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September 25, 2020

Commission Secretary and Manager, Regulatory Services
British Columbia Utilities Commission
Email: Commission.Secretary@bcuc.com

Re: Fuel Price Transparency Act – Draft Reporting Guidelines

Dear Commission Secretary:

On behalf of Suncor Energy Inc. and its affiliates, we thank you for the opportunity to provide feedback on the BCUC's Draft Reporting Guidelines for the *Fuel Price Transparency Act* (FPT Act). We trust that our feedback will be given due consideration in the development of the final reporting requirements for the referenced act.

The intent of this letter is to provide an overview of our observations, questions and recommendations regarding the data collection proposed in your draft guidelines consultation paper. Note that any references in this document to Suncor includes Suncor and/or its affiliates.

Consultation Schedule, Commencement of Data Collection and Enforcement of Reporting Obligations

Our first observation relates to the compressed schedule for the consultation process prior to the commencement of data collection.

To being with, it is worth noting that the BC government did not consult Suncor with respect to the FPT Regulation, itself. There had been some limited early consultation conducted by the BC government in June 2020 regarding the FPT Act Consultation Paper. The purpose of this consultation was "...to provide relevant background information and solicit comments for consideration when drafting a regulation under the Act that would define the data that would be collected and the frequency with which it would be reported." However, with respect to the actual FPT Regulation, itself, there was no consultation. This is important because had there been more extensive consultation, particularly in relation to the draft regulation before it was passed, many of the issues that are raised in these written submissions could have been resolved. Instead, the BCUC has to contend now with these issues within the framework of its reporting guidelines.

The amendment containing the regulation was approved by the BC government through an Order in Council on August 13, 2020. Suncor was not formally notified of the amended Regulation until September 9, when it received the BCUC's plans for Industry Engagement and Consultation. The BCUC did not issue its first round of Draft Reporting Guidelines until September 11. The deadline for responding to the draft guidelines was September 25, which afforded participants only ten business days to review the draft,

engage appropriate stakeholders within our organization, and prepare for our consultation discussions and our written submissions. These timelines are unreasonable, which has been a consistent theme in all matters relating to fuel pricing in BC, starting with the BCUC's Inquiry into Gasoline and Diesel Prices. Ten business days is not a reasonable amount of time for a party to properly review the draft guidelines, assess its ability to meet the reporting requirements, and provide informed and thoughtful feedback.

Notwithstanding our concerns with respect to timing, we do understand that the BCUC and its staff face similar challenges with the November 1 timing for the Regulation's reporting requirements coming into effect. As such, we will endeavor to work with the BCUC to try to resolve the reporting issues that we identify in these written submissions. We also appreciate that the Commission is prepared to work with industry participants through this process and to remain flexible and pragmatic insofar as strict enforcement of the Regulation is concerned while these issues are addressed and resolved.

Confidentiality

Based on the comments received by the BCUC during its consultation sessions on the draft guidelines, confidentiality and the protection of competitively and commercially sensitive information is a major concern for all industry stakeholders. The regime as proposed is neither clear (insofar as it purports to blend the FPT Act with the Commission's Rules of Practice and Procedure) nor does it provide for any certainty in terms of how the information will be protected. We note that one of the industry stakeholders has applied for an Advance Ruling on Confidentiality, and that the BCUC has formed a panel to conduct a review of the application. Suncor is supportive of an advance ruling on confidentiality which will provide much needed clarity for reporting entities, and intends to participate in the public hearing.

Monthly Importer Report (Section 3.2 in the Draft Guidelines)

Regarding the BCUC's draft guidelines for the collection of monthly importer information, Suncor provides the following feedback and recommendations:

Importation of Fuel to Supply Multiple Classes of Trade

- The Regulation and draft guidelines limit importer reporting to imports for the purposes of supplying reportable fuel either to retail dealers or to suppliers of reportable fuel.
- As an importer of large quantities of fuel for sale through multiple channels of trade, Suncor's imported fuel is delivered to terminals in BC that supply both reportable and non-reportable fuel. In other words, the imported fuel is not tagged to a particular channel of trade when it is imported, which makes it virtually impossible for Suncor to report in the format prescribed by the draft guidelines.

- If the BCUC requires Suncor to report in accordance with the draft guidelines, Suncor will only be able to report all imports, regardless of whether or not they ultimately end up for sale to a retail customer.
- This will result in a very large number of high volume data points – significantly larger than what Suncor actually supplied to retail dealers in the province.

Transportation Costs – Statistical Freight for Imports Supplied to Suncor by Suncor

- While Suncor occasionally imports products into BC from third parties, the vast majority of fuel that Suncor imports into BC is supplied from its own production operations in Alberta.
- Imports from Suncor’s own production operations in Alberta are shipped through a combination of pipeline, rail and truck on a continuous basis. As such, it is not possible to reconcile daily transportation costs to unique transportation invoices.
- Suncor uses statistical freight analysis to report its freight costs and will use this methodology for reporting transportation costs for daily import volumes (by fuel type) supplied to Suncor by Suncor.

Transportation Costs - Other Logistics Costs

- The guidelines call for the transportation costs per litre to be “the cost incurred by the responsible person for transporting the reportable fuel imported during the reporting period from its source to the location in BC at which it is delivered”.
- Transportation Costs (pipeline, truck, rail, etc.) are just one element of the cost of importing fuel into BC.
- Other importation costs can include the cost of BC LCFS compliance, the cost of purchasing and blending bio-fuels into finished products (including ethanol, bio-diesel, and hydrotreated renewable diesel or HRD), the cost of purchasing and blending additives into finished products, terminal and storage costs including overhead, complex throughput agreements, transportation of product between terminals due to operational upsets, provisions for take or pay commitments, rail lease costs and other unique cost elements.

Recommendation:

- Further to our telephone consultation and questions from other parties during the BCUC information sessions, Suncor recommends the expansion of “Transportation Costs per Litre” in the guidelines to include all cost elements associated with the importation of product into BC through to the first sale of that product to a wholesale purchaser or a retailer of reportable fuel. Failing this, the data will not be incomplete and inaccurate.

Monthly Wholesale Purchaser Report (Section 3.3 in the Draft Guidelines)

Regarding BCUC’s draft guidelines for the collection of monthly wholesaler purchaser information, Suncor provides the following feedback and recommendations:

Wholesale Purchases to Supply Multiple Classes of Trade

- As a purchaser of large quantities of fuel for sale through multiple channels of trade, Suncor is unable to determine exact quantities of fuel purchased at a specific price, on a specific date for a specific class of trade (e.g. “reportable fuel”).
- Unfortunately, Suncor sees no solution other than to report all purchases of Fuel Types required, regardless of whether or not they ultimately end up for sale to a retail purchaser.
- This will result in a very large number of high volume data points (significantly larger than what is supplied to retail dealers in the province) that could adversely skew BCUC’s data analysis, and reporting.
- Further, this broad set of pricing data could be manipulated to determine Suncor’s purchasing power across all channels of trade, and so the data would have to be reported on a confidential basis.

Recommendation:

- Suncor recommends that the BCUC restrict reporting requirements to only transactions where a wholesale purchase can be 100% attributed to “reportable fuel”. This will meet the requirements as stated in the Regulation and there will be sufficient data from these types of transactions to allow the BCUC to determine and report on the transparency intended by the FPT Act. In addition, this recommendation will remove large volume transactions that are not directly attributed to retail supply, helping to ensure the reporting is not skewed and transparency is not clouded.

Exchange Agreements

- Suncor exchanges fuel supply with other suppliers under “exchange agreements” (e.g. supply of fuel in one location or even another province in exchange for fuel at a different location in BC).
- Exchange of fuel may not include a selling price; further, the products are not always the same – gasoline could be exchanged for diesel and vice versa.
- Suncor does not have a recommendation to address this situation other than to exclude these transactions if they are not a traditional buy/sell commercial agreement, and seeks clarification from the BCUC.

Price of “LCFS credit”

- BC Low Carbon Fuel Standard costs are the obligation of the supplier, not the purchaser, unless the commercial terms of an agreement state otherwise.
- The costs are borne directly by the supplier and costs are unique to each supplier as each supplier may take a different pathway to compliance with different associated costs.
- The supplier’s unique costs are confidential, and the supplier’s ability to pass through these unique costs in the price of their fuel is market dependent and can change from transaction to transaction.
- The supplier’s compliance costs are not communicated or broken out in the price to purchasers. As such, Suncor has no visibility as to these costs when making wholesale purchases.
- Independent of fuel purchase transactions, the market cost of an LCFS credit is reportable; however, as explained in Suncor’s evidence filed in the 2019 BCUC Fuels Pricing Inquiry (Exhibit C2-15), the LCFS credit market is illiquid and fuel suppliers must rely increasingly on even higher cost options as the only viable means of achieving compliance with Part 3 of the Regulation. By way of example, using HRD blending to meet the increasing Part 3 compliance obligations for both gasoline and diesel (a widespread practice by fuel suppliers in BC) is significantly higher than the price of an LCFS credit.

Recommendation:

- Since the requirement for wholesale purchasers to report the “Price of LCFS Credit” is ill-conceived in the Regulation and not possible for wholesale purchasers to report, Suncor recommends that the BCUC remove LCFS reporting requirements from the Wholesale Purchasers Report and coordinate the reporting of the ranges of LCFS compliance costs and

future forecasts for these costs with the BC Ministry of the Environment and the BC Ministry of Energy, Mines and Petroleum Resources.

- In the immediate term, Suncor is unable to provide this particular data in the Monthly Wholesale Purchaser Report.
- BCUC staff are welcome to contact Suncor if they would like to discuss this important matter in more detail.

Fuel Cost Adjustments (rebates, adjustments, etc.)

- As a purchaser of fuel, Suncor's purchase transactions may be subject to rebates, corrections and other adjustments that are independent of volume and that cannot be tied to a previously reported transaction.

Recommendation:

- Suncor requests the ability to report these adjustments as a total \$ amount, rather than a \$ per litre amount, and without specifying a volume for a transaction if it cannot be reconciled to the rebate, adjustment, etc.

Annual Storage Report (Section 3.4 in the Draft Guidelines)

Regarding BCUC's draft guidelines for the annual collection of storage tank information, Suncor provides the following feedback:

Storage of Fuel to Supply Multiple Classes of Trade

- As supplier with large inventories of fuel to be sold through multiple channels of trade, Suncor is unable to determine exact quantities of fuel stored for a specific class of trade (i.e. "reportable fuel").
- Unfortunately, Suncor sees no solution other than to prepare a storage report for all tanks and fuels, regardless of whether or not only a portion of the product in that tank ultimately ends up for sale to a retail purchaser.

Monthly Retail Supplier Report (Section 3.5 in the Draft Guidelines)

Regarding BCUC's draft guidelines for the collection of monthly retail supplier information, Suncor provides the following feedback and recommendations:

Reporting for "Company Controlled" vs. "Uncontrolled" Locations

- Suncor owns the fuel inventory at its "controlled" Petro-Canada retail outlets where Suncor sets the selling price ("Integrated Retail Dealers") and as such, the only price that is determined and recorded for these Integrated Retail Dealers is the price of fuel sold to a retail customer from the retail dispenser; there are no "amounts paid / payable by purchaser".

Recommendation:

- Given the issues identified above, Suncor recommends that the BCUC change its guidelines to exclude the "Amounts Paid/Payable by Purchaser" reporting requirement for reportable fuel supplied to Integrated Retail Dealers.
- Suncor anticipates that there will be sufficient "Amounts Paid/Payable by Purchaser" data available from reportable fuel suppliers, including Suncor, who supply uncontrolled and independent retail locations, to provide an accurate and transparent assessment of market prices for retailers.

Purchasers Using Fuel across Multiple Classes of Trade, including "Reportable Fuel"

- Several of Suncor's customers use or resell the fuel we supply for multiple purposes across multiple classes of trade, including retail sales. They do not specify how they will use specific volumes of fuel supplied by Suncor. As such, Suncor is not able to report the exact quantities supplied as "reportable fuel" for this form, only the total quantity purchased regardless of use.
- If reporting is mandatory, then Suncor's only option is to report the total volume of reportable and non-reportable fuel supplied to the customer. Fuel pricing for these types of customers is based on the customer's total fuel volume purchased. Consequently, the data for sales to these types of customers will be lower, and in some cases, much lower, than customers that purchase much smaller volumes of "reportable" fuel. This will skew the broader data set.

Recommendation:

- Given the issues identified above, Suncor recommends that the BCUC adjust the guidelines to exclude these broader sales from the retail supplier report to protect the integrity of “reportable fuel” transactions and provide the transparency intended in the FPT Act.

Freight Costs Included or Excluded in the Amounts Paid / Payable by Purchaser

- In some cases, the cost of fuel sold to a retail location includes the cost of transporting the fuel from the supply terminal to the retail site (secondary freight); in other cases, the retailer purchases the product at the terminal and arranges transportation at their own expense.
- Reporting fuel prices without this distinction will lead to erroneous reporting and inaccurate conclusions regarding supply costs to retailers as some data points will include transportation costs while others will not.

Recommendation:

- Suncor recommends that the BCUC clarify in the guidelines that all prices be reported excluding freight so that all data is reported on an “apples to apples” basis.
- Of note – Suncor uses ‘statistical freight’ to track and report on the cost of transporting the fuel from a supply terminal to a retail site when this cost is borne by Suncor; any reporting of freight costs from Suncor will be on a statistical basis as there is no ability for Suncor to match individual freight logistics invoices to individual deliveries within our reporting systems.

Fuel Cost Adjustments (rebates, adjustments, etc.)

- As a supplier of retail fuel, Suncor may provide rebates, corrections and other adjustments that are independent of volume and that cannot be tied to a previously reported transaction

Recommendation:

- Suncor requests the ability to report these fuel cost adjustments on a total \$ amount rather than a \$ per litre amount, and the ability to report a total \$ amount without specifying a volume for this transaction if a supply transaction cannot be reconciled to the rebate, adjustment, etc.

Clarification on the Definition of a Retail Dealer and Reportable Fuel

- The definition of a “retail dealer” in the act does not exclude Marinas;

- Suncor requests that the BCUC confirm whether sales of reportable fuels to Marinas should be included;
- In some cases, Marinas purchase and sell dyed product. This is a commercial product and not a “road worthy fuel; and
- Suncor requests that the BCUC confirm whether sales of dyed fuels should be excluded from reporting.

We thank you again for the opportunity to comment on your draft guidelines consultation paper, and reiterate our commitment to working with the BCUC and other industry stakeholders to ensure that the reporting process is balanced, reasonable and practical for everyone.

Should you have any questions related to the submissions in this letter, we strongly urge you to reach out. We would welcome the discussion, and hope that the BCUC shares our commitment.

Sincerely,

James McLean

Director National Pricing
Suncor Energy Products Partnership