

BY E-MAIL ONLY

October 21, 2015

Grassroots Alberta Landowners Association  
Debbie Bishop  
Paul Barrette  
Prowse Chowne LLP  
Email:

Pembina Pipeline Corporation  
Douglas Crowther  
Email:

RE: Attendance of Grassroots Alberta Landowners Association (Grassroots) Witnesses  
Pembina Pipeline Corporation (Pembina)  
Applications No. 1806873, etc.

Dear Counsel:

Decision

The panel denies Pembina's request that all of the landowners identified in the Grassroots Submission be required to attend the hearing and provide oral evidence.

### Background

Further to Pembina's October 2 and 8, 2015 correspondence, Pembina expressed concern that a number of landowners identified in the Grassroots Submission are not intending to appear as witnesses at the hearing. Pembina submitted that all landowners "represented by" the Grassroots Submission should be required to testify in respect of the Grassroots Submission and their site specific concerns in particular. Pembina notes that section 20 of the *Alberta Energy Regulator Rules of Practice* (the Rules) contemplates that the Regulator whether on its own initiative or at the request of a party may require such attendance.

In response to Pembina's request, Grassroots stated that all of the landowners have filed written evidence and indicated which landowners intend to attend if they are able to present evidence. Grassroots indicated that Pembina is well aware that the landowners are represented by a negotiating team and steering committee that are knowledgeable and aware of all the concerns of their neighbours. Grassroots advised that this committee is in a position to provide evidence on

behalf of other landowners who cannot attend or who do not wish to present evidence in a public forum.

On October 21, 2015, Pembina provided a reply wherein it confirmed its request pursuant to subsections 20(1) and 20(2) of the Rules that the hearing panel issue and serve through appropriate means, a notice to attend to each landowner who is identified in the Grassroots Submission as being "represented" by it. Pembina confirmed its October 2, 2015 letter which explained why all landowners "represented by" the Grassroots Submission should be required to testify in respect of the Grassroots Submission and their site-specific concerns in particular. Pembina further submitted that the conduct of the "represented" landowners is abusive of the AER process and that the requested notices must be issued to discourage such conduct.

#### Reasons

With respect to requiring persons to attend at an oral hearing, section 20 of the Rules applies. Section 20(1) and (2) state as follows:

##### Notice to attend

20 (1) The Regulator may, on its own initiative or at the request of a party, issue a notice to attend requiring a person to attend an oral hearing or electronic hearing as a witness and to produce the documents and material set out in the notice.

(2) A notice to attend must be served by the party who requests the notice, or by the Regulator if the notice is issued on the Regulator's own initiative.

The panel finds that for it to consider compelling the attendance of a witness, it must be convinced that the evidence which would be adduced is critical for the panel to understand the issues it is charged to address. Further, it must be clear that there is no other reasonable way to obtain this evidence. Compelling and substantive reasons are needed for the panel to take such an action.

Although Pembina has given some reasons for the required attendance of all of the landowners to provide testimony at the hearing, in particular in regards to their site-specific concerns, the panel does not find these reasons to be compelling. Pembina has not provided sufficient reasons to establish why it is critical for the panel to compel the attendance of all of the landowners represented by Grassroots to this hearing. Should Pembina have concerns about the presentation of evidence by Grassroots, it remains open to Pembina to make further argument as to the weight to be applied to the evidence that is presented by Grassroots. In regards to Pembina's submissions regarding conduct and the AER process, the panel finds that those arguments are more appropriately made in the context of costs.

inquire 1-855-297-8311  
24-ho  
emerge., 1-800-222-6514

If you have any questions with respect to this matter, please contact Robert Mueller, by phone at 403-xxx-xxxx.

<Signed by Robert J. Mueller>  
Legal Counsel

cc: Ashley Karg, AER  
Greg McLean, AER  
Rachel Ruddell, AER  
Driftpile First Nation, Keltie Lambert  
Gunn Metis Local 55, Mitchell Couling  
Alexander First Nation, Caroline O'Driscoll  
Derek Nielsen, Jack N. Agrios