

March 20, 2014

Mr. Paul Dudek, Chief  
Office of International Corporate Finance  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F. Street, N.E.  
Washington, D.C. 20549

Re: Eligibility for Use of Form F-10

Dear Mr. Dudek:

On behalf of our client, TransCanada PipeLines Limited (the “Company”), we respectfully request that the staff (the “Staff”) of the Securities and Exchange Commission (the “Commission”) confirm that, based on the facts and circumstances described in this letter, which result from the Commission’s elimination of Form F-9, the Staff will not object if the Company uses Form F-10<sup>1</sup> in connection with the public offer and sale of its securities in the United States as long as it qualifies to use Form F-3 for such offer and sale.

## **Background**

The Company is a Canadian corporation headquartered in Calgary, Alberta, Canada and complies with the requirements of the multijurisdictional disclosure system (“MJDS”).<sup>2</sup> In

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<sup>1</sup> Form F-10 may be used for the registration of securities under the Securities Act of 1933, as amended (the “Securities Act”), but may not be used for the registration of derivative securities except: (i) warrants, options and rights, provided that such securities and the underlying securities to which they relate are issued by the registrant, its parent or an affiliate of either; and (ii) convertible securities, provided that such securities are convertible only into securities of the registrant, its parent or an affiliate of either. Form F-10, in relevant part, is available to any registrant that: (i) is incorporated or organized under the laws of Canada or any Canadian province or territory; (ii) is a foreign private issuer; (iii) has been subject to the continuous disclosure requirements of any securities commission or equivalent regulatory authority in Canada for a period of at least 12 calendar months immediately preceding the filing of Form F-10, and is currently in compliance with such obligations; and (iv) has an aggregate market value of the public float of its outstanding equity shares of \$75 million or more.

<sup>2</sup> In 1991, the Commission adopted rules and forms to create the MJDS. The Commission’s purpose was to facilitate cross-border securities offerings and periodic reporting by eligible Canadian issuers. The MJDS allows eligible Canadian issuers to satisfy registration and reporting requirements under the Securities Act and the Securities Exchange Act of 1934, as amended (the “Exchange Act”), by providing the Commission with disclosure documents prepared under Canadian securities law. See, Multijurisdictional Disclosure and Modifications to the Current Registration and Reporting System for Canadian Issuers, Release Nos. 33-6902; 34-29354; 39-2267; IC-18210; International Series Release No. 291 (June 21, 1991).

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addition to being a public reporting company in Canada, the Company has been a public reporting company in the United States for over 50 years. The Company is subject to Section 15(d) of the Exchange Act, pursuant to which it files its annual reports on Form 40-F and files and/or furnishes other reports on Form 6-K as required. Following the adoption of the MJDS, the Company filed its first registration statement on Form F-9<sup>3</sup> in 1992. Since that time, the Company has regularly used Form F-9 to register and issue investment grade debt securities in the United States. The Company currently has an effective registration statement on Form F-9 pursuant to which it has registered investment grade debt securities.

On July 26, 2011, the Commission adopted amendments to replace rule and form requirements under the Securities Act and the Exchange Act for securities offering or issuer disclosure rules that rely on, or make special accommodations for, securities with investment grade ratings by providing alternative requirements.<sup>4</sup> As discussed in more detail below, two of the changes, the rescission of Form F-9 and the revisions to the eligibility requirements for using Form 40-F to file an annual report with the Commission, impact the Company but in differing ways by subjecting the Company to different regulatory regimes depending on whether it is complying with Securities Act or Exchange Act requirements. In addition, since all of the Company's outstanding common shares are owned by one company that also files reports with the SEC using the MJDS, the changes have the anomalous result of subjecting the Company and its parent to different Securities Act regulatory regimes.

## Discussion

With respect to the rescission of Form F-9, the difference between Form F-9 and Form F-10, in addition to the form eligibility differences discussed above, is that issuers using audited financial statements prepared pursuant to Canadian generally accepted accounting principles ("Canadian GAAP") were not required by Form F-9 to include a reconciliation to U.S. generally accepted accounting principles ("U.S. GAAP"). Although not required to do so, the Company historically has included a reconciliation of its financial statements prepared in accordance with Canadian GAAP to U.S. GAAP.<sup>5</sup>

One reason noted in the Adopting Release for the rescission of Form F-9 was that because of the adoption by the Canadian Securities Administrators of rules requiring Canadian reporting companies to prepare their financial statements pursuant to International Financial Reporting

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<sup>3</sup> Form F-9 may be used for the registration under the Securities Act of investment grade debt or investment grade preferred securities that, in relevant part, are offered for cash and are either non-convertible or are not convertible for a period of at least one year from the date of issuance and, except in limited circumstances, are thereafter only convertible into a security of another class of the issuer. As a general matter, Form F-9 may be used by any registrant that is eligible to use Form F-10, except that the public float requirement does not apply if the securities being registered are not convertible into another security.

<sup>4</sup> See Release No. 33-9245; 34-64975 (the "Adopting Release").

<sup>5</sup> Effective January 1, 2012, and as permitted by applicable Canadian regulations, the Company began preparing its financial statements in accordance with U.S. GAAP.

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Standards as issued by the International Accounting Standards Board beginning in 2011, which under U.S. requirements do not require a reconciliation to U.S. GAAP, the disclosure requirements under Form F-9 would have been the same as those under Form F-10. Following the effective date of the rescission of Form F-9, December 31, 2012, for a Canadian issuer to continue to be able to issue securities following the MJDS, it must be eligible to use Form F-10.<sup>6</sup> The Company will not qualify to file on Form F-10 following the expiration of the grandfather provision as it will not meet the public float requirement.<sup>7</sup> As a result, the Company will have to use one of the forms available to foreign private issuers, not under the MJDS, to register the offer and issuance of its debt securities and/or preferred securities in the U.S.

Currently the Company would be eligible to use Form F-3.<sup>8</sup> Although Form F-3 permits an eligible issuer to incorporate its Form 40-F by reference, it does not permit the Company to use disclosure standards established by the applicable Canadian securities regulators to satisfy its other prospectus disclosure requirements. Rather it would be required to prepare disclosures consistent with standards set by the Commission. In addition, the Company would not be able to take advantage of the timing and review accommodations available to Canadian issuers that file registration statements under the MJDS, but would be subject to the timing and review processes of both the applicable Canadian securities regulators and the Commission. This results in added burdens to the Company and its parent, TransCanada, in order to comply with two different disclosure regimes in connection with securities offerings and increased uncertainties in the offering process raised by being subject to the applicable processes of both the applicable Canadian securities regulators and the Commission.

At the same time that the Commission rescinded Form F-9, the Commission also revised the eligibility requirements to use Form 40-F. Prior to the revisions, the eligibility requirements for

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<sup>6</sup> At the same time that the Commission rescinded Form F-9, it created a temporary “grandfather” provision that permits a registrant to use Form F-10 until December 31, 2015 if it discloses in Part II to the Form F-10 that it has a reasonable belief that it would have been eligible to make an offering of investment grade securities on Form F-9 as of December 30, 2012 and discloses the basis for such belief.

<sup>7</sup> For purposes of determining compliance with the public float requirements, common shares, non-voting equity shares and subordinate or restricted voting equity shares, but not preferred shares, are to be considered. All of the Company’s outstanding common shares are held by TransCanada Corporation (“TransCanada”). Like the Company, TransCanada is a Canadian corporation headquartered in Calgary, Alberta, Canada and complies with the requirements of the MJDS. TransCanada has a currently effective registration statement on Form F-10 pursuant to which it has registered common shares, first preferred shares, second preferred shares and subscription receipts. TransCanada is also registered with the Commission under Section 12 of the Exchange Act, pursuant to which it files its annual reports on Form 40-F and files and/or furnishes other reports on Form 6-K, as required. TransCanada currently conducts all of its business through the Company. As a result, the disclosures that the Company and TransCanada file with the Commission substantially and substantively mirror each other.

<sup>8</sup> The Company currently meets the Registrant Requirements set forth in General Instruction I.A. of Form F-3 and several alternative criteria set forth in General Instruction I.B.2 of the form as it has issued at least \$1 billion in non-convertible securities, other than common equity, in primary offerings for cash over the prior three years; has outstanding at least \$750 million of non-convertible securities, other than common equity, issued in primary offerings for cash registered under the Securities Act; and is a wholly-owned subsidiary of a well-known seasoned issuer.

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using Form 40-F to file an annual report with the Commission tracked the eligibility requirements for Form F-9 discussed above.<sup>9</sup> As a result, an issuer, such as the Company that qualified to file a Securities Act registration statement on Form F-9 also qualified to use Form 40-F to file its annual report with the Commission. The Commission revised this requirement by limiting the ability to use Form 40-F to those issuers that meet the public float test. To address a concern about some issuers no longer being able to continue to use Form 40-F, the Commission created a permanent "grandfather" provision that will allow issuers that have sold securities pursuant to a registration statement on Form F-9 to use a Form 40-F to file their annual report with the Commission provided they otherwise meet the other eligibility requirements for use of the form and the issuer had filed a Form F-9 with the Commission on or before December 30, 2012.

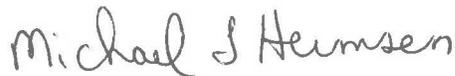
The effect of the rescission of Form F-9 coupled with the creation of the grandfather provision with respect to continued eligibility to use Form 40-F to file its annual reports creates the anomalous result that the Company can use the MJDS to file its annual report on Form 40-F and other reports with the Commission, but cannot use the MJDS in connection with the filing of registration statements with the Commission and the offer and sale of securities in the U.S.

### **Conclusion**

For the reasons stated above and to avoid the hardships a contrary result would have on the Company and TransCanada, we respectfully request that the Staff confirm that it will not object if the Company uses a Form F-10 to register the offer and sale of its debt securities and/or preferred securities in the U.S. as long as it qualifies to use Form F-3 for such offer and sale.

If you have any questions concerning the foregoing or desire additional information, please do not hesitate to contact the undersigned at (312) 701-7960.

Sincerely,



Michael L. Hermsen

cc: Christine Johnston

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<sup>9</sup> A second eligibility provision available to an issuer that filed reports with the Commission pursuant to Section 15(d) of the Exchange Act and Rule 15d-4 thereunder if the issuer was subject to the reporting requirements solely by reason of having filed a registration statement on Form F-9 was eliminated at the same time that Form F-9 was rescinded.