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Our reference 1000385944

May 19, 2020

Sent By E-mail

British Columbia Utilities Commission
6th Floor – 900 Howe Street
Vancouver, BC V6Z 2V3

Attention: Patrick Wruck, Commission Secretary

Dear Sir:

Kinder Morgan (Jet Fuel) Inc. 2019 Tariff Filing – Vancouver Airport Fuel Facilities Corporation ("VAFFC") REDACTED CONFIDENTIAL Information Request ("IR") No. 2 to PKM Canada (Jet Fuel) Inc. ("PKMJF")

We are legal counsel to VAFFC in this matter and write to enclose a version of VAFFC's Confidential IR No. 2 in which all confidential information has been redacted, which can be posted on the Commission's website.

Any party requesting access to the unredacted version of VAFFC Confidential IR No. 2 may follow the procedure set out in Section 24 of the Rules.

Please contact the writer if you have any questions.

Yours very truly,

(for) Matthew D. Keen

Enclosures

BRITISH COLUMBIA UTILITIES COMMISSION
KINDER MORGAN CANADA (JET FUEL) INC. 2019 TARIFF FILING APPLICATION

Vancouver Airport Fuel Facilities Corporation (VAFFC)
Confidential Information Request (IR) No. 2 to PKM Canada (Jet Fuel) Inc. (PKMJF)

May 19, 2020

1.0 February 2020 Wetmore Retainer Agreement

Reference (i): Exhibit B-35-1, CONFIDENTIAL Letter dated April 27, 2020 - PKMJF Submitting the Independent Expert Retainer Agreement

PKMJF submitted a confidential, unredacted copy of the February 2020 Wetmore Retainer Agreement in Exhibit B-35-1.

PKMJF provided a copy of the February 2020 Wetmore Retainer Agreement to VAFFC as Appendix (Suppl.) VAFFC-KMJF 13.1(b) (Confid.) (Non-Redacted) to a letter dated May 6, 2020.

Page 3 of the February 2020 Wetmore Retainer Agreement states:

[redacted]

Reference (ii): Exhibit A-18, BCUC Order P-10-19

On p. 9, pdf p. 13, the BCUC stated:

> The Panel acknowledges that KMJF provided some "additional working papers and source data" requested by VAFFC in IR 13.1 related to KMJF's independent expert, Mr. Wetmore. However, the Panel agrees with VAFFC's submission that the response provided by KMJF related to the expert report implies some working papers had already been produced and these materials from Mr. Wetmore's file are not included in the Application. The Panel acknowledges that KMJF is not asserting privilege over the working papers. However, while the Panel notes KMJF's position that it considers the retainer letter and instructions to be subject to privilege, the Panel agrees with VAFFC's submission that parties who file an expert report are deemed to waive privilege over these materials.
>
> [Footnotes omitted]

On p. 10, pdf p. 14, the BCUC directed as follows:

> KMJF must file a full and better response to this IR. KMJF must file all working papers in Mr. Wetmore's file and if the materials provided to date constitute the entirety of the entire producible file, KMJF is to confirm the same.

> KMJF must file all data provided to KMJF by Mr. Wetmore to facilitate his analysis and forecasts, including any historical accounting or cost records including any and all instructions or direction given to Mr. Wetmore by KMJF in respect of the preparation of his report.

Reference (iii): Exhibit A-28, BCUC Order P-2-20

On p. 5, pdf p. 10, the BCUC directed as follows:

> However, the Panel agrees with VAFFC that KMJF has not complied with specific directives provided in Order P10-19, with respect to Mr. Wetmore's retainer letter.
>
> In BCUC Order P-10-19, the Panel noted "KMJF's position that it considers the retainer letter and instructions to be subject to privilege, [but] the Panel agrees with VAFFC's submission that parties who file an expert report are deemed to waive privilege over these materials".
>
> Based on the above, **the Panel directs PKMJF to produce in this Proceeding the retainer letter or any other form of engagement agreement with Mr. Wetmore**.
>
> [Footnotes omitted, bold in original]

Preamble:

[redacted]

Information request:

[redacted]