



LETTER L-53-08

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VIA MAIL/E-MAIL

November 13, 2008

Mr. Frank Karabetsos
TransCanada Energy Ltd.
450 – 1st Street S.W.
Calgary, Alberta T2P 5H1

Dear Mr. Karabetsos:

Re: British Columbia and Transmission Corporation ("BCTC")
TransCanada Energy Ltd. ("TCE") Complaint related to
Firm Transmission Service on the British Columbia to Alberta Path

In its letter of complaint dated October 9, 2008 ("Complaint"), TCE requests that the Commission direct BCTC to prioritize its firm capacity on the British Columbia-Alberta ("BC>AB") path retroactive to December 1, 2007.

By letter dated October 17, 2008 the Commission requested comment from BCTC on a process to review the TCE Complaint. The Commission also requested that BCTC specifically provide the date by which it anticipates it will file an application related to the FERC 890 Order, and the extent to which such an application will address the matters raised by TCE in the Complaint.

By letter dated October 24, 2008 NorthPoint Energy Solutions ("NorthPoint") submitted that it had also been negatively impacted "...in a manner similar to that provided for in TCE's complaint." NorthPoint stated that it anticipated that it too will wish to file a complaint and requested that the Commission provide it with direction as to the timelines for doing so.

By letter dated November 4, 2008 Cargill Power Markets LLC ("Cargill") requested that, as a power marketer with a reservation on the BC>AB Path that could be affected by the TCE complaint, it be informed of further developments with respect to the Complaint and that it be provided with the opportunity to intervene if and when appropriate.

On October 31, 2008 BCTC responded to the Commission's October 17, 2008 letter and indicated that it would be filing its next Tariff Application ("Application") by November 21, 2008 and that the Application would address the issue of firm sales to Alberta. BCTC submitted that the Application should be considered BCTC's response to the Complaint and that the Complaint should be addressed at the same time as the Application.

By letter dated November 6, 2008 (attached), TCE responded to the BCTC October 31, 2008 letter and submitted that BCTC's Application will be forward looking and TCE's request for retroactive relief will not be fully addressed in the Application. TCE further expressed its concern that BCTC's Application "...will not provide the full and fair review of all of the issues raised in the Complaint, that would otherwise occur in a separate process" and urged

the Commission to proceed with an independent process for hearing and adjudicating upon the matters raised in the Complaint.

The Commission has reviewed the TCE Complaint, the requests of NorthPoint and Cargill, and the submissions of BCTC and TCE and has determined that it will consider the appropriate process for reviewing the Complaint after it has received the BCTC Application. It is the intention of the Commission to issue a procedural letter or order, after it has reviewed the Application, to solicit submissions on the appropriate process or processes for reviewing the TCE Complaint and the BCTC Application, including the appropriate degree of separation between the reviews of the Complaint and Application.

Finally, all parties are requested to copy all other interested parties in this matter on correspondence to the Commission. Currently parties who have expressed an interest in the Complaint, in addition to TCE itself, are BCTC, NorthPoint and Cargill.

Yours truly,

Original signed by:

Erica M. Hamilton

JWF/rt
Attachment

cc: Mr. Lou A. Cusano
Stikeman Elliot (counsel for TCE)
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Ms. Janet L. Fraser
Director, Regulatory Affairs
British Columbia Transmission Corporation
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Mr. Michael Crosbie
Senior Legal Counsel for SaskPower (on behalf of NorthPoint)
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Mr. Philip P. Pauls
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cc: Intervenor in the BCTC 2008 Application to Temporarily Suspend Release of Firm Available Transfer Capacity on the BC>AB Path

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Dear Ms. Hamilton:

Re: TransCanada Energy Ltd. (TCE) Complaint Pursuant to the Provisions of the Utilities Commission Act (B.C.)

On October 9, 2008, TCE submitted a complaint ("Complaint") against the British Columbia Transmission Corporation ("BCTC") relating to Firm Transmission Service on the BC to Alberta Path. By letter dated 17 October 2008, the British Columbia Utilities Commission (the "Commission") requested comment from BCTC on its views on a process to review the Complaint.

On October 31, 2008, BCTC submitted a letter to the Commission stating that BCTC anticipates filing its next Tariff Application by 21 November 2008, which will address the issue of Firm Sales to Alberta. BCTC's October 31, 2008 letter also stated that the issues raised by TCE in the Complaint are to be addressed in its pending Tariff Application, and submitted that: "(i) the Application should be considered BCTC's response to the Complaint, and (ii) the Complaint should be heard at the same time as the Application." BCTC also suggested that detailed procedural steps for addressing both the Complaint and the Application, including the issue of whether an oral hearing is appropriate, should be addressed during a joint procedural conference convened for that purpose following the filing of the Tariff Application.

This letter serves as TCE's response to BCTC's October 31, 2008 correspondence. It is TCE's respectful view that its Complaint should not be combined with BCTC's next Tariff Application. Although the Complaint and BCTC's next Tariff Application both address Firm Sales into Alberta, the Tariff Application and any proceeding relating thereto, cannot adequately address all of the issues set forth in the Complaint. For instance, the Complaint requests the Commission to direct BCTC to prioritize its firm capacity on the British Columbia-Alberta ("BC>AB") path retroactive to December 1, 2007 (either at first instance or after an oral hearing).

BCTC's June 3, 2008 Application to Temporarily Suspend the Release of Firm Available Transfer Capacity on the BC to Alberta Path until its next Tariff Application, however, makes no mention of the degradation of the value of firm service due to the increased

sales of long-term firm point-to-point service into Alberta beginning December 1, 2007. Moreover, the remedy of giving priority to firm holders of capacity before these increased sales was not discussed as an option at the Stakeholder Consultation Meeting No. 2 on July 14, 2008. TCE's July 24, 2008 comments again protested this omission, and although BCTC's August 8, 2008 Report to the Commission Regarding Firm Sales to Alberta and Conditional Firm Service ("BCTC's August 8, 2008 Report") finally addressed TCE's proposal to prioritize firm capacity retroactive to December 1, 2007, BCTC made clear that it does not support such an option, stating that it raises issues of comparability among customers, pricing issues, and practicality issues.¹

It should also be noted that the Commission's July 8, 2008 Order approving BCTC's Application to Temporarily Suspend the Release of Firm Available Transfer Capacity on the BC to Alberta Path until its next Tariff Application directed BCTC to include in its next Rate Design review and/or FERC-890 compliance filing a Tariff section with provisions for how BCTC will handle "future situations, similar in nature to that addressed in the Application".² Therefore it is clear that TCE's request for retroactive relief will not be fully addressed in BCTC's next Tariff Application.

Furthermore, TCE is concerned that BCTC's next Tariff Application will not provide the full and fair review of all of the issues raised in the Complaint, that would otherwise occur in a separate process. Finally, the filing of the Complaint, in TCE's respectful view, has triggered the BCUC's jurisdiction to hear and to adjudicate upon the matters raised in the Complaint and TCE urges the BCUC to proceed with an independent process for that purpose.

Sincerely,

TransCanada Energy Ltd.

Original Signed by

Frank Karabetsos
Legal Counsel

¹ See BCTC's August 8, 2008 Report at lines 23-24.

² See Order No. G-110-08 at Ordering Paragraph 4; see also BCTC's August 8, 2008 Report at lines 9-10.