Introduction to Electricity and Gas Regulation in Canada

Who does what
Topics:

- Division of Federal/Provincial powers
  - Regulatory responsibilities: Electricity and Gas
- Electric Transmission Facilities Regulation
  - Intraprovincial, Interprovincial, International
- Electricity and Gas Rates Regulation
- Restructuring / Unbundling
- International electricity interconnections
Federal/Provincial division of powers
Constitution Act, 1867

- Federal Powers (Section 91)
  - Trade and Commerce
  - Treaties with foreign nations (Kyoto protocol)
- Provincial Powers (Section 92, 92A)
  - Local works and undertakings (some exceptions)
  - Property and civil rights
  - Matters of local or private nature
  - Non-renewable resources and electric energy
Regulatory responsibilities: Electricity

Federal – construction and operation of international transmission lines; authorization of electricity exports to US.

Provincial – comprehensive regulation: generation, transmission and distribution facilities approvals and licensing, rate regulation, some Crown corporations. Varied markets from vertically integrated to fully competitive
Regulatory responsibilities: Natural Gas

**Federal** – construction and operation of international and interprovincial pipelines; approval of tolls and tariffs; authorization of exports and imports.

- Federal regulation of interprovincial gas industry is more expansive than for electricity industry

**Provincial** – construction and operation of production facilities; intraprovincial pipelines; approval of intraprovincial gas utility and common carrier tolls and tariffs
Electricity: Intra-provincial transmission

- Each province or territory has its own transmission regulator(s).
- No law of “eminent domain” in Canada for transmission.
- Expropriation or right-of-entry to private land provided by statute.
Intra-provincial example: Alberta

- Alberta Electric System Operator is the transmission system planner.

- Alberta Utilities Commission regulates construction, operation and abandonment of facilities; rate regulation of facilities on a cost of service basis.

- Alberta Surface Rights Board is responsible for land access for facilities and landowner compensation.
Interprovincial transmission 1

Two options for inter-provincial transmission line facilities approvals:

- Option 1:
  - Federal Regulation by the National Energy Board
  - Requires an order from Federal Government
  - NEB must hold a public hearing
  - This option was introduced in 1990 but has never been used
Interprovincial transmission 2

- Option 2: Each province constructs the facilities on its own side of the provincial border
  - Relies upon SCC decision in Fulton case (1981).
  - Given the NEB now has authority to regulate designated interprovincial transmission lines, future interprovincial transmission lines authorized in this manner may face a constitutional challenge.
International transmission lines

The *National Energy Board Act* provides two distinct application processes for approval of international transmission facilities:

- **Option 1:** Elected Certificate Process
  
  - Administered entirely by the NEB.
  
  - NEB Must hold a public hearing.
International transmission lines 2

- Option 2: Permit Process
  - Permit administered by NEB
  - NEB issues permit if application consistent with requirements.
  - No oral hearing but interested parties can submit written concerns.
  - Once permit issued designated provincial authority responsible for detailed routing and siting.
International transmission lines 3

- The NEB has the option, if certain criteria are met, to recommend that a permit application be converted into a certificate application and the Federal Government can issue an order to this effect.
- Once converted, the NEB must hold a public hearing on the application.
- NEB has MOUs with NERC and FERC
  - information exchange, no joint hearings
Montana-Alberta Tie Ltd. 1

- International transmission line between Alberta and Montana
- Regulatory process began in 2005 with FERC applications.
- Construction commenced but not complete.
- Regulatory process in Canada ongoing as MATL seeking minor route amendments
Montana-Alberta Tie Ltd. 2

- Canadian approvals
  - NEB Permit issued April 4, 2007.
  - EUB issues permit to construct and license to operate on August 12, 2008.
  - Alberta Surface Rights Board issued 50 right of entry orders in 2011-2012.
  - Still require export permit from NEB to export electricity.
Montana-Alberta Tie Ltd 3

- American approvals
  - Western Electricity Coordinating Council granted MATL Phase III status on August 28, 2008.
  - Montana Dept. of Environmental Quality Certificate of Compliance granted on October 22, 2008.
Electricity and Gas Rates Regulation

- Cost of service – widely used by NEB and provincial tribunals
- Negotiated settlements – commonly used by NEB and some provincial tribunals
- Performance Based Regulation / Incentive Regulation – used in some provinces and at NEB; greater usage evolving in some provinces
Restructuring / Unbundling

- Gas commodity price is unregulated
  - Wholesale and retail market access is generally available throughout Canada, subject to the following exceptions
    - Quebec limits retail access: In the natural gas market, fixed-price, institutional contracts are currently available for consumers of 7500 m3 or more annually
    - PEI and Newfoundland
Restructuring/Unbundling

- Electricity restructuring differs by province
  - Alberta fully restructured with wholesale and retail market access; Ontario has hybrid market with some elements of regulation and competition; B.C., Quebec and New Brunswick allow wholesale transmission access and limited retail access; Manitoba allows wholesale transmission access.
North American Electricity Interconnections

- Three interconnections between Canada and US:
  - Eastern Interconnection
  - Quebec Interconnection
  - Western Interconnection

- Active energy trade between Canada and US
  - 2010: 43 GWh Exported from Canada to US (Manitoba, Ontario, Quebec, New Brunswick were net exporters); 18 GWh imported into Canada (BC, Alberta, Saskatchewan, Nova Scotia were net importers)