NATIONAL ENERGY BOARD

HEARING ORDER RH-001-2012

IN THE MATTER OF the *National Energy Board Act*, R.S.C. 1985, being c. N-7 of the Revised Statutes of Canada, and amendments thereto, and the Regulations made thereunder; and

IN THE MATTER OF an Application pursuant to Part IV of the *NEB Act* by Trans Mountain Pipeline ULC as General Partner for Trans Mountain Pipeline L.P. (collectively "Trans Mountain") for approval of the transportation service to be provided and the toll methodology to be applied on the expanded Trans Mountain Pipeline System.

TRANS MOUNTAIN PIPELINE ULC

RESPONSES TO CANADIAN ASSOCIATION OF PETROLEUM PRODUCERS (CAPP)

INFORMATION REQUEST NO. 1

(Updated from the responses on November 29, 2012)

January 10, 2013~~November 29, 2012~~

NEB File: OF-Tolls-Group1-T260-2012-06 01

1.1 Question 1

Reference: Application, Table 2, Schedule B

Preamble: Trans Mountain has presented a table of indicative tolls

Request: Please confirm whether or not the fixed toll is exclusive of receipt terminalling and tankage and delivery terminalling and tankage fees?

Response: The Fixed Toll Component includes receipt terminalling, tankage and delivery terminalling and tankage fees. As noted in Schedule B to the FSA (see Appendix 9 of the Application), a direct inject credit is applicable to the Fixed Toll Component for those volumes not utilizing tankage at the Edmonton Terminal.

Revised January 10, 2013

1.2 Question 2

Reference: i) Application, Tab C, paragraph 57, pg 5

ii) Application, Tab C, para 65, pag6-7

Preamble: Under Trans Mountain's proposed toll methodology, the toll to be charged for uncommitted shipments will be set at a 10% premium to the 15-year firm toll. If at any time during the term of the TSAs, Trans Mountain implements a toll for uncommitted shippers that is lower than the Firm Service toll for the same service option initiated by Trans Mountain, the Firm Service toll be discounted the same percentage as the uncommitted toll.

Request:

a) Please confirm that the uncommitted toll will be set at a minimum 10 percent premium to the firm 15-year toll.

b) Please confirm whether the uncommitted toll could be set at higher than a 10% premium to the 15-year committed toll and explain the circumstances under which this could occur.

Response:

a) Not confirmed. As described in Section 2.4 of the Toll Principles (see Schedule C in Appendix 9 of the Application), the uncommitted toll will, at all times, be a 10% premium to the firm 15-year toll. The toll for uncommitted shippers will not be set any higher than 10% above the 15-year committed toll.

b) Not confirmed. Please see the response to CAPP 1.2.a.

1.3 Question 3

Reference: i) Application section 2.2, para 13, pg 8

ii) Direct Evidence of George R. Schink, para 59, pg 28

Preamble: The proposed expansion will comprise pipeline facilities that complete a looping of the existing pipeline in Alberta and BC with approximately 900 km of new, NPS 30 pipe. Expansion will include new and modified facilities, such as pumping stations and tanks, as well as additional tanker loading facilities at Westridge. All shippers were provided with calculations detailing the manner in which the first year indicative toll was computed as a function of cost. The following information request is to better understand the basis of the rate calculation for uncommitted shippers.

Request: What would the cost of service tolls be using 10% ROE as in the 2012 settlement.

a) Please provide the tolls for the same receipt and delivery points and for light and heavy as shown in Table 2 Schedule B: Indicative Firm Service Tolls.

b) Please provide the calculation for these tolls.

c) Please provide any cost of service models in electronic format with formulas intact that have been prepared by or on behalf of Trans Mountain ULC for the pipeline system that show its costs after it has been expanded.

Response: The 890,000 bpd project involves 975 km of new NPS 36 pipe. The Toll Methodology in the Application is not based on a cost-of-service methodology. Providing the tolls shown in Table 2 Schedule B: Indicative Firm Services Tolls, using a cost-of-service approach would not be consistent with the fundamental principle that the applied for Toll Methodology is a negotiated result involving sophisticated parties that have negotiated in a workably competitive environment. A reliable estimate of the cost–of-service for the initial year and the remaining duration of the contract period is difficult to develop as there are numerous potential outcomes, all of which have a range of uncertainties associated with them.

Trans Mountain is making an investment decision based on a return on investment that is acceptable to Trans Mountain and its owner taking into account the cash flow generated by the negotiated tolls that were agreed to by Trans Mountain and Committed Shippers. For competitive reasons, Trans Mountain will not be providing the investment model on which the decision is being made. However, Trans Mountain can provide the following investment decision criteria, which it uses for major pipeline infrastructure investment:

- The funding for this project will be raised by and provided to Trans

Mountain by its owner, Kinder Morgan Energy Partners L.P. ("KMP"). KMP makes investment decisions based on expected internal rate of return over the life of the project. KMP does not make investment decisions based on cost of service considerations.

- Historically, KMP's actual returns have been consistent with a 12-15% threshold.
- KMP targets its unlevered internal rates of return for pipeline infrastructure investments over their economic life in a typical range of 12% to 15%.
- KMP would not proceed with a project that did not meet its targeted IRR for pipeline infrastructure.

Trans Mountain has not prepared a cost-of- service model for a 20-year term of the proposed Toll Methodology. Notwithstanding, after receipt of these information requests, Trans Mountain took steps to prepare an electronic model that estimates the initial year cost-of-service and resulting toll. Please see Appendix 1 to CAPP 1.3.

Any multi-year analysis must take into account significant project risks, such as:

- Inflation could be far different than recent years.
- Operating, Maintenance, and Administration costs could be considerably higher than the assumption provided.
- The contract provisions imply that any capital cost overruns following CPCN are to the risk of the pipeline.
- There are ongoing financial risks associated with credit worthiness of contracted shippers and ship-or-pay obligations.
- There is considerable risk that the project commissioning could be delayed.
- Risks associated with events of Carrier Force Majeure exceeding 12 months as described in Section 2.3 (d) of the TSA (see Appendix 8 of the Application).

1.4 Question 4

Reference: i) Tab C, paragraph 55

Preamble: The project costs used to establish the fixed toll component will be reduced by the amount of the firm service fees that Trans Mountain has applied to the Expansion from "Firm 50" service to the Westridge dock

Request:

a) Please confirm whether 100% of the firm service fees will be applied to a reduction in the fixed toll component and whether this amount would be applied in a single year or spread over a period of time?

b) If not, what percentage of the firm service fee is assumed to be applied to reducing fixed tolls and how is it allocated over the term. Also, why was the full amount not used?

c) Please confirm whether the reduction in fees is already included in the calculation of the indicative firm service tolls shown in Table 2, Schedule B, Tab C of the application.

Response:

a) Not confirmed. Trans Mountain will not apply 100% of the Firm Service Fees against the project costs.

b) Trans Mountain has not yet determined the specific percentage of Firm Service Fees that will be applied against the project costs. This is because the amount collected will vary depending upon the in-service date of the Expansion and other uses of these funds. Trans Mountain is also using Firm Service Fee proceeds to offset the capital costs for the construction of a single tank at the Edmonton Terminal (approximately $30 million). These uses are consistent with the NEB decision (RH-2-2011).

The Initial Cost Estimate provided in Schedule B, Appendix 9 of the Application assumed $136.3 million of Firm Service Fees would be applied against the project costs. Trans Mountain believes this continues to be a reasonable estimate at this point in time.

c) Confirmed.

Revised January 10, 2013

1.5 Question 5

Reference: i) Application section 1.0, para 3; pg 5

ii) Application, section 1.0, para 4; pg 5

iii) Application, section 1.0, para 1b; pg 4

Preamble: The expansion is intended to increase the pipeline's capacity to 755,000 b/d. Firm commitments from 9 shippers, totaling 508,000 b/d, underpin the expansion. Trans Mountain is proposing that a minimum of 20% of total capacity will be available for uncommitted volumes.

Request:

a) Please provide the assumption for percentage of heavy crude oil that would flow at the expanded capacity of 755,000 b/d.

b) What is the threshold of heavy crude flowing under firm contracts expressed as a percentage of capacity where there might be no capacity available for uncommitted volumes?

Response:

a) As a result of Round 3 of the Open Season, the expansion will increase the pipeline's capacity to 890,000 bpd. Firm commitments from thirteen shippers totaling approximately 708,000 bpd underpin the expansion. Trans Mountain is proposing that 20% (approximately 180,000 bpd) of nominal pipeline capacity will be available for uncommitted volumes. Approximately ~~65~~60% of the Expanded System capacity is assumed to be used for the transportation of heavy crude oil. This percentage represents ~~490,000~~ 535,000 bpd.

b) Under the proposed 80-20 committed/uncommitted capacity split, there is no threshold where heavy crude flowing under firm contracts results in no capacity being available for uncommitted volumes.