

File No. SM1667-85

August 30, 2024

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Dear Ms. McKenna:

**Re: PD527 – New Retail Gasoline Outlet Application – D.P. Murphy – June 27, 2023
Response to Howatt’s Tourist Mart Ltd.’s Request for an Extension**

D.P. Murphy Inc. opposes a further extension of time so that Howatt’s Tourist Mart Ltd. (“Howatt’s”) can “review the market overview and analysis submitted by D.P. Murphy Inc.”

The public has had notice of D.P. Murphy Inc.’s application for a retail petroleum outlet license (“Application”) since June 2024. Howatt’s could have solicited and retained an expert as soon as it received notice of the Application. Further, it is unclear from Howatt’s request for an extension whether the request is to review the market overview and analysis submitted by D.P. Murphy Inc. for the purpose of deciding whether Howatt’s intends on retaining its own expert. Howatt’s request is simply for a “further extension of time”.

At this point, the Island Regulatory and Appeals Commission (“Commission”) has not begun considering the merits of the Application, or decided on whether a public hearing will be held. Howatt’s can review the market overview and analysis submitted by D.P. Murphy Inc. concurrently with the Commission considering the Application and determining whether a public hearing will be held. There is no indication that any prejudice would result to Howatt’s from such an approach.

The Commission’s Rules of Hearing Practice & Procedure (“Rules”) provide helpful guidance in these circumstances – <https://irac.pe.ca/rules/rulesofpracticeandprocedure-hearings.pdf>. The Rules reflect administrative law principles that a tribunal’s procedures, unlike those of the court, are expected to be simple, summary, and expeditious (see, for example Rule 1.,3., (c)). In addition, Rule 25 speaks to the timeliness of the hearing process, and indicates that hearings are to be held within a reasonable time frame.

D.P. Murphy Inc. and the public have an interest in the prompt and just exercise by the Commission of its powers. There is no indication from Howatt’s as to what, if any, prejudice would result from the Commission proceeding to consider the Application. As a result, D.P. Murphy Inc. asks that the Commission deny Howatt’s extension request, and proceed with considering the Application.

In the event that the Commission determines, after a weighing of factors (including the timing of Howatt’s request for an extension, the fact that an adjournment was already granted to Ceretti’s Grocery & Hardware Ltd. for a similar purpose, and whether efforts were made by Howatt’s to

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avoid the adjournment), that it is appropriate to delay considering the Application until September 27, 2024 - D.P. Murphy Inc. requests that such extension be contingent on the Commission setting a procedural timeline on which the Commission will advise whether a public hearing will be held, and if the Commission determines a public hearing is necessary, that the Commission also set a procedural timeline within which hearing dates will be set.

Thank you for the opportunity to provide submissions on Howatt's request. If you require anything further, please do not hesitate to contact me.

Yours truly,

STEWART McKELVEY



Hilary A. Newman

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