

Submission to the Standing Senate Committee on Energy, the Environment and Natural Resources re: Bill C-69

Remarks delivered by:

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About Enbridge Inc.

At Enbridge, we connect people to the energy they need to fuel their quality of life, and we've done it safely and reliably for more than 65 years. A North American leader in delivering energy, Enbridge has been ranked on the Global 100 Most Sustainable Corporations index for the past nine years. Enbridge operates the world's longest crude oil and liquids transportation system. Enbridge transports 25% of the crude oil produced in North America, and moves about 18% of all natural gas consumed in the United States. We're also a North American leader in the gathering, transportation, processing and storage of natural gas, and we have an increasing involvement in power transmission. Enbridge is Canada's largest natural gas distribution provider, with about 3.7 million retail customers in Ontario, Quebec, New Brunswick and New York State. Our portfolio includes onshore and offshore wind, solar and geothermal projects in North America and Europe, with interests in over 1,700 megawatts of net renewable generation capacity.

Life takes energy and Enbridge exists to fuel people's quality of life. For more information, visit www.enbridge.com.

Introduction

- Madame Chair and committee members, thank you and merci, for allowing me to speak to an issue of critical national importance, Bill C-69.
- I speak to you today as part of industry but equally as a deeply devoted and proud Canadian concerned with what this Bill means to our communities, regions and Canada's future.
- We believe that Bill C-69, in its current form, will not achieve its objective of improving environmental and regulatory processes, and it will further reduce confidence and investment in Canada.
- What this could mean to Canadians is:
 - Loss of tax revenues to fund education, health and community infrastructure;
 - Disappearance of meaningful, well-paying, highly skilled jobs; and an exodus of our youth and talent;
 - Dilution of the human ingenuity and innovation that our sector creates;
 - Lost opportunity for economic reconciliation with Indigenous communities; and
 - The erosion of Canada's competitiveness and our ability to attract investment.
- This isn't merely an energy industry problem; it's a critical issue for Canada, and the small businesses and homeowners that rely on low-cost, sustainable, safe energy – so it's essential we get Bill C-69 right.

Context

- Enbridge is the largest energy infrastructure company in North America. We move one quarter of North American crude oil and 18% of natural gas; our utility serves 12 M Canadians; and we have interests in 1,700 MW of renewable energy.
- In Quebec, we deliver more than half of the oil consumed here (NRCan), we're partnered with Énergir and Gazifère and we have interests in three wind farms.
- We have 70 years of history in building and operating energy infrastructure, with regulatory constructs in five countries, 9 Canadian provinces and territories, and 41 states.
- We are one of the few companies that has permitted projects under pre-CEAA 2012, CEAA 2012 and our government's interim principles.
- Energy transportation is part of the very fabric of Canada's social and economic prosperity and security; equivalent to our cross-country highways, railway lines, shipping and air transport.
- Without effective energy transportation, our world-class resources will be stranded – while our competitor and largest trading partner to the south gains the upper hand.
- Without change, we are destined to squander Canada's competitive advantages and a tremendous opportunity to gain global market share.
- Why is this happening?

The Problem

- After decades of progress connecting Canada's vastness, it's clear we're now failing.
- As transportation capacity has been constrained over the last several years, Canadians are forfeiting an estimated \$14 B in value/year because of severe price discounting of exports.
- From 2017 to 2018, planned investments in major resource projects dropped by \$100 B, and many companies have exited Canada.
- Unfortunately, global investors have now come to see Canada as an uncertain and risky regulatory environment.
- Bill C-69 has been proposed with the objective of improving the environmental assessment and regulatory processes.
- The question we must ask is: will the Bill achieve the Government's objective and provide business with the confidence to put capital to work in Canada?
- We believe the answer is NO (pause). I will focus on 3 reasons for this view.

Scope of Bill C-69

- First, over the last decade, pipeline project reviews have become the vehicle for vigorous debate on broad, national issues such as climate change, Indigenous reconciliation and the future energy supply mix.
- These issues, while critical to Canada and must be addressed, cannot and should not be resolved within individual projects reviews and by project proponents.
- Bill C-69 severely exacerbates an already unmanageable problem by incorporating non-project-specific policy matters into the regulatory process, when a national consensus has not been achieved, nor policies and legislation implemented.
- For example, one of the mandatory factors to be considered in the Impact Assessment (IA) is "the extent to which the effects of the project hinder or contribute to climate change commitments."
- However, the legislation is silent on how that would be determined, opening up the review process to a wide-ranging and complex policy debate. Climate change should be addressed through federal and provincial policies – not individual project reviews.
- Project proponents must know the rules of the game before it begins, otherwise they will not have the confidence to bring forward projects and proceed with new investment.

Sanctity of the Regulatory Process

- Second, the Bill departs from the long-held and proven independent Quasi-Judicial Regulatory process by expanding the discretionary power and final decision-making authority of federal ministers and federal cabinet.
- This erodes the sanctity and independence of our regulatory process, risks continued and even greater politicization of specific projects and encourages even more litigation.

- The principle of regulatory independence, and excellence, has been the very bedrock that Canada and the rest of the world have come to count on – just like the pillar of strength that is our globally renowned banking system.
- The expansion of government authority into the regulatory process presents untenable risks to proponents and investors.
- Case in point is the Northern Gateway project.
- Gateway followed, to the letter, an extensive science-based and rigorous consultation and regulatory project review. The joint review panel concluded that Gateway was in Canada’s public interest – specifically that “Canadians will be better off with this project than without it.”
- And, we were the first company to welcome and offer a 1/3 ownership in Gateway to 31 Indigenous partners and communities.
- The approval was subject to 209 conditions and the Government of the day gave its consent.
- We had invested \$650 M and were preparing to proceed when a new government came to power and effectively cancelled the project.
- I ask the committee to consider another question.
- Given our \$650 M loss, and a proposed Bill C-69 that extends even more discretion to government and erodes regulatory independence, and with critical national policy issues unresolved – why would a proponent consider investing in a new, large-scale infrastructure project?
- In my view, any company that prudently assesses risk will not invest capital under this framework.
- Let me be clear, we have always supported the highest standards of regulatory scrutiny and environmental protection because we and the public expect nothing less.
- But for Bill C-69 to achieve the Government’s stated objectives, we need to retain the strength of the independent, quasi-judicial process.
- The review panel must provide a clear “yes or no” recommendation to cabinet including conditions. In turn, cabinet’s decision must be tied to the review panel’s recommendation to ensure decisions are based on science and evidence, gathered during the review process.
- In light of final decision-making authority remaining with the cabinet at the very end of the process, Bill C-69 must provide an early opportunity for the proponent to request a notice that clearly indicates whether the project does, or does not, meet the key national policy imperatives (subject of course to full regulatory review).
- Finally on this point, if Bill C-69 passes, we as a company would be faced with competing with our own government (as owner of Trans Mountain), when the government has expanded powers on projects that we would potentially have in front of the regulator.
- Our experience clearly underscores why we need a quasi-judicial regulatory process.

Single lifecycle regulator

- Third, the NEB has fulfilled the role of a single lifecycle regulator for the last 60 years.
- The institutional knowledge gained through combining project assessment and ongoing oversight has been critical to Canada’s regulatory construct and too important to risk fragmentation.
- And yet, Bill C-69 would do just that by separating the project assessment from ongoing regulatory oversight. We believe this will compromise the effectiveness of the CER and would be inconsistent with the stated goal of one project, one assessment.
- We must ensure that the CER is responsible to oversee the full life-cycle of a pipeline.
- We strongly recommend keeping the project approval function for federal pipelines with the CER, as the single lifecycle regulator, for all projects except for the very largest.

Other

- There are other areas of concern with Bill C-69 that are covered in our written submission. For example:
- The government has stated that timelines under this Bill will be shorter; but that is not the case for federally regulated pipelines.
- The current legislated timeline for designated pipeline projects is 540 days.
- Under the proposed IA, timelines would range from 615 days to 915 days, excluding the impact of opportunities for Ministers and Cabinet to extend, suspend or set longer timelines.
- Clearly, even-longer timeframes are unacceptable.

Conclusion

- In conclusion, the question before us is whether Bill C-69 will increase confidence in the regulatory process for all stakeholders, while protecting the environment and allowing sustainable, world-class projects to move forward in Canada’s national interest, where we withstand scrutiny of regulatory review.
- We believe the proposed Bill, in its current form, will further erode confidence and investment in Canada.
- We have consulted with numerous stakeholders – and we believe there is strong alignment on that point.
- If the government is intent on passing this Bill, several changes are required, the most important of which are:
 - Remove broad policy matters from pipeline project reviews—these important issues are more appropriately addressed through federal and provincial policies;
 - Retain a strong, independent quasi-judicial regulatory process by setting appropriate roles for government and regulators;
 - Limit designated projects under the IA Act to only the very largest projects, and in those cases allow the CER role to lead the IA process.



- For all other projects, maintain the CER as the single lifecycle regulator for all pipeline projects in order to ensure one project, one assessment, which has served stakeholders well over the last 60 years; and
 - Include maximum timelines for project reviews to place appropriate limits on the number and length of extensions that could be granted.
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- We encourage the committee to incorporate our proposed amendments so that Canada can move forward and benefit from its natural resources.
 - Thank you for the opportunity to provide our view of Bill C-69. Merci.