

Council for Clean & Reliable Energy

2018 Annual Energy Leaders Roundtable

Aaron M. Engen

Managing Director and
Co-Head, Power & Energy Infrastructure
Investment & Corporate Banking



Energy Infrastructure Capital Investment

- Energy infrastructure project capital investment provided by:
 - Sponsor cashflow from operations
 - Capital markets
- Higher returns on capital required for higher risk projects
 - Project uncertainty (including regulation uncertainty) increases risk
 - Higher cost of capital → higher project costs → higher customer rates
 - If costs too high → projects uneconomic and cancelled
 - Either scenario = less competitive energy industry
- Major energy project development more uncertain now than ever
 - Large and growing list of “considerations”

Common world view of Canada:

Poor place to undertake large scale energy infrastructure projects

Project Development “Considerations”

Regulation Environment

- Protracted, expensive and complex review processes (federal and provincial)
- Increasingly challenging with growing list of project considerations

Labour / Project Costs

- Small Canadian labour pool
- Substantial project cost overruns are common

Indigenous Support

- Uncertainty in obtaining support
 - Many representatives with differing objectives and demands
 - May never be able to obtain 100% project support
-

Project Development “Considerations” – Con’t

Rule of Law

- Government willingness to enforce regulatory approvals, court sanctions, and rule of law
- Who has jurisdiction... legal vs. court of public opinion
 - Provinces, municipalities, NGOs, individuals and others

Social License

- Issues unique to every infrastructure project
 - Results in cost, timing and process uncertainty
 - Unpredictable, extra-administrative/judicial matters
-

Project Development “Considerations” – Con’t

Politicized Decision Making

- Federal regulatory approval process politicized by design
 - Regulator recommendation to Federal government
 - Final approval granted (or not) by Cabinet with/without conditions

Sovereign Risk

- Changes in government policy / changes in government
 - Changes in tax regime (higher / new taxes)
 - Changes in approval processes
 - Intergovernmental (provincial-provincial and provincial-federal) challenges
 - Support at a cost, eg., “share the pie” for approval; or
 - Not about compensation – opposed at all costs
-

Recent Energy Infrastructure Data Points

- Very large project development write-downs/abandonment costs
 - Energy East: ~\$1 billion
 - Prince Rupert Gas Transmission: >\$500 million
 - Northern Gateway: ~375 million (net of shipper recoveries)
 - Costs may be borne by the public
 - Ontario power project cancellations
 - Massive stranded investments
 - Petronas et al.: Progress Energy acquisition and follow-on capex well over \$10 billion
 - Tip of the iceberg... many other projects considered and dropped
-

Process Changing: IAA Considerations

- Shortened regulator timelines
 - *But* ministerial ability to extend established periods
- No concept of “standing”
- No set timeline for sponsor IA process
 - 3-year period but may be extended at sponsor request
 - Expanded IA requirements 
 - Including subjective/non science requirements
 - Expect more complex and lengthier sponsor IA preparation period
- Approval still rests with Minister / cabinet
 - Undefined public interest test

IA to address (among other points):

- Cumulative effects
- Impact on Indigenous and treaty rights
- Project need and alternatives
- Community and traditional indigenous knowledge
- Considerations related to indigenous cultures
- Any assessment of project effects completed by indigenous governing body
- Comments from the public
- Contribution to sustainability of the people of Canada (present and future generations)
 - Contributes to social and economic well-being
 - Preserve health
- The intersection of sex and gender with other identity factors

Process Changing: IAA Considerations – Con't

- Fear of being first through new process
- Still subject to provincial EA processes
- Process designed for inclusiveness – all parties have input... *but*
 - Enough that all stakeholders support decisions... even if contrary to positions?
 - Government willingness to enforce decisions in face of opposition / civil disobedience?
- Many pre-IAA issues remain

IAA process would not improve regulatory uncertainty
and would, arguably, make it worse

Impacts

- Declining willingness to fund major Canadian energy infrastructure project development
 - Attracting foreign capital more challenging
 - “Canada becoming un-investable” ... sell Canada, buy U.S.
 - Poor political environment
 - Increasing taxation
 - Growing regulations
 - Substantial and growing domestic interest in outside-of-Canada investment
 - Less painful/risky project development environments
 - Headquarter locations at risk
-

The Way Forward?

- Improved regulatory approval processes
 - Non-politicized
 - Firm, reasonable timelines
 - Reasonable regulation requirements with predictable outcomes
 - ie., development requirements clear enough that projects can be designed to meet requirements at the outset
- Process decisions respected and enforced
- Stable government policy

and

- All combined resulting in a sufficiently reasonable approval paradigm to support major project development

**Balancing act between necessary regulations
and attracting energy infrastructure capital investment**
