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**DELIVERED BY EMAIL**

British Columbia Utilities Commission  
Suite 400 - 900 Howe Street  
Vancouver, BC V6Z 2N3

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

Dear Ms. Tresoglavic:

**Re: Parkland Corporation Request for Advance Ruling on Confidentiality for Fuel Price Transparency Act Reporting Submissions (the “Application”)**

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We write on behalf of Tidewater Midstream and Infrastructure Ltd. (“**Tidewater**”) as intervener in the above-noted Application.

On May 25, 2021, the British Columbia Utilities Commission (“**BCUC**”), as administrator of the *Fuel Price Transparency Act*, S.B.C. 2019, c. 46 (the “**FPTA**”), issued the Framework for Determination of Confidentiality and Treatment of Protected Information - Draft No. 2 (the “**Draft Framework**”) and invited interveners to make submissions on the further development and refinement of that framework. Tidewater hereby submits its intervener submissions.

Tidewater repeats and relies on its prior submissions and addresses only those questions specified below.

**7. Other Counterparty-related Fuel Data**

**The BCUC requests that Parties provide submissions clarifying the specific harm and/or public interest associated with the publication of the seller name and address, and supply location Fuel Data fields.**

**Tidewater’s Response:**

Tidewater respectfully submits that the Panel has erroneously surmised that the (wholesaler) seller name and address and the supply location of retail fuel purchases “may be general industry knowledge”. On the contrary, Tidewater states that this information is not general industry knowledge. Rather, it is commercially sensitive information, which Tidewater treats as confidential and the information warrants the protection afforded to confidential Protected Information under the Draft Framework.

The case of Tidewater is unique in B.C. because it operates in a remote and isolated location in the province. To illustrate this point, Tidewater states that while it may be general industry knowledge that a particular entity is a wholesaler, it may not be generally known that a particular wholesaler located in a specific region is selling product to Tidewater in Prince George, B.C. at a certain time. There are costs associated with transportation of product and the information about source could implicitly provide information about pricing. This is commercially sensitive information, which if known to a competitor, could

be significantly detrimental to Tidewater's competitive position and could adversely impact competition in the market. Refineries in large metropolitan areas may have different concerns. Although the geographical considerations may not raise obvious issues (especially if product can be sourced from many wholesalers in a similar location), there may be other information that could be gleaned from the nature of the wholesalers that could impact the competitive position of another refinery.

The Competition Bureau has stated that "as a commodity market with high pricing visibility, **geographical constraints on supply (e.g. remote or isolated locations)**, and concentrated upstream markets, retail gas is particularly vulnerable to coordinated behaviour by market participants". [See letter to the BCUC from Deputy Commissioner Anthony Durocher dated January 13, 2021.] In the case of Tidewater, it operates in a remote and isolated location in the province and treats its wholesaler seller name and supply location as strictly confidential. The public release of this commercially sensitive information by the BCUC will directly impact Tidewater's competitive position and in turn, will adversely impact competition. The seller name and address Fuel Data fields from the wholesale Purchaser Report and the supply location from the Retail Purchases Report are commercially sensitive information, which Tidewater treats as confidential and should be afforded the protection of confidential Protected Information under the Draft Framework.

### **8. Other Import-related Fuel Data**

**The BCUC requests that parties provide submissions clarifying the specific harm and/or public interest associated with the publication of the origin of fuel imports and the transaction type Fuel Data field.**

#### **Tidewater's Response:**

While Tidewater agrees with the Panel's view that it is public knowledge that fuel is being imported into B.C. to meet demand, Tidewater respectfully submits that public disclosure of imported fuel on a monthly basis and the types of fuel imported, which - in the case of refineries - is commercially sensitive information, could adversely affect the competitive position of a refinery owner and operator such as Tidewater. The Competition Bureau has cautioned that in order "to avoid anticompetitive outcomes, regulators can balance the desire for transparency with an effective level of aggregation and delay in the publication of data". [See letter to the BCUC from Deputy Commissioner Anthony Durocher dated January 13, 2021.]

In this case, Tidewater states that identifying the specific monthly importers and the types of fuel imported raises competitive concerns. Aggregation of imported fuel of any type into B.C. and delaying publication of the data so that it is published once annually would be effective in reducing competitive concerns as data is kept confidential beyond its competitive usefulness. At the same time, annual publication of aggregated data would allow BCUC to provide an overview of longer term data without disclosing commercially sensitive information, and thereby avoid potential anticompetitive outcomes.

#### **Concluding Comments**

Tidewater reiterates that it would welcome the opportunity to continue to engage with the BCUC and other responsible persons in developing the Final Framework and to ensure that any publication of aggregated and anonymized fuel data adequately protects the commercial and competitively sensitive information of Tidewater and other responsible persons.

Sincerely,  
**DLA Piper (Canada) LLP**  
Per:



Amy Pressman  
AQP