



**ORDER NUMBER
G-68-21**

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

the *Fuel Price Transparency Act*, SBC 2019, Chapter 46

and

Framework for the Determination of Confidentiality and Treatment of Protected Information
Collected under the *Fuel Price Transparency Act*

BEFORE:

D. M. Morton, Panel Chair
W. M. Everett, QC, Commissioner
E. B. Lockhart, Commissioner
B. A. Magnan, Commissioner

on March 9, 2021

ORDER

WHEREAS:

- A. On September 16, 2020, Parkland Corporation (Parkland) filed an application with the British Columbia Utilities Commission (BCUC) for an advance ruling on confidentiality for certain commercial information that Parkland is required to file under the *Fuel Price Transparency Act* (FPT Act) and Regulations (Application);
- B. On November 28, 2019, the Government of British Columbia enacted the FPT Act, which requires a responsible person engaged in a reportable activity to submit reportable fuel data to the Administrator;
- C. By Order in Council (OIC) No. 123/20, dated March 9, 2020, the Lieutenant Governor in Council (LGIC) designated the BCUC as the Administrator of the FPT Act. The BCUC is responsible for collecting fuel data to promote competitiveness and public confidence in the competitiveness of the fuel market in British Columbia;
- D. By OIC No. 474/20, dated August 13, 2020, the LGIC established the Fuel Price Transparency Regulations (FPT Regulations) under the FPT Act, which require fuel importers, wholesalers, terminal owners/operators, and those who supply fuel to retail dealers, to make periodic submissions of fuel data to the BCUC effective November 1, 2020. As the Administrator of the FPT Act, the BCUC is responsible for ensuring compliance with these regulations;
- E. By Special Direction dated August 14, 2020, issued pursuant to section 4 of the FPT Act, the BCUC was directed to conduct a retail fuel data collection pilot to inform the Minister of the development of

regulations for ongoing fuel data collection targeted at the retail component of the fuel supply chain in British Columbia;

- F. Section 9 of the FPT Act provides that the BCUC may publish fuel data, or other information or records acquired under the FPT Act, if it is satisfied protected information will not be disclosed, or the public interest in the disclosure of the protected information outweighs any potential harm to responsible persons of releasing the protected information having regard, without limitation, to the importance of the competitiveness of the market for reportable fuels, and the public confidence in the competitiveness of that market;
- G. Section 9 of the FPT Act also provides “protected information” means information that would reveal trade secrets of a responsible person, or commercial, financial, labour relations, scientific or technical information of or about a responsible person. The term “trade secret” is defined in the *Freedom of Information and Protection of Privacy Act*;
- H. By Order G-15-19, dated December 17, 2018, the BCUC established its Rules of Practice and Procedure (Rules). Part IV of the Rules applies to all requests for confidentiality and confidential documents filed with the BCUC;
- I. In the Application, Parkland seeks an order providing for, among other things, advanced approval of confidential status for certain information that responsible persons are required to file under the FPT Act and Regulations that they identify as commercially or competitively sensitive;
- J. In Order G-242-20, dated September 24, 2020, the BCUC noted Parkland’s Application has wider implications to all responsible persons under the FPT Act who may seek similar relief for confidentiality of information they are required to file under the FPT Act. For regulatory efficiency, the Panel established a public hearing to broadly review the matter regarding an advanced ruling on confidentiality and requested participants to make written submissions on their views regarding confidentiality;
- K. Pursuant to the regulatory timetable established by Order G-242-20, the BCUC received written intervenor submissions by October 15, 2020, and Parkland filed its reply submission on October 22, 2020;
- L. In the submissions, certain participants sought an interim order from the BCUC providing assurance fuel data filed with the BCUC by responsible persons as of or after November 1, 2020, that is identified by the responsible persons as protected information, will be kept confidential if the BCUC has not reached a determination on confidentiality prior to that time;
- M. By Order G-275-20, dated October 30, 2020, the BCUC provided advanced approval of confidential status to fuel data submitted by responsible persons pursuant to the FPT Act that the responsible persons identify as protected information, until the completion of a separate process to establish a framework and process for the determination of confidentiality and treatment of protected information;
- N. By Order G-303-20, dated November 30, 2020, the BCUC amended the regulatory timetable for the proceeding to establish the framework and process for the determination of confidentiality and treatment of fuel data submitted to the Administrator by responsible persons over which they have claimed such fuel data is protected information under the FPT Act;
- O. On February 8, 2021, the BCUC issued the Framework for Determination of Confidentiality and Treatment of Protected Information – Draft No. 1 (Framework Draft No. 1) for comment;

- P. On March 8, 2021, BC Old Age Pensioners' Organization et al. (BCOAPO) requested an extension to the deadline for providing its submissions on Framework Draft No. 1 from March 8, 2021 to March 10, 2021; and
- Q. The BCUC has considered BCOAPO's request and considers that an amendment to the regulatory timetable is warranted.

NOW THEREFORE the BCUC orders that the regulatory timetable attached as Appendix A to Order G-303-20 is amended as set out in Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 9th day of March 2021.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

British Columbia Utilities Commission
Framework for the Determination of Confidentiality and Treatment of Protected Information
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REGULATORY TIMETABLE

Action	Date (2021)
Intervener and Parkland written submissions and letters of comment on Framework Draft No. 1	Wednesday, March 10
Further process	To be determined