

March 31, 2025

VIA EMAIL:

Canada Energy Regulator
Suite 210, 517 – 10th Avenue SW
Calgary, AB T2R 0A8
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Re: Comments on the Commission of the Canada Energy Regulator's (CER or Commission) OPR Review Phase II (OPR Review Process)

Enbridge Inc. (Enbridge) is providing comments on the 13 Topic Papers issued by the Canada Energy Regulator (CER) for Phase 2 of the CER's review and revision of the Onshore Pipeline Regulations (OPR) and the Environmental and Socio-Economic Assessment and Lands guides of the Filing Manual (OPR Review process). Enbridge's comments and feedback represent those of all pipeline entities owned in whole or in part by Enbridge, including:

- Enbridge Pipelines Inc.
- Westcoast Energy Inc.
- Vector Pipeline Limited as general partner of Vector Pipeline Limited Partnership
- Enbridge Pipelines (NW) Inc.
- Express Pipeline Ltd. on behalf of Express Pipeline Limited Partnership
- Enbridge Bakken Pipeline Company Inc. on behalf of Enbridge Bakken Pipeline Limited Partnership
- Enbridge Southern Lights GP Inc. on behalf of Enbridge Southern Lights LP
- Maritimes and Northeast Pipelines Ltd.
- Enbridge Gas Inc.
- Niagara Gas Transmission Limited
- 2193914 Canada Limited
- St. Clair Pipelines Management Inc. *on behalf of St. Clair Pipelines L.P.*

Enbridge has been an active participant in the CER's engagement efforts for both Phase 1 and Phase 2 of the OPR Review Process, including participating in all online information sessions and industry workshops and attending proactive meetings with CER staff to gain a more fulsome understanding of the objectives of proposals within the Topic Papers. Enbridge provided comprehensive comments on Phase 1 Topic Papers in a letter to the CER dated June 30, 2022 (attached for reference).

Except as specifically referenced by the federal UNDRIP legislation Action Plan, Enbridge continues to be of the view that the Onshore Pipeline Regulations and Guidance provide sufficient authority and adequate regulatory framework for the CER to execute on its mandate and achieve the objectives outlined for this OPR Review Process without introducing new

requirements. Evolution of the OPR should be focused on reducing regulatory burden by providing clear guidance and eliminating or modifying requirements that aren't driving desired results-based performance outcomes. New requirements should only be recommended if the CER can clearly articulate a need. To date, and to our knowledge, the CER has not provided results-based support or rationale for proposed changes to the OPR.

We encourage the CER to not lose sight of the need to simplify regulations to promote Canada's global competitiveness through regulatory efficiency while also balancing the interests of Indigenous groups and all Canadians. Clear and well-designed regulatory frameworks, including regulations, guidance and compliance programs, that offer certainty; and supporting processes for reasonable decision timelines are key for energy investments in Canada. The CER promotes itself and its regulations as being a mix of performance and prescriptive-based requirements. As noted by Harvard's Kennedy School of Government professor Malcolm K. Sparrow in two of his books, "The Regulatory Craft" and "Fundamentals of Regulatory Design", the evolution of regulatory reform from a traditional prescriptive approach towards performance or goal-based requires an increased focus on results, adopting a risk or compliance-management approach, and investing in collaborative partnerships. Likewise, the evolution of the OPR and related regulatory documents and guidance, combined with enhancements to the CER's oversight via its compliance program, should be governed by a focus on achieving defined results, a desire for risk-based efficiency in execution, and constructive relationships established with regulated industry as a key stakeholder.

Enbridge's comments in both Phase I and Phase 2 of the OPR Review Process are informed and representative of its decades-long operating history and, with due consideration, can help the CER achieve its overall objectives. It is not clear that regulated industry perspectives have been given due consideration to date in the OPR Review Process. In our view, the CER's Phase 1 "What We Heard Report" did not adequately reflect concerns, recommendations, and suggestions made by regulated industry, including, as an example, concerns raised relating to duplication and/or misalignment of proposed changes with industry standards, as well as the value of technical requirements in industry standards as opposed to prescriptive technical requirements in regulations. Rather than a "What We Heard Report" or any future general summary, it would be beneficial to obtain the CER's views/justification/rationale regarding specific recommendations and suggestions made by regulated companies and other interested parties.

As initially noted in its response to the CER's OPR Review Discussion Paper dated June 30, 2022, Enbridge recommends the CER consider the following guiding principles in relation to any changes proposed to the OPR and its implementation:

Goal-oriented - In line with how the OPR is currently written, any changes to the OPR should be goal-oriented, allowing companies to be creative, efficient, and flexible in their implementation of OPR requirements. For example, the CER's proposal to have an environmental protection plan (EPP) in place for all work and activities (Topic Paper D,

Subtopic 4) is prescriptive and strict compliance with such a requirement would introduce unnecessary regulatory burden and cost. Similarly, the CER's proposal to include specific monitoring provisions for abandoned pipelines in Section 39 of the OPR is unnecessarily prescriptive. For these examples and others elaborated in this submission (and from other regulated companies), the applicable, existing OPR requirements are already goal-oriented and scalable, enabling risk-based management and monitoring approaches that protect sensitive environmental receptors during potentially impactful activities.

Scalable – Any change to the OPR should be sensitive to scale and enable fit-for-purpose approaches that consider scope of activity and potential for impact. For example, Enbridge acknowledges the CER's proposal in Topic Paper B, Subtopic 4, to allow for a notification rather than an application for deactivation and recommends a similar approach for reactivation.

Explicit – Any changes to the OPR must be done using specific language and controlled vocabulary. As for existing requirements, changes to the OPR should be accompanied by clear guidance and commentary regarding expectations, especially for new requirements within a management system. For example, in Topic Paper F, Subtopic 2, the CER proposes a new OPR requirement for a contractor management process as well as technical guidance. Enbridge is not supportive of a new requirement given the degree of uncertainty and lack of clarity in the CER's current oversight approach to contractor management. Rather, further dialogue with regulated industry is needed to enable clear guidance as-to how the CER considers existing OPR requirements in the context of contractors, preferably guidance that explicitly considers risk based on services provided.

Transparent - Transparency in process generally increases Canada's global competitiveness by directly improving predictability of CER expectations and timeframes. Specific to the CER OPR Review process, having transparency to proposed changes early in the legislative drafting process and opportunities for dialogue between the CER and regulated companies will mitigate the potential for unintended consequences and unreasonable impacts to operators. Prior to Gazette, it would be productive for the CER to seek feedback from regulated industry on anticipated operational impacts of specific regulatory change proposals, and potentially consider alternative approaches to achieving the same objectives while minimizing the regulatory impact to operators.

Time-Sensitive – Driving accountability for timely decisions, responses, and feedback from the Canada Energy Regulator will enhance public and industry confidence in, and the global reputation of, Canada's energy regulatory system. Timely feedback from regulators enables industry to proactively adapt according to regulator expectations and guidance. Timely decisions and reasonable requests and response times enable industry to plan and execute work with confidence and stay competitive.

The CER has encouraged submission of comments using an online submission template or via letter. Enbridge has elected to use both media, with comments applicable to the OPR Topic Papers provided within this letter and those applicable to the Filing Manual Topic Papers via the online templates. All comments are provided with the view that they help meet the shared objectives of this Review as well as align with the suggested Guiding Principles noted above. Enbridge would like to thank the CER for this Phase 2 opportunity to review and comment. Enbridge looks forward to continued dialogue as the CER's engagement process moves into Phase 3 and requests that the CER include the draft OPR along with the corresponding OPR guidance at the same time for Phase 3.

For any clarifications or questions related to this submission, please contact the undersigned at the contact information provided, or Kevin Gerla, Regulatory Compliance Manager, at (403) 767-3646. Please send any information regarding next steps in the OPR Review Process to Enbridge Regulatory Affairs inbox at enbridge.notifications@enbridge.com.

Sincerely,



Sarah McKenzie
Director, Regulatory Affairs Enbridge

Attachments

- Enbridge Response to Topic Paper A: Damage Prevention
- Enbridge Response to Topic Paper B: Deactivation and End of Lifecycle
- Enbridge Response to Topic Paper C: Emergency Management
- Enbridge Response to Topic Paper D: Environment Protection
- Enbridge Response to Topic Paper E: Human and Organizational Factors
- Enbridge Response to Topic Paper F: Management System and Contractor Management
- Enbridge Response to Topic Paper G: Pipeline Integrity
- Enbridge Response to Topic Paper H: Reporting Harm
- Enbridge Response to Topic Paper I: Rights and Interests of Indigenous Peoples, Socio-Economic Effects, and Engagement
- Enbridge Response to Topic Paper J: Safety
- Enbridge Response to CER's Phase I OPR Review Discussion Paper
- Enbridge Indigenous Peoples Policy
- Enbridge 2025 Indigenous Reconciliation Action Plan
- Enbridge Discussion Paper: Indigenous Rights and Relationships in North American Energy Infrastructure, June 2018
- Enbridge Sustainability Policy