

July 31, 2025

British Columbia Energy Regulator
PO Box 9331 Stn Prov Govt
Victoria, BC V8W 9N3

Via email: info@rep-spa.ca

Submission Regarding Policy Intentions for the Regulation of Renewable Energy Projects

I. Introduction and Summary

Thank you for the opportunity to provide these initial comments on the BCER's draft policy intentions for the regulation of renewable energy projects under the *Renewable Energy Projects (Streamlined Permitting) Act*, SBC 2025, c. 12 (*REPSA*).

West Coast Environmental Law (West Coast) harnesses the power of law to solve complex environmental challenges. Our non-profit group of environmental and Indigenous rights lawyers works to transform environmental decision-making and strengthen legal protection for the environment through collaborative legal strategies that bridge Indigenous and Canadian law.

Since 1974, we have successfully worked with communities, nongovernmental organizations, the private sector, and federal, provincial and Indigenous governments to develop proactive legal solutions to protect and sustain the environment. Our largest program, RELAW, or "Revitalizing Indigenous Law for Land, Air and Water" provides legal support to Nations working to revitalize their own Indigenous laws and to develop contemporary legal instruments such as written laws, land use plans, and declarations.

West Coast supports the development of renewable energy in British Columbia as part of the response to the climate crisis. However, we maintain that all such projects must be developed responsibly and with sufficient oversight to ensure that they do not have undue adverse effects on the environment, human health, and Indigenous rights.

II. Environmental Review and Engagement

West Coast is concerned that some or all of the projects initially covered by *REPSA*, including the North Coast Transmission Line, appear to be primarily intended to electrify liquefied natural gas (LNG) facilities on BC's North Coast. While electrification can reduce direct emissions from fossil fuel operations, using renewable energy to support LNG expansion ultimately prolongs reliance on fossil fuels and increases upstream emissions. This approach undermines B.C.'s climate goals, which require a transition away from fossil fuel production and a focus on reducing overall greenhouse gas emissions.

Accordingly, renewable energy projects supporting non-renewable petroleum production should not be entitled to bypass important existing environmental protections. To the extent that some of these projects will no longer be subject to the *Environmental Assessment Act* and other similar regulatory regimes, BCER should ensure that the new review process it puts in place is, at a minimum, equally rigorous and protective, considers the same scope of potential adverse effects, and provides the same level of opportunities for public engagement.

Protected Areas

Renewable energy projects may have disproportionately higher impacts when located in areas of high biodiversity value or areas relied upon by Indigenous peoples for meeting sustenance, livelihood, or cultural needs. In some cases, the same physical characteristics that make a location highly suited for a renewable energy project (e.g. areas with strong winds, sunlight availability, or flowing rivers and streams) may also be associated with ecologically sensitive or remote regions that hold significant ecological and cultural value.

West Coast encourages BCER to disallow renewable energy projects from being constructed in protected areas, or to implement a more stringent review process for projects proposed in such areas to ensure that the projects will not interfere with the values for which the area has been protected. Such a review process should require enhanced consultation with affected Indigenous peoples, including where the project may be situated within an Indigenous Protected and Conserved Area (IPCA). Additionally, as discussed later in these submissions, projects should not be approved without the consent of those Indigenous peoples. Additionally, BCER should put screening tools in place to identify projects proposed in areas of higher sensitivity that may not be formally designated as protected areas.

Cumulative Effects

BCER's proposals with respect to cumulative effects management are lacking in detail. It appears that BCER proposes that project proponents will assess only project-specific environmental effects, after which "BCER considers the cumulative impacts of the project in the context of other activities."

The project proponent should be required to carry out its own assessment of cumulative effects, to help inform BCER's subsequent cumulative effects assessment. In addition, BCER should develop a much more detailed framework for how it proposes to assess cumulative effects, what kinds of cumulative effects will and will not be considered, and what data sets will be relied upon.

West Coast submits that where a project is to be used partially or primarily to electrify LNG facilities on BC's North Coast, or to power other non-renewable extractive industries, the cumulative effects of facilitating those industries must be accounted for in assessing the project.

Community Engagement

BCER has proposed that community engagement be entirely delegated to the project proponent, and that the scope of the engagement be limited to notifying affected persons and consulting with only the most affected persons.

West Coast believes in the value of a transparent regulatory review that includes opportunities for public input, and that affected persons and other members of the public (whether directly affected or not) should have the opportunity to provide their input directly to the BCER for consideration and incorporation into regulatory decision-making. Allowing for open public input provides opportunities for unforeseen impacts to be identified and for a broader range of perspectives to be considered, while allowing submissions directly to the regulator removes a potential source of bias in presentation that could result from those submissions being filtered through the project proponent.

III. Indigenous Rights and Consultation

As the *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, c 44 commits to aligning provincial laws with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), BCER's regulatory process for renewable energy projects subject to the *REPSA* should incorporate mechanisms that uphold the Free, Prior, and Informed Consent (FPIC) of all Indigenous peoples whose territory may be affected by the proposed project, along with other related commitments under UNDRIP.

West Coast recognizes that BCER has considered the need to “seek consensus” with First Nations; however, it is not clear whether BCER will consider approving a project for which consensus cannot be reached. West Coast reaffirms that no projects should be approved in the absence of FPIC.

In order to facilitate reaching FPIC, the proposed capacity funding to be provided to First Nations, as well as the timelines for them to provide their responses, should be sufficient to permit them to do their own independent assessment of the project.

IV. Benefit Sharing

To the extent that the legislative framework permits, West Coast encourages BCER to put systems, standards, and incentives in place to ensure that the economic benefits of renewable energy projects are shared with First Nations whose territories may be affected by those projects and with the communities in which projects are constructed.

V. North Coast Transmission Line

West Coast notes that although the North Coast Transmission Line (NCTL) is now under the jurisdiction of BCER pursuant to *REPSA*, the present public engagement program and BCER's policy intentions document focus only on wind and solar power projects. To date, there appears to be no indication as to the regulatory framework or policy principles that BCER will apply to the review, approval, and regulation of the NCTL. Given that the NCTL has been exempted from the *Environmental Assessment Act*, West Coast is concerned by this regulatory gap and the potential for significant environmental and socioeconomic effects of the NCTL to be overlooked. WCEL encourages BCER to engage in early, open, and transparent public engagement regarding its regulatory framework for transmission line projects covered by *REPSA*, including the NCTL.

VI. Conclusion

West Coast is concerned that the removal of energy projects from established regulatory regimes for the sake of expediency may result in the erosion of longstanding safeguards against adverse environmental effects, unduly limit opportunities for public participation, and increase the risk of the projects interfering with the rights of Indigenous peoples. We are also concerned that the fast-tracking of renewables will be used to support and fast-track the expansion of the LNG industry, undermining BC's climate goals. We encourage BCER to ensure that the new regulatory process it puts in place for these projects does not sacrifice these key values for the sake of increased efficiency.

Thank you for the opportunity to provide these comments on BCER's policy intentions. We look forward to continuing to participate in BCER's engagement on this topic as it works to develop detailed regulatory policy proposals this fall.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Matthew Nefstead', with a stylized, flowing script.

Matthew Nefstead, Staff Lawyer
West Coast Environmental Law