Alberta Energy Regulator

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Proceeding 417

November 21, 2022

By email only

Bennett Jones LLP	Hayduke & Associates (2021) Ltd.	AER Regulatory Applications
Attn: Daron Naffin	Attn: Michael Sawyer	Attn: Meighan LaCasse & Amanda Huxley

RE: Regulatory Appeal of Pipeline Licence No. 62559
Proceeding 417
Regulatory Appeal 1935549
Application No. 31097955
Michael Judd
Pieridae Alberta Production Ltd. (Pieridae)
AER Regulatory Applications
(collectively, parties)
Next Steps

Dear Parties,

I am writing on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners presiding over Proceeding 417 (the panel).

Previous decisions and record

On November 2, 2022, the previous panel of hearing commissioners presiding over Proceeding 417 recused itself due to the diminished appearance of that panel's impartiality and the apprehension of bias. The law is clear that when a reasonable apprehension of bias has been established, the outcome of the

proceeding, or the proceeding to date, is void.[1] As the proceeding had not yet progressed to hearing, and accordingly, a decision on the hearing was not yet issued, there is no final decision on this proceeding that is rendered void. However, a panel of AER hearing commissioners may issue numerous decisions on process and other matters over the course of a proceeding.

In this instance, the decisions of the previous panel are void. The decisions made by the previous panel and the submissions and correspondence flowing from those decisions have been struck from the record of this proceeding, with limited exceptions. Exhibits containing the original decision-maker's record, the notice of hearing, correspondence confirming the parties' hearing participation, and Mr. Judd's stay request will remain on the record of this proceeding and will retain the original exhibit numbering. All other exhibits previously filed have been removed from the record.

Hearing process

As the previous panel's determination of the issues for this hearing is void, the panel will be setting the hearing issues anew. Once a new team of subject matter experts for the panel is assembled, the panel will develop a list of proposed issues and establish a schedule to obtain submissions from the parties on those issues. Once hearing issues have been set, the panel will set a new process schedule, including hearing submissions filings and hearing date, and will communicate it to the parties in due course.

As indicated in my email of November 9, 2022, the process steps for the stay request remain in place.

If you have any questions with respect to the above, you can contact me at 403-297-6965 or Ms. Lindsey Mosher at 587-747-8981.

Sincerely,

Barbara S. Kapel Holden
AER Panel Counsel

Attachment: 1

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[1] *Newfoundland Telephone Co v. Newfoundland (Board of Commissioners of Public Utilities)*, [1992] 1 SCR 623 (SCC) at para 40.

cc: S. Fluker, Public Interest Law Clinic (University of Calgary)

T. Myers, Bennett Jones LLP

L. Mosher, AER Panel Counsel