



Canada Energy Régie de l'énergie
Regulator du Canada

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File OF-Tolls-Group1-T260-2022-01 01
29 April 2022

Dorothy Golosinski
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Dear Dorothy Golosinski:

**Trans Mountain Pipeline ULC (Trans Mountain)
Application for Trans Mountain 2022 Final Tolls, establishment of a flood
deferral account, and disposition of the Westridge Dock bid premiums**

**Before: K. Penney, Commissioner, S. Luciuk, Commissioner,
M. Chartier, Commissioner**

2022 Final Tolls

The Commission of the Canada Energy Regulator (**Commission**) has examined [Trans Mountain's Application](#) dated 29 March 2022, for approval of the 2022 final tolls, effective 1 May 2022 for services on the Trans Mountain Mainline. The Commission finds the 2022 final tolls to have been calculated in accordance with Trans Mountain's 2022-2023 Incentive Toll Settlement (**Settlement**) and are just and reasonable.

Flood deferral account and application for review and variance of the letter decision dated 24 February 2022

Trans Mountain concurrently filed two applications for review and variance. The first was for review and variance of the Commission's [letter decision dated 24 February 2022](#) and Order TO-001-2022 approving the Settlement to allow for the establishment of a deferral account for flood related costs. The Commission approves the establishment of the flood deferral account that is included in the 2022 Final Tolls. The flood related costs incurred by Trans Mountain are flow through costs, they were necessary and unforeseeable, and there is uncertainty around the recovery of these costs through an insurance claim. The establishment of the deferral account will enable decisions to be made about the disposition of these expenses when more information is available. However, the Commission finds that a review and variance is not required as the Settlement allows for the use of deferral accounts and allows for amendments to be made. The establishment of this deferral account is consistent with the terms of the Settlement, and Trans Mountain reviewed the account with shippers and the Canadian Association of Petroleum Producers (**CAPP**).

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The Commission therefore denies the request for review and variance of the Letter decision dated 24 February 2022 although the establishment of this deferral account is approved.

Disposition of Westridge dock bid premiums and application for review and variance of the 20 July 2006 Letter Decision

The second application for review and variance was of the [20 July 2006 letter decision](#) issued by the National Energy Board (NEB) related to the disposition of the Westridge Dock Bid Premiums, in which the NEB directed the pipeline company to set up a deferral account for any premiums received to be refunded to toll payers in the following calendar year.

Trans Mountain proposes to dispose of the premiums as set out in the Application for 2022 Final Tolls. The Commission supports toll predictability and stability and approves Trans Mountain's proposal for disposition of the premiums. The 20 July 2006 decision has been varied several times, most recently in a [letter dated 29 April 2021](#) where the Commission stated:

The Commission notes that it has varied the NEB's 20 July 2006 decision in recent years to allow for Trans Mountain to extend the refund of bid premiums beyond the end of each calendar year. As a result, the deferral account balance as of 31 December 2020 includes premiums from 2019 and 2020, as well as accumulated carrying charges. In the Commission's view, the fact that the deferral account contains premiums from more than one calendar year is a change in circumstances that has arisen since the NEB's 20 July 2006 decision. In these circumstances, the Commission finds that Trans Mountain has raised a doubt as to whether the NEB's 20 July 2006 decision should apply to Trans Mountain's Westridge Dock bid premiums.

However, the Commission ordered that "Distributions of premiums collected in any future year continue to be governed by the NEB's 20 July 2006 decision."

In its 12 April 2006 decision to allow a bid premium as a method for allocating capacity for Westridge Dock nominations, the NEB stated that the disposition of these premiums was a matter best left for discussion between the pipeline company, its shippers and interested persons. When agreement was not reached amongst shippers, the NEB issued its 20 July 2006 decision.

The Commission agrees that this matter is best left for discussion between Trans Mountain, its shippers and interested parties such as CAPP. In the current circumstances, these parties are aligned that the timing of refunding premiums to shippers should be determined as part of the annual toll filing process. Given this change in circumstances the Commission has decided to vary the 20 July 2006 decision permanently. The timing of refunding premiums to toll payers will no longer be required to be in the following calendar year and may instead be determined as part of the annual toll setting process.

Trans Mountain indicated that shippers were given notice of the proposed tolls, the establishment of the flood deferral account and the proposed disposition of Westridge Dock bid premiums. Trans Mountain responded to CAPP's and shippers' questions and CAPP provided a support letter. To Trans Mountain's knowledge, CAPP and shippers support the Application for 2022 Final Tolls or are not opposed to it. The Commission did not receive any comments on the Application for 2022 Final Tolls or the requests for review and variance.

The Commission approves the Application for 2022 Final Tolls as filed and issues the attached Order TO-002-2022. The Commission directs Trans Mountain to serve a copy of this letter and Order on all Trans Mountain Mainline shippers and interested persons.

Yours sincerely,

Signed by

Ramona Sladic
Secretary of the Commission

Attachment