ENERGY CONNECTIONS CANADA

An Alliance for Energy Pipeline Innovation

26 February 2026

The Hon. Shafqat Ali, P.C., M.P.
President of the Treasury Board
Government of Canada
90 Elgin Street
Ottawa ON K1P 0C6

RE: Submission to Treasury Board's Red Tape Review

Dear Minister Ali,

Energy Connections Canada (ECC) represents the interests of energy transmission companies that transport a majority of Canada's crude oil, natural gas and refined products to markets across North America and beyond. Our members are global leaders in the safe and responsible delivery of energy products that fuel life in Canada and around the world.

We welcome the Government of Canada's interest in reducing red tape. In particular, we are wholly aligned with the aspirations of the red tape review to advance regulatory efficiency for project reviews, get products to market faster, reduce barriers to business productivity, support international trade and greater efficiency at the border, and enhance regulatory service delivery[1]. We also support other Government of Canada aspirations such as moving from delay to delivery, ensuring one project/one review, and realizing Canada's potential as a clean and conventional energy superpower.

To achieve these aspirations, existing federal legislation in Canada needs to change and be aligned with these important goals. A key recommendation we have is to elevate the Canada Energy Regulator (CER) to the role of the single, life-cycle regulator for federally-regulated pipelines in Canada.

Before we explain our recommendation, make the case for change by contrasting Canada's history of approving safe and reliable pipelines to the reality faced by a number of recent projects:

1.0 The Case For Change: *Federally-Regulated Pipelines Are Now Very Risky Businesses in Canada*

Canada had a history of efficiently approving extensive, large-scale, and safe pipelines. For example:

- The Alliance Pipeline is a 3,808 km greenfield natural gas pipeline, stretching from northeast British Columbia to Illinois. It progressed from inception to operational status within just four years**.** Alliance Pipeline Ltd. filed for regulatory approval to the National Energy Board in July 1997. The project was approved in November 1998. The Alliance Pipeline regulatory review process took **16 months**.

[1] Government of Canada, "President of the Treasury Board hosts Red Tape Reduction Summit and launches new initiative to eliminate red tape", December 03, 2025

- The Alberta Clipper is a 1,074 km brownfield pipeline transporting oil from Hardisty, Alberta, to the United States border near Gretna, Manitoba. Enbridge Pipelines Inc. filed for regulatory approval in May 2007**.** A hearing was held in November 2007. The project was approved in February 2008 - **4 months later** - and construction was completed in 2010.

These pipelines, and others built under previous and efficient regulatory regimes, are imminently safe, responsibly built, critical pieces of Canadian energy infrastructure.

By contrast, after 2015, projects like the Trans Mountain Expansion Project (TMEP) faced a regulatory climate fraught with delays, uncertainty and inefficiency. TMEP involved the addition of new pipeline, primarily within the right-of-way of the *existing* pipeline, roughly 1/3 the length of the Alliance Pipeline, but which took **11 years** from the time of its application to its operational status.

Over the last 10 years, federally-regulated pipelines have become incredibly risky investments in Canada, representing billions of dollars in losses to proponents. This has soured Canada's investment climate. As evidence of this:

- Trans Mountain incurred substantial regulatory delays that led to cost impacts associated with the TMEP. The project was approved under 156 conditions, many of which were costly to implement, and a subsequent provincial assessment that resulted in an additional 39 conditions, many of which were substantially similar to those issued by the federal government. The project's proponent, Kinder Morgan, abandoned Trans Mountain and the TMEP and exited the country. The federal government bought Trans Mountain to ensure the completion of the Project. The government's acquisition represents the clear breakdown of Canada's recent approach to pipeline regulation.
- The cancelled Energy East pipeline cost TC Energy $1 billion[2]
- The cancelled Northern Gateway project cost Enbridge $373 million[3]

Again, pipeline investment in Canada has become a very risky business and needs to be de-risked via legislative and cultural change.

2.0 Overview of the Legislative Changes Recommended

This memo describes the changes recommended in three areas:

2.1 Recommended Changes to the Canadian Energy Regulator Act
2.2 Pause the Proposed Indigenous Ministerial Regulations (IMARs)
2.3 Pause the CER's Onshore Pipeline Regulation (OPR) Review

2.1 Recommended Changes to the *Canadian Energy Regulator Act* (CERA)

2.1.1 CER Should be the Only National Regulator of Federally-Regulated Pipelines

The Canadian Energy Regulator (CER) is the best placed regulator to achieve the Government of Canada's goal of 'one project/one review[4]'. The CERA and the *Impact Assessment Act* should be amended to recognize the CER as the best-placed regulator to have exclusive jurisdiction over federally-regulated pipelines in Canada. This includes amending the CERA to make the CER the final decision maker for pipeline projects and removing the involvement of the Governor in Council (GIC).

[2] Energy East pipeline project cancelled by TransCanada Corporation | Calgary Herald
[3] Enbridge gets $14.7M federal refund over Northern Gateway pipeline project | CBC News
[4] "One Project, One Review": Comments Invited on the Co-operation Approach for Working with Provinces - Canada.ca

Moreover, the CER should be given the authority and the required staffing to act as the lifecycle regulator of federally-regulated pipelines and issue permits for pipelines under all applicable federal legislation. Current federal legislation regulating pipelines includes the *CER* Act (administered by Natural Resources Canada), the *Impact Assessment* Act (administered by the Impact Assessment Agency of Canada), the *Fisheries Act* (administered by Fisheries and Oceans Canada (DFO)), the *Species at Risk Act* (administered by DFO and Environment and Climate Change Canada (ECCC)), the *Migratory Birds Convention Act, 1994* (administered by ECCC) and the *Canada National Parks Act* (administered by Parks Canada).

Consideration should also be given to making amendments to the CERA that would emphasize the exclusive jurisdiction of the CER over federally-regulated pipelines in order to clearly "occupy the field" for the purposes of preventing other jurisdictions from imposing requirements that will significantly delay infrastructure development.

2.1.2 Remove Role of Cabinet from Pipeline Decisions

Amend s. 183, s. 184 and s.186 of the CERA to make the CER, and not the GIC, the final decision-maker with respect to federally-regulated pipeline projects. The evaluation of pipeline projects, and the decision as to whether they proceed, should be done by the expert lifecycle regulator and not require a political decision. Political decisions create investment risk. Furthermore, the process to obtain that political decision after the release of the CER's recommendation has historically led to successful legal challenges related to the duty to consult whereas reliance on the CER process to discharge the duty to consult has been endorsed by the Supreme Court of Canada.

2.1.3 Ensure Economic Development & Investor Confidence Commitments in CER Act

Amend the preamble of the CERA to recognize that economic development through pipeline projects is in the Canadian national public interest. As a result of acknowledging this national public interest in legislation, the CER review could be narrowed to focus on how the project can be developed, constructed and operated in a safe and environmentally responsible manner, rather than focusing on whether each project is in the public interest.

To this end, we recommend amending s.11(a) of the CER Act to reiterate language used in the *Building Canada Act* by stating that decisions, orders and recommendations must be made "*in a manner that enhances regulatory certainty and investor confidence, while protecting the environment and respecting the rights of Indigenous peoples."* If one Act – the *Building Canada Act* – sets the government's aspiration for major projects – including pipelines – so too should the Act that deals with the regulation of pipelines.

2.1.4 Introduce New Timeframes

Amendments to the CERA are needed to provide greater certainty for investors and project proponents by shortening timelines for CER decisions and reducing opportunities for extensions.

Under the existing s.183 (4), the Commission has "no longer than" 450 days after they have deemed an application complete to make its recommendation to issue a certificate. Adding the additional time required for the application completeness determination (typically 2 months from application filing but could be longer), and the time for a GIC decision (3 months under s.186 but with opportunities for one or more extensions, which historically have been exercised), the total time required for existing adjudication is closer to 20 months (or 600 days), assuming no pauses or extensions.

Under s.214(4), the Commission has "no longer than" 300 days after they have deemed an application complete to make its decision. However, there are multiple opportunities within the CERA for extensions of timelines or for timelines to be stopped altogether, resulting in significant delays to needed projects.

Given the foregoing, we recommend the following modifications:

- Following completeness determination, reduce the maximum time for s.183 decisions from 450 days to 250 days.
- Following completeness determination, reduce the maximum time for s.214 decisions from 300 days to 180 days.
- Accordingly, remove all opportunities to extend or suspend time limits under s.183.(4), s.183(5), s.214(4), s.214(5) and s.214(6).
- Remove the requirement for GIC review of CER recommendations and make the CER the final decision-maker by amending s.183, s.184 and s.186 of the CER Act accordingly. If this is not changed, the opportunity for time extensions under s.186 should be limited to extenuating circumstances only.

2.1.5 Narrowing the Scope of the Assessment

Section 214 could be expanded. Currently under the CERA, projects can proceed through a CER assessment via two processes depending upon the project's length; s. 214 or s. 183 of the CERA. Specifically, under s.214, pipeline projects not more than 40 km in length can be exempted from the certificate process outlined in sections 179, 180(1), 182, 198, 199 and 213 of the CERA.

We recommend an expansion of the use of the s.214 mechanism to greater pipeline lengths, but at minimum we recommend that s.214 (1) (a) be changed to include "pipelines or branches of or extensions to pipelines, of not more than 40 kilometres in length of new right of way."

Clause 183(2) addresses the Factors to Consider. In that section, we recommend the following:

1) Introduce flexibility into the CER's consideration of what is a wide spectrum of pipeline applications that come before it by inserting 'which may include' to the end of clause s.183(2*)* to read, *The Commission must make its recommendation taking into account - in light of, among other things, any Indigenous knowledge that has been provided to the Commission and scientific information and data - all considerations that appear to it to be relevant and directly related to the pipeline****, which may include,"***

2) Additionally, clause 183(2) includes broad policy-related issues. Instead, the CER should focus on the technical aspects of pipeline project development and operations, with evolving policy housed in separate legislation. Therefore, we recommend removing subsection (j) which references how a pipeline will hinder or contribute to the Government of Canada's ability to meet its obligations and its commitment in respect of climate change. Pipelines, like all other industries, are already subject to Canada's emissions legislation contained elsewhere. Including this language in CER reviews is redundant and risks creating cross-threading requirements.

2.1.6 Clarifying the Role of the CER Process in respect of Indigenous Consultation

The CER's regulatory process, which includes mandated proponent consultation with potentially impacted Indigenous groups, should be the primary means of fulfilling the duty to consult. Industry takes no issue whatsoever with the duty to consult. However, industry is concerned that the central role of the CER regulatory process in discharging the duty to consult is often forgotten or misunderstood, which can lead to a scattered approach to discharging the duty to consult and associated legal risk. To ensure consistency and certainty in the approach to discharging the duty to consult, a new whereas clause should be added to the preamble of the CERA after the clause "Whereas the Government of Canada is committed to using transparent processes that are built on..." The new clause would read:

"Whereas the Government of Canada therefore relies on the regulatory process, including mandated company consultation, to the extent possible to discharge the duty to consult and avoids unnecessary duplication of the consultation efforts.

2.1.7 Introduce Thresholds for CER Conditions

Currently, the thresholds for establishing project conditions in the CERA are very low (i.e. "necessary or in the public interest", "conditions it considers appropriate", "considers necessary or appropriate") which has led to a growing number of costly conditions to address intervenor concerns. Many issues and concerns contained in recent conditions are already addressed through company compliance to existing core regulatory requirements, such as the *Canada Energy Regulator Onshore Pipeline Regulation (OPR), Canada Occupational Health and Safety Regulation, Canadian Standards Association Z662 Oil and Gas Pipeline Systems*, or the many requirements, codes and standards that cascade from these core requirements – all of which obligate operators to ensure safety, security, and protection of persons, property and the environment. Industry is seeking a more predictable and reasoned approach to the conditions the CER can create.

Consideration should be given to adding legislative direction regarding the CER's authority to impose conditions on an approval, requiring the CER to consider the benefits and burden of the condition and to avoid adding conditions when the matter or issue is already reasonably addressed or could effectively be addressed through the existing regulatory requirements noted above, including the comprehensive OPRs. CER conditions need to reflect the Government of Canada's commitment to reducing red tape and must be aligned with the CERA commitment to *'enhancing Canada's global competitiveness'.*

2.2 Pause the Indigenous Ministerial Arrangements Regulation (IMAR)

The proposed IMARs are to identify the circumstances, criteria and process for which the Minister of Natural Resources can delegate powers, duties and functions under the CERA to Indigenous Governing Bodies (IGB). The IMARs are currently undergoing stakeholder consultation.

The IMARs contemplate the creation of new pipeline regulators and potentially a multiplicity of regulators across a pipeline's right-of-way. This idea is not aligned with the government's goal of achieving 'one project/one review'. We recommend that the IMARs be paused and a discussion ensue with industry and the CER to examine how existing mechanism, within the known regulatory regime, may be amended to enhance Indigenous participation.

2.3 Pause the CER's Onshore Pipeline Regulation (OPR) Review

In 2022, The CER began its review of the OPR and Filing Manual. Industry participated in two phases of engagement in both 2022 and 2025. In Phase 1, industry submitted over 130 pages of comments and over 400 pages in Phase 2 suggesting ways to improve the regulatory process and to remove duplication with other existing regulations and standards.

As it stands, the topic papers proposed by the CER in its OPR and Filing Manual represent new obligations on industry. Furthermore, many of the objectives in the OPR topic papers are already addressed via the management system requirements of the OPR or existing codes and standards (e.g. CSA Z662). The new proposed obligations add red tape at a time when the Government of Canada has committed to reducing it.

One stated objective of the OPRs is to advance the introduction of United Nations Declaration on the Rights of Indigenous Persons (UNDRIP) within the CER's processes. It is also true that the Government of Canada wants to cut red tape and move from 'delay to delivery'. To this end, we

recommend the OPR review be paused or its focus be recast to answer the following problem statement, *"How can the CER incorporate the principles of UNDRIP, while at the same time improve the predictability of its processes and enable timely, responsible resource development?"*

Fifteen years ago, Canada's pipeline industry added new infrastructure in a timely, predictable manner. That infrastructure has proven to be imminently safe and reliable. That infrastructure has benefited Canadians by ensuring energy reliability, by creating jobs and by advancing Canada's economy.

The Government of Canada has recognized that barriers have been created – and investor confidence eroded – in the years since.

The Government of Canada has now committed to moving from delay to delivery, to ensuring one project/one review, and to becoming a clean and conventional energy superpower. Key to achieving these aspirations is removing red tape.

Industry believes the foregoing recommendations will help to unleash investment, job creation, safe pipeline development and economic reconciliation in what is one of the world's largest reserves of oil and natural gas. These changes are also needed to advance the development of pipelines to ship future molecules, such as CO_2 and H_2, as the current regime remains a barrier to all federally-regulated energy investment.

Thank you for considering these suggestions. Should you have any questions about our submission, do not hesitate to contact me.

Sincerely,

Evan Bahry
Executive Director

c.c.: The Hon. Tim Hodgson, Minister of Natural Resources