



Docket: PD531
Order: PC26-002

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Cheryl Bradley,
Director of Finance & Regulatory Affairs
Island Regulatory & Appeals Commission

IN THE MATTER of an application by David Crane and Robert Carmichael for a retail petroleum outlet license in Charlottetown, Prince Edward Island, pursuant to section 20 of the *Petroleum Products Act*, RSPEI 1988, c. P-5.1.

Order

DATED this 15th day of May, 2026.

FOR THE COMMISSION:

Pamela J. Williams, K.C., Chair
Gordon MacFarlane, Commissioner
Murray MacPherson, Commissioner

DECISION

1. For the reasons that follow, the Commission approves the application of David Crane and Robert Carmichael (the “Applicants”) for a retail petroleum outlet license pursuant to section 20 of the *Petroleum Products Act*.¹

OVERVIEW

2. On November 23, 2025, the Applicants applied to the Commission seeking a license to operate a new retail petroleum outlet located within the Charlottetown Airport Business Park in Charlottetown, Prince Edward Island (the “Application”). The property being proposed for the outlet is located on Lot 14 within the Charlottetown Airport Business Park on Sherwood Road and is identified as PID 134114.
3. The proposed site would operate as a Petro-Canada branded site selling gasoline and diesel. The Applicants currently propose that the outlet would be open 24-hours/day. In addition to the gas station, the site would also include:
 - a) A quick-service restaurant with drive-thru and sit in dining;
 - b) A convenience store plus additional retail space;
 - c) EV charging stations;
 - d) One access point on Sherwood Road and an additional access point on a new proposed road off of Sherwood Road; and
 - e) An optional touchless automatic car wash.
4. The Application was submitted along with a market study prepared by Jean Pierre Pethel of Pethel PCI Research (“Pethel”). Pethel was engaged by David Crane (“Crane”) to prepare the market study in relation to the Application (the “Pethel Report”). The Pethel Report consists of a site evaluation, an overview of supply and demand in the target market and an assessment of potential sales. The opinions and findings of the Pethel Report will be discussed in more detail below.
5. The Application also included a Zoning Use Inquiry from the City of Charlottetown confirming that the proposed site is located in the Airport (A) Zone. A permitted use in the Airport (A) Zone includes a service station.
6. Finally, the Application included a letter of support from the Chief Executive Officer of the Charlottetown Airport Authority as well as a letter from North Sun Energy Inc. confirming their intent to discuss a fuel supply agreement and Petro-Canada branding for the new site, should the Application be approved.

¹ RSPEI 1988, c. P-5.1

7. The Commission gave public notice of the Application by publishing a notice in local newspapers and on the Commission website on December 30, 2025. Interested members of the public were given the opportunity to submit comments to the Commission and apply for intervener status.
8. The Commission did not receive any applications to intervene in this Application. The Commission also did not receive any public comments, either for or against, this Application.
9. Upon review of the Application and supporting information, the Commission determined that a public hearing would be held on Monday, April 20, 2026. The Commission gave public notice of the hearing on the Commission's website on April 2, 2026, and in the Guardian newspaper on April 8, 2026.
10. The public hearing proceeded on April 20, 2026. The hearing was open to the public and was live-streamed on the Commission's website.
11. At the hearing, David Crane ("Crane") appeared on behalf of the Applicants. The Commission heard submissions and testimony from Crane, as well as testimony from Pethel. The Commission accepted Pethel as being qualified to speak to the opinions contained in his report.

STATUTORY FRAMEWORK

12. Under the *Petroleum Products Act*, the authority to supervise the licensing of retail petroleum outlets in Prince Edward Island is granted to the Commission.² The *Petroleum Products Act* requires that every retailer obtain a license from the Commission for any petroleum outlet.³
13. In order to decide whether to approve an application for a retail petroleum outlet, the Commission is required to consider the public interest, convenience and necessity.⁴ Section 20 of the *Petroleum Products Act* requires the Commission to consider the demand for the proposed service, the location of the outlet, traffic flows, and the applicant's record of performance:

20. Criteria to be considered

When issuing a license with respect to the operation of an outlet operated by a retailer, the Commission shall consider the public interest, convenience and necessity by applying such criteria as the Commission may from time to time consider advisable including but not restricted to the demand for the proposed service, the location of the outlet, traffic flows and the applicant's record of performance.

² Act, section 9(1)(b)

³ Act, section 11

⁴ Act, section 20

14. In Order PC10-01, the Commission identified the following factors as being relevant to the assessment of public interest, convenience and necessity:
 - a. the promotion of competition;
 - b. traffic volumes and trends in the general area of the proposed outlet;
 - c. population size and trends in the general area of the proposed outlet;
 - d. trends in gasoline sales, especially, but not exclusively, among outlets in the general vicinity of the proposed outlet; and
 - e. services presently available to the motoring public in the general area of the proposed location.
15. These factors are also included in the Commission's prescribed application form for a new retail petroleum license.
16. In addition to these factors, the Commission routinely considers the accessibility and safety of the proposed location for the motoring public.
17. Notwithstanding the foregoing, the Commission has emphasized that section 20 of the *Petroleum Products Act* is a flexible provision and the particular circumstances of each application must be considered. There is no single checklist of factors that must be satisfied by the Applicant. The objective of the *Petroleum Products Act* is to ensure that there is a reasonable network of retail petroleum outlets. Public interest, convenience and necessity are therefore measured under the *Act* from the perspective of the motoring public and not the public in general.⁵
18. In summary, the exercise before the Commission is a contextual one. The presence or absence of any one factor is not necessarily fatal to an application. The whole of the Application, including all of its supporting information, must be considered against the statutory standard prescribed by the legislature in section 20 of the *Petroleum Products Act*. That standard has been developed over time by the Commission as the regulator charged with administering the *Act*.⁶

ISSUE

19. The issue to be determined is whether the public interest, convenience and necessity would be satisfied by approving or denying a retail petroleum outlet for the Applicants at the proposed location at the Charlottetown Airport Business Park in Charlottetown.

⁵ Order PC22-01 at para. 11

⁶ Order PC22-01 at para. 13

ANALYSIS

Burden of Proof

20. The Commission has previously held that an applicant seeking approval under section 20 of the *Petroleum Products Act* bears the legal and evidentiary burden of substantiating its application.⁷ In this case, that burden rests with the Applicants.
21. However, in the regulatory context, care must be taken not to import a strict judicial understanding of the burden of proof into this type of assessment. Although an applicant must substantiate its application, an applicant cannot be expected to assume the burden of proving exactly what will happen in the future.⁸
22. The Commission has held that in an application under section 20, inferences can be drawn from historical data.⁹ In fact, the Commission has previously held that “*certain assumptions based on historical data must obviously form part of the decision-making process in the case of non-established situations*”.¹⁰

PUBLIC INTEREST, CONVENIENCE and NECESSITY

Record of Performance

23. The Commission is required to consider an applicant’s record of performance when issuing a license for a retail petroleum outlet.¹¹
24. Together the Applicants have more than 30 years of combined management and development experience within the petroleum industry on Prince Edward Island.
25. Crane has been active in the petroleum industry since 2019 with his purchase of the Stratford Quick Stop and subsequent purchase of the Souris Quick Stop in 2021. Crane currently has a staff of 25 between the two locations and has kept both locations in good standing with the Commission during his ownership.
26. Robert Carmichael (“Carmichael”) has over 25 years of experience in the petroleum industry beginning with a general manager position at the Charlottetown Esso before moving into an ownership role with the Cornwall Quick Stop in 2003. In 2011, Carmichael opened a second location in Stratford and expanded once further in 2015 with the purchase of the Souris Quick Stop. Carmichael operated all three sites concurrently in good standing with the Commission before selling the Stratford Quick Stop to Crain in 2019, followed by the Souris Quick Stop in 2021. Carmichael has negotiated fuel supply

⁷ Order PC18-003 at para. 24; Order PC22-01 at para. 15

⁸ Order PC22-01 at para. 15; Order PC18-003 at para. 24

⁹ Order PC18-003 at para. 24

¹⁰ Order PC18-003 at para. 24, citing with approval Order P.990707

¹¹ *Act*, section 20

agreements with four major branded wholesalers, overseen the opening of a station and the operation three stations while keeping in good standing with the Commission.¹²

27. The Commission is satisfied that the Applicants' record of performance will serve the public interest.

Population Size and Trends

28. The Commission also considers population size and trends in the general area as being relevant to an analysis under section 20 of the *Act*.
29. The "target market" for this proposed outlet has been identified in the Pethel Report as being bordered to the south by Highway 1 (the Charlottetown Bypass), the Charlottetown Airport to the east, and Route 2 to the west. The Pethel Report considers the target market to extend approximately 10 km to the north. The Commission notes, however, that the northern boundary of the target market depicted in the Pethel Report does not appear to extend a full 10 km. Nevertheless, the Commission is satisfied that the area identified is considered the "target market".
30. The target market combines a mixture of nearby residents, the workforce from nearby business and industrial parks as well as the daily airline passengers.
31. The Application submits, supported by the data in the Pethel Report, that the target market has experienced 7.8% population growth over the past five years (from 2019 to 2024), with an additional 6.9% growth projected by 2029. In the same time period (2019 to 2024) the rate of growth in Charlottetown was 10.6% and the total Prince Edward Island population grew by 21.6%. The Pethel Report also states that airport travel has been trending upwards after a large dip in 2020 and 2021. The data compiled by Pethel shows an increase in passengers at the airport of 2% from 2023-2024 and 7.2% from 2019-2024.¹³
32. The Commission is satisfied, therefore, that the population size and trends in the target market, and Charlottetown overall, support the approval of the Application.

Traffic Volumes and Trends

33. In applications before the Commission, applicants often submit evidence of daily and annual traffic passing by a proposed location. In this case, the Pethel Report considered data collected from the Government of PEI's traffic volume maps and observed that the Annual Average Daily Traffic ("AADT") nearby the proposed site increased by 13.3% from 2019 to 2024. This equates to year over year average increases of 2.66%.
34. The Pethel Report estimated a continued increase in traffic volume trends in 2025. The Commission notes that this estimation was based on data from traffic counts conducted in early July (2nd and 3rd). While acknowledging that the average annual summer traffic is

¹² Exhibit-A-1 pg. 22

¹³ Exhibit-A-2 pg. 10

typically higher than other times of year, the Commission is satisfied that inferences can be drawn from historical data¹⁴ to conclude that the estimated AADT along Brackley Point Road will continue to increase. This continued increase in AADT supports the Applicants' position that there is substantial and sustained growth in traffic patterns in the target market.

35. The Commission accepts that the evidence demonstrates that traffic volumes are increasing around the proposed site and this evidence supports allowing the proposed outlet.

Trends in Petroleum Sales

36. The Pethel Report presents the average change in fuel volume of all retail outlets in the target market (the 10 km radius around the proposed site) between 2019 and 2024, with special interest on the two outlets that border the target market. The Commission notes that the fuel sales volume for individual outlets has been kept confidential due to commercial sensitivity; though the aggregate total volumes were reported publicly.
37. The Pethel Report indicates volumes sold in the two nearest outlets has increased by approximately 13.85% over the 5-year period between 2019 and 2024. The data included in the Pethel Report suggests this 5-year increase is significantly higher than the remaining six outlets identified as being in the target market.
38. The Commission is satisfied that the demonstrated increases in volume sales in the target market, and the separate traffic corridors being served, supports the Application and the Applicants' position that there is room for an additional outlet in the target market, with a low impact on the existing outlets. This factor supports approval of the Application.

Promotion of Competition and Services Presently Available

39. There are two outlets presently available within approximately 3.5km from the proposed outlet – Mel's Winsloe Petro-Canada and the Winsloe Irving. Both of these existing outlets offer retail gasoline and diesel, and one is currently operating under the same Petro-Canada banner. The existing outlets also provide quick-service restaurants with drive-thru options.
40. However, the Applicants submit that these two outlets serve an entirely separate traffic corridor, and that there is a lack of outlets servicing the specific traffic corridor along Brackley Point Road for a stretch of approximately 10 km. The Applicants aim to target the traffic flow they have identified along Brackley Point Road in an attempt to serve a new market that they have noted as currently being underserved, by both fuel sites convenience stores.¹⁵

¹⁴ Order PC18-003 at para. 24

¹⁵ Exhibit-A-2 pg. 13

41. The proposed site will offer a convenience store and other retail offerings totaling approximately 2,500 square feet. In addition to the retail space, there will be a quick service restaurant of approximately 2,000 square feet, including a drive thru.
42. On the whole, the Commission is satisfied that the proposed outlet will offer enhanced services and increased choice for the motoring public and will foster competition in the local area.

Accessibility and Safety of the Proposed Location

43. The subject property for the proposed outlet is located off Brackley Point Road and the Sherwood Road roundabout and is directly adjacent to the Charlottetown Airport entrance.
44. The Pethel Report identifies that all of the roads bordering the site have a maximum speed of 50 kph, and that visibility of the site is “excellent” from both northbound and southbound directions. In particular, there is “strong visual exposure” to passing motorists.
45. The proposed site also includes a large space for ample parking and safe on-site circulation.
46. The Commission is satisfied that this factor also weighs in favour of approving the Application.

Totality of the Record

47. In conclusion, the Commission has reviewed the Application filed by the Applicants, considered the submissions and oral testimony presented in support of the Application, and examined all of the evidence.
48. After considering the record as a whole, the Commission finds that the evidence weighs in favour of the proposed outlet and the Applicants have substantiated their Application and demonstrated that the granting of a license satisfies the public interest, convenience and necessity test set forth in section 20 of the *Petroleum Products Act*.
49. As a final comment, the Commission notes that the Application indicates the outlet is intended to operate 24-hours/day. The evidence of Crane at the hearing was that this is the intention, though actual operation will be based on a needs assessment. For this reason, the Commission accepts this may change and declines to order 24-hour operation as a condition on this permit approval.

ORDER

50. It is hereby ordered that the Application is approved as filed and a license for the proposed retail petroleum outlet to be located within the Charlottetown Airport Business Park, at Lot 14, Sherwood Road, Charlottetown, Prince Edward Island, operating in the name of Quick-Stop as a Petro-Canada retail outlet is hereby approved.

51. This approval is further conditional on receipt of the following within twelve (12) months from the date of this Order:
- a) the licensing fee;
 - b) a copy of the development permit and development agreement, if any, from the City of Charlottetown approving the retail petroleum outlet at this location;
 - c) a copy of the approval for the installation of petroleum storage facilities at this location;
 - d) a copy of the petroleum supply agreement for the retail petroleum outlet at this location; and
 - e) proof of lease agreement for the lands at this location by the Applicants.
52. If the Applicants are unable to fulfil the preceding conditions within twelve (12) months from the date of this Order, reasonable notice shall be provided by the Applicants to the Commission before the expiry date. Submissions will be required from the Applicants in order for any extension to be considered by the Commission. Any extension of time is in the sole discretion of the Commission.
53. In the event the above conditions are not satisfied by the Applicants within twelve (12) months from the date of this Order, and no extension of time has been granted by the Commission, this Order shall be rescinded and any development of a retail petroleum outlet on this site will have to be subject to a new application which will be considered anew by the Commission.

DATED at Charlottetown, Prince Edward Island, this 15th day of May, 2026.

FOR THE COMMISSION:

(sgd) Pamela Williams

Pamela Williams, K.C., Chair

(sgd) Gordon MacFarlane

Gordon MacFarlane, Commissioner

(sgd) Murray MacPherson

Murray MacPherson, Commissioner

NOTICE

Section 12 of the *Island Regulatory and Appeals Commission Act* reads as follows:

12. The Commission may, in its absolute discretion, review, rescinding or vary any order or decision made by it, or rehear any application before deciding it.

Sections 13(1) and 13(2) of the *Island Regulatory and Appeals Commission Act* provide as follows:

13(1) An appeal lies from a decision or order of the Commission to the Court of Appeal upon a question of law or jurisdiction.

(2) The appeal shall be made by filing a notice of appeal in the Court of Appeal within twenty days after the decision or order appealed from and the rules of court respecting appeals apply with the necessary changes.

NOTE: In accordance with IRAC's *Records Retention and Disposition Schedule*, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.