



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
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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
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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.
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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.
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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
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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.
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International transmission lines 1

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.
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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.
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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
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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
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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.
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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.
 - US Dept. of Energy Presidential Permit issued on November 17, 2008.
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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
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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
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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.
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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)
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