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DELIVERED BY EMAIL (Commission.Secretary@bcuc.com)

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

Attn: Patrick Wruck, Commission Secretary

Dear Mr. Wruck:

**Re: Parkland Corporation Request for Advance Ruling on Confidentiality for Fuel
Price Transparency Act Reporting Submissions
Questions posed during August 12, 2021 Workshop**

During the Workshop held on August 12, 2021, Commission staff posed certain questions to counsel for 7-Eleven Canada about the treatment of information submitted under the Retail Pilot (see Transcript pp. 190-192).

We write to provide the responses of 7-Eleven Canada.

Question 1

Does 7-Eleven consider information relating to the identities of the selected retail stations to meet the definition of protected information?

Response:

Yes. The definition of protected information is set out in Section 9(1) of the FPTA:

Publication

9 (1) In this section:

"protected information" means information that would reveal

- (a) trade secrets of a responsible person, or
- (b) commercial, financial, labour relations, scientific or technical information of or about a responsible person;

"trade secret" has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

(2) The administrator may publish fuel data, or other information or records, acquired under this Act if the administrator is satisfied that

- (a) protected information will not be disclosed, or
- (b) the public interest in the protected information that will be disclosed outweighs any potential harm to responsible persons,

All of the information collected through the Retail Pilot would reveal commercial and/or financial information about the responsible person who provided the information. Virtually any information about the businesses of such persons will necessarily be commercial in nature given that they are engaged in commercial activity.

For greater clarity, we reiterate our earlier written submissions that there is no additional requirement that information be confidential in order that it be protected information. Confidentiality and the basis on which the information was collected, may be factors in the exercise of the Commission's discretion whether to publish fuel data or other information or records under Section 9(2).

Question 2

But if [information provided under the Retail Pilot is] not protected information, if the identities are not protected information, would it be reasonable for the framework to identify this information, the identity revealing information, as not confidential protected information but instead to rely on the BCUC's commitment not to disclose the identities that 7-Eleven has quoted us as committing to elsewhere?

Response

It is our position that the information in question *is* protected information so we do not agree with the premise of the question.

We agree in any event that the Commission should live up to its commitment not to reveal (directly or indirectly) the identities of sites participating in the Retail Pilot in view of its statements made before the information began to be collected.

The Commission can and ought to adhere to that commitment whether or not it takes the position that the information is protected information. The Commission has no obligation to publish any information acquired under the FPTA. Information that is provided to the Commission under the expectation (and here, an express promise) of confidentiality is by that reason alone confidential and should not be published or made available.

In summary, the Commission should decline to publish or otherwise make available information in this case for at least two reasons:

- a) the express confidentiality commitment made by the Commission and
- b) the nature of the Retail Pilot itself, which was designed not to collect information for the purposes of publication in furtherance of policies of the FPTA, but rather so that the Commission would provide advice to the Minister (or his staff) with respect to policy on what information should be prescribed to be collected in the future under regulation under the FPTA.

Question 3

[Does] 7-Eleven [think] there is any further measures that should be taken to ensure the protection of [Retail Pilot] data. So, is there anything else that would need to be committed [to] protect that.

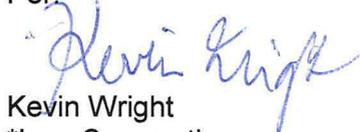
Response

We urge the Commission to confirm in writing that the Retail Pilot information was provided by fuel retailers based on an understanding and expectation that their identities (and information that may tend to reveal their identities or participating sites) would not be revealed (directly or indirectly) in connection with the data.

We request that, if the Commission is requested to produce the information by anyone other than the Minister (or his staff), that the Commission decline to do so, exercising any discretions available to the Commission and that the Commission promptly notify the relevant responsible persons from whom the data was collected and provide them full opportunity to respond or take actions as they see fit.

Sincerely,
DLA Piper (Canada) LLP

Per:

A handwritten signature in blue ink that reads 'Kevin Wright'.

Kevin Wright
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JKW:mpp