Ministre de l'Environnement et du Changement climatique

Minister of Environment and Climate Change

MAY 2 5 2023

Ottawa, Canada K1A 0H3

Mr. J. Scott MacKenzie
Chair and Chief Executive Officer
Prince Edward Island Regulatory
and Appeals Commission
National Bank Tower
134 Kent Street, Suite 501
Charlottetown PE C1A 8R8

Dear Mr. MacKenzie:

I am writing to you on a matter of considerable public interest and in your capacities setting gasoline and diesel prices for Prince Edward Island under the Petroleum Products Act.

In June 2022, the Government of Canada enacted the *Clean Fuel Regulations* to replace the old federal *Renewable Fuels Regulations*, with new lifecycle carbon intensity reduction requirements set to take effect on July 1, 2023.

The *Clean Fuel Regulations* are intended to reduce the lifecycle greenhouse gas emissions associated with fuel used in Canada. They are designed to achieve that objective in a way that creates incentives for the development and adoption of clean fuels, technologies and processes. The Regulations require liquid fossil fuel (gasoline and diesel) suppliers to gradually reduce the carbon intensity (or the amount of greenhouse gas pollution) from the fuels they produce and sell for use in Canada over time, leading to a decrease of approximately 15 percent (below 2016 levels) in the carbon intensity of gasoline and diesel used in Canada by 2030.

By moving to regulations that focus on emissions throughout the life cycle of fuels, the Government of Canada is following similar approaches that already exist in British Columbia, California, Oregon and other jurisdictions. These jurisdictions have benefited from the expansion of clean technology industries as a result of these regulations.

Under the *Clean Fuel Regulations*, the July 2023 date for the first fuel intensity reduction—as opposed to the original proposal of December 1, 2022—provided suppliers with a full year to build up credits. The design of the Regulations, following an extended period of exhaustive consultations over seven years, also provides flexibility to fuel producers, including oil refiners, to choose the most

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cost-effective approaches that work best for them. These credits can come from a wide range of actions that reduce the carbon intensity of a fossil fuel throughout its lifecycle (e.g., carbon capture and storage, on-site renewable electricity, co-processing); from supplying low carbon fuels (e.g., ethanol, bio-diesel); or from supplying fuel or energy to advanced vehicle technology (e.g., electric vehicles or hydrogen fuel cells).

In addition to this flexibility, the *Clean Fuel Regulations* increase the stringency of their obligations gradually. As a result, it is not expected that the Regulations will result in large cost increases to refineries in the initial years.

To put this in perspective, there was a 39-cent increase in refinery margins in Prince Edward Island between 2019 and 2022, when margins rose from 10.90 cents per litre to 49.90 cents per litre. This was the experience throughout Atlantic Canada, where refinery margins were similarly elevated, from 36 cents per litre in New Brunswick to 39 cents per litre in Prince Edward Island. Across Canada, refinery margins doubled between 2019 to 2022, climbing by 26 cents per litre on average.

Given these elevated refinery margins and the compliance flexibilities built into the *Clean Fuel Regulations*, there is no reason the marginal costs of the Regulations should automatically be passed along to consumers. Moreover, given the profound and growing contribution of the oil and gas industry to the country's overall profile of greenhouse gas pollution that is imposing costs on Canadians across the economy, absorbing any marginal costs of these regulations into refinery margins begins to account for decades of cost-free polluting when climate impacts were less well understood.

It is my understanding that a recent estimate assumes that Irving will decide to comply with the *Clean Fuel Regulations* by relying entirely on one of the most costly of all compliance options under the new regulations, while seeking redress from regulators even before the full picture of credit prices becomes clear in the coming weeks. Obligations under the Regulations start this July, but regulated parties (including Irving) will not need to submit credits for compliance until a year later. There is no need for a company to choose a single high-cost compliance pathway as of July 1, as they have time to assess the options available on the market, and choose the lowest cost options for them to come into compliance. Seeking immediate consumer price increases to account for estimated costs under a worst-case scenario projection could lead to a scenario where a company later chooses a lower-cost option, pockets the increased revenue from consumers, and adds it to already elevated refinery margins. The Government of Canada worked with industry for seven years to design the Regulations in a way

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that provides flexibility and multiple options to meet compliance. This was done so that companies could choose the lowest-cost option that works best for them and for consumers, and that is what the federal government expects them to do.

In short, it is the position of the Government of Canada that the *Clean Fuel Regulations* will not necessarily lead to significant cost increases to refiners, particularly in the short term, and certainly not as high as those claimed by Irving. It is also notable that the Regulations are opening up new opportunities in Atlantic Canada, including Braya Renewable Fuels in Come By Chance, Newfoundland and Labrador, which recently received an added USD $300 million in private financing.

In closing, I would respectfully encourage regulators to assess the full suite of compliance options available to refiners, including less expensive paths of compliance, and the elasticity of margins when reviewing any request by refiners to adjust fuel pricing in your province.

Environment and Climate Change Canada officials would be happy to assist you in better understanding the dynamics of the *Clean Fuel Regulations*, and my office is always open to discussions about how we can help you improve Prince Edward Island's clean energy future.

Please accept my best regards.

Sincerely,

The Honourable Steven Guilbeault, P.C., M.P. (il/lui/he/him)

c.c.: Mr. Doug Clow, Vice-Chair, Prince Edward Island Regulatory and Appeals Commission