



# MONTANA FIRST NATION

---

P.O. Box 70  
Maskwacîs, Alberta  
T0C 1N0  
(780) 585-3744  
Fax (780) 585-3264

January 31, 2025

To Whom It May Concern:

On behalf of the Montana First Nation (MFN), please find the following comments regarding the Commission of the Canada Energy Regulator (CER) Rules of Practice and Procedure Review. MFN has focused its efforts on the themes most directly affecting its involvement in the CER's processes.

- 1) Are there specific process steps for cost apportionment applications that you would like to see made mandatory through the Rules?
- 2) Are there specific process steps for compensation applications that you would like to see made mandatory through the Rules?
  - MFN believes that incorporating and recognizing Indigenous Rights into cost apportionments and compensation applications needs to be done. The CER must integrate Indigenous rights, land use, and Indigenous knowledge into cost apportionment and compensation applications procedures as they may have different values to cost and compensation.
  - Transparent and equitable methods of assigning costs for projects that could impact lands, or Indigenous Nations need to be established. The methods could include adjustments to how costs are shared when projects may damage ecosystems, wildlife, or cultural heritage sites important to Indigenous peoples.
  - Compensation for Indigenous Nation should not be solely based on monetary value, as it often does not adequately reflect the loss of cultural, spiritual, and environmental values tied to the land.
  - Mandatory steps could include:
    - i. Early-stage engagement and consultation is needed during the planning prior to cost apportionment and compensation applications to ensure Nations are adequately informed and can meaningfully participate in the process.
    - ii. Ensuring that Indigenous Nations are consulted regarding the financial burdens that could be placed on them, particularly when it comes to costs related to their involvement in the Commissions' processes.
    - iii. A detailed, culturally appropriate assessment of impacts to land, water, and cultural resources.
- 3) Do you have feedback regarding how the Rules could incorporate process steps for providing and protecting Indigenous knowledge within hearings?

- Indigenous knowledge is central to our Nation's understanding of the ecological, cultural, and spiritual significance of our lands and the Rules should explicitly mandate the inclusion of Indigenous Knowledge and its protection in the hearing process.
  - The Rules should also ensure that Indigenous Nations are properly resourced to present their knowledge in hearings, with funding for translation services, experts, and legal advisors to support their participation.
  - Steps could include:
    - i. Confidentiality protections for Indigenous knowledge, ensuring that Indigenous knowledge shared during hearings is not exploited or disclosed without consent.
    - ii. Respectful integration of Indigenous knowledge alongside scientific data to provide a more holistic understanding of potential project impacts.
    - iii. Culturally appropriate processes for presenting and evaluating Indigenous knowledge and the use of Indigenous languages.
    - iv. The proper storage of Indigenous knowledge and the capacity given to store data and information.
    - v. The implementation of the principles of ownership, control, access, and possession (OCAP).
- 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 needs to be clearly reflected in the Rules. The Crown has a fiduciary duty to consult and accommodate Indigenous Nations and this should be understood throughout the regulatory processes.
  - The coordinator should not only facilitate consultation but also act as a neutral body that ensures Indigenous perspectives are adequately represented throughout the hearing process to uphold the honour of the Crown. Their participation should ensure that the Crown and the Commission is held accountable to the principles of free, prior, and informed consent (FPIC) and that their role is understood and accessible.
  - The coordinator's role should include coordinating between Indigenous Nations, the CER, and project proponents to ensure meaningful engagement, particularly where projects affect the rights and title of Indigenous peoples.
- 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 Act's preamble, such as the commitment to Reconciliation, and the UN Declaration?
- The rules could incorporate the UN Declaration as a guiding framework for decision-making, particularly around the rights to FPIC. The Commission could accomplish this through a collaborative, co-management approach between the Crown, industry, and Indigenous Nations, with shared responsibilities for decision-making, monitoring, and mitigation of potential impacts.
  - To align the Rules with the CER Act's commitment to reconciliation, the Rules must go beyond compliance with procedural norms and reflect the principles of justice, equity, and the right to self-determination. For the Rules to align with the UN Declaration they must acknowledge the inherent rights of Indigenous peoples to their lands, territories, and resources.
  - The Rules must also ensure meaningful participation in all phases of regulatory processes, including project development, assessment, and decision-making.

- 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?
- Any hearings under the Canada Oil and Gas Operations Act should prioritize the rights of Indigenous peoples whose territories are affected by oil and gas operations. The Rules should ensure that the impacts on land, water, and wildlife are fully assessed and that mitigation measures reflect Indigenous priorities.
  - Indigenous Nation should have an active role in determining the terms of engagement for hearings, including setting timelines that allow for thorough consultation and preparation.
- 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 should be flexible enough to accommodate the needs of Indigenous Nations and allowing time for meaningful consultation and informed decision-making. Extended timelines may be needed to consult with elders and Nation citizens, whose input is crucial.
  - Time may also need to be extended to translate documents and provide them in Indigenous languages or in a format that is understood by the community.
  - Another factor in timelines is potential community events such as ceremonies, wakes, funerals, elections, etc.
- 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?
- Indigenous Nations should have the option to present motions orally since this format is more accessible and culturally appropriate. Oral processes may better reflect Indigenous decision-making and dialogue.
  - The Rules should ensure that the notice of motion process is transparent, and that Indigenous Nations are adequately informed and resourced to participate in it.
- 9) Are there processes that you would like to see written into the Rules?
- A process that reflects Indigenous governance structures and decision-making systems should be written into the Rules.
  - Indigenous-led environmental assessments, particularly around culturally significant areas, needs to be supported.
  - Ongoing monitoring by Indigenous peoples during and after project implementation, to ensure compliance and accountability.
  - The co-development of monitoring and compliance programs.
- 10) 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 should be designed to ensure that it is accessible to Indigenous communities. It should be clear, transparent, and culturally sensitive, providing enough time for communities to properly review and understand the information.
  - The process should also ensure that Indigenous knowledge holders are consulted and that their insights are incorporated into the information requests and responses.
- 11) Can you identify rules of other regulators or tribunals that support efficiency and could inform the Commission's Review?

- Other regulators and tribunals should be studied for their Indigenous engagement practices where Indigenous rights and land-use are more central to the regulatory process. These could include participatory processes for Indigenous Nations in decision-making, protocols for sharing and protecting Indigenous knowledge, and collaborative decision-making models.
- Other Regulators or Tribunals include:
  - i. New Zealand - Resource Management Act (RMA)
  - ii. The Māori Land Court
  - iii. The International Labour Organization (ILO) Convention No. 169
  - iv. The Native Title Tribunal (Australia)
  - v. Nunavut Impact Review Board
  - vi. The United Nations Permanent Forum on Indigenous Issues

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

- Electronic filing should be allowed, but care should be taken to ensure that digital access is not a barrier for those that may face technological challenges, especially in remote areas. Alternatives for physical access to information should be provided, and materials should be made available in Indigenous languages and accessible formats.

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

- Removing the signature requirement could improve accessibility, but Indigenous Nations should be consulted to ensure that their preferred methods of engagement are respected.

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

- Hard copies can still be valuable for communities with limited internet access,

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

- Notice requirements should be accessible and tailored to the preferences of Indigenous communities. While digital notices are important, print media and community-based notifications should be included to ensure inclusivity. Examples could be community visits and sharing sessions within Nations.

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

- The Rules should ensure that Indigenous languages and translations are supported, that culturally appropriate engagement is prioritized, and that outreach is proactive.
- The Rules should ensure that communities are aware of their right to participate in hearings and decision-making processes.
- Indigenous Elders are also highly utilized as experts throughout the Commissions processes and may have specific needs that will need to be supported to participate.
- The Rules could also support increasing the capacity of those to participate by facilitating “How-To” workshop for their processes.

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

- The Rules should be continually updated to reflect a commitment to reconciliation and respect for Indigenous governance. Indigenous Nations should be partners in shaping the process in collaboration with the CER and decision makers.

18) Is there other feedback or suggestions you have related to the Rules Review?

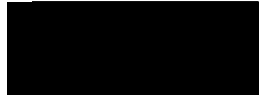
- The CER should consider adopting an Indigenous equity-based framework in its Rules to address the disproportionate impacts of resource projects on Indigenous peoples and ensure that their participation is not only heard but truly valued.

19) Would you like to see guidance on any specific topic related to the Rules Review?

- Guidance on respecting Indigenous governance and FPIC requirements in the context of resources development projects should be included. Governance should also include a collaborative, co-management approach between the Crown, industry, and Indigenous communities, with shared responsibilities for decision-making, monitoring, and mitigation of potential impacts.

If you have any questions about this submission or would like to discuss the Nation's comments further please do not hesitate to contact me at [REDACTED] or by email at [kyranorthwest@montanafirstnation.com](mailto:kyranorthwest@montanafirstnation.com).

Ay hay,



Kyra Northwest  
Montana First Nation  
Consultation & Lands Manager