

To: [BCUC](#)
Subject: Letter of Comment - Parkland - Advance Ruling on Confidentiality for FPTA Reporting Submissions - Werner Antweiler
Date: Thursday, January 7, 2021 11:59:31 AM
Attachments: [BCUC-Jan2021.pdf](#)

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Proceeding name: Parkland - Advance Ruling on Confidentiality for FPTA Reporting Submissions

Are you currently registered as an intervener or interested party: No

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Comment:

Please see the attached letter.

January 12, 2021

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

Letter of Comment concerning the Framework for the Determination of Confidentiality and Treatment of Protected Information collected pursuant to the Fuel Price Transparency Act

The BCUC is seeking comments regarding matters that should be considered in the draft framework and process for determining the confidentiality of reporting under the Fuel Price Transparency Act (FPTA) and in relation to British Columbia Utilities Commission (BCUC) order G-275-20. My submission aims to contribute to your discussion from the perspective of academic research.

Section 9 of the FPTA defines "protected information" as information that would reveal trade secrets, or commercial, financial, labour relations, scientific and technical information; and stipulates that BCUC may publish fuel data or other information acquired under the FPTA if it is satisfied that protected information will not be disclosed, or that the public interest in the disclosure of the protected information outweighs any potential harm from releasing the protected information.

There are necessarily competing interests with respect to data use under the FPTA. On one hand, confidentiality can protect vital privacy and commercial interests. On the other hand, access to data can help policy makers design appropriate policy interventions that further legitimate public policy objectives. The choice, however, is not simply between full confidentiality and full disclosure. There are intermediation mechanisms available that are used by by statistical agencies and government agencies that allow businesses to retain a high degree of confidentiality while still allowing use of the data for research and policy making. In other words, confidentiality and disclosure are not binary options but instead there is an entire spectrum of options between full confidentiality and full disclosure.

Statistical agencies, in particular Statistics Canada, already have procedures in place that deal with a variety of confidential reports by businesses, which have a vested interest in protecting their data against business competitors. Researchers refer to such data as “microdata” due to the granularity of the data. Statistics Canada employs a variety of *disclosure control methods* that are compliant with the provisions in section 17(1)(b) of the Statistics Act. In most instances, the methods employed by Statistics Canada involve *data reduction* and *data modification*. Data reduction includes sampling, aggregation (or broadening of categories), removing certain variables from some or all respondents, and suppressing some respondents if the “cell size” of the data would identify the respondent. Data modification includes adding random noise to the microdata, swapping data, replacing individual values in small groups with average values or deleting information from certain respondents and replacing them with imputed values. These measures are meant to be “mean-preserving” and thus would not adversely affect research methods such as econometric regression analysis.

Statistics Canada also allows researchers access to the data through an [intermediation procedure](#). Rather than giving highly-confidential data (such as T2 income tax data) to researchers directly, the researchers gain access indirectly. They first have their projects reviewed and approved, and must complete a security screening process and take the Statistics Canada Oath of Office. Procedurally, they provide Statistics Canada with the statistical programs to analyze the data; Statistics Canada personnel run these programs securely on site; and researchers receive the analytic output without ever having laid eye on the protected raw data. For this purpose, Statistics Canada has set up the [Canadian Centre for Data Development and Economic Research](#) (CDER) in 2012. Many of my research colleagues have gained access to confidential microdata through this intermediation channel.

Researchers also gain access to confidential data through *Non-Disclosure Agreements* (NDAs) and *Data-Sharing Agreements* (SDAs). I have personally entered into several such agreements in the past to facilitate my own research and research of my doctoral students, including agreements with BC Hydro, the Insurance Corporation of BC, and the BC Scrap-It Society (for accelerated retirement of motor vehicles). NDAs and SDAs can ensure that data handed to researchers does not leak to unauthorized third parties, protect privacy and confidentiality, while at the same time enabling researchers to carry out policy-relevant research.

I advise the BC Utilities Commission to follow the procedures established by statistical agencies—in particular Statistics Canada—to enable academic researchers suitable access to the data collected under the FPTA. An implicit intent of the FPTA is to enable qualified researchers to work with the data in a meaningful way.

Lastly, the *raison d'être* for the FPTA is the finding in the BCUC's 2019 [Morton Report](#) that there is an "unexplained" 13 cents-per-litre price gap between Vancouver and PNW wholesale prices. Some of the commercial parties with a vested interest in these proceedings (Parkland, Husky /Cenovus, Shell, Suncor, Imperial Oil) may worry that research based on their data could lead to more regulation or impede their ability to conduct pricing strategies that improve their market shares.

To an energy economist, it is not unusual to see healthy mark-ups in an oligopolistic wholesale market with limited entry due to high fixed costs, and to an environmental economist, higher gasoline prices will only hasten the desirable transition to electric mobility. I do not see that data disclosure would necessarily hasten that path towards regulation. Beyond the issue of mark-ups, any accusations of price fixing are a matter for the *Competition Bureau* to investigate, and the Bureau has its own legal basis for compelling data disclosure.

What is thus left is primarily the commercial parties' interest in protecting their pricing strategies against watchful eyes of their competitors—which in its result is pro-competitive when competitors vie for increasing their respective market shares. I therefore broadly concur with the intervener's (Parkland Corporation) request for confidentiality, but again urge BCUC to facilitate meaningful access to the data for academic research. Our objective as economic researchers is to understand wholesale and retail price dynamics, and the results of this research may assist governments in designing pro-competitive policies that ultimately benefit consumers and industry, as well as encourage innovation.

Sincerely,



WERNER ANTWEILER