

VIA ELECTRONIC SUBMISSION

March 22<sup>nd</sup>, 2021

Canada Energy Regulator  
Suite 210, 517-10<sup>th</sup> Ave SW  
Calgary, AB T2R 0A8

Attention: Mr. Jean-Denis Charlebois, Secretary of the Commission

Dear Mr. Charlebois,

**RE: Trans Mountain Request for Confidential Treatment of Insurance Certificates  
Amended Order AO-001-FRO-002-2017 (Amended Order) Request to Treat Certificate of  
Insurance Information Confidentially**

The Canadian Chamber of Commerce and the Alberta and BC Chambers are writing in support of Trans Mountain's request for confidential treatment of its insurance certificates in all future filings with the Canadian Energy Regulator (CER). We would also request that other major project developers regulated by the CER are afforded the same option in their future filings as well.

Section 60 of the *Canadian Energy Regulator Act (Act)*, enables the Commission or a designated officer to treat certain information as confidential and not subject this information to disclosure provided certain requirements are satisfied. Based on the requirements set out in s.60 of the Act, it can be reasonably expected that the disclosure of the names of the insurers providing insurance coverage to Trans Mountain as well as the AM Best rating associated with these companies could result in undermining the competitive position of this regulated entity for the reasons set out below.

The relationship between policyholders and their insurers is a confidential contractual matter between private entities. This confidentiality aligns with the fair treatment of customers' regulatory expectations and the equivalent common law expectations. While there is public policy value in the required disclosure to the CER of how a regulated entity' has met its prescribed financial responsibility obligations, the same cannot be said of publicly disclosing certain particulars of this information including the names of insurers that have contractually agreed to underwrite the risks related to the operations of the regulated entity. The prescribed financial responsibility disclosures provided to the CER on an annual basis as required by the Act, its Regulations and associated guidelines demonstrate an entity's compliance with its financial responsibilities and offers an important accountability measure.

Public disclosure of the names of insurers providing commercial insurance coverage is inconsequential to the entities' financial obligations and the non-disclosure of such particulars would not impair or create any adverse impacts to the CER's ability to discharge its statutory oversight obligations. Instead, the public disclosure of this commercially sensitive information

could create an insurance marketplace capacity concern for certain sectors including the energy sector which would impair their competitive position as a result of not being able to obtain insurance to meet prescribed insurance requirements or only being able to secure such insurance at substantially higher rates.

In our review of the present circumstances, it is clear that if this request is not adopted, Trans Mountain could struggle to secure affordable insurance coverage for its \$1 billion in liabilities that it must hold in case of incident. Trans Mountain has seen its annual insurance costs increase over the past several years, a significant portion of that would be in-line with market increases in similar sectors; however, the public release of the names of its insurers has been used by critics of the project to create pressures on insurers and, in turn, make it more challenging for Trans Mountain to find coverage options, which in turn raises costs for the project.

This trend will create additional costs associated with the project that will ultimately impact businesses that rely on the project and the economic opportunities it supports. In addition, we argue that if critics of major infrastructure projects were to be successful in materially harming the Trans Mountain project by creating pressure on insurers, that these same tactics could be utilized against other industries required to publically file the names of their insurers. This will further undermine Canada's competitiveness in attracting investment into our resource sector, and will also unfairly politicize insurers as they seek to provide their services. The decade ahead will see financial institutions and companies face financial and transitional risks associated with climate change. Providing companies with the option of confidential treatment of their insurance certificates is a step the CER can take to ensure that the politicization of insurance does not become an additional financial risk major resource projects and financial institutions must navigate.

Sincerely,

Canadian Chamber of Commerce  
Aaron Henry  
Sr. Director Natural Resources and Sustainable Growth

Alberta Chamber of Commerce  
Ken Kolby  
President and CEO

BC Chamber of Commerce  
Fiona Famulak  
President and CEO