



File OF-Tolls-Group1-T260-2013-06 01
10 January 2014

To: All Parties to Hearing Order RHW-001-2013

**Hearing Order RHW-001-2013 (Hearing Order)
Trans Mountain Pipeline ULC on behalf of Trans Mountain Pipeline L.P.
(Trans Mountain)
Application dated 15 October 2013 pursuant to Part IV of the *National Energy
Board Act* (Act) for approval of Tariff Amendments regarding Verification
Procedures (the Application)
Final List of Issues and List of Parties**

Final List of Issues

The National Energy Board (the Board) has carefully considered all of the submissions that it received on the Draft List of Issues, including Trans Mountain's comments received 9 January 2014.

Pursuant to Paragraph 8 of the Hearing Order, please find attached the Final List of Issues (Attachment I).

The Board has accepted the proposed revisions to the Draft List of Issues suggested by Chevron Canada Limited (Chevron) and Imperial Oil Limited (Imperial) and Suncor Energy Products Partnership (Suncor) (jointly). These are reflected as Issue no. 2(e) and Issue no. 4, respectively. Draft Issue no. 4 has been renumbered as Issue no. 5.

Chevron submitted that the without prejudice negotiations that have occurred to date are not a suitable basis to preclude the parties from raising issues that relate to the general issue of the use of historical deliveries as a means to nominate and apportion the use of the Trans Mountain pipeline. The Board agrees. The Board also finds it reasonable to specifically contemplate in the List of Issues discussion of alternative proposals nomination verification or capacity allocation and apportionment procedures, as suggested by Imperial and Suncor.

The Board has not accepted Phillips 66 Canada Ltd.'s suggestion that Draft Issue no. 1 should be amended to allow for discussion of whether Rule 14.5(a) should be revised to provide for the use of historical delivered volumes as opposed to Rule 6.3 being approved. The Board is of the view that this matter can be considered under revised Issue no. 4.

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UNIFOR proposed that the effects of the Application on the availability of adequate feed stock to Canadian value added processors of Canadian oil products is an issue to be addressed in the hearing. The Board does not find it necessary to add this as a separate issue as it considers the issues as stated to be broad enough for the parties to raise this matter.

UNIFOR also proposed that the effects of the Application on Canadian energy security and the nature of the public interest test that should be applied by the Board in these proceedings were issues to be addressed in the hearing. The Board is of the view that these issues are beyond the scope of this proceeding. This proceeding concerns a commercial determination under Part IV of the Act, restricted to the consideration of proposed Tariff amendments regarding nomination verification or capacity allocation and apportionment procedures.

List of Parties

Pursuant to Paragraph 9 of the Hearing Order, please find attached the List of Parties for this proceeding (Attachment II).

The Board has decided to grant Intervenor Status to all of those who applied as all have demonstrated that they either stand to be sufficiently impacted by the Board's decision or their participation will assist the Board in reaching its decision in this proceeding, or both.

Those who appear on the List of Parties should advise the Board of any change in the contact information or method of service. The List of Parties will then be amended accordingly. Upon receipt of this List of Parties, each Intervenor is required to send a copy of their written application for intervention to all other Intervenors to the hearing using the method of service indicated for each party. In addition, on receipt of the List of Parties, Trans Mountain must serve a copy of the Application, and any additional filing it may have made since, on all parties.

Please note that the deadline for filing and serving materials is **noon, Calgary time**, unless otherwise noted in the Hearing Order.

For information on this hearing, or the procedures governing the public hearing process, that are of an administrative nature, please contact Mona Butler, Regulatory Officer at 403-221-3268 or Anne Losier, Regulatory Officer at 403-221-3241.

Yours truly,



for
Sheri Young
Secretary of the Board

Attachments

Final List of Issues

RHW-001-2013

The Board has identified but does not limit itself to the following issues for discussion in the proceeding:

- 1) The appropriateness of Tariff¹ revisions regarding nomination verification procedures in Rule 6.1 of the Tariff, including the proposed Rules 1.4, 6.1, 6.2 and 6.4.
- 2) The appropriateness of Tariff revisions to incorporate verification limits regarding:
 - a. The use of a fixed number of months immediately preceding a monthly nomination date (the Rolling Alternative) versus a set historical period that will not change (the Fixed Alternative);
 - b. The use of the maximum volume delivered in any month during the applicable historical time period (the Peak Alternative) versus the average monthly volume delivered to a facility connected to a Land Destination during the applicable historical time period (the Average Alternative);
 - c. The applicable historical time period (the Time Period);
 - d. The inclusion of volumes redirected from the Westridge Marine Terminal to Land Destinations under Rule 14.7 of the Tariff (the Redirections Alternative) versus the exclusion of these volumes (the No Redirections Alternative); and
 - e. Adjustments to the calculation of historical deliveries for the purpose of determining verification limits
- 3) The appropriateness of establishing a minimum verification limit for a Land Destination based on three per cent of available capacity on the Trans Mountain pipeline system.
- 4) The appropriateness of alternative nomination verification or capacity allocation and apportionment procedures proposed by intervenors to address the current apportionment on the Trans Mountain pipeline system.
- 5) The terms and conditions, if any, that should be included in any approval the Board may issue.

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