**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** P-3-07

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. V6Z 2N3 CANADA
web site: http://www.bcuc.com

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

IN THE MATTER OF
the Pipeline Act, R.S.B.C. 1996, Chapter 364

and

An Application by Trans Mountain (Jet Fuel) Inc.
for Approval of Tolls and Accelerated Depreciation

BEFORE: L.F. Kelsey, Panel Chair and Commissioner June 22, 2007

O R D E R

WHEREAS:

A. On June 5, 2007, Trans Mountain (Jet Fuel) Inc. ("TMJ", "Company") applied to the British Columbia Utilities Commission ("Commission") pursuant to Section 44 of the Pipeline Act (the "Act") for an Order approving the adjustment of the Company's tolls for the transportation of turbine (jet) fuel to the Vancouver International Airport ("YVR") and to the Burnaby Terminal of the Company's parent, Kinder Morgan Canada Holdings ULC ("KMC"). The Company seeks to increase its tolls effective January 1, 2008 to, among other items, permit TMJ to recover depreciation of the jet fuel and related facilities (the "Jet Fuel System") and abandonment costs over the 5- year economic life of the assets (the "Application"); and

B. The jet fuel transported to YVR by TMJ is purchased by Vancouver Airport Fuel Facilities Corporation ("VAFFC"), which is owned by a consortium of airlines flying out of YVR; and

C. YVR recently published the Master Plan 2027 Technical Report, a 20-year plan which forecasts increased jet fuel consumption and a supply shortfall. Two of the three options short-listed to meet the forecasted supply shortfall represent a complete bypass of the Jet Fuel System; and

D. In March 2007, VAFFC purchased land consistent with the jet fuel barging facility bypass option. The Company is of the opinion that the barging bypass will be capable of serving VAFFC's entire forecasted requirements after 2012 at a lower delivered cost of fuel than the Jet Fuel System; and

E. By Order No. P-2-07, the Commission scheduled a Pre-hearing Conference for June 20, 2007 to address procedural matters related to the Application including, but not limited to, the identification of principal issues, process options for review of the Application, a regulatory timetable, location of the proceeding and any other matters that would assist the Commission to efficiently review the Application. Order No. P-2-07 also contained a draft regulatory agenda and timetable; and

F. By letter dated June 18, 2007, the Commission issued a Draft Issues List for discussion at the June 20, 2007 Pre-hearing Conference; and

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G. In regards to the Draft Issues List, TMJ considered that depreciating the TMJ assets based on a 5-year economic life is the issue and the majority of the remaining items are sub-issues. In TMJ's view, both the capital structure and return on equity are non-issues since the Application is not proposing to change the capital structure nor return on equity and therefore can be removed from the Draft Issues List (T1: 7-9). VAFFC agreed that depreciating the TMJ assets over a 5-year period is the primary issue, the remaining issues are accepted but that both capital structure and return on equity are non-issues and can be removed from the list (T1: 9-12). Chevron Canada Ltd. ("Chevron") agreed with the views of TMJ and the VAFFC on the adequacy of issues list but that the issues have been stated at a high level. Chevron stated that it received notice of the Application in the last 10 days, is a principal user of the Jet Fuel System and is undertaking a fundamental review but is unable to commit to which items are issues to Chevron and which are non-issues (T1: 13-14); and

H. Chevron stated that the TMJ Application is predicated on the Commission having permitted or will permit TMJ to cease operation of the Jet Fuel System under section 41 No discontinuance without permission of the Utilities Commission Act and/or the Oil and Gas Commission under the Pipeline Act (T1: 14-15 and 31). TMJ commented that the application for the retirement of the assets would be made in due course (T1: 17); and

I. TMJ repeated its proposal for a written review process of the Application which could include oral argument and expressed a willingness to meet with the intervenors and have a negotiated settlement process ("NSP")(T1: 18-19 and 32). The VAFFC did not support a written review process since in VAFFC's view much of the information in the Application is not factual and suggested that the Commission establish a round of information requests, followed by an NSP and a further process if required (T1: 19-24). Chevron supported an information request process possibly followed by an NSP (T1: 24-28); and

J. Both the VAFFC and Chevron indicated that they would be filing evidence (T1: 29); and

K. The Commission Panel requested submissions on the process steps, the timing of these steps and the filing of evidence (T1: 34-35). TMJ proposed that the draft regulatory timetable be adjusted to have intervenor evidence filed on July 31, with information requests on the intervenor evidence by August 7, information responses by August 14 or 21, an NSP commencing on August 15 and rebuttal evidence by August 21 or 28, if necessary (T1: 36-37). The VAFFC proposed that the Commission adjourn the Application and ask TMJ to meet with its Shippers then possibly have another Pre-hearing Conference to set a formal process (T1: 37-39). Chevron agreed with the process suggested by the VAFFC but preferred an alternative which followed the draft regulatory timetable attached to Order No. P-2-07 up to July 24 in order to obtain one round of information requests and responses from TMJ as preceding the meeting of TMJ with its Shippers (T1: 42-43); and

L. The Commission Panel considered the submissions received from TMJ, the VAFFC and Chevron (the "Parties") regarding process steps and timing (T1: 40-49) and ordered that the Parties meet by July 10, 2007 to have a comprehensive discussion on the issues around the plans for the supply of jet fuel to YVR and how that impacts on the Jet Fuel System and particularly Chevron so that the Parties can explore this matter fully. The Parties are to report to the Commission by July 17, 2007 on the outcome of that meeting in general terms and the process they would suggest to move this matter forward (T1: 50-51); and

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M. The Commission has determined that the review of the Application should be temporarily suspended.

NOW THEREFORE the Commission orders as follows:

1. The Commission temporarily suspends the review of the Application. Following its consideration of the submissions to be received as required in directives 2 and 3, the Commission will establish a further review process of the Application as required.

2. The Parties are to meet by July 10, 2007 to have a comprehensive discussion on the issues around the plans for the supply of jet fuel to YVR and how that impacts on the Jet Fuel System and particularly Chevron so that the Parties can explore this matter fully. The Parties are to report to the Commission by July 17, 2007 on the outcome of that meeting in general terms and the process they would suggest to move this matter forward.

3. By July 23, 2007, the Parties are to make submissions on the jurisdiction of the Commission to review a potential pipeline abandonment application by TMJ pursuant to Section 41 of the Utilities Commission Act or under Part 7 of the Pipeline Act.

4. TMJ is to provide a copy of this Order to all of its Shippers, interested parties and participants in TMJ's F2007 Toll Settlement by 4:00 p.m. on June 25, 2007.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of June 2007.

BY ORDER

Original signed by:

L.F. Kelsey
Panel Chair and Commissioner