

November 30, 2018

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

Midstream Canada Ltd.

www.aer.ca

Attention: Jeff Johnston

Dear Sir:

**Re: Midstream Canada Limited (“MCL”) Confidentiality Request – Section 49 of the AER Rules of Practice
Bulletin 2016-21: Revision and Clarification on Alberta Energy Regulator’s Measures to Limit Environmental Impacts Pending Regulatory Changes to Address the Redwater Decision
Directive 006: Licensee Liability Rating (LLR) Program and Licence Transfer Process**

By letter dated July 27, 2018 MCL filed a request that certain information in support of MCL’s transfer application be held confidential under section 49 of the *Alberta Energy Regulator Rules of Practice* (Rules) specifically:

- MCL’s Reserve Report conducted by GLJ dated March 19, 2018 for the High River Cutbank property.
- MCL’s internal financial model and business plan.

The basis for confidentiality request was as follows:

- MCL believes that when information is received by the AER for the purposes of conducting a Liability Management Rating (“LMR”) it is accepted in confidence by the AER as provided in Directive 006, Section 8.2.
- The information MCL wishes to submit to the AER is in direct relation to a request under Bulletin 2016-21 as part of an application to transfer under Directive 006 (Application Number 1909584) and to provide certainty of confidentiality MCL is submitting this request.
- MCL is requesting confidentiality as the information falls within section 49(4)(b) of the Rules, namely that the information is commercial, financial and technical in nature and disclosure of the information could reasonably be expected to harm MCL’s competitive position and could result in financial loss to MCL or financial gain to another party.

On September 12, 2018, the AER requested MCL provide any final comments on how the test for confidentiality of the Rules is met. By letter dated September 24, 2018, MCL advised that it had no additional comments to add to its original application.

By e-mail dated October 26, 2018, MCL advised the AER that it was submitting its Reserve Report conducted by GLJ dated March 19, 2018 for the High River Cutbank property on a non-confidential basis. By e-mail dated November 29, 2018, MCL advised the AER that it was submitting its internal financial model and business plan on a non-confidential basis.

It is AER policy and a requirement under section 49 of the *AER Alberta Energy Regulator Rules of Practice (Rules)* that information filed in respect of a proceeding is available on the public record. Section 12.150 of the *Oil and Gas Conservation Rules* also provides that records, reports, and information submitted to or acquired by the AER are available to the public on request. In the absence of very compelling reasons and subject to the AER's rules, all materials filed in connection with a proceeding are publically available. This approach to disclosure is consistent with the AER's role as an administrative tribunal and its obligation to be transparent and to provide procedural fairness to all parties who participate in its process. Making the information used by decision makers available assists in understanding the AER's decisions. In other-words, transparency and disclosure of relevant information promotes procedural fairness, efficiency, and credible decision making.

Having regard for the above, and having considered the submissions by MCL, the AER finds that there is no basis upon which the confidentiality request can be granted.

First, MCL has acknowledged that the information that formed the basis of this confidentiality request has been submitted to the AER on a non-confidential basis.

Second, MCL has not demonstrated why the information that initially formed the basis of the confidentiality request meets the test in s. 49(4)(b) of the *Rules*. Section 49(4)(b) of the *Rules*, requires a reasonable expectation that the disclosure of the information could result in *undue* financial loss to MCL or cause *significant* harm to MCL's competitive position. Although MCL has made a general statement that it could reasonably be expected to suffer harm to its competitive position, and financial loss to itself or there could be a financial gain to another party, it has not provided any reasons as to how it would suffer significant harm or undue financial loss or how another party would have a undue financial gain if the information it wishes to submit is not given confidentiality.

In addition, contrary to MCL's submission Directive 006, section 8.2 is not applicable as Directive 006 sets out how the AER calculates LMR and provides that information pertaining to the calculation will be treated as confidential. In this case, the information MCL submitted was not for the purpose of calculating its LMR, but rather demonstrating its ability to meet its end of life obligations with an LMR of less than 2.0.

Accordingly, the request for confidentiality of materials is denied.

Yours truly,

<original signed by>

Sean Sexton
Vice President, Law Branch