After Sunrise: Federal approval and CER conditions on the Westcoast Energy expansion

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Background

Last week, the Canadian federal government approved the Sunrise expansion project, a roughly $4 billion expansion of the Westcoast Energy natural gas pipeline system in British Columbia (Project). The Project consists primarily of new pipeline loops, compressor station upgrades, and associated electrical facilities. The aim was to increase transportation capacity on the existing system and address anticipated capacity shortfalls in southern BC and the U.S. Pacific Northwest. Sunrise, among other things, was planned to respond to liquefied natural gas (LNG) exports from the West Coast.

The Project was subject to a lengthy public hearing before the Commission of the Canada Energy Regulator (CER), which included extensive participation by Indigenous nations, landowners, governments, non-governmental organizations and industry stakeholders.

The CER decision

In January 2026, the CER issued a Commission Report recommending that a certificate be issued authorizing construction and operation of the Project under the *Canadian Energy Regulator Act* (CER Act). The Commission concluded that the Project is required by present and future public convenience, as well as necessity. However, approval is subject to compliance with 47 binding conditions.

Several aspects of the decision are particularly notable

The Commission found that the Crown's duty under section 35 of the *Constitution Act, 1982* was met through the CER hearing process, supplemental Crown consultation and the conditions. The decision expressly considered the *United Nations Declaration on the Rights of Indigenous Peoples Act* and recent Federal Court jurisprudence. This reflects the evolving legal framework for Indigenous consultation. Many of the conditions imposed by the Commission required Indigenous participation in construction and post-

construction monitoring, as well as ongoing reporting. These conditions reinforce the CER's role as a lifecycle regulator for projects.

While the Commission granted several exemptions sought by the proponent, it denied a requested exemption from the detailed route process for one power line component citing concerns raised by Indigenous intervenors. This demonstrated that exemptions under section 214 of the CER Act are not automatic and turn on context-specific public interest considerations.

The Commission further found there was a demonstrated need for additional natural gas transportation capacity in northeast British Columbia. This was on the basis of a forecasted supply shortfall on the existing West Coast system beginning later this decade, particularly as LNG export facilities and upstream production expand. Without the Project, the Commission concluded that the system would be unable to reliably meet expected demand. This could result in constrained production and compromised reliability of the energy system.

The Commission emphasized the Project's substantial economic benefits, including employment and GDP contribution over both the construction and operation phases. The Project is expected to create more than 18,000 jobs, generate approximately $1.7 billion in labour income and contribute over $3.3 billion to GDP nationally. These benefits were considered significant and durable, particularly in northern British Columbia and Indigenous communities.

While acknowledging that the Project would result in adverse environmental effects, the Commission determined that these effects would not be significant after mitigation and the imposition of conditions. The decision relied on a mitigation hierarchy requiring avoidance, minimization, restoration, and offsets (where necessary). Detailed conditions addressed sensitive features such as wetlands, old-growth forests, species at risk and greenhouse gas emissions.

Balancing all factors, the Commission concluded that the Sunrise expansion project was in the Canadian public interest, subject to certain conditions. These conditions were central to the recommendation and reflected the Commission's view that approval was only justified if accompanied by strong, ongoing oversight.

The Federal Government's approval of the project

Following receipt of the CER's report, the Federal Government approved the Sunrise expansion project and directed the issuance of a certificate. In doing so, the government was required to consider the CER's recommendation, the proposed conditions, and the broader public interest.

The federal approval explicitly relied on the Commission's conclusion that the Project satisfied the statutory public-interest test under the CER Act. The government accepted the finding that the Project addressed a real and time-sensitive capacity constraint in Canada's natural gas transportation system. It additionally recognized that the Project would support both domestic supply reliability and access to export markets.

The government also considered the Project's role in supporting Canada's broader energy and economic objectives, including enabling upstream production tied to LNG exports. While recognizing that natural gas is a fossil fuel, the approval reflected the Government's position that natural gas will continue to play a transitional role in Canada's energy mix, including displacing higher-emission fuels. The Project was therefore seen as compatible with national economic interests.

In granting approval, the government acknowledged the Project's contribution to greenhouse gas emissions. However, the government also accepted the Commission's finding that emissions were quantified, manageable and subject to mitigation and monitoring. The Project was approved on the basis that it did not undermine Canada's climate objectives when assessed alongside federal emissions-reduction policies and the imposed conditions.

Rather than reopening the consultation process, the federal approval relied on the Commission's conclusion that the duty to consult had been met. Outstanding concerns could be addressed through ongoing accommodation mechanisms that were embedded in the conditions. The government placed particular weight on requirements for Indigenous monitoring, capacity funding, socio-economic participation, and adaptive management. These features were viewed as essential to creating project oversight that is aligned with reconciliation.

Ultimately, the federal government concluded that the benefits of the Project outweighed its burdens and that any concerns were appropriately managed through conditions and ongoing regulatory supervision.

Considerations for future projects

The Sunrise CER report offers important guidance for proponents, Indigenous communities, and intervenors involved in future energy projects regulated at the federal level:

- Early and sustained engagement with Indigenous nations and other stakeholders can meaningfully influence project design and regulatory outcomes.
- Future projects will need to establish system-wide need using credible demand forecasts and evidence of capacity constraints. Applications are stronger where proponents can explain why existing infrastructure cannot meet anticipated demand.
- Decision-makers continue to give weight to employment, GDP contribution, and regional economic impacts. This is especially true where benefits are quantifiable, realistic in scope and supported by enforceable commitments.
- Adverse environmental effects, including greenhouse gas emissions and cumulative impacts, do not preclude approval. However, environmental effects must be transparently quantified, mitigated and managed through monitoring over the lifecycle of the project.
- Enforceable conditions are increasingly the primary mechanism through which impacts are justified and managed. Proponents should expect detailed conditions governing environmental protection, Indigenous participation and socio-economic outcomes.

BLG lawyers Alan Ross, KC and Logan Hale were counsel for an intervening party on the CER proceeding. If you have any questions about this Insight or would like to discuss any other regulatory concerns, please do not hesitate to reach out to the key contacts below.

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