



Canada Energy Régie de l'énergie  
Regulator du Canada

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## LETTER DECISION

File OF-Tolls-Group1-T211-2019-03 0101  
17 April 2020

Mr. Bernard Pelletier  
Director, Regulatory Tolls and Tariffs  
Canadian Natural Gas Pipelines  
TransCanada PipeLines Limited  
450 – 1 Street SW  
Calgary, AB T2P 5H1  
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Dear Mr. Pelletier:

**TransCanada PipeLines Limited (TCPL)  
Application for Approval of the Mainline 2021-2026 Settlement (Application)  
Letter Decision**

The Canada Energy Regulator (CER) received an application from TCPL dated 20 December 2019 for approval of a settlement regarding tolling and services matters for the 1 January 2021 to 31 December 2026 period (Settlement). TCPL filed its Application for approval pursuant to the tolls and tariff and public interest provisions under Parts 1 and 3 of the *Canadian Energy Regulator Act*<sup>1</sup> (CER Act) and the *Revised Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs* (Settlement Guidelines).

The Settlement addresses a broad range of tolling and service matters on the TCPL Mainline System, including:

- the segmentation of the Mainline into the Western Mainline and Eastern Triangle segments for tolling purposes;
- maintaining the operational and commercial integration of the Mainline;
- determining how tolls for firm services will be established for the 2021-2026 period;
- the annual forecast revenue requirements;
- the annual billing determinants and revenue forecasts;
- an Incentive Sharing Mechanism pursuant to which TCPL and shippers share variances to cost and revenues;
- Short Term Adjustment Accounts (STAAs) for the Western Mainline and Eastern Triangle segments to capture annual adjustments;
- rate riders to collect or refund shippers' share of cost and revenue variances if agreed upon thresholds are met;
- renewal provisions; and
- a new complaint-based Market Driven Service (MDS).

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<sup>1</sup> S.C. 2019, c. 28, s. 10

As described in the Settlement, tolls for the 2021-2026 period would be determined on a cost of service basis, by segment, with an agreed upon level of cost and revenue variance sharing between TCPL and shippers. Tolls would be fixed for the term, subject to a one-time Long Term Adjustment Account (LTAA) adjustment in 2020, although tolls would be subject to rate riders should the STAAs exceed or be expected to exceed an agreed upon threshold. While the Application addresses tolls for the 2021-2026 period, it also includes proposals for service matters that would commence prior to 2021, including the implementation of the proposed new complaint-based MDS and changes to renewal provisions.

TCPL submitted that the Settlement represents a balance of interests resulting from compromises of the diverse interests and positions of parties. As such, TCPL presented the components of the Settlement to the Commission for approval as a package without modification.

TCPL also submitted that discussions with members of the Tolls Task Force (TTF) were initiated in late 2018 and confirmed that TCPL hosted formal meetings over 40 individual dates in various locations. A TTF vote was held on 16 December 2019 with the result being a unanimous decision, meaning that all parties who took a position voted in support of the Settlement.

In TCPL's view, the Settlement accords with the Settlement Guidelines as:

- all parties had a fair opportunity to participate in the process and have their interests recognized and appropriately weighed; and
- no provisions of the Settlement are illegal or contrary to the CER Act or otherwise contrary to the public interest.

The CER received comment letters in support of the Settlement from the Canadian Association of Petroleum Producers, Shell Canada Energy, the Alberta Department of Energy, Énergir, s.e.c., Centra Gas Manitoba Inc., the Industrial Gas Users Association, Enbridge Gas Inc. and Encana Corporation. Those comment letters emphasized that:

- the Settlement process was fair, open and collaborative;
- the Settlement provides the opportunity for TCPL and its shippers to compete for markets;
- the Settlement provides certainty regarding the tolling and services model for the term; and
- the Commission should approve the Settlement in its entirety as a package on an expedited basis.

No party filed submissions with the CER that opposed or raised any concerns with the Settlement.

### **Views of the Commission**

The Commission finds that the Settlement will result in tolls that are just and reasonable, and tolls and services that are not unjustly discriminatory. Having determined that the Settlement is in compliance with the requirements of sections 230 and 235 of the CER Act, the Commission approves the Application as filed. In reaching this determination, the Commission gave significant weight to the unanimous TTF support for the Settlement and the absence of submissions opposing or raising concerns about the Settlement. Furthermore, the Commission reviewed all aspects of the Application and identified no material concerns extending beyond the immediate concerns of the negotiating parties.

Furthermore, the Commission also finds that the Settlement meets the requirements of the Settlement Guidelines. Specifically, the Commission is satisfied that:

- the process resulting in the Settlement was open, and all parties had a fair opportunity to participate in negotiations and have their interests recognized and appropriately weighed;
- the process was understood and agreed upon by all interested parties;
- the Commission's ability and discretion to take into account public interest considerations was not fettered;
- no provisions of the Settlement are illegal or contrary to the CER Act or otherwise contrary to the public interest; and
- adequate information was filed on the public record to support the Settlement, including revenue requirement and rate base schedules, billing determinants and revenue forecasts, and toll derivation calculations.

Having reviewed the information filed on the record to support the Settlement, the Commission finds that the Settlement will provide shippers with a degree of certainty on tolls and service attributes over the next six years. In the Commission's view, this is beneficial as it allows shippers to make more informed contracting and investment decisions. At the same time, measures have been developed to allow TCPL a reasonable opportunity to recover its costs, including the potential for rate riders to be charged.

Additionally, the Settlement provides TCPL the ability to quickly meet market demands with market solutions through the new complaint-based MDS. As structured under the Settlement, the MDS will provide benefits to both shippers and TCPL. Through the Incentive Sharing Mechanism, TCPL and its shippers have also agreed to share variances in costs and revenues during the Settlement's term. Both shippers and TCPL will benefit from initiatives to attract incremental revenues to the Mainline and to reduce costs. Overall, the Commission finds that the Settlement strikes an appropriate balance in regards to the respective interests of the negotiating parties, which is demonstrated by the unanimous support.

The Commission acknowledges the significant time and effort invested by parties to negotiate and agree on long-term toll and tariff terms. The unanimous support achieved for the Settlement is significant and the Commission appreciates the willingness of parties to collaborate and negotiate.

For these reasons, the Commission approves the Application as filed, including:

- setting Mainline tolls for firm services, as defined within the Settlement, from 1 January 2021 to 31 December 2026 in accordance with Appendix G to the Settlement, subject to finalization after the filing of a one-time adjustment prior to 1 December 2020 regarding the LTAA in accordance with Section 9.1 of the Settlement;
- amendments to the Canadian Mainline Transportation Tariff to modify the renewal provisions for various services and implement the new MDS in accordance with Sections 11.2 and 11.3 of the Settlement, respectively, and as set out in Appendix K to the Settlement;
- the disposition of the existing LTAA and Bridging Amortization Account in accordance with Sections 9.1 and 9.2 of the Settlement, respectively;
- the establishment of a Toll Stabilization Account (TSA) for the Western Mainline and a TSA for the Eastern Triangle in accordance with Section 9.3 of the Settlement;
- the establishment of an STAA for the Western Mainline and an STAA for the Eastern Triangle in accordance with Sections 9.4 and 9.5 of the Settlement, respectively;

- the Rate Rider mechanism set out in Sections 9.4, 9.5 and 9.6 of the Settlement;  
and
- the Incentive Sharing Mechanism set out in Section 10.1 of the Settlement.

Toll Order TG-003-2020 gives effect to this decision.

TCPL is directed to serve a copy of this letter decision on all TCPL Mainline shippers, all members of the TTF, RH-001-2018 participants and other interested persons.

Yours sincerely,

*Original signed by S. Wong for*

L. George  
Secretary of the Commission

Attachment