



File OF-Tolls-Group1-T260-2013-06 01
24 April 2015

Ms. Heather Mark
Director, Financial Planning and Regulatory
Kinder Morgan Canada
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Calgary, AB T2P 5J2
Facsimile 403-514-6622

Dear Ms. Mark:

**Trans Mountain Pipeline ULC on Behalf of Trans Mountain Pipeline L.P.
(Trans Mountain) Application Pursuant to Part IV of the *National Energy Board
Act* for Approval of Tariff Amendments Regarding Verification Procedures
Approval of Trans Mountain Pipeline ULC Petroleum Tariff No. 95 – Rules and
Regulations Governing the Transportation of Petroleum (Tariff) and the Revised
Officer's Certificate (Officer's Certificate)**

On 27 February 2015, Trans Mountain filed a revised Tariff and Officer's Certificate (Revised Verification Procedures) in response to Board direction in Reasons for Decision RHW-001-2013 (the Decision). They included modifications directed by the Board and consequential amendments to the Tariff and Officer's Certificate that Trans Mountain submits are made in a manner and spirit consistent with the views, findings and directions set out in the Decision.

On 11 March 2015, BP Canada Energy Group ULC (BP Canada) and Imperial Oil Limited and Suncor Energy Products Partnership (jointly Imperial/Suncor) filed comments in response to the Revised Verification Procedures. BP Canada proposed amendments to Rule 6.2 of the revised Tariff that, in its view, more accurately reflect the capabilities and responsibilities of third parties and shippers in the nomination verification process. Imperial/Suncor posed four questions seeking clarification with respect to the revised Tariff. In particular, the questions sought clarification on the revised Tariff's treatment of a situation where more than one shipper nominates to a single Land Destination.

The first two questions were concerned with the verification of nominations in circumstances where the combined Verified Nominations to a single Land Destination exceed the Verification Limit for that Land Destination. The third question asked whether it is Nominations or Verified Nominations that will be apportioned. The fourth question related to the calculation of Available Capacity.

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Trans Mountain filed reply comments with the Board on 16 March 2015, and included an updated version of the revised Tariff. The updated revised Tariff included further amendments to Rule 6.2, which Trans Mountain asserted were responsive to the concerns raised by BP Canada and satisfied the direction of the Board. In response to Imperial/Suncor's first and second questions, Trans Mountain indicated that it intends to:

- (i) Provide each Land Destination with a Historical-Based Verification Limit for the Land Destination as approved by the Board;
- (ii) Provide each Land Destination with the nominations made for that particular Land Destination; and
- (iii) Request that the subject Land Destination verify each nomination within the Verification limit provided by Trans Mountain to the Land Destination in (i) above.

Trans Mountain's comments also included further amendments to Rules 6.4 and 14.1 in response to Imperial/Suncor's third question. Trans Mountain requested that the Board approve the updated version of the revised Tariff filed on 16 March 2015, and the Officer's Certificate filed on 27 February 2015.

On 27 March 2015, Imperial/Suncor filed additional comments and proposed further amendments to Rule 6.3 incorporating Trans Mountain's intentions as set out above, but added that each Land Destination is to "adjust each [Verified] Nomination as required so that in aggregate the nominations do not exceed the Land Destination's Verification Limit".

Trans Mountain filed reply comments to Imperial/Suncor's filing on 30 March 2015, submitting that Imperial/Suncor had provided no justification for the proposed amendments, and requesting that the Board proceed to process the Tariff filing dated 16 March 2015.

Decision

The Board has considered the Revised Verification Procedures, the updated version of the revised Tariff filed by Trans Mountain on 16 March 2015, BP Canada and Imperial/Suncor's comments and Trans Mountain's reply comments.

BP Canada's Comments

The Board finds that Trans Mountain's revisions to Rule 6.2 in response to BP Canada's Comments add clarity to the nomination verification process, and in particular the manner in which each shipper can demonstrate its capability and intent to both tender and remove petroleum. The Board is of the view that this satisfies the direction of the Board.

Imperial/Suncor's Comments

The Board is of the view that there could be greater clarity in Rule 6.3 of the Tariff regarding circumstances where the combined Verified Nominations to a single Land Destination exceed the Verification Limit for that Land Destination. However, the Board also accepts Trans Mountain's position that the Land Destination should not be expected or required to make adjustments to the Verified Nominations. In the Board's view, it is appropriate that the Carrier be responsible for this allocation process to ensure fairness to all shippers at a Land Destination, including new shippers. Therefore, the last paragraph of Rule 6.3 shall be amended as follows:

Carrier will provide each Land Destination with the Verification Limit for that Land Destination and will provide each Land Destination with the nominations made for that particular Land Destination. Carrier will request that each Land Destination verify each Nomination within the Verification Limit provided by Carrier. If the combined Verified Nominations to a single Land Destination exceed the Verification Limit for that Land Destination then such Verified Nominations will be reduced pro-rata among all Shippers with Verified Nominations to the Land Destination based on their respective Verified Nominations to such Land Destination.

With regard to Imperial/Suncor's third question as to whether it is Nominations or Verified Nominations that will be apportioned, Trans Mountain's proposed amendments to Rule 6.4 and Rule 14.1 set out in Trans Mountain's updated version of the revised Tariff filed on 16 March 2015 are acceptable to the Board.

With regard to Imperial/Suncor's fourth question concerning the calculation of Available Capacity, the Board accepts Trans Mountain's position that there was no proposal in the RHW-001-2013 proceeding for Trans Mountain to alter the manner in which it calculates the capacity of the pipeline. The Board notes that Trans Mountain has not proposed any changes in this regard in the revised Tariff.

The Board finds that all of the other modifications proposed by Trans Mountain in the Revised Verification Procedures are in accordance with the Board's direction in the Decision. (See Board Order TO-005-2015 attached, which establishes an effective date of 1 May 2015).

The Board directs Trans Mountain to file a final version of Tariff No. 95 that includes the Board's amendment to Rule 6.3 and serve copies of it and this letter on all interested parties, including parties to the RHW-001-2013 proceeding.

Yours truly,

Original signed by S. Young

Sheri Young
Secretary of the Board

Attachment



ORDER TO-005-2015

IN THE MATTER OF the *National Energy Board Act* (NEB Act) and the regulations made thereunder; and

IN THE MATTER OF an application dated 15 October 2013, filed with the National Energy Board (Board) by Trans Mountain Pipeline ULC (Trans Mountain) pursuant to Part IV of the NEB Act for approval of Tariff¹ amendments regarding verification procedures (the Application) under File OF-Tolls-Group1-T260-2013-06 01.

BEFORE the Board on 23 April 2015.

WHEREAS on 11 July 2013 the Board approved Tariff No. 91 (Tolls) and Tariff No. 92 (Rules and Regulations);

AND WHEREAS Trans Mountain filed the Application for approval of Tariff revisions regarding the nomination verification procedures in Rule 6.1 of the Tariff, and approving Tariff revisions to incorporate verification limits, to address apportionment on the Trans Mountain pipeline system;

AND WHEREAS the Board's decisions in respect of the Application are set out in the National Energy Board RHW-001-2013, Trans Mountain Pipeline ULC on behalf of Trans Mountain Pipeline L.P., Reasons for Decision, dated January 2015 (the Decision);

AND WHEREAS the Decision directed Trans Mountain to make certain changes to the Tariff and Officer's Certificate and to file revised versions of those documents with the Board for approval by 27 February 2015;

AND WHEREAS on 27 February 2015 Trans Mountain applied for Board approval of a revised Tariff (Tariff No. 95) and a revised Officer's Certificate;

AND WHEREAS on 11 March 2015 comments were filed with the Board by BP Canada Energy Group ULC, and Imperial Oil Limited and Suncor Energy Products Partnership (Imperial/Suncor);

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¹ Tariff refers to Trans Mountain Pipeline ULC Petroleum Tariff No. 92 – Rules & Regulations Governing the Transportation of Petroleum (effective 16 July 2013)

AND WHEREAS on 16 March 2015 Trans Mountain submitted reply comments and included an updated version of Tariff No. 95 (Revised Tariff No. 95) for Board approval;

AND WHEREAS on 27 March 2015, Imperial/Suncor filed additional comments and proposed further amendments to Revised Tariff No. 95;

AND WHEREAS on 30 March 2015, Trans Mountain filed reply comments submitting that Imperial/Suncor had provided no justification for the proposed amendments and requested that the Board proceed to process the Tariff filing, as requested by Trans Mountain in its letter dated 16 March 2015;

AND WHEREAS the Board, on this same date, determined that an additional amendment to Rule 6.3 in Revised Tariff No. 95 is required in the interests of providing greater clarity;

AND WHEREAS the Board, on this same date, determined that the modifications in the Revised Tariff No. 95, as amended, are in accordance with the Board's direction in the Decision;

THEREFORE, IT IS ORDERED THAT, pursuant to Part IV of the Act:

1. Rule 6.3 in Revised Tariff No. 95 is amended by replacing the last paragraph with the following:

Carrier will provide each Land Destination with the Verification Limit for that Land Destination and will provide each Land Destination with the nominations made for that particular Land Destination. Carrier will request that each Land Destination verify each Nomination within the Verification Limit provided by Carrier. If the combined Verified Nominations to a single Land Destination exceed the Verification Limit for that Land Destination then such Verified Nominations will be reduced pro-rata among all Shippers with Verified Nominations to the Land Destination based on their respective Verified Nominations to such Land Destination.

2. Revised Tariff No. 95, as amended, is approved as final Tariff No. 95, effective 1 May 2015.
3. The revised Officer's Certificate, as filed with the Board on 27 February 2015, is effective 1 May 2015.

NATIONAL ENERGY BOARD

Original signed by S. Young

Sheri Young
Secretary of the Board