

Competition Tribunal



Tribunal de la Concurrence

Reference: *The Commissioner of Competition v. Parkland Industries Ltd.*, 2015 Comp. Trib. 11  
File No.: CT-2015-003  
Registry Document No.: 071

**IN THE MATTER OF** the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

**AND IN THE MATTER OF** an Application by the Commissioner of Competition for one or more orders pursuant to section 92 of the *Competition Act*;

B E T W E E N:

**The Commissioner of Competition**  
(applicant)

and

**Parkland Industries Ltd., Parkland Fuel Corporation,  
Pioneer Petroleums Holding Limited Partnership, Pioneer Energy LP,  
Pioneer Petroleums Transport Inc., Pioneer Energy Inc., Pioneer Fuels Inc., Pioneer  
Petroleums Holding Inc., Pioneer Energy Management Inc.,  
668086 N.B. Limited, 3269344 Nova Scotia Limited  
and 1796745 Ontario Ltd.**  
(respondents)



Date of case management conference: 20150806  
Before Judicial Member: Gascon J. (Chairperson)  
Date of Order: August 12, 2015

**SCHEDULING ORDER**

[1] **FURTHER TO** the application filed by the Commissioner of Competition (the “Commissioner”) pursuant to section 92 of the *Competition Act*, R.S.C. 1985, c. C-34, as amended (the “Act”), against Parkland Industries Ltd., Parkland Fuel Corporation (collectively, “Parkland”), Pioneer Petroleums Holding Limited Partnership, Pioneer Energy LP, Pioneer Petroleums Transport Inc., Pioneer Energy Inc., Pioneer Fuels Inc., Pioneer Petroleums Holding Inc., Pioneer Energy Management Inc., 668086 N.B. Limited, 3269344 Nova Scotia Limited and 1796745 Ontario Ltd. (collectively, “Pioneer”);

[2] **AND FURTHER TO** the draft scheduling orders filed by counsel for the Commissioner and the correspondence explaining that the Commissioner and Parkland have agreed on the timing of all steps, except for the scheduling of an early mediation;

[3] **AND FURTHER TO** the parties confirming their agreement on the hearing dates;

[4] **AND FURTHER TO** the correspondence of counsel for Pioneer explaining that it takes no position as to the schedule for the disposition of the Commissioner’s application, other than that it should provide time for Pioneer to have the application discontinued as against it prior to any mediation;

[5] **AND FURTHER TO** the discussion with counsel at the case management conference of August 6, 2015;

[6] **AND WHEREAS** the Tribunal remains of the view that the parties should continue to consult with each other to determine whether an agreement can be reached with respect to this application;

[7] **AND WHEREAS** the Tribunal generally supports the use of mediation to facilitate the expeditious and cost-effective resolution of applications brought before it but notes that, in this instance, Parkland is not ready to engage in an early mediation without having a more precise understanding of the Commissioner’s position;

[8] **AND WHEREAS**, in order to be useful and effective in this case, an early mediation would need the commitment and agreement of all parties involved;

[9] **AND WHEREAS**, in light of the previous interim proceedings in this matter, the Tribunal is of the view that additional information on the parties’ respective positions, to be provided through the discovery process and the service of the parties’ expert reports, will be of assistance in any mediation process;

[10] **AND WHEREAS** the Tribunal will remain available to consider any further request for mediation from the parties as this matter progresses;

**THE TRIBUNAL ORDERS THAT:**

[11] The schedule for the pre-hearing and hearing steps shall be as follows:

October 8, 2015	Deadline for the filing of preliminary motion by the Pioneer Respondents
October 15, 2015	Service of affidavits of documents and delivery of documents by all parties
November 6, 2015	Deadline for the filing of any motions arising from affidavits of documents and/or productions and/or in respect of the scope of examinations for discovery
November 24-25, 2015	Hearing of any motions arising from affidavits of documents and/or productions and/or in respect of the scope of examinations for discovery
November 30, 2015	Deadline for delivery of any additional productions resulting from any affidavits of documents/production motions
December 7-16, 2015	Examinations for discovery according to a schedule to be settled between counsel
January 20, 2016	Deadline for fulfilling answers to discovery undertakings
January 27, 2016	Deadline for the filing of any motions arising from answers to undertakings and refusals
February 2-3, 2016	Hearing of any motions arising from answers to undertakings and refusals
February 12, 2016	Last day for follow-up examinations for discovery
March 1, 2016	Applicant to serve documents relied upon and witness statements
	Applicant to serve and file expert reports, if any, on all matters except matters related to efficiencies under section 96 of the Act
	Respondents to file expert reports, if any, on matters related to efficiencies under section 96 of the Act

	Applicant to serve list of documents proposed to be admitted without further proof
March 16-17, 2016	Mediation
April 18, 2016	Respondents to serve documents relied upon and witness statements
	Respondents to serve and file a response, if any, to the Applicant's expert reports on all matters except matters related to efficiencies under section 96 of the Act.
	Applicant to serve and file a response, if any, to the Respondents' expert reports on matters related to efficiencies under section 96 of the Act.
May 5, 2016	Deadline for delivering any requests for admissions
May 12, 2016	Applicant to serve list of reply documents and witness statements
	Applicant to serve and file any reply expert reports on all matters except matters related to efficiencies under section 96 of the Act
	Respondents to file reply expert reports on matters related to efficiencies under section 96 of the Act
May 18, 2016	Deadline for the filing of any motions for summary disposition and/or any motions related to the evidence
	Deadline for providing witness statements to the Tribunal
May 24-25, 2016	Hearing of any motions for summary disposition and/or any motions related to the evidence
May 24, 2016	Deadline for responding to any requests for admissions
	Deadline to provide documents to the Tribunal for use at the hearing (e.g. briefs of authorities, agreed books of documents)
May 30, 2016	Hearing of application to commence at 9:30 am in the hearing room of the Competition Tribunal located at 90 Sparks Street, Ottawa, for a period of 15 days, as follows: May 30-31, June 1-3, June 6-9, June 13-16, June 20-21.

[12] Should the parties agree to have parts of the hearing held in Toronto, they shall send their request to that effect to the Tribunal no later than December 14, 2015.

DATED at Ottawa, this 12th day of August, 2015.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Denis Gascon

## **COUNSEL**

For the applicant:

The Commissioner of Competition

John Syme  
Antonio Di Domenico  
Tara DiBenedetto

For the respondents:

Parkland Industries Ltd.  
Parkland Fuel Corporation

John F. Rook  
Randal T. Hughes  
Y. Beth Riley  
Emrys Davis  
Gannon G. Beaulne

Pioneer Petroleum Holding Limited Partnership  
Pioneer Energy LP  
Pioneer Petroleum Transport Inc.  
Pioneer Energy Inc., Pioneer Fuels Inc.  
Pioneer Petroleum Holding Inc.  
Pioneer Energy Management Inc.  
668086 N.B. Limited  
3269344 Nova Scotia Limited  
1796745 Ontario Ltd.

Christopher Hersh