, 2019, the BCUC established a process schedule that set a deadline of Monday, September 16, 2019, for KMJF to provide its written reply regarding provision of adequate information request responses.⁴ In its letter filed September 4, 2019, KMJF stated:

KMJF is of the view that it provided full and responsive IR responses based on all information it has available. Notwithstanding, KMJF does not oppose VAFFC's request and can consent to a process schedule to accommodate VAFFC making its proposed application, with the caveat that depending on the length of the VAFFC's submission on September 9 and the timing of when KMJF actually receives that submission, KMJF may need more than 7 days to respond.⁵

² See e.g. NEB Reasons for Decision MH-001-2012:

The Board has stated in the past that when considering a motion to compel full and adequate responses to IRs, the Board looks at the relevance of the information sought, its significance and the reasonableness of the request. The Board has further stated that it seeks to balance these factors so that the purposes of the IR process are satisfied, while preventing an Intervenor from engaging in a "fishing expedition" that could unfairly burden an applicant. The Board has applied this test in reaching its decision on this portion of the MPLA Motion.

³ See e.g. Ex. 1069-603.01 2012-05-03 Letter from AUC Denying Motion for Further and Better Answers to Information Requests:

The Commission finds that the requests made by the NBG for additional information are simply requests for evidence to be presented in a different format than that submitted by ATCO or for new evidence.

...

Accordingly, the Commission denies the NBG's request to order ATCO to provide further and better answers to the information requests made by the NBG.

⁴ Ex. A-15, PDF p 4.

⁵ Ex. B-15, PDF pp 1-2.

Given the length of the application, and VAFFC having filed the application on September 10, 2019, at about 4:30 pm PT (6:30 pm CT), KMJF requests additional time to provide responses to the submissions VAFFC sets out in Appendix A and Appendix B of its application. KMJF therefore respectfully requests that the BCUC grant an extension to the deadline for filing its written reply from Monday, September 16 to Wednesday, September 25, 2019.

Yours truly,

<Submitted electronically>

Rosa Twyman
Regulatory Law Chambers

cc: Bruce Reed, Manager-Tariffs and Regulatory Affairs for KMJF
KMJF Shippers