

BRITISH COLUMBIA UTILITIES COMMISSION

Retail Data Collection pursuant to Special Direction to the British Columbia Utilities
Commission issued under Section 4 of the *Fuel Price Transparency Act*

SUBMISSIONS OF 7-ELEVEN CANADA, INC.

OCTOBER 9, 2020

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OVERVIEW

1. By the special direction dated August 14, 2020, the Commission, the administrator of the *Fuel Price Transparency Act* (“**FPTA**”), is charged to conduct a retail data collection pilot (the “**Pilot**”) in order to inform the development of regulations for ongoing data collection targeted at the retail component of the fuel supply chain in British Columbia.
2. 7-Eleven Canada, Inc. (“**7-Eleven**”) welcomes the opportunity to provide submissions with respect to the draft Retail Pilot Methodology (the “**Methodology**”) issued by the Commission on September 22, 2020.
3. 7-Eleven owns or leases 124 retail service stations in British Columbia. 7-Eleven does not supply fuels on a wholesale basis in British Columbia.
4. 7-Eleven fully participated as an intervener in the British Columbia Utility Commission Inquiry into Gasoline and Diesel prices in British Columbia held in the summer of 2019. As an intervener, 7-Eleven provided information about average monthly retail prices and margins to the Commission in response to a questionnaire. A senior executive of 7-Eleven testified at the public hearing and 7-Eleven submitted written submissions to the Commission.
5. In June 2020, 7-Eleven submitted responses to a government Questionnaire relating to the implementation of the FPTA.

Retail Pilot Methodology - Selection of Pilot Sites

6. The Methodology describes the process for a stratified random sampling from a population of stations divided into subgroups based on location and type. This will be used to generate an initial sample of 50 retail dealers across British Columbia to participate in the Pilot.
7. The Methodology indicates that after the initial sample of 50 stations has been drawn, the Commission will stratify the population into additional subgroups and that additional samples will be chosen until saturation is reached. However, it is

difficult to understand (or to provide comments with respect to) what is meant by “saturation” or how many additional stations are expected to be selected, the criteria for selection, or when they will be selected.

8. 7-Eleven observes that one of the geographic groups used for the sampling is Metro Vancouver. Because of Metro Vancouver’s size and diversity, the Commission may wish to reconsider breaking this down into smaller groups for the purpose of the sampling, such as individual municipalities.
9. 7-Eleven urges the Commission, when drawing the initial 50 sample and additional stations, to ensure a fair distribution across the owners or operators so that no one organization is disproportionately burdened. No brand should have service stations selected for the sample that over-represent their location count as a percent of the population of service stations in British Columbia. This might involve, after the initial allocation, reselecting some stations if it turns out that particular organizations are over-represented . In so doing, the Commission is more likely to achieve its goal of a sample that reflects a fair diversity of operators.

Data Reporting Requirements

10. 7-Eleven agrees with the principle of minimizing the reporting burden for retail dealers. 7-Eleven encourages the Commission to remain flexible during the Pilot to adapt its procedures as the selected participants work through their monthly reports. Thus, while 7-Eleven agrees there should be a survey of participants as proposed at the six-month mark, the Commission should be prepared to entertain submissions from participants and adapt procedures throughout the Pilot period.
11. With respect to the purchasing report, 7-Eleven draws to the Commission’s attention that retailers may not purchase all of the grades of fuel that they sell at the retail level. For example, mid-grade gasoline is generated by combining premium and regular unleaded grades. The retailer may purchase premium and regular grades and then make mid-grade fuel by mixing the two grades. In such

an example, the retailer would not show the purchase of mid-grade in the purchase report although sales of mid-grade would be reflected on the sales report.

Confidentiality

12. According to Appendix A of the Methodology, submissions will be made public, unless the information is protected under Section 9 of the FPTA or the Commission has accepted the information as confidential pursuant to its practices.
13. It is unclear whether this principle will apply to the purchasing and sales reports made during the Pilot and whether participants will be required to submit redacted reports each month. Furthermore, there would be a concern if commercially and competitively sensitive information required to be produced in the Pilot could be accessed through freedom of information applications. The Commission should come out with a definitive pronouncement on confidentiality before any data is collected.
14. 7-Eleven submits that the Commission should not publish submissions received during the Pilot or allow such information to be deduced from the Commission reports generated at the conclusion of the Pilot.
15. First, the purpose of the Pilot is to allow the Commission to assess the collection and processing of information in order to make recommendations to the government for regulations. It is experimental. It is not necessary that particular submissions returned under the Pilot be made public in order for the government to formulate appropriate regulation. It is the eventual regulation itself, promulgated under the FPTA and subject to the terms of the FPTA, that triggers public reporting.
16. Second, the Pilot will compel the production of commercially and competitively sensitive information that should be protected from publication. In the 2019 Inquiry, the Commission consistently recognized the commercial sensitivity of information of market participants with respect to costs, margins, and the terms of confidential contracts. See for example the British Columbia Utilities Commission Order G-148-19 dated July 8, 2019. Parties were allowed to file sensitive written

information not on the public record and portions of oral testimony was heard by the panel in camera and the testimony was not disclosed to the public.

17. On September 24, 2020, shortly after publication of the Methodology and in response to an advanced ruling sought by another market participant, the Commission issued Order G-242-20 initiating a public hearing with respect to the confidentiality of submissions under the FPTA. 7-Eleven has intervened in that proceeding and will contribute submissions, which should be considered in conjunction with these submissions about the Pilot.
18. Commercially sensitive information of a market participant, including information with respect to its costs, margins and the terms of confidential contracts, should not be made public. The market participant has legitimate interests that its competitors not be able to exploit such information when setting prices and otherwise competing against them. Furthermore, compelled public disclosure jeopardizes the relations of the market participant with its suppliers who negotiate the customized terms of supply in private. The suppliers may not be as willing to offer certain terms in a negotiation if the outcome of the negotiation may eventually become public and accessible to other potential customers.
19. Moreover, allowing competitors to have open access to the commercially sensitive information of one another may disrupt and diminish competition. In other words, competition may be enhanced by protecting company-specific and site-specific financial information that may be collected under the FPTA.
20. Accordingly, the Commission should generally not publish information received from Pilot participants that would allow the public directly or indirectly to see or deduce what that participant has provided.
21. In an appropriate situation, the Commission might consider the alternative of publishing aggregated and fully anonymized averages reflecting the information collected from individual participants. However, that would not be appropriate for the Pilot period.

RETAIL PILOT - SUBMISSIONS OF 7-ELEVEN CANADA, INC.

22. First and foremost, the purpose of the Pilot is not to generate information for publication but to allow the Commission to formulate recommendations to the government for devising regulations about the collection of data.
23. Second, it will be challenging to achieve satisfactory anonymity during the Pilot because in many instances, a single station (or limited number of stations) will represent an entire geographic area or market. And while the Commission does not intend to publish the identities of Pilot participants, it is possible, if not likely, that their identities may be deduced or uncovered through the lengthy Pilot period. There is also a distinct risk that the information collected from the sample set will not be representative. The public and policy makers could draw erroneous conclusions about a geographic region based on the dataset of a limited number of market participants (and potentially only one).
24. 7-Eleven would be pleased to respond to further opportunities to comment on the design and operation of the Pilot and to address any questions arising from these submissions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 9TH DAY OF OCTOBER, 2020



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