

August 23, 2018

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canada

By e-mail only

www.aer.ca

Tim Tycholis
Tykewest Limited

Shawn Munro
Bennett Jones LLP

Robert Bourne
Enbridge G and P Canada LP

Laura Estep
Dentons Canada LLP

**Re: Prehearing Meeting Decision
Proceeding ID 359
Tykewest Limited
Application 1869537 Common Carrier Order
Application 1869547 Common Processor Orders**

The Alberta Energy Regulator (AER) held a prehearing meeting in Calgary, Alberta on August 14, 2018, before commissioners Christine Macken (Presiding), Heather Kennedy, and Jude Daniels.

The prehearing meeting was convened to consider the issues to be addressed at a hearing and to address procedural matters. The meeting was attended by Tykewest Limited (Tykewest), Encana Corporation (Encana), Enbridge G and P Canada LP (Enbridge), and Veresen Midstream General Partner Inc. (Veresen).

In a letter to the parties dated July 19, 2018, the panel provided a list of items it wanted the parties to address at the prehearing meeting and in their prehearing written submissions:

1. The issues to be addressed at the hearing, specifically the parties' views on issues that are in scope and out of scope
2. Nature and scope of participation
3. Potential for an agreed statement of facts amongst the parties
4. The need for a formal information request (IR) process
5. Submission deadlines and preliminary motion deadlines
6. Availability for a hearing

Common Processor Application

On August 13, 2018, Tykewest filed an amendment to Application 1869547 to remove Veresen from being named a common processor of gas at the Hythe processing plant located at LSD 11-18-074-12W6M. Both Veresen and Encana are named in the application for the Hythe plant. Veresen told the panel that it agrees with Tykewest's amendment; that it has made great progress with Tykewest on terms of an agreement and as of the date of the hearing it was merely a matter of executing said agreement. The panel accepts Tykewest's amendment to Application 1869547. The panel is of the view that Veresen no longer needs to participate in the hearing and therefore is dismissed from the proceeding.

Tykwesst confirmed for the panel that it wishes to keep Encana in the application to be declared a common processor of gas at the Hythe plant on the basis that Encana has a take-or-pay arrangement with Veresen for approximately 70% volume at the plant. Encana explained that it is a supplier of gas to the facility through contractual arrangements with Veresen and is neither an owner nor an operator of the Hythe gas plant. Veresen confirmed that Veresen Midstream Limited Partnership owns the Hythe plant and Veresen Midstream General Partner Inc. is the licensee and operator of the Hythe plant. It also confirmed that Encana is a customer at the plant.

The AER's jurisdiction to make a common processor declaration is found in section 53 of the *Oil and Gas Conservation Act* (OGCA):

53(1) On application the Regulator may declare any person who is the owner or operator of a processing plant processing gas produced from a pool or pools in Alberta to be a common processor of gas from the pool or pools.

The panel is of the view that it does not have jurisdiction to issue a common processor order against a party that is not an owner or operator of a gas processing plant. The panel accepts that Encana is not an owner or operator of the Hythe facility. The panel therefore dismisses that portion of Application 1869547 in which Tykwesst seeks a common processing order against Encana in regards to the Hythe facility.

Issues within Scope for the Hearing

The Panel finds the issues for the hearing to be:

1. The need for a common processor order for gas produced from the Wembley Halfway JJJ pool at the Sexsmith facility located at LSD 04-08-75-07W6M. At the prehearing meeting, Encana questioned the AER's ability to issue the order against the Sexsmith facility if gas is not already being produced from the pool. The panel has decided it will hear submissions in that regard on the interpretation of section 53 of the OGCA, in addition to submissions from the parties on the following:
 - a. Producibile reserves are available for processing and processing facilities are needed,
 - b. Reasonable arrangements for use of processing capacity at the Sexsmith plant could not be agreed upon by the parties,
 - c. The proposed common processor is either the only economically feasible or most practical way to process the gas in question or is clearly superior environmentally.
2. The need for a common carrier order for sour gas delivered from the Tykwesst well at LSD 14-09-074-11W6M (14-09 well) to the gas gathering system at LSD 13-15-074-11W6 to the Sexsmith and the Hythe processing plants, specifically
 - a. Producibile reserves are available for transportation through an existing pipeline,
 - b. There is a reasonable expectation of a market for the gas that is proposed to be transported by the common carrier operation,
 - c. The Applicant tried to make reasonable arrangements to use an existing pipeline
 - d. The proposed common carrier operation is the only economically feasible way, the most practical way to transport the substance in question, or the clearly superior environmentally, and
 - e. For an application under sections 48(4)(a) or 48(4)(b) the designation of a delivery point for the production or the proportion of production to be delivered to the pipeline

3. Whether the common carrier order should include the compressor at LSD 14-22-074-11W6M and the compressor at LSD 16-30-74-10W5M, which is currently not operating.
4. Terms of a common carrier order, if an order is granted
 - a. The designation of a tie-in point for the common carrier
 - b. The effective date of the common carrier order.

Issues outside of the scope for the Hearing

(a) Supply of sweet dry gas and relicensing of the main pipeline

In its common carrier application Tykewest requested that sufficient volumes of sweet dry gas be delivered to its blending facility through a fuel gas line that runs parallel to the main pipeline from the Sexsmith and Hythe plants. Tykewest said the sweet dry gas would be used for fuel gas and for blending the raw gas stream from 6.5% H₂S to 5.0% H₂S.

The fuel gas line is owned by Encana and is licensed separately from the main pipeline, which is owned by Enbridge and Encana. Tykewest said in its application that a preferred option would be for Encana to relicense the pipeline to accept sour gas with 6.5% H₂S concentration, thus alleviating the need for blending. It said it had asked Encana in discussions to relicense the pipeline.

In its August 7, 2018, prehearing submission Encana informed the panel that the main pipeline was recently relicensed to carry gas with a maximum 6.5% H₂S content. This was confirmed by Encana at the prehearing meeting.

Tykewest said that if its gas is right at 6.5 % H₂S it would not need fuel gas for blending purposes. Although the relicensing mitigates some of the difficulty with moving the gas into the pipeline, it does not provide for Tykewest's gas to move into the pipeline should the H₂S content of gas from its 14-09 well increase above 6.5% in the future. In that instance, Tykewest said it would need the blending facility, as well as the requested volume of fuel gas supply. It would also need the blend gas to be delivered to the tie-in point at an operating pressure 300 kilopascals over the current pipeline operating pressure. Tykewest reiterated that in 2006 when its well came on production the pipeline was licensed for 6.5 % H₂S and subsequently it was relicensed to 5% H₂S. Tykewest said it wished to cover all its bases so that it has flexibility should its well produce above 6.5% H₂S concentration, or should the pipeline be relicensed in the future to a lower H₂S concentration.

In response, Encana said it does not believe that speculation regarding a potential change in H₂S content in the gas from Tykewest's 14-09 well should justify or drive some determination by the panel. A pure possibility is not an appropriate reason to make an order. Encana also stated that following the recent relicensing, the western segments of the pipeline now flow west to the Hythe processing plant and that is the area Tykewest is concerned about. In the fall, the flow on the remainder of the pipeline will be reversed to flow to the Hythe gas plant. Encana also stated that any future reversal east to the Sexsmith plant would be highly unlikely.

Veresen also told the panel that the Hythe gas plant has been relicensed to accept gas with up to 10 % H₂S content.

The panel notes that Tykewest's common carrier application contains gas analysis data showing production from the 14-09 well is 6.39% H₂S content.¹ There is no mention in Tykewest's application of the possibility that the well could encounter higher H₂S concentrations in the future. This concern was only raised by Tykewest at the prehearing meeting.

The panel finds Tykewest's argument to be speculative. The panel agrees with Encana that speculation is not a basis to make an order regardless of whether the AER has the jurisdiction or not to order a party to provide fuel gas/blending gas to another as part of a common carrier declaration. If, in the future, Encana were to apply to relicense the pipeline to a lower H₂S concentration, at the time of notification Tykewest would have the opportunity to file a Statement of Concern about the application. Furthermore, if the H₂S content of the production from the Halfway JJJ pool increases, Tykewest can try to make commercial arrangements with the owner or operator of the pipeline to address this issue. If such attempts at an arrangement are unsuccessful, Tykewest can seek a remedy through the AER's legislation.

Given that the main pipeline has been relicensed to accept sour gas with an H₂S content of 6.5 % the panel finds that Tykewest's need for fuel/blend gas is no longer a relevant issue for this proceeding. Therefore, the panel will not hear any submissions on the following requests made by Tykewest as part of its common carrier application:

- To provide sufficient volumes of sweet blend/fuel gas from the Sexsmith plant through the carrier fuel line to the blending facility
- To declare the fuel gas line part of the common carrier
- To issue a mandatory sales order against Encana and/or Veresen for supply of sweet blend/fuel gas
- To deliver the sweet blend/fuel gas at an operating pressure 300 kilopascals over the carrier pipeline operating pressure
- To provide firm service for the proportion of production that is blend fuel
- Any other issues related to the need for sweet dry gas for use as blending gas or fuel gas

(b) Commercial Arrangements on Tariffs and Price, Costs, Charges or Deductions for Processing

Commercial arrangements related to a common carrier application and common processor application, insofar as those terms relate to tariffs, and price, costs, charges or deductions for processing as the case may be, are outside the panel's jurisdiction. If the owner of a pipeline that is declared a common carrier, or the owner of a gas plant that is declared a common processor cannot agree to tariffs or the price, costs, charges and deductions for processing with a party delivering gas to said pipeline or processing plant, either party can apply under section 55 of the OGCA to the Alberta Utilities Commission to have these matters set.

¹ Table A & B, pages 57-59 and pages 61, 63 of Tykewest's application

Jurisdictional Questions

The panel notes that some requests made by Tykewest raise jurisdictional issues as outlined in Encana's and Enbridge's prehearing submissions. The panel will seek written submissions from the parties on whether the AER has jurisdiction on the following requests made by Tykewest:

- To order Encana to provide firm service for Tykewest's production from the 14-09 well that would be delivered for processing at the Sexsmith facility (should a common processor order be granted)
- To order Encana and Enbridge to provide firm uninterruptible service for Tykewest's gas from the 14-09 well carried on the main pipeline (should a common carrier order be issued)
- To order that the Tykewest 13-15-74-11 W6 blending facility ancillary equipment, flare stack, associated pipeline, power supply and appurtenances remain at its existing location. What effect, if any, does the fact that the blending facility is part of the common carrier ordered in Decision 2009-13 have on this issue?

Written submissions on these issues are to be filed by the parties prior to the date in the schedule outlined below.

Information Request (IRs) Process

The parties requested a formal IR process be incorporated into the hearing process. Accordingly the panel has incorporated a formal IR process in the hearing schedule.

If a party wants the responses received to any IRs to be included on the record, the responses will have to be filed by that party as part of its submissions. Parties are reminded not to copy the AER on their IR requests or their responses to IR requests made by other parties. Furthermore, the parties are reminded that the panel may have its own IRs and the parties are to respond to any IRs from the panel within 10 business days of any request, as dated.

Agreed Statement of Facts

The parties expressed their willingness to develop an agreed statement of facts. The Panel directs the parties to attend mediation with an AER appointed hearing commissioner for the purpose of developing an agreed statement of facts to narrow the issues for the hearing. This direction does not preclude the parties using the hearing commissioner facilitated mediation process to resolve hearing issues, or to agree on matters outside of the scope of the hearing.

Nature and Scope of Participants

Tykewest, Encana and Enbridge stated that they intend to participate fully in the hearing including filing submissions, giving evidence and cross examining the parties. The panel grants them the ability to fully participate in the hearing.

Hearing Schedule

The panel has decided that the hearing will take place on February 25, 26, and 27, 2019 in Govier Hall, 3rd Floor, 250 – 5th Street SW, Calgary, Alberta. A Notice of Hearing will be issued in due course and after the panel has ruled on jurisdictional questions.

The panel will establish timelines for the presentation of evidence, including expert witnesses, cross examination and argument after requesting time estimates from the parties and closer to the hearing date.

Timelines for submissions on jurisdiction:

Submissions from all parties	September 17
Responses from all parties	September 24
Decision re jurisdiction	October 19

Timelines for IRs:

IRs to Tykewest	November 1
Tykewest IR responses	November 15
Participant submissions (to panel; copy parties)	November 29
IRs to participants	December 13
Participants IR responses	January 7
Tykewest submission (to panel; copy parties)	January 28

Yours truly,

<original signed by>

C. Macken
Presiding Hearing Commissioner

<original signed by>

H. Kennedy
Hearing Commissioner

<original signed by>

J. Daniels
Hearing Commissioner

cc: R. Dhaliwal, Encana
J. Laing, Veresen Midstream
J. Morales, Enbridge
C. Prentice, Pembina Pipeline Corporation
M. Schuster, AER
B. Kapel Holden, AER
B. Prenevost, AER