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10 January 2021

RE: PCA CASE N° 2018-54 – TENNANT ENERGY, LLC V. GOVERNMENT OF CANADA

Dear Mesdames, dear Sirs,

I write on behalf of the Tribunal further to the Claimant's and Respondent's letters dated 23 and 29 December 2020, respectively, concerning the procedural calendar for the bifurcated phase of these proceedings.

In its letter dated 23 December 2020, the Claimant (i) requested an extension for the filing of its next submission on jurisdiction; and (ii) proposed a revised procedural calendar, which reflected corresponding adjustments to what it considered to be the remaining procedural events for this phase, namely the Reply and Rejoinder Memorials on Jurisdiction, the non-disputing Party submissions, and the disputing Parties' responses to those submissions. In response, the Respondent agreed to the Claimant's extension request concerning its next submission on jurisdiction, but objected to the Claimant's proposed procedural calendar. The Respondent contended in particular that (i) Reply and Rejoinder Memorials on Jurisdiction are not necessary since both Parties would have each already completed two rounds of submissions on jurisdiction; and (ii) the proposed calendar does not account for the Tribunal's decision on the scope of the preliminary phase following the Claimant's next submission on jurisdiction.

In accordance with the Parties' consent, the Tribunal confirms that the deadline for the Claimant's next submission on jurisdiction is extended from 11 January 2021 to 1 March 2021.

Concerning the procedural calendar for the bifurcated phase of the proceedings, having considered the Parties' respective submissions on the matter, the Tribunal agrees with the Respondent that two rounds of submissions on jurisdiction from each Party are sufficient.

The Tribunal recalls that Annex 1 of Procedural Order No. 1 provided that in the case of bifurcated proceedings, the Respondent would have the opportunity to file a Memorial and Reply on Jurisdiction, while the Claimant would have the opportunity to file a Counter-Memorial and Rejoinder on Jurisdiction. The Tribunal further recalls that in paragraphs 93(a) and 93(b) of Procedural Order No. 4, it modified this calendar by requesting the Claimant to "set out in full its detailed pleading on the issue of jurisdiction in its Memorial" and "[s]hould the Respondent wish to pursue bifurcation of the proceedings after having had sight of the Claimant's Memorial, the Respondent is to file its detailed objections on jurisdiction and a request for bifurcation within 45 days from the date of the Claimant's Memorial". As such, since each Party has already filed one round of submissions on jurisdiction, the Tribunal is of the view that only one further round of submissions is necessary. The Tribunal further considers that it is not necessary for the Claimant to file another submission after the Respondent files its second submission on jurisdiction.

Accordingly, the Tribunal adopts the procedural calendar proposed by the Respondent as follows:

Procedural Event	Date
Claimant's Reply on Jurisdiction	1 March 2021
Tribunal's Decision on Scope of Bifurcated Phase of Proceedings	[TBD]
Respondent's Rejoinder Memorial on Jurisdiction	+ 45 days
Submissions of the United States and Mexico Pursuant to NAFTA Article 1128 (if any)	+30 days
Responses to 1128 Submissions (if any)	+15 days

Should you have any questions regarding this letter, please do not hesitate to contact me at the details set forth above.

Yours sincerely,



Christel Y. Tham
Legal Counsel

cc: Mr Cavinder Bull SC (by e-mail: cavinder.bull@drewnapier.com)
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Sir Daniel Bethlehem QC (by e-mail: dbethlehem@twentysex.com)