



Canada Energy
Regulator

Régie de l'énergie
du Canada

Suite 210
517 Tenth Avenue SW
Calgary, Alberta
T2R 0A8

517, Dixième Avenue S.-O.
bureau 210
Calgary (Alberta)
T2R 0A8

File 4690783
12 February 2024

To: All Companies Regulated by the Canada Energy Regulator

Preliminary Traditional Territory Analysis Requests

This letter replaces the notice issued by the National Energy Board¹ (**NEB**) in January 2014 ([A56504](#)) regarding how NEB-regulated companies could request a preliminary traditional territory analysis (**PTTA**) from the NEB for non-hearing applications. The Canada Energy Regulator (**CER**) is providing updated information to reflect the *Canadian Energy Regulator Act* (**CER Act**), explain what information companies must include with each PTTA request, and when companies should expect completed PTTA requests from the CER. PTTA requests are no longer limited to non-hearing applications.

To facilitate the required identification of potentially affected Indigenous Peoples² in the early engagement phase of applications, companies should request a PTTA from the CER to confirm the list of potentially impacted Indigenous Peoples that should be included in engagement activities. For further information, refer to the [CER Early Engagement Guide](#).

To make a request, companies must email the CER's process help email at Process.Help@cer-rec.gc.ca and ask for a PTTA. **PTTA requests cannot be completed without the following information:**

1. The name of the project.
2. The nature of the project and its components.
3. A detailed map of the proposed project showing:
 - i. clearly marked start and end points;
 - ii. project location relative to potentially affected communities and Indigenous Peoples at a scale permitting the inclusion of the nearest town or city (i.e., ATS legal land description, National Topographic System, and/or latitude and longitude);
 - iii. compass rose or north arrow and scale indicator; and
 - iv. map key or legend.
4. A list of Indigenous Peoples the company has or plans to contact about the project.

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¹ On 28 August 2019, the *Canadian Energy Regulator Act* came into force, and the Canada Energy Regulator replaced the NEB.

² The use of the term "Indigenous" has the meaning assigned by the definition of "aboriginal peoples of Canada" in subsection 35(2) of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, which states:

In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit, and Métis peoples of Canada.

Once this information has been received, the CER will complete a PTTA and provide the names of the identified Indigenous Peoples to the requesting company based upon publicly available information. The CER does not provide contact information of the identified Indigenous Peoples due to privacy-related restrictions. Companies are best placed to compile and maintain current contact information for their project and facility-specific Indigenous engagement. Companies are responsible for maintaining these relationships throughout the lifecycle of projects and facilities.

The CER will send the PTTA results to the company by email following these service standards:

- **Within 15 calendar days** for applications under section 214 of the CER Act.
- **Within 30 calendar days** for all other applications where there may be an impact to the rights and interests of Indigenous Peoples. This includes, but is not limited to, applications under sections 69, 183, 241, 262, and 298 of the CER Act, as well as applications under sections 44, 45, and 45.1 of the *Canadian Energy Regulator Onshore Pipeline Regulations*.

The CER is mindful of regulatory efficiency and timely results. The shift to calendar days is consistent with the terminology used by the CER for service standards in other areas. The 15 calendar days is close to the 10 business days previously set out in the January 2014 notice for non-hearing applications. The 30 calendar days is a maximum to account for the time needed for traditional territory analysis of complex applications such as those affecting a large geographic area or that trigger a hearing. The CER anticipates that PTTAs will be completed much sooner for routine applications for projects with smaller geographic areas.

The PTTA is not intended to be a final or exhaustive list of Indigenous Peoples potentially affected by the project. The analysis is limited to the publicly available information the CER has on the traditional territories asserted by Indigenous communities, including information from previous projects or submitted directly to the CER. It is possible that additional Indigenous communities could express an interest in a project after the project notification or application has been filed.

The CER may also complete a new traditional territory analysis once the project notification (if applicable) and project application have been filed if there are substantive changes to the project footprint. When this is the case, the company will be notified in the CER's response to the project notification (where applicable) or in an information request asking for information on consultation activities with the additional Indigenous Peoples.

For applications where the CER conducts supplemental Crown consultation activities, the PTTA or most recent traditional territory analysis will inform the Crown's Consultation list.

If you have any questions or need guidance on how to submit your PTTA requests, please contact the Director of Public Participation, Energy Adjudication Business Unit, at 403-292-4800 or 1-800-899-1265.

Sincerely,

Signed by

Christian Iniguez
Acting VP, Energy Adjudication Business Unit