



ORDER NUMBER
G-153-24

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

and

Plateau Pipe Line Ltd. and Pembina Pipeline Corporation
Complaint filed by Tidewater Midstream and Infrastructure Ltd.
Regarding the Western Pipeline System (Northern Segment)

BEFORE:

B. A. Magnan, Commissioner

on May 31, 2024

ORDER

WHEREAS:

- A. On May 21, 2024, Tidewater Midstream and Infrastructure Ltd. (Tidewater) filed a complaint (Complaint) regarding Plateau Pipe Line Ltd., a wholly-owned subsidiary of Pembina Pipeline Corporation (Plateau) and common carrier service on the northern segment of the western pipeline system (Western System);
- B. By Order G-146-24 dated May 22, 2024, the BCUC established a proceeding to review the Complaint. The BCUC confirmed that the toll established for the Western System by Order G-89-22 (Toll Order) remains in effect until determined otherwise by the BCUC, and ordered that Plateau may not suspend or discontinue service to Tidewater on the Western System pending review of the Complaint;
- C. On May 27, 2024, Plateau filed its response to the Complaint, citing among other matters, its concerns regarding the jurisdiction of the BCUC to adjudicate the Complaint. Plateau requested, among other things, that the BCUC dismiss the Complaint or, in the alternative, rescind the relief granted in Order G-146-24;
- D. On May 28, 2024, Tidewater filed a letter asserting that Plateau appeared to be violating the terms of Order G-146-24 and requesting that the BCUC confirm a draw-down of a letter of credit posted by Tidewater and a requirement for Tidewater to provide a replacement performance assurance would constitute a contravention of the BCUC's order;
- E. On May 29, 2024, Plateau filed a response disputing Tidewater's allegation; and
- F. The BCUC has reviewed the submissions to date and considers establishment of a further regulatory timetable is warranted.

NOW THEREFORE for the reasons outlined in the decision accompanying this order, the BCUC orders as follows:

1. A further regulatory timetable is established, as set out in Appendix A to this order.
2. Plateau is directed to file with the BCUC by Friday, June 7, 2024 the following documents (together, the Supplemental Information):
 - i. the letter agreement between Pembina West Limited Partnership and Tidewater effective January 1, 2022, relating to transportation services on the Western System (Letter Agreement);
 - ii. the Terms and Conditions associated with the Letter Agreement;
 - iii. the current version of the Rules and Regulations referenced in the toll schedule filed by Plateau in the 2022 proceeding setting tolls for the Western System; and
 - iv. copies of the invoices issued to Tidewater for service on the Western System between November 2023 and May 2024, and a summary of any outstanding payment amounts for each invoice.

DATED at the City of Vancouver, in the Province of British Columbia, this 31st day of May 2024.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner

Plateau Pipe Line Ltd. and Pembina Pipeline Corporation
Complaint filed by Tidewater Midstream and Infrastructure Ltd.
Regarding the Western Pipeline System (Northern Segment)

REGULATORY TIMETABLE

Action	Date (2024)
Plateau to file the Supplemental Information	Friday, June 7
Further process	To be determined

DECISION

Complaint

On May 21, 2024, Tidewater Midstream and Infrastructure Ltd. (Tidewater) filed a complaint (Complaint) regarding Plateau Pipe Line Ltd., a wholly-owned subsidiary of Pembina Pipeline Corporation (Plateau) and common carrier service on the northern segment of the western pipeline system (Western System). In the Complaint, Tidewater stated that Plateau was attempting to charge Tidewater tolls for service on the Western System that are neither approved nor just and reasonable. Further, Tidewater stated that Plateau intended to suspend the provision of service to Tidewater on the Western System as early as May 22, 2024, should Tidewater fail to immediately pay certain disputed payment amounts and post a letter of credit.¹

In the Complaint, Tidewater references a letter agreement between Pembina West Limited Partnership (PWLP)² and Tidewater effective January 1, 2022, relating to transportation services on the Western System (Letter Agreement), as well as the toll schedule filed by Plateau in the 2022 proceeding setting tolls for the Western System (Toll Schedule).³

On May 22, 2024, the British Columbia Utilities Commission (BCUC) established a proceeding to review the Complaint. The BCUC ordered that Plateau may not suspend or discontinue service to Tidewater on the Western System pending review of the Complaint. Further, the BCUC confirmed that the toll established by Order G-89-22 (Toll Order) remained in effect until determined otherwise by the BCUC, and provided Plateau an opportunity to file a response to the Complaint.⁴

On May 27, 2024, Plateau filed its response, citing, amongst other matters, its concerns regarding the jurisdiction of the BCUC to adjudicate the Complaint.⁵ In its submission, Plateau requested that the BCUC dismiss the Complaint. In the alternative, Plateau requested that the BCUC:

1. Deny Tidewater's request for an order prohibiting Plateau from suspending Tidewater's service on the Western System and rescind the relief granted in Order G-146-24;
2. Confirm the tolls as set out in the Toll Schedule and pursuant to the Letter Agreement are interim tolls and remain in effect;
3. Declare Plateau is entitled to enforce its Rules and Regulations; and
4. Convene an expedited process to consider the Toll Order.⁶

On May 28, 2024, Tidewater filed a letter with the BCUC, in which it stated that Plateau appeared to be violating the terms of Order G-146-24.⁷ Specifically, Tidewater stated that despite the relief granted by the BCUC in Order

¹ Exhibit B-1, pp. 1, 9, 12.

² Plateau is the general partner of PWLP, which owns the Western System. Exhibit B-1, p. 5.

³ Exhibit B-1, pp. 7–8.

⁴ Order G-146-24, dated May 22, 2024.

⁵ Exhibit C1-1, pp. 10–15.

⁶ Exhibit C1-1, pp. 3–4.

⁷ Exhibit B-2, p. 1.

G-146-24, on May 27, 2024, Plateau issued a notice of default to Tidewater (Notice of Default) alleging that Tidewater is in default of its obligations pursuant to the Letter Agreement and advising that:

1. If full payment of outstanding amounts is not received by 4:00pm ET on May 31, 2024, Pembina would draw-down (in the amount of \$5 million) an irrevocable letter of credit previously supplied by Tidewater; and
2. Pembina required Tidewater to provide a replacement performance assurance, in the form of another irrevocable letter of credit in the amount of \$15 million, by 4:00pm ET on May 31, 2024.⁸

Tidewater considers that a draw on the existing letter of credit would result in Plateau charging tolls in excess of those established by the Toll Order, and requests the BCUC confirm that this action would be a contravention of Order G-146-24.⁹

On May 29, 2024, Plateau filed a response disputing Tidewater's characterization of the Notice of Default and submitting that Tidewater is "attempting to persuade the BCUC to become involved in matters outside of its jurisdiction and to grant an injunction without Tidewater meeting the test for one". Plateau submits that the letter of credit is governed by the law of Alberta, and that it is for the Alberta Courts to make determinations about whether it can be properly drawn on.¹⁰

Panel Determination

There is significant disagreement between Tidewater and Plateau regarding the proper interpretation of the toll established for the Western System in the Toll Order and the BCUC's jurisdiction to adjudicate the merits of the Complaint. It would be premature for the BCUC to issue a decision on the substance of this matter without further examination of the specific circumstances at play, including review of the Letter Agreement and associated documentation. As such, the Panel directs Plateau to file a copy of the following documents (in confidence where necessary) with the BCUC by no later than June 7, 2024:

1. the Letter Agreement;
2. the Terms and Conditions associated with the Letter Agreement;
3. the current version of the Rules and Regulations referenced in the Toll Schedule; and
4. copies of the invoices issued to Tidewater for service on the Western System between November 2023 and May 2024 and a summary of any outstanding payment amounts for each invoice.

The Panel reminds Plateau and Tidewater that BCUC Order G-146-24 remains in effect, and as such, Plateau must not suspend or discontinue service to Tidewater on the Western System pending review of the Complaint by the BCUC.

DATED at the City of Vancouver, in the Province of British Columbia, this 31st day of May 2024.

Original signed by:

B. A. Magnan
Commissioner

⁸ Exhibit B-2, pp. 1–2.

⁹ Exhibit B-2, p. 2.

¹⁰ Exhibit C1-2, pp. 1, 3.