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October 16, 2020

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

**Attention: Marija Tresoglavic, Acting Commission
Secretary**

Dear Ms. Tresoglavic:

**Kinder Morgan (Jet Fuel) Inc. (“PKMJF”) 2019 Tariff Filing Application
Vancouver Airport Fuel Facilities Corporation (“VAFFC”) Reply to PKMJF Oct. 13 Letter**

We are counsel to VAFFC in the above-noted proceeding and write further to the Commission’s October 8, 2020 letter¹ to reply to PKMJF’s October 13, 2020 letter.²

In its letter, PKMJF provides comments in response to the following two issues raised in the Commission’s October 8, 2020 letter:³

- i. VAFFC’s request that PKMJF be directed to provide access to fully unredacted copies of documents 1-5 and 51-58 from Appendix A to PKMJF’s September 21, 2020 submission⁴ (the “**Requested Documents**”) to shippers’ counsel and expert advisors, on a temporary basis; and
- ii. VAFFC’s and Parkland’s requests for an extension to the deadline for intervenor evidence from October 13, 2020, to October 27, 2020.

With respect to the latter issue, PKMJF notes that it does not object to VAFFC and Parkland being granted an extension for filing intervenor evidence to Tuesday, October 27, 2020.⁵

The majority of PKMJF’s 11-page letter purports to address VAFFC’s request that shipper’s counsel and expert advisors be provided access, on a temporary basis, to fully unredacted copies of the Requested Documents. PKMJF also requests that the Commission compel VAFFC and Parkland to provide certain information as part of their evidence.⁶

VAFFC addresses these issues in turn below.

¹ Exhibit A-40.

² Exhibit B-51.

³ Exhibit A-40, p. 3.

⁴ Exhibit B-48.

⁵ Exhibit B-51, para. 3(a).

⁶ Exhibit B-51, paras. 20 and 37.

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a. VAFFC’s request is for temporary counsel/expert access to unredacted copies of the Requested Documents

PKMJF’s letter does not address the relief actually sought by VAFFC: for the Commission to direct PKMJF to provide access to unredacted versions of the Requested Documents to VAFFC’s counsel, and expert advisors to assist counsel if required, on a temporary basis, to confirm whether the redactions to the Requested Documents were appropriately applied.⁷

PKMJF instead repeats its earlier claims that the redacted information is irrelevant.⁸ The entire purpose of VAFFC’s request is to permit VAFFC’s counsel and experts to assess whether this information is, in fact, irrelevant. As noted by VAFFC in its initial request, the “Commission should not rely on PKMJF’s impartial judgment concerning relevance”.⁹ Indeed, VAFFC provided examples in confidential Schedule 1 of its initial request which demonstrate that PKMJF appears to have redacted material relevant to interveners in the Requested Documents.¹⁰ Parkland concurs on this point.¹¹

The process proposed by VAFFC (review of unredacted copies of the Requested Documents by VAFFC’s counsel and expert advisors) neither triggers the commercial harm from disclosure that PKMJF baldly asserts,¹² nor falls afoul of any of the other concerns PKMJF raises. Since PKMJF’s response on this issue targets relief that VAFFC did not request, the Commission should grant the relief VAFFC did request forthwith.

The Commission should similarly reject PKMJF’s alternative request that the Requested Documents be provided to the BCUC only,¹³ as there is no credible harm posed by counsel/expert access, and it is important that counsel for the shippers, at the very least, be permitted access to these documents, to ensure procedural fairness.¹⁴

PKMJF raises a number of other issues in its October 13, 2020 letter which are similarly irrelevant to the relief sought by VAFFC, or mischaracterize VAFFC’s position. Although VAFFC does not intend to respond to every issue raised by PKMJF (and its silence on a topic should not be taken to be agreement), VAFFC makes the following additional comments:

- i. PKMJF expresses concern about the size of the record of the present proceeding,¹⁵ and the supposedly “inordinate” regulatory burden the proceeding has imposed.¹⁶ VAFFC also laments the extent of the regulatory process which has been necessary in this proceeding, but it does not lie with PKMJF to complain about this.

PKMJF has twice substantially amended its application,¹⁷ been the subject of three orders from the Commission requiring further and better information request (“**IR**”) responses,¹⁸ and post-acquisition

⁷ Exhibit C2-31, p. 3.

⁸ Exhibit B-51, paras. 6-8.

⁹ Exhibit C2-31, p. 2.

¹⁰ Exhibit C2-31, p. 2 and Exhibit C2-31-1, Appendix A.

¹¹ Exhibit C1-15, pp. 1-2: “The nature of the redactions suggests that PKMF has redacted material relevant to the jet fuel pipeline, as demonstrated in Confidential Schedule 1 to VAFFC’s request for unredacted copies of PKMJF’s confidential filing”.

¹² For example, that the “regulatory process should not be abused to gain commercially sensitive information, that is irrelevant to the JFL”: Exhibit B-51, para. 36(c).

¹³ Exhibit B-51, para. 38.

¹⁴ Exhibit C2-31, p. 3.

¹⁵ Exhibit B-51, para. 31.

¹⁶ Exhibit B-51, para. 34.

¹⁷ Exhibits B-8 and B-14.

¹⁸ Exhibits A-18, A-28 and A-34.

sought a substantial delay in the proceeding schedule only to, it seems, conclude that no changes to the record were required.¹⁹ All of these factors are highly atypical for BCUC proceedings. PKMJF's failure to follow the rules and process established by the Commission, particularly with respect to the provision of information, has given rise to the "regulatory burden" of which PKMJF now complains.

At this stage, VAFFC has received a single set of IR responses on the most recently amended application,²⁰ which remain significantly redacted.

- ii. PKMJF incorrectly suggests that VAFFC has asserted that market valuations for the Jet Fuel Line are "highly relevant" to this proceeding.²¹

VAFFC did not seek the Requested Documents because it sought to use market valuations to determine the rate base of the Jet Fuel Line, as PKMJF implies. Rather, VAFFC sought these documents because "[a]ny difference between the forecast costs and liabilities which Pembina has used for valuation purposes or presented to investors, on the one hand, and those which PKMJF has presented to the Commission, on the other, is highly relevant to the weight the Commission places on PKMJF's current forecasts".²²

VAFFC's concern was justified, since the Requested Documents now suggest that "Kinder Morgan (and now Pembina, having adopted the prior case) presented one set of information regarding the Jet Fuel Line's forecast costs, liabilities and useful life in the context of the sale of the Jet Fuel Line, while its subsidiary, PKMJF, was presenting a different and inconsistent set of information to the Commission".²³ PKMJF now acknowledges that the economic life²⁴ and operating costs²⁵ of the Jet Fuel Line are important issues in the present proceeding.

b. PKMJF's request for the Commission to compel VAFFC and Parkland to provide information in evidence

PKMJF also requests that the Commission order VAFFC and Parkland to set out certain information in their evidence regarding the VAFD Project and whether Parkland will want to continue to ship on the Jet Fuel Line.²⁶

VAFFC expects to address relevant issues in its evidence, and to respond to IRs on its evidence in accordance with the Commission's Rules. PKMJF's request is premature, and amounts to a request for the Commission to direct VAFFC and Parkland to respond to pre-emptive IRs in evidence. There is no need for any order from the Commission and VAFFC accordingly requests that the Commission deny PKMJF's request.

Yours very truly,



For: Matthew D. Keen

MDK/roe

¹⁹ Exhibits B-30 and B-33.

²⁰ Exhibit B-38.

²¹ Exhibit B-51, para. 15.

²² Exhibit C2-23, p. 2.

²³ Exhibit C2-31, p. 2.

²⁴ Exhibit B-51, paras. 16 and 19.

²⁵ Exhibit B-51, paras. 21-29.

²⁶ Exhibit B-51, paras. 20 and 37.