

By email

Ruby River Capital LLC
c/o Mr. Christophe Bondy
Ms. Lindsey Dimond
Mr. Alexandre Genest
Steptoe & Johnson UK LLP
5 Aldermanbury, Barbican
London EC2V 7HR
United Kingdom

Canada
c/o Mr. Jean-François Hébert
Mr. Adam Douglas
Ms. Florence Beaudet
Ms. Elena Lapina
Ms. Sara Leblanc
Trade Law Bureau | Direction générale du droit
commercial international – JLTB –
Gouvernement du Canada
Lester B. Pearson Building
125 Sussex Drive
Ottawa, ON K1A 0G2
Canada

Re: Ruby River Capital LLC v. Canada
(ICSID Case No. ARB/23/5)

Dear Sirs and Mesdames,

I refer to the Respondent's *Requête en suspension d'instance* dated December 22, 2023, and to the Claimant's Observations on said request, submitted on December 28, 2023.

The Tribunal has carefully reviewed the Parties' submissions and conveys in this letter its decisions on the Respondent's three prayers for relief contained in its *Requête en suspension d'instance*. Given the time constraints resulting from the procedural calendar, the Tribunal only provides its decisions at this stage; it will prepare and issue a reasoned decision in due course. At that time the Tribunal will also decide on the request for allocation of costs submitted by the Claimant.

The Tribunal has decided to reject the Respondent's request that the Tribunal stay the proceeding until the tribunal in *TC Energy Corporation and TransCanada Pipelines Limited v. United States* (ICSID Case No. ARB/21/63) rules on the United States' preliminary objection regarding the scope of Annex 14-C to the USMCA.

Further, the Tribunal is not minded to authorize a second potential request for bifurcation, or to preemptively rule on its admissibility, until such request is actually filed. However, as presently advised, the Tribunal does not welcome the prospect of sequential requests for bifurcation due to the obvious procedural inefficiencies that this would produce.

Lastly, the Tribunal confirms that the proceeding has not been suspended between the filing of the Respondent's *Requête en suspension d'instance* on December 22, 2023 and the issuance of the present

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letter. In accordance with the procedural timetable applicable to this proceeding, the Respondent is therefore expected to submit its Request for Bifurcation, if any, by January 5, 2024.

Yours sincerely,



Benjamin Garel
Legal Counsel

Claimant: cbondy@step toe.com; ldimond@Step toe.com; agenest@step toe.com; mxlee@step toe.com; lbusso@Step toe.com; egiakoumakis@Step toe.com

Respondent: scott.little@international.gc.ca; sylvie.tabet@international.gc.ca; jeanfrancois.hebert@international.gc.ca; sara.leblanc@justice.gc.ca; nathalie.latulippe@finances.gouv.qc.ca; marc-antoine.couet@finances.gouv.qc.ca; louisphilippe.coulombe@finances.gouv.qc.ca; adam.douglas@international.gc.ca; florence.beaudet@international.gc.ca