



June 23, 2023

Canada Energy Regulator
Attention: Ramona Sladic
Secretary of the Commission
Suite 210, 517 Tenth Avenue SW
Calgary, Alberta T2R 0A8

Dear Ms. Sladic,

**RE: Trans Mountain Pipeline ULC
Application for Interim Commencement Date Tolls and Other Related Matters
File OF-Tolls – Group 1-T260-2023-03 01**

On June 1, 2023, Trans Mountain Pipeline ULC ('Trans Mountain') filed an application for approval of interim commencement date tolls ('Interim Tolls') and other related matters associated with the transportation of petroleum ('Application') on the expanded Trans Mountain pipeline system ('Expanded System'). On June 8, 2023, the Canada Energy Regulator ('CER') requested comments on Trans Mountain's Application and invited interested parties to register as Intervenor should they seek to participate in any further process steps that may be established with respect to the Application.

Cenovus Energy Inc. ('Cenovus') is an integrated energy company with approximately 600,000 barrels per day of crude oil production. As a shipper, Cenovus holds a significant commitment for firm service on the Expanded System. As a result, Cenovus will be directly impacted by the outcome of this Application.

Since April 2022, Cenovus has been engaged with Trans Mountain, and other shippers, as part of Trans Mountain's ongoing consultation efforts in anticipation of the Expanded System going into service. During this process, many issues were resolved through dialogue and mutual compromises by shippers and Trans Mountain.

However, some issues remain unresolved. As noted in paragraphs 21 and 23 in Tab 1 "Summary of Consultation", of Trans Mountain's Application:

"...participants raised concerns with respect to Trans Mountain's collection of the Gateway Infrastructure Fee 2 (GIF2) on behalf of the Vancouver Fraser Port Authority, and Trans Mountain's retention of Demurrage Charges for its account. Participants also expressed a preference for Trans Mountain to recover the balance in the Due from Westridge Shippers Deferral Account over a five (5) year period, rather than the four (4) year period proposed by Trans Mountain."

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“Additionally, through recent correspondence, concerns have also been raised regarding the level of the Interim Tolls, and Trans Mountain’s filing of the Commencement Date Tolls Application at this time in advance of Shippers conducting a detailed review of the costs and expenses for the Expansion Project...The TMEP Shippers’ contractual right to audit does not extend to the Costs and Expenses in respect of the Interim Commencement Date Tolls. The Interim Commencement Date Tolls are not final. They will be trued-up once the actual as built costs and expenses are known.”

Cenovus remains concerned about each of these issues, which are briefly discussed below, and believes these issues should be identified in the List of Issues for this proceeding:

- **Accelerated ECRF Recovery:** Trans Mountain requests a change to the previously understood collection period of the Enhanced Response Regime Cost Recovery Fee (‘ECRF’) from five to four years. Cenovus believes that Trans Mountain should only be permitted to recover the ECRF over the originally agreed to five-year period.
- **Cost Escalation:** Cenovus is concerned about the escalation in costs and expenses to construct the Expanded System, presently estimated to be \$30.9 billion. The uncapped component of the Fixed Toll has increased from \$1.36/bbl (under the 2017 CPCN Cost Estimate) to \$6.48/bbl (under the Commence Date Cost Estimate), a 4.7x increase. As a result, the Fixed Toll has nearly doubled from \$5.76/bbl to \$10.88/bbl. Realizing that the Interim Tolls will be subject to further adjustment and refund, Cenovus reserves all of its rights under the Transportation Service Agreement and Financial Support Agreement (including but not limited to its audit rights) to challenge Trans Mountain’s entitlement to recover all of the rapidly escalating costs to complete the Expanded System as part of the final Fixed Toll. For the purposes of this Application, Cenovus believes it is important to review and confirm that the Interim Tolls have been properly calculated in accordance with RH-001-2012’s approved tolling methodology.
- **GIF2:** Cenovus has tried to engage both Trans Mountain and the Vancouver Fraser Port Authority (‘VFPA’) on the justification for charging the GIF2 fee to shippers on the Expanded System, especially since, as Cenovus understands it, the GIF2 fee is to pay for land-based projects unrelated to the Westridge Marine Terminal. Unfortunately, Cenovus has not received a meaningful explanation as to the appropriateness of charging the GIF2 fee to shippers, nor why such fees should be collected through Trans Mountain’s tolls.
- **Demurrage:** In a significant departure from past and current practice, Trans Mountain has indicated that any Demurrage collected under Expanded System Rules and Regulations will be kept as revenue for Trans Mountain’s account, rather than be used as an offset to the Variable Toll. This treatment of the Demurrage collections was not approved in the RH-001-2012 application for the Tolling Methodology.

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Finally, Cenovus does not believe that the Application needs to be approved by September 14, 2023, as requested by Trans Mountain. In the Application, Trans Mountain states the Expanded System will not be mechanically complete until the end of 2023, and the in-service date is expected in the first quarter of 2024. As such, Cenovus recommends a written process to provide sufficient time to review the issues and concerns outlined by Trans Mountain in the Application, and the careful consideration of these concerns. Cenovus recommends at least one round of Information Requests to Trans Mountain, Intervenor Evidence and one round of Information Requests by Trans Mountain to Intervenor, followed by written argument. Cenovus believes that the issuance by the CER of its Reasons for Decision by November 1, 2023, is a sufficient amount of time for industry participants to manage the upcoming in-service of the Expanded System in the first quarter of 2024.

Cenovus looks forward to participating in any further process put forward by the CER. Should you have any questions, please call Erin Radloff at (403) 766-7951 or by email erin.radloff@cenovus.com.

Sincerely,



Erin Radloff
Senior Manager, Transportation Regulatory Services
Cenovus Energy Inc.

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