

Submission to the Expert Panel on the Modernization of The National Energy Board

By Eric Switzer

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The Canadian Federal Government has appointed an expert Panel to provide recommendations on modernizing Canada's national energy regulatory, the National Energy Board. Fortunately, the Panel's terms of reference instruct the Panel to address one of the deficiencies of the current law, the absence of NEB regulatory authority over low carbon energy or the sources of low carbon energy.

The review of the mandate should not be a particularly difficult or time consuming task. The Panel merely must recommend that the legislation governing the NEB incorporate the 1957 Royal Commission on Energy's Recommendation 17. Recommendation 17 states the Minister overseeing the NEB should have power to expand the NEB's oversight to new types of energy and sources of energy simply by published notice. Observed from the perspective of the first part of the twenty-first century, the failure to accept Recommendation 17 is one of the important deficiencies of the original, and all subsequent, NEB legislation.

The Royal Commission on Energy believed this ministerial flexibility was important. It wisely concluded that future technological developments and discoveries of new sources of energy meant that formulating and developing a long term national energy policy could be done only if all forms and sources of energy were regulated by a national energy board.

Giving the NEB regulatory authority over all "sources" of energy may not be important when dealing with traditional hydrocarbons. It is however very important when regulating low carbon energy. In such a case, it may be as important to regulate the export of the low carbon source as the low carbon energy itself.

A source of low carbon energy in need of immediate NEB export oversight is wood pellets. More than 90% of the almost two million tonnes of pellets produced annually in Canada are exported; principally to displace coal for electrical power generation. Because wood pellets are made from sawmill waste or logging residue, regulation of pellet exports will have little effect on the forest products industry.

It is incongruous, that at a time the Federal Government is introducing a carbon levy, advocating for low carbon fuel standards and investing in programmes to develop bio-refineries, it allows the unfettered export of one of Canada's most abundant, versatile and valuable sources of low carbon energy and chemicals.

Why should pellet exports be subject to an NEB hearing, running the risk of export denial or the approval subject to conditions, when large scale bio-chemical and biofuel production is years away or may never occur?

The short answer is that if Canada does not ensure there will be adequate future supply of domestic wood biomass, the Canadian biochemical or biofuel industries will never achieve scale of production. Six decades ago, The Royal Commission on Energy concluded that in determining the public interest associated with the export of energy and sources of energy consideration should be given "to the advisability of encouraging in Canada a processing industry relating to energy and sources of energy as distinct from the export of unprocessed natural resources."

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Canadian pellet producers should welcome the creation of new large volume domestic demand. Canadian pellet exports are largely driven by foreign government incentives. A precarious foundation for the industry.

The Federal Government must consider wood biomass and by extension wood pellets a strategic national asset. If it does, it will bring together various interest groups, pellet producers and biochemical and biofuel producers,” to work dynamically with government in its search for growth and technological change”. This in turn will provide a foundation for the creation of new industries supporting the Canadian transition to a low carbon economy.

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