

PCA Case No. 2021-26

**IN THE MATTER OF AN ARBITRATION UNDER
ANNEX 14-C OF THE CANADA-UNITED STATES-MEXICO AGREEMENT
("CUSMA"), CHAPTER 11 OF THE NORTH AMERICAN FREE TRADE
AGREEMENT ("NAFTA"),
AND THE 2013 UNCITRAL ARBITRATION RULES**

- between -

WINDSTREAM ENERGY LLC

(the "Claimant")

- and -

THE GOVERNMENT OF CANADA

(the "Respondent", and together with the Claimant, the "disputing parties")

PROCEDURAL ORDER NO. 3

Procedural Calendar

The Arbitral Tribunal

Ms Wendy Miles KC (Presiding Arbitrator)

Prof. John Gotanda

Rt. Hon. Beverly McLachlin

Administering Authority

Permanent Court of Arbitration

Tribunal Secretary

Mr José Luis Aragón Cardiel

3 November 2022

I. BACKGROUND

1. On 13 September 2022, the Tribunal issued Procedural Order No. 2 (Decision on Bifurcation), whereby it denied the Respondent's request for the bifurcation of the proceedings and directed the disputing parties to confer with a view to agreeing on a joint proposed timetable for the arbitration.
2. On 23 September 2022, the disputing parties submitted a joint proposed timetable for the proceedings.
3. On 26 September 2022, the Tribunal (i) confirmed the disputing parties' agreed schedule; and (ii) invited the disputing parties to confer and identify potential dates for a hearing in February 2024, as well as to express their preferences regarding the hearing venue.
4. On 29 September 2022, the disputing parties confirmed their availability for a hearing the weeks of 5 February and 12 February 2024. They further expressed their preference to reserve 10 business days for the hearing and for Arbitration Place in Toronto to be the hearing venue.

II. PROCEDURAL CALENDAR

5. Pursuant to the agreement of the Parties, the Tribunal establishes the Procedural Calendar set out in **Annex A** to this order.

Dated: 3 November 2022

Place of Arbitration: Toronto



Ms. Wendy Miles QC

(Presiding Arbitrator)

On behalf of the Tribunal

Annex A: Procedural Calendar

<u>Event</u>	<u>Interval</u>	<u>Date</u>
Respondent's Counter-Memorial on Merits and Damages, including any jurisdictional objections to which the Respondent did not Request Bifurcation with Witness Statement(s) and Expert Report(s)	+90 Days from Decision to Deny Bifurcation	12 December 2022 (Monday)
<i>Document Production</i>		
Simultaneous requests for document production to the other Party, if any	+30 days from the Respondent's Counter-Memorial	11 January 2023 (Wednesday)
Objections to production, if any	+30 days	10 February 2023 (Friday)
Replies to objections to production, if any	+21 days	3 March 2023 (Friday)
Responses to replies to objections to production, if any	+14 days	17 March 2023 (Friday)
Reasoned applications for an order on production of documents in the form of a Redfern Schedule (Annex II), if necessary	+14 days	31 March 2023 (Friday)
Tribunal's decision on document production, if necessary	+ 1 month	1 May 2023 (Monday)
Production of documents	+30 days	31 May 2023 (Wednesday)
<i>Further Written Pleadings</i>		
Claimant's Reply Memorial with any Reply Witness Statement(s) and Expert Report(s)	+75 days	14 August 2023 (Monday)
Respondent's Rejoinder Memorial with any Rejoinder Witness Statement(s) and Expert Report(s)	+ 75 days	30 October 2023 (Monday)
Submissions of United States and Mexico Pursuant to NAFTA Article 1128	+30 days	29 November 2023 (Wednesday)
Responses to 1128 Submissions	+15 days	14 December 2023 (Thursday)
<i>Oral Pleadings</i>		
Pre-hearing Conference	Approximately 2 months before hearing	TBD
Oral Hearing	-	5-16 February 2024 (reserved) (excluding the intervening weekend) (Arbitration Place, Toronto)