



File OF-Tolls-Group1-A159-2014 01  
26 November 2015

Mr. Brian Troicuk  
Director, Regulatory Affairs  
Alliance Pipeline Ltd.  
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Dear Mr. Troicuk,

**Alliance Pipeline Ltd. (Alliance) Compliance Filing on Interruptible and Seasonal Bid Mechanics dated 7 October 2015**  
**Alliance Application for Approval of New Services and related Tolls and Tariffs for Services dated 27 October 2015**  
**Tenaska Marketing Canada, a division of TMV Corp (Tenaska) Application for Modification to Alliance's New Services Offering Tariff dated 10 November 2015**

The Board is in receipt of a number of filings and applications regarding the New Services Offering Tariff (Tariff) to be implemented by Alliance as of 1 December 2015.

**Compliance Filing on Interruptible and Seasonal Bid Mechanics**

The Board's RH-002-2014 Decision required Alliance to report on Interruptible and Seasonal Bid Mechanics by 7 October 2015 and provided interested parties 15 days to file any comments. Alliance made [this filing](#) on 7 October 2015 (Compliance Filing).

As part of this submission, Alliance attached the Alliance Transportation Access Policy (ATAP), which sets out the comprehensive processes by which Alliance would administer requests for all of its services commencing 1 December 2015. Alliance indicated that it had previously distributed a draft of the ATAP to its existing, new, and prospective shippers and other affected stakeholders. In addition to providing the draft document, Alliance stated that its communication also briefly addressed matters related to the type of data to be used in the setting of bid floors and reporting expectations beyond those prescribed by the Board. Alliance stated that it received written comments from three shippers, and met with one of those shippers on that shipper's request, following which it revised its ATAP document.

On 16 October 2015, Alliance also filed a [Notice of Tariff Amendment for Interruptible Bid Mechanics](#) (Notice of Tariff Amendment), describing Tariff amendments necessitated by the ATAP.

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More specifically, Alliance explained that the Tariff amendments were related to a ranking distinction between non-liquids and liquids receipt points in the awarding of interruptible service.

On 22 October 2015, the Board received comments from [Tenaska](#), [BP Canada Energy Group ULC](#) (BP Canada) and [Encana Corporation](#) (Encana) regarding the Compliance Filing and Notice of Tariff Amendment. The parties requested clarification from Alliance on aspects of the ATAP and raised concerns with several of the ATAP's provisions. BP Canada expressed concerns with Alliance's proposed treatment of liquids receipt points, including the proposed Tariff amendment and ATAP provisions related to the ranking distinction between non-liquids and liquids receipt points. Both BP Canada and Encana submitted that measures are required to prevent Alliance from using non-public information in setting bid floors.

BP Canada and Encana also expressed concerns regarding Alliance's approach to consultation. The companies indicated that Alliance did not meet with its shipper task forces. BP Canada submitted its view that task force discussions that involve the whole stakeholder community can lead to better informed solutions. Encana stated that it urged Alliance to hold an all-customer meeting to further discuss the changes in a timely and efficient manner well in advance of the new system operations and was disappointed with Alliance's insular approach to consultation. On 28 October 2015, Alliance filed [its reply](#) to comments from shippers, commenting on the clarification questions and concerns of its shippers.

#### **Alliance Application for Approval of New Services and related Tolls and Tariffs for Services**

On 27 October 2015 Alliance filed an [Application](#) pursuant to Part IV of the *National Energy Board Act* (Act) for Approval of New Services and related Tolls and Tariffs for Services on the Alliance Pipeline effective 1 December 2015 (Tariff Application), which proposed fifteen changes to the Tariff, as considered in the RH-002-2014 proceeding. Alliance indicated that five of these changes reflect Board direction from the RH-002-2014 Decision, for which it did not seek Board approval, while the remaining changes, in respect of which an Order pursuant to Part IV of the Act was requested, are service enhancements or modifications, clarifications or other minor changes. Among these amendments was new wording related to the ranking distinction between non-liquids and liquids receipt points. Alliance submitted that the new Tariff would be effective 1 December 2015.

The Board issued a [letter](#) on 9 November 2015 notifying parties of an opportunity to provide comments by 12 November 2015 and allowing Alliance to reply by 17 November 2015. On 12 November 2015, BP Canada filed its [comments](#) on the Tariff Application. BP Canada contended that some of the changes to the Tariff proposed by Alliance were material, and expressed concern that Alliance had not put the proposals to its shipper task forces. BP Canada requested that the Board direct broader consultation processes to avoid piecemeal reviews of the Tariff arising from bilateral disputes between Alliance and individual shippers.

BP Canada suggested that the Board approve uncontentious Tariff amendments and those Tariff modifications requested in the Tenaska Application (described below) on an interim basis, effective 1 December 2015. Under BP Canada's proposal, Alliance would consult with its shipper task forces together in the same room on all potential Tariff amendments. According to BP Canada, both Alliance and its shippers require and benefit from time and space to be able to comment on the whole package of amendments, and hear each other's comments on that package.

On 16 November 2015, Alliance filed its [reply](#) to BP Canada's comments, and in particular those comments relating to Alliance's consultation with shippers. It was Alliance's view that the Board need not direct Alliance to consult with its shipper task forces. Alliance contended that it has been actively working with each of its new shippers and other industry stakeholders to provide hands-on training leading up to the switchover to the New Services Offering framework on 1 December 2015.

Alliance argued that its customers expect to be able to rely on the amendments proposed in the Tariff Application for 1 December 2015 on a permanent basis. Accordingly, Alliance asserted that the Board should dismiss BP Canada's request that uncontentious amendments be approved only on an interim basis. Alliance expected that there would be an opportunity in early 2016 for Alliance and its shippers to meet collectively to review and discuss new service start-up issues and service enhancements.

#### **Tenaska Application for Modification to New Services Offering Tariff**

On 10 November 2015, Tenaska filed an [application](#) pursuant to section 59 of the Act for an Order directing Alliance to implement changes to the Tariff (Tenaska Application). These Tariff amendments related to the scheduling and ranking of receipt point diversions and to preventing the use of non-public information in marketing capacity on the Alliance Pipeline.

On 17 November 2015, Alliance filed its [response](#) to the Tenaska Application. In Alliance's view, the Board ruled on the issues raised in the Tenaska Application during the RH-002-2014 hearing and Tenaska had sufficient opportunity to raise its concerns then. Alliance asserted that Tenaska's request should have been properly filed as an application for review and variance of the Board's RH-002-2014 Decision pursuant to Section 21 of the Act. Alliance requested that the Board dismiss the application in its entirety.

By letter dated 18 November 2015, the Board invited Tenaska to file any comments in reply to the submissions of Alliance and BP Canada on its application by 20 November 2015.

In its reply filed on 20 November 2015, Tenaska said it has objected to Alliance's methodology for scheduling of receipt point diversions since Alliance's New Service Offering Application was filed in May of 2014. Tenaska said that it did not address those issues in the RH-002-2014 proceeding on the basis of Alliance's commitment to implement a task force process to resolve issues once the shipper set was known and before the Tariff was to be implemented on 1 December 2015. Tenaska submitted that this process never materialized.

Tenaska supported BP Canada's suggestion of an interim Tariff, pending shipper consultations provided that the Tenaska Application amendments are approved on an interim basis. Otherwise, Tenaska indicated its strong preference that the Board immediately initiate a process to consider the application, even if that means the matter is not resolved by 1 December 2015.

The Board received, but did not consider, Encana's 19 November 2015 [submission](#). The Board also did not consider Alliance's 25 November 2015 [letter](#) on the Tenaska Application. Alliance and Tenaska each had the final right of reply on their respective applications.

## **Views of the Board**

### *Interim Tariff and ATAP*

The Board approves Alliance's Tariff Application, with the exception of number 11, Awarding of Interruptible Capacity, on an interim basis. The Board does not approve the Tenaska Application on an interim basis. Shippers were provided an opportunity to comment on Alliance's Tariff Application via a Board-initiated process and the Board only received comments on number 11. The timing of the Tenaska Application, on the other hand, did not allow for the submission of comments from Alliance's shipper community and interested parties.

The ATAP addresses the processes by which Alliance would administer requests for all of its new services commencing 1 December 2015. The Board recognizes that, as a practical matter, Alliance will need to implement such a policy while its interim Tariff is in place. The Board therefore approves the ATAP as drafted by Alliance, with the exception of matters related to Alliance's Tariff amendment number 11, on an interim basis. The Board notes that many of the comments relating to the ATAP were requests for clarification, which Alliance provided. The Board also notes Alliance's statement that reducing the maximum notification period in the awarding of capacity to one business day, as suggested by Tenaska, is not feasible.

The inclusion and exclusion of certain provisions in the interim Tariff and the interim ATAP should not be perceived as an indication of how the Board would adjudicate these matters on a final basis. As discussed below, the Board is of the view that the issues raised regarding the ATAP, the Tariff, and the remainder of Alliance's Compliance Filing would be best addressed through consultations and negotiations between Alliance and its shippers. Therefore, the Board is not ruling on any of the issues at this time.

Alliance is directed to file an interim Tariff and an interim ATAP with the Board reflecting these directions as soon as possible.

### *Consultation*

In its RH-002-2014 Reasons for Decision, the Board acknowledged that Alliance's proposed terms and conditions of service were untested and could have unanticipated impacts. For this reason, the Board set out an expectation that Alliance continue to consult with its shippers on the terms and conditions. The Board stated that to the extent unanticipated impacts arise, parties are expected to negotiate and develop resolutions that are mutually agreeable. In addition, the Board directed Alliance to consult with shippers and report to the Board on certain information related to the bid process for seasonal and interruptible service.

The Board finds Alliance's consultation on its Compliance Filing, including the ATAP, and its Tariff amendments to be unsatisfactory. In the Board's view, the New Services Offering represents a considerable change in Alliance's operations, and open consultation is of paramount importance in introducing new and untested services on the pipeline. Consultations, and particularly shipper task force meetings, provide pipeline operators and users with an opportunity to collaboratively raise and refine issues, and develop appropriate solutions. In this regard, the Board is disappointed with Alliance's approach to consultation.

The Board directs Alliance to conduct consultations and negotiations with its shippers and other interested stakeholders on each of the issues listed in the attached Appendix 1. At the very least, these consultations should consist of in-person meetings with Alliance's shipper task forces, where each of the issues is discussed with all interested stakeholders. The Board notes that Appendix 1 includes only the key issues raised in the filings described above. The Board realizes that additional issues may emerge during the consultation process. Alliance and its shipper task forces are encouraged to discuss *all* concerns and potential issues at the in-person meetings.

Following these consultations, Alliance is directed to refile its Tariff and Compliance Filing, including the ATAP, either with evidence of the full support of its shippers or with outstanding issues identified. For clarity, Alliance is directed to indicate the status of each of the issues listed in Appendix 1. With respect to unresolved issues, in particular, Alliance is directed to provide a background on the issue, the process used to resolve the issue, and a discussion of Alliance's position along with its rationale. Alliance's submissions are to be filed with the Board by **noon, Calgary time, on 1 February 2016**. Parties may submit comments on these filings by **noon, Calgary time, on 16 February 2016** and Alliance may file its reply with the Board by **noon, Calgary time, on 1 March 2016**. The Board will determine, at that time, if further process is required.

The Board is of the view that it is in every party's interest to resolve these issues as expeditiously as possible, and expects Alliance and its shippers to commence consultations and negotiations immediately in order to move towards finalizing the Tariff. The Board strongly encourages Alliance and its shippers to work towards mutually agreeable resolutions, rather than resorting to Board rulings which often create winners and losers. However, if Alliance and its shippers are unable to reach such resolutions, specific issues can be brought to the Board for adjudication through the process set out above.

*Tenaska Application*

The Board has included Tenaska's proposals in Appendix 1 for discussion during the Board-ordered consultation process, but has not directed Alliance to reflect the changes requested by Tenaska in its interim Tariff. As with Alliance's Compliance Filing and Tariff Application, the Board declines to rule on the Tenaska Application, including whether it is appropriately filed under section 59 of the Act, at this point. The Board has directed that the Tenaska proposals will be the subject of forthcoming discussions. The Board will make a determination on the procedural correctness and merit of any application filed following the ordered consultation, if necessary.

The Board directs Alliance to serve a copy of this letter on its shippers, members of the Canadian Shipper Task Force and Shipper Task Force Policy Group and parties to the RH-002-2014 proceeding.

Any questions may be addressed to Lauren Bell, Legal Counsel, at (403) 299-2709 or toll free at 1-800-899-1265.

Yours truly,

*Original signed by*

Sheri Young  
Secretary of the Board

Attachment

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### **Appendix 1: List of Issues**

The issues to be discussed in Alliance's consultations with its shippers should include, but not be limited to, the following:

- 1) Each of the 15 Tariff amendments proposed by Alliance in its 27 October 2015 filing:
  - 1.1) Bid Floor Definition;
  - 1.2) Recoverable Cost Variances Mechanism;
  - 1.3) Pipeline Abandonment;
  - 1.4) Pre-Determined Allocations;
  - 1.5) Receipt Points;
  - 1.6) Imbalance Cash Out Price;
  - 1.7) Title;
  - 1.8) Alliance Trading Pool;
  - 1.9) Staged Contracts;
  - 1.10) Overrun Charge – Interruptible Service;
  - 1.11) Awarding of Interruptible Capacity;
  - 1.12) Minimum Flow Requirements;
  - 1.13) Electronic Communication;
  - 1.14) Diversions; and
  - 1.15) Receipt Point Pressure.
  
- 2) Each of the three Tariff amendments requested by Tenaska in its 10 November 2015 application:
  - 2.1) Modifying section 15.1(a) of the General Terms and Conditions to provide that the Alliance Pipeline is obligated to schedule receipt point diversions for firm receipt service and firm full path service shippers, subject only to the availability of capacity;
  
  - 2.2) Modifying section 14.2 of the General Terms and Conditions to provide that receipt point diversions for firm receipt service and firm full path service shippers rank ahead of all interruptible services in priority; and
  
  - 2.3) Including in the Tariff an explicit rule that Alliance personnel who are responsible for or engaged in the marketing of capacity on the Alliance system will have no access to non-public operating information.
  
- 3) Any other Tariff amendments proposed during Alliance's consultations with its shippers.

- 4) The mechanisms of the bid process, including when and how Alliance will announce bid floors, timelines for submitting bids, and any relationship between the timing of nominations for Priority Interruptible Transportation Service and bids for interruptible or seasonal service.
- 5) The information to be posted for shippers to ensure transparency in the way Alliance sets bid floors, including the amount of available capacity on the system.
- 6) The information to be contained in quarterly reports to the Board.
- 7) The measures that Alliance will take to prevent the use of non-public information in setting bid floors.
- 8) Alliance's obligation to offer available capacity for seasonal service or interruptible service, and the manner in which Alliance would determine the available capacity.
- 9) The need for increased flexibility for shippers in section 8 of the Alliance Transportation Access Policy (ATAP) regarding monthly relocations.
- 10) The maximum notification period of five business days, within which Alliance is required to notify all service applicants who have been conditionally awarded any firm capacity or seasonal capacity under sections 4.4(d) and 5.2(A)(h) of the ATAP.
- 11) Any other issues regarding Alliance's compliance filing, including the ATAP, raised during Alliance's consultations with shippers.
- 12) The form of consultations to be undertaken by Alliance on toll and tariff issues on a go-forward basis.