November 30, 2021

Attention: Ms. Rumu Sen
Canada Energy Regulator
Suite 210, 517 - 10th Avenue SW
Calgary, Alberta T2R 0A8

Dear Ms. Sen:

Re: 30-Day Comment Period on Regulatory Proposal – Canada Energy Regulator Cost Recovery Regulations

Canadian Natural Resources Limited (Canadian Natural) appreciates the opportunity to provide comments to the Canada Energy Regulatory (CER) Cost Recovery Regulations Proposal ("Proposal") released on November 1, 2021.

Canadian Natural participated in the consultation/review process for the CER Option Paper issued in December 2020 ("Options Paper"). Within this Option Paper only two options were presented to Industry for feedback with respect to the proposal to increase the levy fee paid to small and intermediate companies. Both these two options suggested that the fixed levies would only change by a small amount. At the time of review, the CER did not provide stakeholders with a possible third option that ultimately became the recommendation in the Proposal: to replace the fixed levies with an amount calculated with reference to a company's throughput.

While Canadian Natural supports a review and modernization of the CER's cost recovery process, it respectfully urges the CER to follow both the spirit and the letter of its enabling statute, the *Canadian Energy Regulator Act* (CER Act), which allows for the CER to make regulations for fees payable for the purpose of recovery of its costs; and, arguably, for no other purpose. Thus, the levy fees prescribed by the regulation must be viewed from a cost recovery perspective and there must be a reasonable connection between it and the fee prescribed. Canadian Natural's analysis below is premised on this principle.

Canadian Natural

A. Modernizing the fixed levies recovered from small and intermediate companies

CER Regulatory Proposal:

Levies for large oil and gas pipeline companies are proportionally allocated from a commodity cost pool according to the relative throughput each company has to the total throughput for all companies in that commodity group. The proposed approach is to replace fixed levies for small and intermediate oil and gas pipeline companies with throughput as the metric for determining their costs.

To mitigate situations where oil and gas pipeline companies with one very short CER-regulated pipeline that has extremely high throughput are disproportionally affected, the CER proposes the following: if an oil or gas pipeline company has 10 km or less of CER-regulated pipeline, the company would be expected to pay 5 per cent of their actual throughput cost. All companies with 11 km or more of CER-regulated pipeline are expected to pay the cost of their levy based on throughput.

Canadian Natural is currently the licensee of approximately 0.4% of the total length of CER regulated pipelines. Canadian Natural is the licensee of twenty-six (26) pipelines, all classified as Class 1, and of which only eighteen (18) pipelines are operating. Based on Canadian Natural's corporate risk matrix, seventeen (17) of the eighteen (18) operating pipelines are considered Low Risk; with the remaining one (1) pipeline considered Medium Risk. These risk rankings take into consideration the potential consequence (health & safety, asset damage, production loss, environmental impact, & reputation), as well as the likelihood of occurrence.

Given the number of Canadian Natural's pipelines, their associated risk level, and given that none are CER "rate regulated" lines, changing the levy methodology based on pipeline throughputs would result in an unfair cost liability and additional administrative obligation on Canadian Natural: which is, according to CER's own metrics, categorized as a "small company". Further, the administrative effort upon the CER, related to the oversight of Canadian Natural's pipelines is lower in comparison to a "large company" as defined under the CER metrics.

While Canadian Natural understands that it is necessary to modernize the levy, the throughput levy model will penalize "small" and "intermediate" companies disproportionately considering the administrative effort that these companies impose on CER resources.

Canadian Natural supports CAPP's proposal as presented in the CAPP letter submitted to the CER dated November 30, 2021, for fixed-fee tiered amounts based on the combination of cost of service threshold and tiered throughputs for "small" and "intermediate" companies. See table below:

Small companies based on Cost of Service of $1 million or less	
Throughput (m^3)	**Fixed Fee ($)**
≤100,000	$1,000
≤1,000,000 and >100,000	$5,000
>1,000,000	$15,000
Intermediate companies based on Cost of Service of $10 million or less	
Throughput (m^3)	**Fixed Fee ($)**
≤1,000,000	$20,000
>1,000,000	$100,000

B. Relief

CER Regulatory Proposal:

It is proposed that the relief provision process remains the same as described in the Existing Regulations, however the eligibility and criteria for relief would change in the following way:

- *The relief provision will apply to all oil and gas pipeline companies with 11 km or more of CER-regulated pipeline as each company will be invoiced on their respective throughputs. Any oil pipeline company or gas pipeline company is not required to pay the portion of a cost recovery charge or administration levy payable that exceeds 2 per cent of the estimate of the rate base for the year in question if:*

  (a) In the case of an oil pipeline company or a gas pipeline company, the company files a request for relief with the CER within 30 days after the day on which the CER notifies the company of the cost recovery charge payable by the company in that year; and
  (b) The request for relief includes the company's rate base for that year. As part of its application, the company must file its audited financial statements in accordance with the Gas Pipeline Uniform Accounting Regulations or the Oil Pipeline Uniform Accounting Regulations, irrespective of whether they have been exempted from doing so by the Commission.

Companies seeking to file a request for relief could face additional administrative and financial burden, which would be mirrored by the CER, as it would also need to allocate its own internal resources to address these additional requests.

Canadian Natural supports CAPP fixed-fee tiered amounts proposal, which would entirely eliminate the need for relief applications for "small" and "intermediate" companies.

Where the CER proposed throughput methodology is applied, the proposed relief provision may be of limited practical application since it utilizes typically higher pipeline **rate base** versus **cost of service.** As the rate base for some pipelines are very high, utilizing it for a relief calculation would result in a higher fee and therefore it would not be considered as a relief to those companies.

Canadian Natural appreciates the opportunity to provide feedback to the CER Proposal, and would respectfully ask the CER to reconsider the option proposed. Canadian Natural is committed to working with the CER on developing a fair and equitable methodology for calculating the CER levy fee, and would appreciate the opportunity to discuss this further.

If you have any questions related to the content, please contact

Sincerely,

Vice President
Regulatory, Stakeholder and Environmental Affairs