



Response to Public Comments on the CER Filing Manual revised Guide O, Guide N, s. 1.5 Confidential Filing, A.3.1 Supply, and A.3.3 Markets, and Electricity Filing Manual s. 1.4 Confidential Filing

Outreach on the Draft Guides

Draft revisions to Filing Manual Guide O (Variances and Project Updates), Guide N (Review, Rescind, or Rehear), s. 1.5 (Confidential Filing), s. A.3.1 (Supply), s. A.3.3 (Markets), and Electricity Filing Manual s. 1.4 (Confidential Filing) were posted on the CER Filing Manual Updates page for a 60-day public comment period from 1 December 2021 to 31 January 2022. Marked-up versions, brief introductory discussion papers and CER email contacts were provided to encourage comments from any interested party. These materials were linked to a banner on the CER home page.

In considering and incorporating the comments, the CER is mindful that the Filing Manual is intended to provide direction and guidance regarding the information the CER would typically expect to see addressed in a filing. The Filing Manual cannot create a new requirement that does not exist in the relevant legislation.

As the CER's objective was to support broad external engagement and feedback opportunities on the drafts, overview presentations were provided to CEPA (Canadian Energy Pipeline Association), and Enbridge. Heads-up emails were sent to pipeline companies, ENGOs, Indigenous communities and organizations, landowner associations, municipal organizations, and other groups, with links to the proposed revisions.

For additional background on each proposed draft, please refer to the appropriate "regulatory context and summary of gaps" documents posted previously on the Filing Manual Updates page.

Written comments were received from Enbridge, Milk River Ltd., Plains Midstream Canada, TC Energy, and Trans Mountain Pipeline. All comments were posted on the Filing Manual Updates page. The CER found the feedback and written comments to be valuable and thanks all who provided feedback.

Public Comment Summary and CER Response

Below is a high-level summary of the comments received, and CER's response to how these comments were considered. This includes identification of some areas where comments were not considered at this time.

The comments accepted include:

Guide O (Variance Applications and Project Updates)

- Broadened list of changes that qualify as a project update.

- Clarified meaning of “substantive” changes, and circumstances where a variance is not required, including changes to season of work and temporary workspace.
- Changed required timing of updates to signage and emergency contact information after company ownership or name change, from 30 days to “as soon as practicable but within 90 days” and the company must ensure that the emergency numbers and related services are uninterrupted for the duration of the transition of ownership to facilitate communication and safety reporting.
- Variance applications for a corporate name change need only include a letter signed by the Accountable Officer rather than being submitted by that person.
- Various suggested minor improvements to wording, typos, etc.

Guide N (Review, Rescind, or Rehear)

- Clarified that decisions made by a CER Designated Officer or Inspection Officer are also reviewable.
- Various suggested minor improvements to wording, typos, etc.

s. 1.5 Confidential Filing

- Various suggested minor improvements to wording, typos, etc.

s. A.3.1 (Supply)

- Wording clarified to avoid requiring commercially sensitive or confidential information
- Clarity around preferred formats for machine-readable data provided.
- Various suggested minor improvements to wording, typos, etc.

s. A.3.3 (Markets)

- Wording clarified to avoid requiring commercially sensitive or confidential information.
- Clarity around preferred formats for machine-readable data provided.
- Various suggested minor improvements to wording, typos, etc.

Some feedback, while understood and appreciated, has not been incorporated into the revised Guides. Several suggestions related to implementation of service standards for CER response to variance requests. The CER will consider whether service standards are appropriate in other venues.

Below are responses to other comments that the CER did not adopt:

Guide O (Variance Applications and Project Updates)

- Under O.3 Project Updates, Guidance: “Companies are expected to ensure that all project updates are shared with potentially affected parties as committed to in the originally approved application.” Enbridge requests that this be clarified to state “ ... potentially affected parties to the hearing ... ”.
Response: Parties who can potentially be affected by a project update are not necessarily those who participated in the hearing. A company should consider who may be specifically affected by the project update itself.
- Suggestions for rephrasing where the CER did not agree that clarity was enhanced.

Guide N (Review, Rescind, or Rehear)

- Suggestions for rephrasing where the CER did not agree that clarity was enhanced.

s. 1.5 Confidential Filing

- Expand s. 60 and 61 guidance to apply to documents other than “for approval”
Response: In the section "Guidance - Other Filings" section 1.5 addresses conditions that are not for approval.
- Accept confidential documents in electronic format via an e-filing process.
Response: Per the current Rules of Practices and Procedures the CER’s official record is still paper and an electronic copy does not meet the official record requirement. In addition, REGDOCS at this time does not meet the Library Archives Canada definition for an official records repository that allows for proper lifecycle management of the record of information.
- State explicitly that the comment and notice period for confidential filings does not affect the timing of condition approvals such that approvals will continue to be received in the timeline associated with the relevant condition.
Response: While the CER will respect timelines to the extent possible, the ability to assess filings in a timely manner primarily depends on the quality of the application.

Next Steps

The revised Guides and sections have been published on the CER website and are now in effect. Per previous practice, a banner notice will be displayed on the CER home page, and a broad list of interested parties will receive an email linking to the new Guides.

A history of updates to the Filing Manuals can be found at:

Filing Manual: <https://www.cer-rec.gc.ca/en/applications-hearings/submit-applications-documents/filing-manuals/filing-manual/history-filing-manual-updates.html>

Electricity Filing Manual: <https://www.cer-rec.gc.ca/en/applications-hearings/submit-applications-documents/filing-manuals/electricity-filing-manual/history-filing-manual-updates.html>