

QUESTIONS

1. Are there specific process steps for cost apportionment applications that you would like to see made mandatory through the Rules?

Cost apportionment and its application to Indigenous proponents is a multifaceted topic, especially in the context of ensuring fairness, transparency, and alignment with Indigenous rights and interests.

There needs to be a clear definition of cost apportionment.

Rules should clearly define what cost apportionment means in the context of Indigenous projects, including the types of costs (e.g., shared infrastructure, administrative overhead, environmental assessments) that may be subject to apportionment.

Meaningful Engagement and Consultation

Indigenous proponents must be meaningfully consulted and engaged in the process of determining cost apportionment. This includes:

- Early and ongoing dialogue.
- Respect for Indigenous governance structures and decision-making processes.
- Incorporation of Indigenous knowledge and perspectives.

Transparency in Cost Allocation

- All costs subject to apportionment

2. Are there specific process steps for compensation applications that you would like to see mandatory through the Rules?

Indigenous Specific Considerations

- The Rules should mandate that cost apportionment applications consider the unique circumstances of Indigenous proponents, such as:
 - Capacity constraints (e.g., limited financial or technical resources).
 - The potential impact of cost apportionment on Indigenous rights, interests, and economic development.
 - The need to avoid disproportionate financial burdens on Indigenous communities.

3. Do you have feedback regarding how the Rules could incorporate process steps for providing and protecting Indigenous knowledge within hearings?

Incorporating process steps for providing and protecting Indigenous Knowledge (IK) within hearings under the Canada Energy Regulator (CER) Rules of Practice and Procedure is essential to ensure that Indigenous Knowledge is respected, valued, and safeguarded.

- Recognition of Indigenous Knowledge as a Valid Form of Evidence

- Establish clear protocols for how Indigenous Knowledge can be submitted during hearings, ensuring that Indigenous communities retain control over how their knowledge is shared and used.
- The Rules should include safeguards to protect sensitive, sacred, or confidential Indigenous Knowledge from misuse or unauthorized disclosure.
- Adapt hearing processes to be more culturally appropriate and inclusive of Indigenous ways of knowing and decision-making.
- Ensure that the Rules align with the principles of the United Nations Declaration on the Rights of Indigenous Peoples and Canada's commitment to reconciliation.

4. Would you like to see the role of the Crown Consultation Coordinator, and the nature of its participation in Commission hearings reflected in the Rules? If so, How?

The role of the Crown Consultation Coordinator and the nature of its participation in Canada Energy Regulator Commission hearings should be clearly reflected in the CER Rules of Practice and Procedure. This would provide clarity, transparency, and accountability in how Crown consultation obligations are integrated into the regulatory process, especially in relation to Indigenous rights and interests.

5. Do you have other feedback related to how the Commission can align the rules with the CER Act, including the objectives outlined in the Acts preamble, such as the commitment to Reconciliation, and the UN Declaration?

The Rules should explicitly reference reconciliation and UNDRIP as foundational principles guiding the CER's work.

The Rules should ensure meaningful participation of Indigenous peoples in CER processes, including hearings, reviews, and policy development.

The Rules should include specific provisions to protect Indigenous rights and interests, including land, resources, and cultural heritage.

The Rules should promote transparency and accountability in how the CER addresses Indigenous rights and interests.

The Rules should include mechanisms for resolving disputes in cases where Indigenous rights or interests are negatively impacted.

The Rules should include provisions to support capacity building for Indigenous communities to enable their meaningful participation in CER processes.

6. Do you have any suggested changes to the Rules to reflect hearings pursuant to the Canada Oil and Gas Operations Act or other legislation?

The Canada Energy Regulator Rules of Practice and Procedure should be enhanced to better reflect hearings conducted under the Canada Oil and Gas Operations Act. These changes would ensure consistency, clarity, and fairness in regulatory processes while aligning with broader objectives such as reconciliation, Indigenous rights, and sustainable energy development.

7. Do you have feedback with regards to any timelines set in the Rules, additional timelines you would like to see added to the Rules, or the approach for computation of time (Rules, s. 5-7)?

Timelines in the Canada Energy Regulator Rules of Practice and Procedure are critical for ensuring efficiency, predictability, and fairness in regulatory processes. However, there is room for improvement to better align timelines with the needs of Indigenous communities, proponents, and other stakeholders, while also ensuring compliance with the CER Act and broader objectives such as reconciliation and sustainability.

8. Do you have feedback related to the notice of motion process or suggested changes to support efficiency? Do you have feedback on the use of oral notice of motion processes to support efficiency?

Improving the notice of motion process, including the use of oral notices of motion, would enhance the efficiency, accessibility, and fairness of CER proceedings. By accommodating the needs of Indigenous communities and other stakeholders, the CER can ensure that regulatory processes are inclusive, transparent, and aligned with the goals of reconciliation.

9. Do you have feedback on the current process for fixing costs related to detailed route hearings?

Improving the process for fixing costs related to detailed route hearings would enhance the fairness, transparency, and accessibility of the regulatory process. By addressing the unique needs of Indigenous communities and other stakeholders, the CER can ensure that cost recovery is equitable and aligned with the goals of reconciliation.

10. Are there processes that you would like to see written into the Rules?

There are several processes that could be explicitly written into the Canada Energy Regulator Rules of Practice and Procedure to better support Indigenous communities and ensure their meaningful participation in regulatory processes. These changes would align with the CER's commitment to reconciliation, the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, and the principles of free, prior, and informed consent.

- Establish Indigenous advisory committees to provide guidance and oversight on CER processes.
- Adapt hearing processes to be more culturally appropriate and inclusive of Indigenous ways of knowing and decision-making.
- Include provisions for monitoring and ensuring compliance with commitments made to Indigenous communities.
- Ensure that all processes in the Rules align with UNDRIP and Canada's commitment to reconciliation.
- Require proponents to submit Indigenous consultation plans as part of their applications, detailing how they will engage with affected communities.
- Require proponents to negotiate transparent and fair community benefit agreements with Indigenous communities as part of project approvals.

11. Do you have feedback regarding changes that could be made to the information request process to clarify its use and support efficiency?

The information request process under the Canada Energy Regulator Rules of Practice and Procedure is a critical tool for gathering necessary information from proponents, Indigenous communities, and other stakeholders. The process can be inefficient, burdensome, or unclear, especially for Indigenous communities and smaller stakeholders.

- Simplify the IR process to reduce administrative burdens and improve efficiency.
- Offer funding for legal, technical, or administrative assistance in preparing and submitting IRs.
- Provide training and resources on how to formulate effective IRs and interpret responses.
- Develop standardized templates for submitting IRs, with examples of well-formulated questions.

12. Can you identify rules of other regulators or tribunals that support efficiency and could inform the Commission's Review?

N/A

13. Do you have other feedback related to how the Commission can update the Rules to enhance competitiveness through predictable and timely processes?

- Simplify and standardize application requirements to reduce administrative burdens and delays.
- Encourage pre-application engagement between proponents, Indigenous communities, and other stakeholders to identify and address potential issues early.

- Provide capacity-building support to Indigenous communities and other stakeholders to enable their meaningful participation in regulatory processes.

14. Do you have feedback regarding the modernization of requirements to allow for electronic filing and service in most instances?

- Ensure the platform is accessible to all users, including those with limited technical expertise or internet access.
- Provide step-by-step instructions, tutorials, and support for users navigating the platform.

15. Do you have feedback regarding the potential removal of signature requirements in certain instances (e.g. physical signatures on applications and notice of motions)?

- Allow for the use of electronic signatures or other authentication methods in place of physical signatures for most documents.
- Ensure that the removal of physical signature requirements does not create barriers for Indigenous communities.

16. Do you have feedback regarding removal of the current requirements for the company/applicant and the CER to have a hard copy of project applications on site for public inspection (Rules, s. 24)?

Removing the requirement for hard copies of project applications to be available on-site for public inspection would

- Improve efficiency by reducing administrative burdens and costs.
- Enhance accessibility for remote and Indigenous communities.
- Support sustainability by reducing paper use and environmental impact.
- Align with global best practices for digital governance and transparency.

17. Do you have feedback regarding what type of notice publication requirements are appropriate in a digital age and where Commission approval is necessary?

Use targeted notifications to ensure that Indigenous communities, are directly informed of relevant notices.

18. Do you have feedback related to how the Rules could better support accessibility to and throughout Commission processes?

Simplify and streamline CER processes to reduce barriers to participation.

- Develop user-friendly templates and guides for common processes (e.g., submitting applications, filing notices of motion).
- Provide step-by-step instructions and examples to help stakeholders navigate complex processes.

19. Do you have other feedback on how the Commission can update the Rules to modernize practices and procedures?

Standardized Agreements

Create standardized templates for agreements between proponents and Indigenous communities, reducing negotiation time and improving fairness and predictability.

20. Is there other feedback or suggestions you have related to the Rules Review? Incorporate opportunities for Indigenous-led processes within the CER framework.

Integrate the principle of FPIC into the Rules, as outlined in the United Nations Declaration on the Rights of Indigenous Peoples.

Develop and formalize protocols for the submission, protection, and use of Indigenous Knowledge in CER processes.

Adapt hearing formats to be more culturally appropriate and inclusive of Indigenous ways of knowing and decision-making.

Provide capacity-building support to enable Indigenous communities to participate meaningfully in CER processes.

Establish Indigenous advisory committees to provide guidance and oversight on CER processes.

Ensure that Indigenous communities have access to timely and equitable cost recovery mechanisms.

Establish culturally appropriate dispute resolution mechanisms for addressing conflicts related to CER processes.

Include provisions for monitoring and ensuring compliance with commitments made to Indigenous communities.

Ensure that all processes in the Rules align with UNDRIP and Canada's commitment to reconciliation.

Indigenous Consultation Plans:

- Require proponents to submit Indigenous consultation plans as part of their applications, detailing how they will engage with affected communities.

IK Review Panels:

- Establish panels of Indigenous knowledge holders to review and validate IK submissions.

Community Benefit Agreements:

- Encourage or require proponents to negotiate community benefit agreements with Indigenous communities as part of project approvals.

21. Would you like to see guidance on any specific topic related to the Rules Review?

N/A