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Subject: Canada's Comments on Draft Procedural Order No. 14 (PCA Case No 2018-54 Tennant Energy LLC v. Government of Canada)
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Dear Members of the Tribunal,

Further to the joint communication sent by Canada on behalf of the disputing parties earlier this afternoon, Canada sets out below its position on the remaining areas of disagreement in the draft Procedural Order No. 14.

With regards to the documents to be contained in the Agreed Bundle of Documents ("ABD") set out in paragraph 4.1, Canada's position is that each disputing party should be permitted to include ten (10) documents in addition to those already listed and agreed to in paragraph 4.1. Such a limit would be consistent with the intention of providing the Tribunal with a circumscribed bundle, as it would hold the ABD to a reasonable volume of documents. At the same time, this proposal would not restrict either disputing party from referring to any other document on record in this arbitration.

With respect to the timing of Tribunal questions on the disputing parties' Opening Statements set out in paragraph 6.3(c), Canada is of the view that the Tribunal should not be limited with respect to when it can ask questions. It is common practice in international investment arbitration for tribunals to ask questions when they consider appropriate, and we recognize this Tribunal's discretion to do so. While Canada is pleased to set aside specific time for Tribunal questions on Day 1 or Day 2, if the Tribunal so desires, Canada does not believe this should be the sole time that the Tribunal should be permitted to ask questions of the disputing parties on their Opening Statements.

Regarding the time for expert witness presentations set out in paragraph 10.4, Canada is of the view that 20 minutes for such a presentation is sufficient, in light of the evidence and subject matter before the Tribunal.

Yours truly,

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