



November 12, 2020

Sent via email/eFile

KINDER MORGAN CANADA (JET FUEL) INC.
2019 TARIFF FILING EXHIBIT A-42

Ms. Rosa Twyman
Legal Services and Business Director
Regulatory Law Chambers
#601 – 888 Fourth Avenue SW
Calgary, AB T2P 0V2
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Re: Pembina Kinder Morgan Canada (Jet Fuel) Inc. – 2019 Tariff Filing Application – Project No. 1598984 – British Columbia Utilities Commission Response to Pembina Kinder Morgan Canada (Jet Fuel) Inc’s (PKMJF) October 27, 2020, Requested Documents Submission and letters dated October 29, 2020 and October 30, 2020 filed by Vancouver Airport Fuel Facilities Corporation and PKMJF, respectively

Dear Ms. Twyman:

On September 21, 2020, pursuant to Order P-4-20, PKMJF filed with the British Columbia Utilities Commission (BCUC) supplemental information relating to Pembina Pipeline Corporation's acquisition of Kinder Morgan Canada (Jet Fuel) Inc. (Supplemental Response). In its September 21, 2020 submission, PKMJF noted that it had redacted certain portions of the Supplemental Response, which it determined were “not responsive to the Supplemental IRs [information requests] and the BCUC Supplemental Response Issues and irrelevant to the JFL Acquisition” and/or “did not provide any meaningful information pertaining to the JFL responsive to the Supplemental IRs and the BCUC Supplemental Response Issues.”¹

By letter dated October 6, 2020, Vancouver Airport Fuel Facilities Corporation (VAFFC) objected to the redactions PKMJF made in the Supplemental Response. VAFFC requested that shippers’ counsel and expert advisors be provided access to unredacted copies of documents 1–5 and 51–58 from Appendix A to the Supplemental Response (Requested Documents).²

By letter dated October 22, 2020, the Panel instructed PKMJF to file unredacted copies of the Requested Documents with the BCUC. The Panel stated that it would review the Requested Documents to determine whether PKMJF had redacted any relevant material responsive to the Supplemental IRs and the BCUC Supplemental Response Issues, as outlined in Order P-4-20.³

PKMJF filed unredacted copies of the Requested Documents with the BCUC on October 27, 2020.⁴

¹ Exhibit B-48-1, pp. 3-4.

² Exhibit C2-31.

³ Exhibit A-41, p. 2.

⁴ Exhibit B-52.

As a preliminary matter, the Panel notes that in its October 27, 2020 submission, PKMJF failed to provide one page of the Requested Documents. PKMJF is to file the outstanding portion of the Requested Documents with the BCUC by no later than November 19, 2020.

Setting this omission aside, the Panel has completed its review of the remainder of the unredacted copies of the Requested Documents in accordance with Rule 20.01 of the BCUC's Rules of Practice and Procedure (Rules). The Panel is satisfied that the redacted content: (i) is not responsive to the Supplemental IRs and the BCUC Supplemental Response Issues; (ii) is irrelevant to the JFL Acquisition; and/or (iii) does not provide any meaningful information pertaining to the JFL responsive to the Supplemental IRs and the BCUC Supplemental Response Issues, with two exceptions. The Panel concludes that slide 34 of document 2 (PDF page 49) and slide 19 of document 57 (PDF page 487) contain redactions to responsive material. PKMJF is to review the redactions made to these two pages and to update its Supplemental Response to provide the responsive content by no later than November 19, 2020. The Panel will review PKMJF's proposed redactions and determine if all responsive material has been disclosed.

The Panel notes that by letter dated October 29, 2020, VAFFC reiterates its request for access to unredacted copies of the Requested Documents and for the BCUC to accept VAFFC's previously executed confidentiality undertakings as fulfilment of Section 24.03 of the Rules. VAFFC also states that PKMJF has "redacted paragraphs 6-8 and footnote 4 in its October 27, 2020 letter, without explanation" and argues that because VAFFC "is unable to respond to the nature of some of the reasons for limiting its access, VAFFC also requests access to an unredacted copy of this letter."⁵

By letter dated October 30, 2020, PKMJF responded to VAFFC, arguing that the BCUC has already denied VAFFC's request to be provided with unredacted copies of the Requested Documents and that VAFFC cannot make the same application twice. PKMJF also states that it is the company's understanding that the BCUC will "under no circumstances release unredacted copies of the Requested Documents to anyone", and asks that if its understanding is in any way incorrect, that the "BCUC advise PKMJF accordingly and allow PKMJF to avail itself of its remedies before the regulator or a court." PKMJF did not address VAFFC's request for an unredacted copy of PKMJF's October 27, 2020 letter.⁶

Subject to the Panel's review of the outstanding portion of the Requested Documents and PKMJF's forthcoming revisions to the redactions on slides 34 and 19 of documents 2 and 57, respectively, the Panel considers the issue of VAFFC's request for access to unredacted copies of the Requested Documents to be closed. Subject to these same exceptions, the Panel confirms that the unredacted copies of the Requested Documents will be held confidentially, with access limited to the BCUC only, as the Panel has reviewed the redacted material and considers it to be commercially sensitive in accordance with Rule 20.01 as cited above. The Panel will determine the confidentiality of the omitted page of the Requested Documents and slides 34 and 19 of documents 2 and 57, respectively, in due course.

With respect to the letter accompanying PKMJF's October 27, 2020 filing, the BCUC reminds PKMJF of the BCUC's rules respecting requests for confidentiality. If PKMJF wishes the BCUC to consider granting confidential treatment to certain portions of the company's October 27, 2020 letter, PKMJF must submit a request pursuant to part IV of the Rules briefly describing the nature of the information in the document and the reasons for the

⁵ Exhibit C-34, pp. 1-2.

⁶ Exhibit B-53, pp. 1-2.

request, including the specific harm that could reasonably be expected to result if the document was made publicly available. PKMJF is to provide any such request to the BCUC by no later than November 19, 2020.

Sincerely,

Original signed by:

Marija Tresoglavic
Acting Commission Secretary

CD/cm