



**ORDER NUMBER**  
**G-221-24**

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, Panel Chair  
E. A. Brown, Commissioner  
T. A. Loski, Commissioner

on August 15, 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;
- B. By Orders G-146-24, G-153-24, and G-168-24, dated May 22, 2024, May 31, 2024, and June 20, 2024, respectively, the BCUC established and furthered a regulatory timetable for review of the Complaint;
- C. On July 24, 2024, Tidewater and Plateau filed responses to BCUC Information Request No. 1 (IR No. 1);
- D. By letter dated July 31, 2024, Tidewater raised concerns with, among other things, the confidentiality of information filed by Plateau in the proceeding to date, including Plateau's redacted responses to IR No. 1, and Tidewater's access to such information;
- E. By letters dated August 1, 2024 and August 8, 2024, Plateau filed responses to Tidewater's submission, wherein Plateau reiterated its request for confidentiality over the redacted information filed to date; and
- F. The BCUC considers the following determinations to be warranted.

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

- 1. The redacted information contained in Plateau's submissions filed in this proceeding to date shall be held confidential until determined otherwise by the BCUC.

2. Tidewater can access the confidential information filed in this proceeding to date, subject to Tidewater's representatives executing and filing with the BCUC confidentiality declaration and undertaking forms.

**DATED** at the City of Vancouver, in the Province of British Columbia, this        15<sup>th</sup>        day of August 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)

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**DECISION**

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**Confidentiality**

On May 22, 2024, the British Columbia Utilities Commission (BCUC) established a proceeding to review a complaint (Complaint) filed by Tidewater Midstream and Infrastructure Ltd. (Tidewater) 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).<sup>1</sup>

On July 31, 2024, Tidewater filed a letter with the BCUC outlining several issues that Tidewater submits have arisen since the filing of party responses to BCUC Information Request No. 1 (IR No. 1) in the Complaint. In its letter, Tidewater states that, despite repeated requests, Plateau has not provided Tidewater with a copy of its unredacted responses to IR No. 1, and that Plateau is requiring Tidewater representatives to execute confidentiality declaration and undertaking forms (Confidentiality Undertakings) prior to accessing this information.<sup>2</sup>

Tidewater argues that BCUC proceedings are generally open to the public and the information filed in these proceedings made publicly available. Tidewater notes that Part IV of the BCUC's Rules of Practice and Procedure (Rules) establishes a framework governing requests for confidentiality, and that Rule 18 requires a party to make a request in accordance with that section should they seek to keep confidential any information filed with the BCUC. Under the Rules, the BCUC may grant a request for confidentiality on any terms the BCUC considers appropriate, and may grant a request for access to confidential information subject to the execution of a Confidentiality Undertaking. Tidewater argues that the BCUC has not issued any order granting confidentiality over the redacted information contained in Plateau's responses to IR No. 1, nor has Plateau made such a request. As such, Tidewater submits that its representatives should not be required to execute Confidentiality Undertakings in order to access to the redacted information contained in Plateau's responses.<sup>3</sup>

Tidewater further argues that executed Confidentiality Undertakings should not be required even if the BCUC were to grant confidential treatment to the redacted information contained in Plateau's submissions. It appears to Tidewater that the information redacted by Plateau is either (i) already in Tidewater's possession or (ii) information that Tidewater is entitled to pursuant to the terms of the 2022 Letter Agreement.<sup>4</sup> Tidewater asserts that the terms of the Confidentiality Undertaking would unfairly limit its ability to access and use this information in other aspects of its business.<sup>5</sup>

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<sup>1</sup> Order G-146-24, dated May 22, 2024.

<sup>2</sup> Exhibit B-6, pp. 1–2.

<sup>3</sup> Exhibit B-6, p. 2.

<sup>4</sup> Letter agreement between Pembina West Limited Partnership and Tidewater effective January 1, 2022, relating to transportation services on the Western System, filed as Exhibit C1-3, Attachment A.

<sup>5</sup> Exhibit B-6, pp. 2–3.

In reply, Plateau requests confidential treatment be granted to the redacted information contained in its submissions to date. In support of its request, Plateau states that the information is commercially sensitive, shipper-specific, has been consistently kept confidential, or is governed by confidentiality provisions in various agreements. Plateau submits that disclosure of this information could reasonably be expected to result in undue material financial loss or gain or significant harm or prejudice to the competitive negotiating positions of Tidewater, as identified to Plateau by Tidewater in 2022.<sup>6</sup>

Plateau further argues that the redacted submissions contain information pertaining to tolls charged to Tidewater, detailed commercial terms of prior service and settlement agreements, as well as details regarding the integrity work to be completed by Plateau. Plateau states that the BCUC has previously granted confidential treatment of some of this information in the Plateau 2022 toll proceeding<sup>7</sup>, and that any of the above information not captured by the grant of confidentiality under Order G-89-22 is either covered by confidentiality terms of other agreements, or is information which could reasonably be expected to cause harm to Plateau and/or to individual or public safety.<sup>8</sup>

Plateau argues that Tidewater's representatives should be required to execute Confidentiality Undertakings in order to access the redacted information filed by Plateau to date. Plateau submits that some of the confidential information filed in the Complaint may not be available to Tidewater via other means, and that it is unclear what remedy Plateau would have if it were to disclose this information to Tidewater absent Confidentiality Undertakings and Tidewater were not to keep the information confidential.<sup>9</sup>

Plateau considers Tidewater's objection to executing Confidentiality Undertakings to be baseless, as in its view the terms of the Confidentiality Undertakings in no way limit Tidewater's use of information already in Tidewater's possession or for which Tidewater has pre-existing rights to access. Plateau submits that even with executed Confidentiality Undertakings, the limits on Tidewater's use of information to which it has access outside of this proceeding would continue to be the limits set outside of the BCUC's process. Further, Plateau submits that Tidewater's concerns could be addressed through the drafting of the Confidentiality Undertaking, rather than an absolute refusal to execute Confidentiality Undertakings, which Plateau notes its representatives executed on July 15, 2024.<sup>10</sup>

### *Panel Determination*

The Panel finds that the redacted information contained in Plateau's submissions to date is commercially sensitive, shipper specific, and/or technical information, which if disclosed could reasonably be expected to result in material harm to Plateau, Tidewater, and/or the public. Accordingly, the redacted information contained in Plateau's submissions to date shall be held confidential until determined otherwise by the BCUC.

The Panel is not persuaded that requiring Tidewater's representatives to execute Confidentiality Undertakings prior to accessing this confidential information would unreasonably fetter Tidewater's use of information regarding the Western System. As noted by Plateau, should Tidewater have pre-existing access to, or rights for access to, any of the confidential information filed in the Complaint proceeding, the limits on Tidewater's use of that information would be those established outside of the BCUC's process, and not the limits set out in the Confidentiality Undertaking. No changes to the language of the Confidentiality Undertaking are necessary to provide certainty in this respect.

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<sup>6</sup> Exhibit C1-8, p. 3.

<sup>7</sup> BCUC Order G-89-22, dated March 30, 2022.

<sup>8</sup> Exhibit C1-9, pp. 2–3.

<sup>9</sup> Exhibit C1-8, p. 4.

<sup>10</sup> Exhibit C1-8, pp. 4–5.

Further, Plateau has identified confidential information filed in the Complaint for which it is reasonable to expect that Tidewater may not have pre-existing access rights. Confidentiality Undertakings provide critical assurance that parties will maintain the confidentiality of information filed in matters before the BCUC. As such, the Panel accepts Tidewater's request for access to the confidential information filed in the Complaint proceeding to date, subject to Tidewater's representatives executing and filing Confidentiality Undertakings with the BCUC.

**DATED** at the City of Vancouver, in the Province of British Columbia, this        15<sup>th</sup>        day of August 2024.

*Original signed by:*

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B. A. Magnan  
Panel Chair/Commissioner

*Original signed by:*

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E. A. Brown  
Commissioner

*Original signed by:*

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T. A. Loski  
Commissioner