

**VIA EMAIL SUBMISSION**

January 31, 2022

Canada Energy Regulator  
Suite 210, 517 Tenth Avenue S.W.  
Calgary, Alberta T2R 0A8

**Attention: Ms. Ramona Sladic, Secretary of the Commission**

Dear Ms. Sladic:

**Re: Trans Mountain Pipeline ULC (“Trans Mountain”)  
CER Filing Manual Revisions Comment Letter**

Trans Mountain is in receipt of the Canada Energy Regulator’s (“CER”) proposed changes to Filing Manual proposed Guide N – Applications to Review, Rescind or Rehear, Guide O – Variance Application and Project Updates, s.A.3.1 Supply and s.A.3.3 Markets and s.1.5 Confidential Filing. Trans Mountain appreciates the opportunity to review and provide feedback on the draft changes.

**Guides N & O: Project Updates**

Trans Mountain is appreciative that the CER is contemplating a suite of changes that may proceed through notification or update process, especially considering that facilities applications must be submitted to the CER very early in the proponent’s planning process. However, the list of changes that would qualify for an update is not broad enough. Consider a change to length of installed pipe. As a facilities application is required to be submitted to the CER early in the company’s project planning process, there may be constraints in-field that are not yet fully known at the time of application writing, and these constraints could impact the length of pipe installed. Examples of such constraints may be avoidance of underground utilities or sensitive environmental features, landowner considerations or topographical or seasonal limitations. As result, the length of pipe may need to change to address these constraints and should the change in length of pipe exceed the threshold of 60 m, even by 0.1 m, may result in a stand-down of in-field activities while the CER assesses the appropriateness of the change through approval process. In doing so, this extends the time to complete the project, may adversely impact landowner or user enjoyment or use of the land, or the exercise of Indigenous rights.

Another example would be a schedule delay that may result in the construction of a project being pushed into the next season. There are many circumstances that may delay the execution of a project in the field, and the environmental and socio-economic assessment (“ESA”) would account for wildlife windows, and for further mitigation/avoidance should site conditions change. Under draft Guide O, a delay into the next season would require stand down of execution while the CER assesses the delay and appropriateness of the mitigation, prior to the proponent advancing the project, even though this was a contingency that was considered and addressed in the proponent’s ESA and assessed by the CER in the original application.

For these reasons, Trans Mountain proposes consideration of changes through a risk-based lens: such changes may proceed by way of update insofar such variations are not outside the parameters of the ESA, the assessed project footprint, or design intent. This way, a change to the design (i.e., pipe length or specification) that could proceed by way of update is considered based on environmental and socio-economic impact, design intent and associated risks, as opposed to arbitrary pipe length or pipe specification. The CER could limit a change to specification such those presented within a suite of suitable pipe grades and wall thicknesses presented in the application, as an example, would require notification, whereas those outside of the range would require approval. Further, this approach would ensure that material changes to design, such as moving from HDD to open cut installation, or change in design temperature or MOP would appropriately require approval prior to installation. Trans Mountain has successfully taken this commitment-based approach in its facilities applications over the last five years and is of the view that it permits the flexibility required to execute projects in a timely manner. Most importantly, it permits projects to remain flexible to respond to unforeseen constraints, flexible to landowner needs, and to avoid or mitigate impact to environmental features, while ensuring that the CER is updated on a timely basis, and that the project is constructed in compliance with the Order.<sup>1</sup>

Alternatively, Trans Mountain recommends that the CER designate a technical expert on a file who is tasked with assessing design changes that would have the subject matter expertise and authority to render a decision on acceptability of the change within a limited period of time. Such a process would be similar to that for a compliance verification activity; providing continued oversight, while allowing assessments to proceed in a timely manner.

### **Guide O: Operating Name Change**

Draft Guide O also contemplates changes to the information needs in the event of a company name change (without a change in ownership, lease, or amalgamation), and that among other things, in the event of a name change, signage on facilities and emergency contact information for landowners must be updated within 30 days of the name change.

In the event of a name change, Trans Mountain would undertake the necessary activities to update this information per its management of change process, inclusive of signage on facilities and emergency contact information in landowner packages. Thirty days to complete the necessary activities is not practical. The timing of these activities can be impacted by a variety of factors including the large geographical span of the Trans Mountain system, limited or no access to remote locations during the winter months or due to adverse weather, and ensuring safe access for its workers. Trans Mountain suggests that these timing requirements of the draft Guide O be revised to require that these changes be undertaken safely and as soon as reasonably practical by the company.

### **Consideration of Service Standard**

While not contemplated in the draft Filing Manual changes, Trans Mountain notes that the CER publishes [service standards](#) for processing times for applications pursuant to s.183, 214 and 262 of the *Canadian Energy Regulator Act*. s.214 applications are assigned a time limit based on the

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<sup>1</sup> For example, please see the [Sumas River Crossing Replacement Project](#) and [Grand Rapids Pipeline Metering Connection](#)

complexity of issues (Category A, B, C). The time limits are helpful to proponents in anticipating the time required to complete regulatory processes in their project planning.

To provide process clarity, Trans Mountain recommends the CER also adopt service standards or guidelines for other types of regulatory applications, including, but not limited to draft Guide N, Guide O and s.1.5 Confidential Filing. Currently it is challenging for a proponent to anticipate the time required for adjudication of applications submitted under Guide O and s.1.5, and resulting implications for project planning (or, also, in the case of s.1.5, regulatory reporting). Having a time limit or guideline based on complexity of the matter would allow proponents to plan when an application must be submitted in order to prevent adverse impact to project timeline or regulatory certainty. Trans Mountain suggests for more routine matters, this timeline be approximately two (2) weeks, whereas for more complex matters, or those that may require public comment, four (4) to six (6) weeks.

Trans Mountain appreciates the opportunity to review, meaningfully contemplate and provide comment on the draft Filing Manual sections and is happy to participate in any further consultation to that effect.

Should you have any questions or wish to discuss further, please contact the undersigned.

Yours truly,

*Original signed by*

Megan Sartore  
Senior Regulatory Specialist, Regulatory Affairs

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