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Federal Government Recruiting For New Canadian Energy Regulator Positions

By Zoë Thoms

The government recently announced it is recruiting for the new Canadian Energy Regulator positions of Chairperson, Vice-Chairperson and Board member.

The *Canadian Energy Regulator Act* was introduced as part of Bill C-69 (along with proposed changes to the federal environmental assessment regime) as a means of modernizing the National Energy Board.

The government is proposing to replace the NEB with the Canadian Energy Regulator in order to “help restore investor confidence, re-build public trust and advance Indigenous reconciliation - all while ensuring good projects go ahead and our energy resources get to markets responsibly.”

The government describes the changes to the national energy regulator as being based on five themes:

- 1. Modern and effective governance:** The new regulator will separate its adjudicative function from daily operations. This would be achieved in three ways:
 - The establishment of a new Board of Directors to provide oversight and strategic direction on operations. At least one Board member will be Indigenous;
 - The creation of a Chief Executive Officer, which would be responsible for day-to-day operations, separate from the Chair of the Board; and
 - The new regulator would include a group of independent commissioners responsible for project reviews and decision-making. At least one commissioner will be Indigenous.
- 2. Enhanced certainty and timelier decisions:** The government is seeking to balance the need for more a more predicable process without compromising public consultations, Indigenous reconciliation or environmental stewardship and sustainability by integrating the energy regulatory approval process with the environmental impact assessment process.
- 3. More inclusive public engagement:** The current “standing test” would be eliminated to allow broader public participation and the factors currently considered by the regulator in its “public interest determination” would explicitly reflect consideration of environmental, social, safety health and socio-economic issues, as well as gender-based impacts, the impacts on Indigenous peoples, and Canada’s climate change commitments.
- 4. Greater Indigenous participation:** Under the new legislation there would be a recognition of Recognizing Indigenous rights upfront and confirmation of the government’s duty to consult, including a requirement to assess impacts on these rights. As well, an Indigenous Advisory Committee would be established, with members representing First Nations, Inuit and Metis interests, to enhance the involvement of Indigenous peoples in lifecycle oversight.
- 5. Strengthened safety and environmental protection:** New tools to protect the environment and ensure a company’s regulatory compliance including, updating the powers of federal inspection officers so that they can act quickly, including placing a stop-work order on any project operating unsafely and introducing a legislative requirement that companies increase protection of their infrastructure.

Bill C-69 is currently before the Standing Senate Committee on Energy, the Environment and Natural Resources. The appointments to the new Board will not be made until the legislation is passed by the Senate and receives Royal Assent.

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