



Canada Energy
Regulator

Régie de l'énergie
du Canada

Indigenous Advisory Committee Progress and Impact Report



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“ Though we have yet to meet in person, we have managed to establish relations among the IAC, the CER Board and senior staff that has led to the development of a very robust three year workplan. The IAC is confident imparting Indigenous values and perspectives at the strategic level with the CER will lead to improved understandings and incorporations of the rights of First Nations, Métis and Inuit peoples on future projects. ”

– Tribal Chief Tyrone McNeil, IAC Chairperson

Indigenous Advisory Committee

Progress & Impact Report

March 2022

The Canada Energy Regulator (CER) Indigenous Advisory Committee (IAC or Committee) was established in August 2020, under the *Canadian Energy Regulator Act* (CER Act), with a key focus: to advise the CER on building a new relationship with Indigenous peoples.

The CER is Canada's national energy regulator and is itself a new organization, having been established in 2019 to replace the former National Energy Board. The CER Act emphasizes Reconciliation and respect for Indigenous rights throughout.

The IAC meets jointly with, and provides strategic advice to, the CER's Board of Directors. The Board co-develops certain initiatives with the IAC, while maintaining its legislated oversight and decision-making role.

In a short time, and despite never having met in person due to the COVID-19 pandemic, the IAC's advice has had a significant impact on the strategic direction of the organization. The IAC has influenced the [CER's Strategic Plan](#) to reflect clear commitments to build strong and respectful relationships with Indigenous peoples, enhance Indigenous peoples' involvement and ensure their meaningful participation in the CER's mandate, improve the CER's cultural competency and humility, and implement the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) within the CER's mandate.

About the IAC

The IAC's nine members are leaders at the local, regional and national level reflecting the diversity of First Nations, Métis Nation and Inuit communities, languages, genders, geographies, and skills and expertise. Three Committee members are nominated by national Indigenous organizations. IAC members provide advice from their own unique perspectives. The IAC does not represent rights holders or replace CER Crown consultation with Indigenous peoples.

In February 2021, the Board of Directors and IAC co-endorsed a [Terms of Reference](#). The Committee operates at a strategic level, as an integral part of the CER's governance structure. The IAC provides advice to the Board of Directors.

The United Nations Declaration on the Rights of Indigenous Peoples, the Truth and Reconciliation Commission's Calls to Action, and the Principles Respecting the Government of Canada's Relationship with Indigenous peoples form the foundation, and provide the roadmap, for the Committee's work.

A [three-year IAC Work Plan](#) focuses on five Priorities: Relationships and Governance; UN Declaration; Cultural Competency and Change Management; Indigenous Peoples' Involvement in Regulatory Oversight; and Crown Consultation and Accommodation.

Tangible impacts in the day-to-day operations of the CER are also beginning to happen as a result of the IAC's advice. For example, the IAC and the Board of Directors have begun to co-develop a CER Policy Statement on Reconciliation, and the IAC's advice has directly influenced the CER's Crown consultation and accommodation approach, and the recently initiated, comprehensive review of the [Onshore Pipeline Regulations](#).

About this report

This report provides a summary of the progress made against the IAC's three-year work plan and, ultimately, the impact the IAC has had on the CER's strategic direction and work to date. Intended to be an annual report, this inaugural version covers August 2020 through March 2022.

Impact of the IAC

BUILDING THE FOUNDATION:

As a new Committee, which is part of a new CER governance structure, the IAC has been in a formative stage since it was established. There was no precedent for the IAC at the national energy regulator. Much time has been dedicated to establishing a foundation for the IAC, which reflects governance best practices, Indigenous guiding principles, and ambitious goals. Priority has been given to positioning the IAC for long-term success as an integral part of the CER's governance structure. Terms of Reference and operating procedures have been developed to ensure the IAC is well supported and effective at driving change within the organization. The IAC is impacting the way initiatives are being led across the organization, and its advice is sought early to shape the direction of CER initiatives.

STRONG RELATIONSHIPS:

Significant effort has been dedicated to building strong relationships between the IAC, Board of Directors, and CER staff. The focus on relationships has supported open and direct conversations, mutual

learning, and ultimately is enabling decisions to be made and communicated differently at the most senior levels of the organization.

INFLUENCING THE STRATEGIC DIRECTION OF THE CER:

One of the earliest and far reaching impacts the IAC has had is influencing specific changes to the CER's inaugural Strategic Plan. The IAC's advice has been reflected throughout the Strategic Plan, with a focus on shaping the CER's Reconciliation Strategic Priority. As a result of the IAC's advice, the CER's Strategic Plan contains a clear and unequivocal commitment to implementing the UN Declaration. The Plan also includes commitments to build strong and respectful relationships with Indigenous peoples, enhance Indigenous peoples' involvement and ensure their meaningful participation in the CER's mandate, and improve the CER's cultural competency and humility, among others. These commitments have driven greater accountability on the CER's part, and a more deliberate and concrete focus in the CER's implementation planning, including metrics to track, evaluate and report on progress.

IMPLEMENTING THE UN DECLARATION WITHIN THE CER MANDATE:

The IAC and the Board of Directors have begun co-developing approaches towards implementing the UN Declaration within the CER's mandate. This work is at an early stage, and will be a multi-year effort, but has begun by starting to co-develop a CER Policy Statement on Reconciliation, and discussing how specific Articles of the UN Declaration intersect with the CER's mandate. Co-development between the IAC and the Board of Directors sets a leadership example of what Reconciliation can look like for the CER.

CHANGING THE WAY THE CER REGULATES:

The IAC's advice has resulted in changes to regulatory work at the CER. This includes informing the CER's approach to Crown consultation and accommodation, and the CER's recently initiated, comprehensive review of the Onshore Pipeline Regulations. The work of the IAC builds on, and supports, other initiatives that the CER has undertaken to advance Reconciliation, such as with the Indigenous Advisory and Monitoring Committees (IAMCs) for the Trans Mountain Expansion Project, and the Enbridge Line 3 Replacement Program.



“ It has been an honour to be included at such an innovative table alongside the CER and with Indigenous colleagues to build strategy for the inclusion of Indigenous peoples in energy. I am confident that the foundation we are building is one rooted in profound good. Incoming impact on industry, Indigenous communities and Canada as a whole will be transformational. ”

– *Kaella-Marie Earle, IAC Vice-Chairperson*

Looking ahead

The IAC is just getting started, and its work with the CER has been challenging and complex. More work is required to ensure the advice received from the IAC is effectively implemented by the CER towards concrete, systemic, and transformational change in the way the CER regulates pipelines, power lines, and offshore renewable infrastructure in Canada.

As the IAC moves into the next year – year two of its Work Plan – the focus will continue to be on its five Work Priorities.

The IAC will transition from a formative to a more action-oriented stage, providing further concrete advice to the Board of Directors on specific regulatory matters ranging from enhancing Crown consultation and accommodation; protection and incorporation of Indigenous Knowledge; improving substantive content in the *Onshore Pipeline Regulations*; enhancing cultural competency and humility at the CER; Indigenous recruitment, retention and advancement; and Indigenous procurement. The IAC will also continue to work closely with the Board of Directors to advance a plan for implementing the UN Declaration, including policy on how certain articles will be implemented in the delivery of the CER's mandate.



“ The IAC has helped put Reconciliation squarely at the centre of the CER's work. The IAC's advice has helped keep us focused and accountable for advancing Reconciliation throughout our mandate. ”

– *Gitane De Silva, CEO*

“ The IAC is transforming the governance of the CER. The ongoing relationship with the Committee and its advice is valuable in influencing how Board Members and executives think about our work. We are actively learning from the IAC about how Indigenous perspectives can be incorporated into our decision-making. ”

– Cassie Doyle, Board Chairperson



Progress against IAC Work Plan

This table provides a detailed view of the progress and impact of work underway in each IAC Work Priority (August 2020-March 2022): Relationships and Governance; UN Declaration; Cultural Competency and Change Management; Indigenous Peoples' Involvement in Regulatory Oversight; and Crown Consultation and Accommodation.

The Progress Meter shown in this table represents progress against the IAC's three-year work plan (2021-2024). For example, where progress has been made as planned against a Work Plan Priority, the Progress Meter shows as 1/3 complete.

Work Priority	Description	Deliverables	Key IAC Advice Received	Impact on the CER
<p><i>Progress meter</i></p>				
Relationships and Governance	Fully integrate the IAC into the CER's governance structure, building strong relationships and formalizing IAC operations and support structures	Achievements: <ul style="list-style-type: none"> Co-development of Terms of Reference and Work Plan Appointment of IAC leadership and quarterly Leadership Updates Advice on CER Strategic Plan Development of IAC Advice Register Communications & Engagement Protocol Two meetings with IAMC Indigenous Co-Chairs Seven out of eight deliverables on time. One deliverable moved to Year 2 to align with the Board's current work plan.	<ul style="list-style-type: none"> Incorporation of express reference to UN Declaration in the Strategic Plan Importance of building strong relationships that build trust and mutual capacity, foster learning and allow for decisions to be made differently Importance of change management Importance of working with IAMCs to leverage all Committee (IAC, IAMCs) mandates to influence change 	<ul style="list-style-type: none"> IAC is fully integrated into the CER's governance structure, with internal secretariat and technical supports in place Strong relationships have developed between the IAC and Board of Directors, and IAC and CER senior and secretariat staff A necessary foundation for long-term success, and lasting influence and impact has been built. Integration into governance structure means senior management & Board are routinely and frequently planning for and incorporating IAC advice as part of CER strategic decision-making. Allows for effective early influence into CER initiatives before they are fully shaped. IAC Work Plan is driving work prioritization across the CER. With a clearly defined Work Plan and priorities comes greater accountability on the CER's part.

Work Priority	Description	Deliverables	Key IAC Advice Received	Impact on the CER
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Progress meter



UN Declaration	Joint learning and co-developing approaches to implement the UN Declaration within the CER's mandate and whole of government approach	<p>Achievements:</p> <ul style="list-style-type: none"> Shared learning between the Board and IAC (speakers: Mary Ellen Turpel-Lafond & Grand Chief Wilton Littlechild) Ongoing co-development of a Policy Statement on Reconciliation and discussions to identify how specific Articles of the UN Declaration intersect with the CER's mandate Exploring an IAC-Board Working Group on the UN Declaration <p>Three out of five deliverables on time. Two deliverables started but completion moved to Year 2 to allow time for co-development process.</p>	<ul style="list-style-type: none"> The UN Declaration is the framework for Reconciliation Importance of a clear and unequivocal commitment to implementing the UN Declaration Importance of co-development and not taking an overly legalistic approach The need to develop concrete tools that move from the transactional to transformational Importance of retaining Indigenous experts to inform the work Caution against "defining" Reconciliation, but rather recognition that it is a journey 	<ul style="list-style-type: none"> The CER has a tangible plan for how it will begin to implement the UN Declaration, emphasizing co-developed approaches. Communication of the CER's commitment to implementing the UN Declaration, as a framework for Reconciliation, has occurred across multiple public platforms, including via the Strategic Plan and IAC Terms of Reference. Benefit of a Policy Statement on Reconciliation and its use in guiding organization activities and staff. Beginning the work of concretely identifying what key articles of the Declaration mean for the CER's mandate, which will inform the development of concrete policies. The CER has continued to gain an appreciation for how much we do not know, welcomes the input of Indigenous experts, ongoing learning & education, and building mutual capacity to support this work as it moves forward.
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Progress meter



Cultural Competency and Change Management	Improving the cultural competency of the CER and its staff, including recruitment and retention of Indigenous staff and robust change management	<p>Achievements:</p> <ul style="list-style-type: none"> IAC materials shared on the CER's website and communications Internal engagement by IAC leadership with CER staff (leadership message) External media interviews by IAC Chair on major milestones, such as the Terms of Reference IAC Members advising on hiring of two key CER leadership positions – Director, Cultural Competency (complete), and Professional Leader Reconciliation (underway). <p>Two out of four deliverables on time. Two deliverables moved to Year 2 to align with changes to the CER's strategic priority implementation plans.</p>	<ul style="list-style-type: none"> Importance of using term cultural humility in addition to cultural competency Importance of Members being kept informed and understanding breadth of activities being undertaken by the CER in this area 	<ul style="list-style-type: none"> The IAC's work is visible internally and externally to the organization, including via significant information on the CER's website, and messages from IAC leadership to CER staff. IAC advice has had significant impact on the way the CER communicates with Indigenous peoples – work is still underway to develop new and better ways to communicate as a result.
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Work Priority	Description	Deliverables	Key IAC Advice Received	Impact on the CER
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Progress meter



Indigenous Peoples' Involvement in Regulatory Oversight	Advise on development of a broad, systemic model for Indigenous peoples' involvement in compliance and oversight of CER-regulated infrastructure, with a focus on Indigenous monitoring	Achievements: <ul style="list-style-type: none"> Strategic advice on increasing Indigenous involvement in regulatory oversight (full project lifecycle), building on the learnings from Indigenous Monitoring approaches, and IAMCs Strategic advice on the Onshore Pipeline Regulations review process <i>One out of one deliverable on time.</i>	<ul style="list-style-type: none"> Importance of minimum and consistent standards of proponent engagement Importance of sustained and targeted training for Indigenous Monitors and finding ways to expand the role into full-time and long-term opportunities On Onshore Pipeline Regulations, identify and analyze feedback and learnings to-date from IAMCs and Indigenous Nations, articling how the UN Declaration will impact the Review and the regulations themselves 	<ul style="list-style-type: none"> The CER has made progress to hire three Indigenous Monitors, or Indigenous Regulatory Compliance Officers in its Field Operations Business Unit to work alongside Inspection Officers and other CER staff The CER has launched a multi-year, comprehensive review of the Onshore Pipeline Regulations. The initial Discussion Paper references work with the IAC to develop approaches to implementing the UN Declaration, and lessons learned from feedback to-date.
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Progress meter



Crown Consultation and Accommodation	Advise on strengthening the CER's Crown consultation and accommodation approach to drive change at a national and systemic level	Achievements: <ul style="list-style-type: none"> Strategic advice on the CER approach to Crown Consultation Initial discussion of the Supreme Court of Canada direction on Crown Consultation and Accommodation Strategic advice on the Impact Assessment Agency of Canada-led Indigenous Knowledge policy framework <i>Two out of three deliverables on time. One deliverable moved to Year 2 due to time constraints.</i>	<ul style="list-style-type: none"> Importance of language that refers to rights-bearing Nations and communities, and clear communications on the CER's approach including roles & responsibilities of various actors and how to elevate concerns; importance of integrating Indigenous perspectives obtained through consultation early and as part of the "main" hearing process Importance of addressing capacity gaps as a significant barrier to meaningful and effective consultation 	<ul style="list-style-type: none"> The CER's approach to Crown consultation & accommodation continues to evolve, as this is a new role for the organization. Lessons learned and advice are being incorporated as we go. Significant emphasis has been given to how we communicate our approach.
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Image locations

Cover: Teepee under Northern Lights, Yellowknife, Northwest Territories

Inside cover: Sundial Hill Medicine Wheel in south-eastern Alberta

Page 3: Spotted Lake Okanagan Valley Osoyoos, British Columbia

Page 5: Inukshuk on rocky tundra, Arviat, Nunavut

Back cover: Boreal forest under Northern Lights, Yellowknife, Northwest Territories



