

May 4, 2018

Island Regulatory and Appeals Commission
National Bank Tower
5th Floor, Suite 501
PO Box 577
134 Kent Street
Charlottetown, PE C1A 7L1



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3:14pm
MLN*

Attention: Allison MacEwen

Dear Mr. MacEwen:

Re: Application for a Retail Petroleum Outlet License
Our File Reference No. 21087-001rm

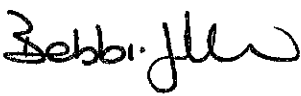
Please find enclosed:

1. A letter from Parkland Fuel Corporation; and
2. A letter from the City of Charlottetown.

Trusting the enclosed to be satisfactory; however, should you have any questions, please do not hesitate to contact the undersigned at your convenience.

Yours truly,

KEY MURRAY LAW

for 
Ryan MacDonald
RM/jb

Enclosures

May 4th, 2018

Island Regulatory and Appeals Commission
National Bank Tower 5th Floor, Suite 501
PO Box 577, 134 Kent Street
Charlottetown, PE
C1A 7L1

Attention: Allison MacEwen
Director

Re: Parkland Fuel Corporation - Retail Gasoline and Diesel Outlet License Application

Introductory Remarks

We are writing in relation to the above matter, and specifically in relation to the terms and conditions as set out and noted in Order No. PC18-001 as issued by the Island Regulatory and Appeals Commission (the "Commission") on February 26, 2018.

In accordance with the above noted Order, please consider this report as being part of the reply being filed on behalf of the Applicant, Parkland Fuel Corporation ("Parkland").

Materials Reviewed

In providing this reply, we wish to confirm that we have received and reviewed the following information:

- The initial application materials filed on behalf of Parkland, including the Market Overview and Analysis completed by MRSB dated July 2017 (the "MRSB Report");

- The supplemental materials filed on behalf of Parkland, being the letters dated November 7, 2017 from the City of Charlottetown Fire Chief K. Randy MacDonald and November 9, 2017 from the Provincial Emergency Management Coordinator Tanya Mullally;
- The Orders issued by the Commission;
- The initial materials filed on behalf of Mel's Enterprises Inc. ("Mel's"), Ferne MacPhail, Cape d'Or Holdings Limited ("Cape d'Or") and the PEI Retail Gasoline Dealers Association (the "Retail Association");
- All correspondence provided by Jonathan Coady as counsel to the Commission;
- Correspondence from Tom Keeler, as counsel for Cape d'Or Holdings Limited; and
- A letter from the Manager for the Planning Department of the City of Charlottetown dated May 2, 2018.

Purpose of the Reply

The primary purpose of this reply is to address some of the comments that have been made by each of the Interveners in this matter, which are contained in the initial filings as well as those that were recently filed on or about April 20, 2018 and in accordance with the February 26, 2018 Order.

As will be discussed in more detail below, many of the comments made in the materials filed by the Interveners allege, without limitation, that:

- There is no need for the proposed Parkland development, being an Ultramar retail gasoline outlet with a convenience store and car wash;
- Demand for retail gasoline is decreasing or is expected to decrease;
- If a new retail gasoline outlet license is granted, an existing location is likely to close;
- Access to the proposed site would not be "safe"; and
- There is already significant competition in the market place such that a new license should not be granted to Parkland.

As noted above, the purpose of this reply is to address some of the concerns that arise from the comments made by the Interveners as summarily stated above.

Additionally, with respect to the MRSB Report, we wish to explicitly state that we have reviewed the report in detail, and fully support, agree and adopt with the findings and recommendations contained in the MRSB Report.

For ease of reference, the recommendations set forth in the MRSB Report, in Section 5.0, to which we agree and adopt, are as follows:

- Demand for petroleum products is expected to increase in conjunction with per capita disposable income;
- The proposed outlet location will be the only outlet in Charlottetown or Cornwall that offers gasoline, diesel, a convenience store, a quick service restaurant, and a car wash;
- The proposed outlet will be the only Ultramar brand outlet within a five-kilometer radius, which provides consumers with more choice and enhances competition;
- The Department of Transportation has projected that in 2018, on average more than 27,000 vehicles will utilize the Maypoint Road roundabout daily with that number reaching more than 32,000 vehicles during the summer. This traffic volume makes the proposed outlet location convenient for a significant number of consumers;
- The VRI survey report that, of the respondents that make at least five round trips per week to Charlottetown by commuting through the West Royalty and Maypoint area, 52% stated that it would be convenient to have a fuel outlet at the proposed location;
- There has been a steady increase in the number of registered vehicles on Island roads, the number of new vehicles sold annually is increasing and there has been an overall increase in vehicle usage, indicating increased demand for petroleum products;
- Charlottetown and Cornwall have experienced strong population growth, which increases demand for commercial services to sustain these communities;
- Significant residential growth in the area of the proposed outlet location, in particular West Royalty, indicates a need for additional commercial services;
- Commercial activity and development, in particular the six-storey hotel development proposed by D.P. Murphy Inc., is expected to generate

incremental demand for commercial services, including petroleum outlet offerings; and

- The controlled access points for the proposed outlet location are safe for vehicles entering and exiting the premises.

Reply to the Intervener's Comments

The Mel's Enterprises location is on the same traffic route as the proposed Parkland subject location, which has been significantly redeveloped in the last number of years. This factor alone generally indicates confidence in a growing market and a plan for successful return of investment.

In his submissions, Mr. MacIsaac stated that *"the volume has basically leveled out as I assume is the same for our closest competitors, North River Petro-Canada, Cornwall Esso and Queens Arm Esso"*. In letters dated October 25th, 2017 and April 17th, 2018 Mr. MacIsaac speaks to fuel volumes at his North River location not meeting projections. Respectfully, Parkland cannot, and should not, have its application determined on the basis of Mr. MacIsaac's forecasting abilities.

For example, if during the business planning process over-forecasting occurred, the volumes of one location should not serve as a bar to prevent any further licenses being issued when considering the motoring public. As such, Mr. MacIsaac's statements should have little to no bearing on this Application. Further, there can be many factors that impact sales volumes, including those noted by Mr. MacIsaac and the significant road/construction developments in this area.

As an additional comment, we would note that Mr. MacIsaac's assumptions are just that. Without specific data, such as a Kent Group LTD volume data report (which will be discussed further herein) the assumptions do not provide any measurable data, indicators or information as it relates to sales volumes and demand for the purposes of this Application.

The Retailers Association has a clear focus on resisting new competition. The letter dated November 16th, 2017 begins with the executive members'

commentary to not interfere with any traditional fuel applications, but then states that it became compelled to provide a submission.

Mr. Doucette filed a second letter in which he notes that the new Cornwall bypass will not drive increased traffic. However, the traffic data and projections of the Department of Transportation show a significant volume of daily traffic now, which does not account for the increased traffic that will result from the completion of the six-storey hotel currently under construction. Similar to some of the comments set out and noted above, this statement is an assumption at best and has limited, if any, bearing on this Application.

Mr. Doucette comments on brand loyalty offerings, Petro-Points, Aeroplan and Airmiles which are all programs synonymous with Petro-Canada, Esso and Shell. The Ultramar Brand is one of the strongest offered in Atlantic Canada and the public should have every right to access this loyalty program. The Ultramar brand will offer customers a value based proposition that includes commercial fleet cards under the Pipeline commercial, Ultramar commercial MasterCard or the Ultramar business card.

For non-commercial customers, the Ultramar National Bank Master card offers discounts of up to 2% on monthly Ultramar purchases, up to 1.25% for purchases at other retailers and 2.5% off heating oil purchases. In addition, customers can receive instant discounts in station with the Ultramar Valumax privilege card. Valumax rewards higher purchase levels and the instant discounts range from 1 cent to 4 cents per litre. Discounts also apply to various store items that are on promotion from time to time.

The submissions submitted on behalf of Cape d'Or reference the promotion of competition. The development of a full scale Ultramar station would provide a 4th competitive option within the trade area with a strong loyalty program. From our perspective, the promotion of competition should be a strong consideration for the Commission in considering this Application.

The Cape d'Or submissions also state that historically when *"a new license is approved an existing fuel location closes"*. However, there is no direct evidence

that correlates or supports this statement. In fact, fuel locations may close or exit from the market for a number of industry reasons including:

- A location being unable or unwilling to invest to upgrade aging fuel systems and facilities;
- Substandard location, facilities and/or operational capabilities; and
- Environmental situations.

Regarding the point raised about "*services presently available*", while the typical offerings required by the motoring public are available at one location or another, the industry proves fuel and convenience store customers want and prefer a one stop location that provides fuel, convenience store, carwash and quick serve restaurant at one location. Furthermore, an offsite carwash for fuel customers is not convenient.

In their initial submission, Cape d'Or including materials entitled "Annual Energy Outlook" which is published by the US Energy Information and "Tomorrow Vehicle" which is published by a society of independent gasoline marketers of America. Essentially, this information is US based and does not reference, refer to or provide any indications that relate to the target market that should be considered in this Application.

In the submissions made by Ms. MacPhail, several comments are made about issues relating to safety, such as traffic volumes, access, speeds and increased probability for accident. With all due respect to Ms. MacPhail, she is neither a fuel operator, nor a traffic expert, and again, similar to many of the comments made by the Interveners, they are assumptions that are not supported by any evidence.

Conversely, in connection with the development of the proposed Parkland gasoline station, the City of Charlottetown required that a detailed, expert traffic study be completed. As noted in the letter from Alex Forbes, the traffic study met the City of Charlottetown development criteria and identified access points for ingress and egress to the subject property to ensure acceptable and safe traffic flows and patterns.

Trade Area Competitive Operations

With respect to the fuel competitors within the immediate trade area it is our opinion some locations present their own weaknesses which include aged facilities, under developed convenience store offerings, congested forecourts including in one case a 4 square fuel island design, which is no longer the industry standard preferred layout. Backed with a strong marketing program and national buying power the general public is often better served by receiving more competitive pricing of convenience store items which is what Parkland's Ultramar location will demonstrate.

Parkland Site Management

Parkland Fuel Corporation will operate the site in unison with a retailer. Since the notice of hearing was published, we have had a number of inquiries from both within Parkland and from the general public to determine if there is an opportunity to operate the location. We have confidence we will be able to identify a qualified candidate with excellent capabilities and experience to operate the location to meet Parkland operating standards.

In order to ensure a high level of operational execution, all of Parkland's retailers participate in a detailed training program that commences at a comparable store prior to opening. A welcome kit with online tools is provided for ongoing implementation and reference. These tools include:

- E-learning for attendants,
- Operating policies and procedures,
- Protecting the Environment Health and Safety Guide,
- Operating standards,
- Restricted sales education, and
- managing fuel theft.

The training and education process continues after opening with continuous on-site support from trainers and territory managers. Ongoing training and evaluation of site operations occurs at identified intervals up to 1 year after opening and additional training is implemented throughout.

Fuel Volumes - Kent Group Limited

Market and trade area volumes provided in this letter reference Charlottetown volume trends obtained from Kent Group Limited ("Kent").

The Kent organization has been based in London, Ontario for the last 45 years. Kent provides insight, tools and information for the downstream petroleum industry in Canada. Kent's core service is collection, processing and distribution of data for the retail industry nationally, including information by site and market fuel volume. They provide excellence in data, analytics and consulting services to refiners and fuel marketing/ retailing petroleum industry.

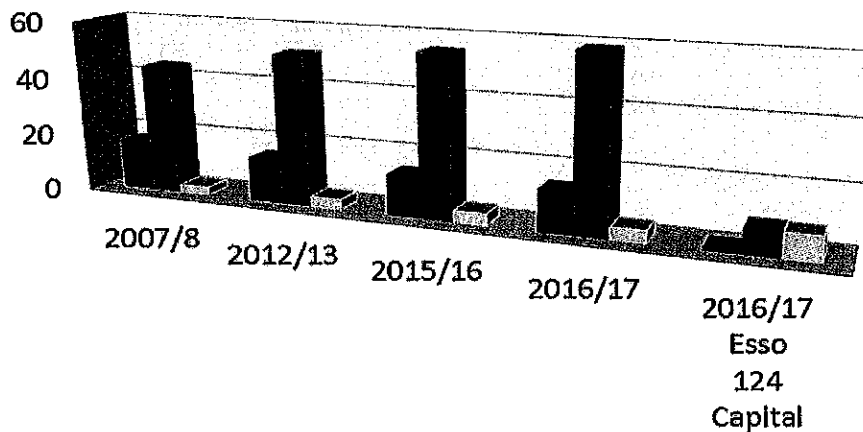
Their methodology and process contributes to the value of the data. All data in the Kent markets is collected on site from a verifiable source at least quarterly, and in major markets, monthly. Each of the fuel organizations provide authorization to Kent to visit their fuel sites and record fuel sales either through manual pump readings or through point of sale systems. Their client list would include all major fuel brands including but not limited to Esso, Petro-Canada, Shell and Irving.

Market Volumes

The graph below shows the fuel volume for the Charlottetown market including the Esso on Capital drive. There are four periods from 2007 to 2017 with today's average volumes being 4.2ML per location. As noted the number of fuel sites has decreased from 17 to 14 in the market, while in the same four periods, the volume has grown by 32% or on average 3.2% for 10 periods annually.

The Esso on Capital drive in 2016/2017 sold 8.38ML for fuel products, more than double the market average. This would suggest the traffic volume along capital drive and overall trade area growth will continue at a disproportionate share. Diesel fuel at each location would be in addition to these volumes.

Charlottetown Market Fuel Volume



	2007/8	2012/13	2015/16	2016/17	2016/17 Esso 124 Capital
■ # of Sites	17	15	14	14	1
■ Market Vol (ML)	44.5	51.5	55.2	58.8	8.38
■ AVG Vol (ML)	2.61	3.43	3.94	4.2	8.38

Parkland believes that it has provided information that specifically address the comments, assumptions and non-factual comments submitted by the Intervenor's, and strongly suggests that the Commission should approve their license application.

Summary

Parkland is Canada's largest supplier and marketer of fuel and petroleum products. Parkland supplies and supports a network of 1,851 retail gas stations operating in Canada. As such, Parkland has the required experience and financial ability to successfully develop, construct and operate the proposed Ultramar outlet in accordance with required industry standards and operating procedures, together with all environmental requirements and practices.

Based upon all of what has been set out above, Parkland is firmly of the position that the site that it has identified will provide for a needed, convenient and safe location that will be beneficial for the motoring public in that area. Recent developments in that area, considering a newly constructed and redesigned

highway together with the construction of a six storey hotel, favour Parkland's application being approved.

We thank you for your consideration.

Sincerely,

Bill McQuillan | Retail Operations Manager- Parkland Fuel Corporation

Jacques Charland | Real Estate Development- Parkland Fuel Corporation

Vera Gaudet | Consultant-Parkland Fuel Corporation

City of Charlottetown
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May 4, 2018

Ryan MacDonald, Key Murray Law
PO Box 875
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Dear Mr. MacDonald:

The City of Charlottetown has been asked to clarify the dedicated access points for a proposed gasoline bar located on Lot 17-3 (corner of Maypoint Road and Capital Drive) as shown on a site plan prepared by CBCL Consulting Engineers dated July 2017. The subject property (Lot 17-3) forms a part of a Development Agreement signed between the City of Charlottetown and D. P. Murphy Limited on November 22nd 2017. The Development Agreement requires that Lot 17-3 be developed with the access points in the locations shown on the attached drawing. These access points were determined by a professional traffic engineer (EXP Services Inc.) who prepared a traffic impact study dated November 11, 2017 for the City of Charlottetown. This study contemplated that Lot 17-3 would be developed for a gasoline bar.

Due to the fact that Capital Drive is a controlled access highway and that all three properties (Lot 17-1, 17-2, and 17-3) will have access to Maypoint Road in close proximity to a newly constructed round around, a traffic impact study was required. The City of Charlottetown does not require a traffic impact study for every type of development application or development approval. These studies are required when street access, traffic movement, site lines, safety implications, etc. need to be reviewed by a professional in more detail to ensure traffic standards are adhered too. The traffic impact study established all of the access points to this property based upon sound traffic engineering principles. The City of Charlottetown is confident that this study has addressed all of the traffic engineering concerns related to this property. Moreover, the key findings of this report were included the Development Agreement including the location all of access points to this property including (Lot 17-3).

If you have any questions, please contact the Planning Dept. at 902 629-4158.

Sincerely,


Alex Forbes, MCIP, MBA
Manager of Planning and Heritage

SEC. No.	Contract No.	Date	Serial
172521.00		JULY 2017	1500

Unassigned	Disburse
ALC	ALC
Checked	Approved

Sheet No.	Drawing No.
1 of 9	C01

