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File No. SM1667-85

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Nicole M. McKenna  
Carr, Stevenson & MacKay  
65 Queen Street  
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Charlottetown PE CIA 7L1

Dear Ms. McKenna:

**Re: Island Regulatory and Appeals Commission (“Commission”) PD527 – New Retail Gasoline Outlet Application – D.P. Murphy – June 27, 2023 (“Application”) Objection to Ceretti’s Grocery & Hardware Ltd. (“Ceretti’s”) request for confidentiality**

D.P. Murphy Inc. objects to Ceretti’s request for confidentiality over the report prepared by Lloyd Compton of MRSB Chartered Professional Accountants Inc. (the “MRSB Report”).

As a preliminary matter, we note that D.P. Murphy Inc. was not served with the request by Ceretti’s per Rule 51.2.(c) of the Commission’s Rules of Hearing Practice and Procedure (the “Rules”). Rather, we received the request from the Commission.

Rule 51., 2. (b), i. & ii require that the party requesting a document be held in the confidence by the Commission state:

*i. the reasons for the request, including the details of the nature and extent of the specific harm that would result if the document were publicly disclosed; and*

*ii. any objection to placing an abridged version of the document on the public record and the reasons for such an objection*

The February 13, 2025 correspondence containing Ceretti’s request for confidentiality does not address the nature and extent of any specific harm that would result if the MRSB Report were publicly disclosed, nor does it state why Ceretti’s objects to an abridged version of the MRSB Report being placed on the public record. It does, however, express Ceretti’s view that the MRSB Report contains “sensitive financial, commercial and personal matters”, and that, in Ceretti’s opinion, this information is “required in order for Ceretti’s to properly respond to the Application.”

First and foremost, D.P. Murphy Inc. notes that Ceretti’s chose to apply for Added Intervenor Status in this Application. Ceretti’s also chose to advocate for its position before the Commission with its “sensitive financial, commercial and personal matters”. D.P. Murphy Inc. must be afforded the opportunity to respond to Ceretti’s position, evidence, and the MRSB Report in the manner D.P. Murphy Inc. sees fit. This may include testing the assumptions and content in the MRSB Report with the respective parties’ witnesses, and addressing the MRSB Report in counsel’s submissions. Therefore, even if the Commission orders the MRSB Report to be held in

confidence, any confidentiality Ceretti's wishes to maintain over the substance of the MRSB Report will be lost in the public hearing process in any event.

It is in the public interest for the MRSB Report to be disclosed. There is significant public interest in the adjudication and outcome of the Application. Mr. Ceretti himself has contributed to garnering this public interest. The public has an interest in evaluating the documents the parties use to advocate for their respective positions on this Application, and how such documents are tested in the course of the hearing. Should the Market Overview & Analysis that Deloitte LLP prepared be the only report the public has available, the surrounding context and perspective behind Ceretti's position on this Application may be lost, which could potentially undermine how the public may view the Commission's decision and the ultimate outcome of this Application.

Given this concern, it is in the public interest that all documents on which the parties rely on to advance their respective positions before the Commission be made available to the public.

Although not strictly related to the reasons D.P. Murphy Inc. requests disclosure of the MRSB Report or why such disclosure would be in the public interest, we note that Ceretti's request for confidentiality presumably should have been filed on or before it submitted the MRSB Report for filing with the Commission – on January 27, 2025. In our view, Ceretti's failure to submit a request for confidentiality on or before January 27, 2025 left D.P. Murphy Inc. entitled to assume that the MRSB Report would form part of the public record, and entitled to prepare for the hearing in accordance with that assumption.

With the hearing of this Application scheduled to begin on February 25, 2025, it is unfortunate that our attention is being brought to a procedural issue of Ceretti's that could have been dealt with weeks ago. Ceretti's February 13, 2025 request for confidentiality comes over two weeks after Ceretti's request to file the MRSB Report with the Commission. Upon receipt of Ceretti's request for confidentiality from the Commission on February 14, 2025, we checked the Commission's website for the MRSB Report because we were not aware of a reason why the MRSB Report did not already form part of the public record on the website in accordance with Rule 50.

We thank the Commission for considering D.P. Murphy Inc.'s objection. Should there be any further information that D.P. Murphy Inc. can provide now, that will assist the Commission with the prompt consideration of Ceretti's request for confidentiality, please do not hesitate to contact me.

Yours truly,

**STEWART McKELVEY**



Hilary A. Newman

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