

STONEY TRIBAL ADMINISTRATION

November 19, 2025

Delivered via email

Remu Sen
Regulatory Policy
Canada Energy Regulator
Email: rppr@cer-rec.gc.ca

RE: Stoney Nakoda Nations Review of the Rules of Practice and Procedure Summary Report dated September 2025

This letter is submitted to the Commission of the Canada Energy Regulator (CER) by the Stoney Consultation Office. The Stoney Consultation Office works with Stoney Tribal Administration on behalf of the Stoney Nakoda Nations (“Stoney”), comprising Bearspaw First Nation, Goodstoney First Nation, and Chiniki First Nation.

The Stoney Nakoda Nations are self-governing bodies under the authority of Treaty No. 7 and provide leadership and direction through the duly elected Chiefs and Councils of the member Nations, collectively known as the Stoney Tribal Council. The Stoney Nakoda have constitutionally recognized Treaty and Aboriginal rights and interests (“Section 35 rights” and/or “Inherent rights”) within Îyāñé Nakoda Makoche (Stoney Traditional Territory). Stoney Nakoda reside mainly on Indian Reserve Lands at Mîñî Thnî (Morley) Alberta (I.R. #142, #143, #144), Eden Valley (I.R. #216), Rabbit Lake (I.R. #142B), and Bighorn (I.R. #144A).

Background

Stoney understands the Commission of the CER is seeking feedback from Indigenous Peoples on, or relating to, potential amendments and improvements to the *National Energy Board Rules of Practice and Procedure, 1995* (“the Rules”). To support engagement and feedback, a Discussion Paper was posted on the CER Dialogue webpage in September 2024 describing the types and scope of amendments currently under consideration.

Following submission of comments from Indigenous groups, industry, and the public, a Summary Report was prepared by the Commission of the CER to illustrate feedback that aligns with the Rules review, feedback that may inform changes to various other guidance documents, and feedback that was out of scope of the Rules review.

The next phase of this process will include a draft regulation, to be published for comment in Winter 2025 / 2026 in *Canada Gazette*, Part 1.

This letter outlines several outstanding items from Stoney’s review of the Discussion Paper, and a request for clarification related to out-of-scope items.

Meaningful Consultation

Overall, the lack of direct and specific engagement with Stoney in this, or other ongoing federal consultation processes, is a critical and persistent issue.

In Stoney's comments on the Discussion Paper, it was noted that CER processes are largely procedural and lack depth that ensures meaningful Indigenous consultation. The Crown Consultation conducted through the Crown Consultation Coordinator creates a partitioned process that limits direct consultation between Stoney and the Commission. This impedes and impairs a nation-to-nation dialogue as Stoney is removed from direct consultation with the party recommending approvals. Such an approach to consultation in the CER's processes does not align with direction from the courts relating to Crown and government agency responsibilities for meaningful consultation. In *Tsleil-Waututh Nation v. Canada (Attorney General)*, 2018 FCA 153 ("*Tsleil-Waututh*"), the Court emphasized that consultation must be a two-way dialogue. Removing direct consultation with decision-makers and parties recommending approvals impedes meaningful two-way dialogue.

Further, the Court in *Tsleil-Waututh* noted that the Crown must demonstrate in a genuine and adequate way that it:

- 1) understands the concerns of affected Indigenous nations, and
- 2) considered and responded to those concerns.

Per Stoney's comments on the Discussion Paper, there is no rubric, system, or discussion on how the Crown Consultation Coordinator and Commission address impacts on Stoney's Section 35 rights and Inherent rights, or how those impacts were evaluated to begin with, beyond information filed by Stoney. The CER's current approach does not demonstrate a genuine or adequate method for understanding impacts to Stoney's rights and the responses to those concerns, as outlined in *Tsleil-Waututh*. The Commission must be responsible for designing and implementing a rubric or system of understanding and assessing impacts to rights.

In numerous instances in our comments on the Discussion Paper, we requested either specific information from the Commission of the CER or direct engagement on key issues. Neither of these has occurred and Stoney is not confident it will occur in relation to various other guidance documents that were referenced in the Summary Report, such as the Filing Manual, the Participant Toolbox, the Early Engagement Guide, Crown Consultation webpages, or guidance on land-related compensation disputes.

At minimum, the Commission of the CER should provide, or direct Stoney to, information requested in our previous submission including:

- Examples of CER practices influencing Indigenous involvement that have been applied on a case-by-case basis that are not systemized in the Rules, to allow Stoney to evaluate whether those should be formally integrated into the Rules moving forward;
- Specific identification of the United Nations Declaration on the Rights of Indigenous Peoples articles being addressed by changes to the Rules;
- Additional information on the specifics of an oral notice of motion process, to ensure it is supportive of Elder participation; and
- Specific demographics of those accessing hard copy applications prior to eliminating this requirement, to ensure that removal of this requirement does not disproportionately impact Indigenous intervenors/participants.

Further, Stoney should be directly consulted on:

- How Indigenous Impact Assessment Co-Administration Agreements could be implemented for CER processes and hearings either by the CER or Natural Resources Canada, depending on the jurisdictional placement of this issue;
- What Indigenous knowledge is from Stoney's perspective, how it can be shared by Stoney, how the Commission can collect this knowledge, how the Commission can understand this knowledge, and how the Commission can work with this knowledge through an Indigenous lens;
- How the Commission can design and implement a rubric or system of understanding and assessing impacts to rights;

- How to change the information request process so that it is reflective of Stoney's needs;
- The issue of timelines and how hearing schedules may impact rights due to timing during cultural events/activities; and
- The navigational challenges of the CER website.

It is imperative that consultation and information sharing on the above noted topics occur as soon as possible as the pre-publication of the Rules is anticipated for winter 2025/2026.

In correspondence with the CER,¹ the CER indicated that capacity funding is not being provided for the Summary Report review Stoney has conducted to support this letter, or for review of the draft regulations. As noted in our previous submission, Stoney must be provided with sufficient capacity funding for continued engagement on this initiative. Stoney does not receive base funding from the federal government for participation in these types of consultation processes and should not be expected to subsidize the CER to ensure our rights and interests are protected in any future draft amended Rules or supporting processes/procedures.

Out of Scope Items

The Summary Report indicates that there are some items that were raised in the Rules review that are out of scope. It was noted that these items were provided to the relevant CER (or other) teams working on those areas to inform and shape their work.

Stoney requires additional details on what actions are expected to be taken by these teams in response to the provided information, if any. This includes details on actions to be taken by:

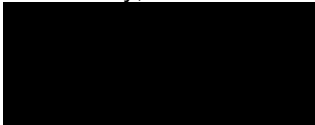
- Natural Resources Canada in relation to Indigenous Ministerial Arrangements Regulations and Indigenous-led processes,
- The Senior CER officer responsible for the Grants and Contributions Program in relation to capacity funding for Indigenous Nations and Communities,
- The Commission of the CER on Stoney Cultural Awareness Training,
- The Crown Consultation Team and potential guidance documents that will assist with clarity of the Crown Consultation Coordinator role and allow for more opportunities for that role to evolve,
- The CER staff responsible for future amendments to the Early Engagement Guide, and
- The Onshore Pipeline Regulations and Filing Manual teams.

In addition, details are required on continued capacity funding from the Government of Canada for Stoney's sustained participation in these multi-faceted, highly technical consultations.

Conclusion

For the Commission of the CER to achieve their goals for continual improvement of their cultural intelligence and overall improvement of the Rules, there must be clear Rules put in place that will allow Stoney to participate confidently, have sufficient capacity, and not be constrained by a Canada-centric process. Stoney expects the information in this letter will result in enhanced information sharing and consultation with the Commission and CER both prior to and during the pre-publishing phase of the draft regulations.

Sincerely,



William Snow
Acting Director of Consultation
Stoney Tribal Administration

¹ Emails sent between MNP, on behalf of Stoney, and the CER, on November 5 and 6, 2025.