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**Marija Tresoglavic, Acting Commission Secretary**  
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Sent Via Email Attachment: [Commission.Secretary@bcuc.com](mailto:Commission.Secretary@bcuc.com)

**Re: Draft Reporting Guidelines Version 2.0; Fuel Price Transparency Act**

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On January 27, 2021, the British Columbia Utilities Commission (“**BCUC**”) published Draft Reporting Guidelines Version 2.0 (“**Draft Guidelines**”). The BCUC sought input on the Draft Guidelines on or before February 12, 2021. Imperial thanks the BCUC for the opportunity to provide input on the Draft Guidelines.

**Clarification re: Shipment Data**

The Draft Guidelines state that responsible persons shall submit fuel data based on each “shipment” of reportable fuel. There is ambiguity around what is meant by the term “shipment”.

If the term “shipment” is interpreted strictly and applied without flexibility, this proposed change could make reporting functionally impracticable, if not impossible, given industry and internal tracking practices.

It is fundamentally important to ensure that the final guidelines provide enough flexibility and discretion for responsible persons to report fuel import data in accordance with industry standard practices and company-specific tracking and accounting structures.

For example, reporting fuel data imports based on monthly shipment volumes on the Trans Mountain Pipeline, or rail shipments imported on a monthly basis, aligns with internal tracking and accounting systems and meets the Fuel Price Transparency Act (“**FPTA**”) objectives of promoting competitiveness and public confidence in the competitiveness of the fuel market in British Columbia.

Conversely, it would not be workable in practice, and it would not further the objectives of the FPTA, to require reporting of pipeline shipments on a per batch basis for imports transported by pipeline (up to dozens per month), or rail shipments based on individual rail cars (up to hundreds per month). Moving to a prescriptive and granular definition of “shipment” based on something other than location / product / month would materially increase already onerous reporting obligations. More substantively, it would require responsible persons to make assumptions that would, in turn, reduce data quality.

Specifically, increasing the granularity of shipment data beyond the month/location/product level increases the number of assumptions responsible persons would need to make related to costs and price. Systems are not set up to track costs for individual railcars, and are also not set up to assign a price that follows a specific railcar through the time lag from origin to destination (as discussed in more detail below).

Prescriptive reporting on a rail car or batch level, instead of at the month/location/product level, also negatively impacts the overall quality of data. The guidance to date has been to err on the side of reporting by including all fuel data (even if some of the fuel data almost certainly relates to non-reportable fuel), unless a responsible person can establish the fuel data is not a reportable fuel. Given supply structures and competition law concerns, it is often not possible to definitely identify the end-use (retail / non-retail) of certain fuel imports. This is particularly relevant in diesel fuel supply chains.

If a significant volume of non-reportable data is included in the data mix this adversely impacts the

underlying quality and credibility of fuel data (and any corresponding analysis and outputs). Requiring shipment reporting on an overly detailed and prescriptive basis would exasperate this problem by making it difficult, if not impossible, to adequately track non-reportable fuel – the eventual outcome being less credible and less defensible data which, in turn leads to less, not more, accurate and transparent analysis.

For example, if 40 railcars are shipped to a destination at different dates throughout the month, it is not possible to exclude a specific rail car account for non-reportable / non-retail volume purposes (i.e. fuel data not reportable pursuant to the FPTA). At minimum, this would require assumptions that will likely vary across reporting entities; the end result being aggregated data quality that is significantly diminished. Alternatively, if volumes are deducted equally from each railcar to account for non-reportable fuel, then the data essentially ends up being the same as it would be if aggregated on a monthly basis. If responsible persons can no longer exclude data accurately and report all the volume, the data will no longer be representative of retail fuel channel volumes, and would not serve the purpose of the reporting process

Related to the above point, a granular and overly prescriptive reporting requirement applicable to shipments beyond the month/location/product level increases the amount of work/analysis required for each submission significantly (maybe exponentially). It is not uncommon for hundreds of railcars to import fuel into British Columbia every month, in addition to pipe, marine, and truck movements. If each rail car is classified as a shipment, the instead of a semi-automated process with 10-20 lines, we would have hundreds of lines each needing manual evaluation for costs, exclusions, multiple transportation legs, etc.

Simply put, our internal tracking and accounting systems do not work in this way.

Given the foregoing, we strongly encourage that any reporting of shipments include flexibility and discretion to report based on a month/location/product level, where appropriate. Alternatively, we encourage the BCUC to consider limiting requests for shipment data to a volume threshold (ie. to capture large marine deliveries or other circumstances where such data is relevant and instructive). A similar volume threshold could be used for contract pricing methodology, as per the discussion below.

### **Contract Pricing Methodology**

The Draft Guidelines require disclosure of a contract pricing mechanisms (daily, weekly, monthly).

There are two issues with mandatory disclosure of contract pricing mechanisms.

First, contract pricing mechanism information is competitively and commercially sensitive. We appreciate that the draft BCUC confidentiality framework recognizes the need to protect and safeguard disclosure of pricing information. However, as drafted, the proposed confidentiality framework does not provide adequate protection for commercially sensitive information (particular after a prescribed period of time). Those issues are being addressed separately, but the amount of commercially sensitive information requested and the rules around disclosure of commercially sensitive information are fundamentally related.

As a stand-alone matter, disclosure of contract pricing mechanisms (daily, weekly, monthly) is not overly problematic. However, when considered in aggregate with other fuel data information (other pricing metrics, transportation costs, volume, identify of counter-parties) disclosure can be problematic from a commercial, competition and legal perspective. Furthermore, disclosure of contract pricing mechanisms does not, in our opinion, materially further the objectives of the FPTA to provide transparency and increase competitiveness in British Columbia – as explained below. In fact, it may do the opposite.

We encourage the BCUC to limit data submissions to information that is clearly relevant and provide flexibility regarding how data is reported (see our commentary on “shipments” above). Related to this point, we encourage the BCUC to ensure that confidentiality safeguards and rules around disclosure are commensurate with the highly commercially sensitive nature of some types of data on a stand-alone basis, as well as the collective commercial sensitivities associated with multiple data sources that can be aggregated and combined. Obviously, if confidentiality safeguards are more robust this alleviates some of

the concerns regarding disclosure of commercially or competitively sensitive information.

Second, given logistics and marketing realities, a blanket request for pricing mechanism information does not provide much, if any, additional transparency into supply and market conditions – at least not to the general public. We acknowledged that a pricing mechanism may be relevant for large, discrete imports. For example, a large vessel that prices around a 3 day window when the product is unloaded. However, vast majority of imports are typically done on a "continuous" basis -- pipeline shipments flowing constantly throughout the month and between months or railcars moving constantly from Alberta to British Columbia. There is often also a time lag between: (i) when we receive and pay for product; (ii) when the product is received at the final destination in British Columbia; and (iii) when the final sale to the customer occurs.

Due to time lags, and other logistics matters, it is often not useful to look at an individual pricing basis of a particular transaction. In other words, for the reasons noted above, for the vast majority of transactions (aside from discrete examples such as large ship imports) disclosing information relating to the pricing mechanism does not provide any additional transparency or insight into how the market functions. Instead, viewing total purchases on a monthly basis and comparing that versus sales on a monthly basis provides a much clearer and more accurate picture of pricing and sales.

### **Diesel Data – Bulk of Complexity & Reporting Burdens**

More generally, we note that the vast majority of complexity and associated work / time / cost and effort arising from reporting obligations arises from supply, logistics and operations relating to diesel fuel. The nuances associated with supply, logistics and reporting of gasoline are much more straightforward.

We encourage the BCUC to consider whether it's possible to streamline (or even eliminate) reporting for diesel imports, purchases, etc. This would vastly simplify the regulatory and reporting regime and associated costs and burdens. We also believe that given sales volumes, markets, end-use consumers, and the fact that the focus of the FPTA is on retail consumers, streamlining or eliminating diesel reporting would still meet a slightly modified iteration of the FPTA objectives.

### **Multiple Delivery Methods**

The Draft Guidelines request additional information relating to the mode of transportation used to import fuel into British Columbia. Imperial notes that some fuel is transported using multiple transportation methods (i.e. rail and ship). Reporting forms should build in functionality to select multiple transportation methods.

### **Timing & Effective Date**

The BCUC requested feedback on the Draft Guidelines by February 12, 2021. The guidelines will be finalized by February 26, 2021, and come into effect 3 days later for the March 2021 reporting period. If changes to reporting practices are required as a result of the final guidelines, responsible persons, including Imperial, will be challenged to meet an April 14 reporting deadline unless changes are minor.

### **Conclusion**

Despite the concerns noted above, Imperial firmly believes that working productively with the BCUC is in the best interests of all involved and we look forward to addressing these issues productively.

Kind Regards,



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