



August 12, 2016

VIA EMAIL

Mr. Brian Torrie
Director General
Regulatory Policy Directorate
Canadian Nuclear Safety Commission
280 Slater Street PO Box 1046, Station B
Ottawa, ON K1P 5S9

Dear Mr. Torrie:

Re: Greenpeace and CELA's feedback on comments of Ontario Power Generation, Bruce Power, Canadian Nuclear Association and Cameco Corporation on discussion paper DIS-16-01, How the CNSC Considers Information on Costs and Benefits: Opportunities to Improve Guidance and Clarity

We are writing this letter to provide you our feedback on the comments submitted by the corporations/ agencies mentioned above on discussion paper DIS-16-01 ("Paper"). We found that submissions by these four organizations share concerns and recommend similar proposals for change. Please find below our comments on the proposals that they recommended for change in the proposed guidance. We have summarized their submissions in the following bullet points for the purpose of our convenience to provide feedback.

- 1. Hold the CNSC responsible for calculating cost-benefit implications too in order to streamline with other government policies and guidelines, such as the *Canadian Cost-Benefit Analysis Guide*, the '*One-for-One*' Rule and the *Cabinet Directive on Streamlining Regulation*.**

Comments:

It is not necessary for the CNSC to conduct a CBA as it is clearly mentioned in section 3.1 of the Paper that the CNSC analyzes and estimates the associated costs and impacts on the regulated community and all Canadians when it amends any of its regulations or develop new ones. This analysis is summarized in a Regulatory Impact Analysis Statement (RIAS). So, it is just a duplication and waste of tax payers' money to ask the CNSC to conduct a CBA where similar type of analysis has already been done. AVERA in its comments also does not support this idea.

Canadian Environmental Law Association

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2. **Provide a reasonable period of time to impacted stakeholders for the calculation of cost-benefit implications of any significant regulatory framework changes before public review is sought on the same.**

Comments:

Again, section 3.1 of the Paper clearly outlines how the CNSC changes its regulatory framework. We do not support providing licensees an opportunity to comment on any proposed changes before they are released for public review. First, impact of such changes will be greater to human health and the environment than licensees or industry. They may put lives and livelihood of people at risk. In this context, it is not reasonable to allow the regulated community to influence or play a role before they are released for public consumption. Second, it does not promote transparency by letting operators to intervene in the decision making process of the government. People should be able to know what the regulatory agency thinks about the proposed changes without any adulteration therein. Fourth, the regulated community will be subject to the proposed changes in future. In that case, it would be an absurd practice to let them step in before public review is sought. They should not be allowed to enter from the back door. Fifth, licensees will also have opportunities to comment on the proposed changes at the same time when they are released for public review. They will equally have opportunities to put their concerns on the proposed changes or new regulation at the same time when the public will be availed such opportunities.

We do support that a reasonable period of time should be provided so that quality inputs can be received on the proposed changes.

3. **Describe what type of decision would benefit from a CBA and how it fits within the CNSC's mission.**

Comments:

As our alternative submission, we want all decisions require a CBA where it falls under the CNSC's mission because even a low risk nuclear activity will have adverse impacts on human health and the environment. However, the level of analysis may vary depending on the level of risk.

4. **Exempt those licensees who satisfy the CNSC's health, safety, security & environmental requirements from conducting cost-benefit study under regulatory document emerging from this Paper.**

Comments:

We do not support this idea because a CBA should be performed and made the report public although the proponent has met all requirements under the CNSC's mission. It is not possible to take precautionary measures without knowing harms (costs) of the proposed project. People should be able to know what trade-offs were made and how harms will be mitigated by the project.

- 5. Provide guidance on how licensees can submit meaningful cost-benefit information to the CNSC while protecting commercially-sensitive material and disclosure obligations.**

Comments:

We urge that licensees release cost-benefit information in order to insure transparency and trustworthiness of CBA. It is a right of the people to know whether there are any discrepancies that will put their lives and livelihoods at risk. The information could be used as a tool by the people to oppose such faulty decisions. In many instances, licensees have refused to disclose the cost-benefit information even when they were asked for the information. Where there is a potential adverse impact to human health and the environment, licensees shouldn't be allowed to withhold the cost-benefit information by reason of confidentiality of commercially-sensitive material. This could create a risk that genuine cost-benefit information could be withheld applying this as a tool. Public interest should out-weigh other factors where releasing the information is in question.

- 6. Provide more context and qualifiers regarding the examples provide in the paper why the CNSC believed costs were relevant to a described issue and how costs fit into its mandate.**

No Comments.

- 7. They have proposed a paper entitled Cumulative Effects of Regulation – Cost Benefit of New Regulatory Requirements prepared by the CANDU Owners Group as a resource to include in the guidance.**

Comments:

We do not support to have this Paper as a resource under the draft guidance because of a couple of reasons. First, the Paper was prepared by the CANDU Owners Group with the participation of various operators. In this context, having the Paper as an alternative resource may lead to a conflict of interest. Operators are subject to the regulatory framework put in place by the regulator, not to studies or research conducted by them. They do have rights to put their concerns on the proposed regulatory framework. However, they cannot propose to have their own product as a resource of guidance which will provide some directions while performing a CBA.

Second, the Paper claims that the implementation of the CNSC regulatory framework plan has resulted in significant increases in resource demands for licensees while complying with a new and revised regulatory framework, and the study was carried out to find out a way to minimize the regulatory burdens. We believe that cost is the least important where human health and the environments are at risks. As we have got the environment in trust for future generations, it is our responsibility to leave such a precious thing to our future generations on the same condition that we received from our ancestors. Therefore, resource burdens should not be a justification to cause damage to

the environment. Some of the adverse impacts to the environment cannot be seen immediately, they will appear after decades or even centuries. In this context, such a study should not be considered as a resource which was prepared to avoid resource and regulatory burdens.

- 8. They propose to have a collaborative review of the relative benefits of potential regulatory changes as it has been done in US as a pilot project.**

Comments:

We have no objection to have such a review practice in Canada provided they foster protection of the environment and human health.

- 9. Requiring licensees to submit a detail and high quality cost-benefit information would increase administrative and regulatory burden on them. It should be accounted for.**

Comments:

We do not support this statement. Reasons are provided in para 7.

We thank CNSC for providing the opportunity to provide feedback on the comments made by other agencies and organizations on discussion paper DIS-16-01. Should you require further information or have questions on our feedback, please contact us.

Yours truly,

Theresa McClenaghan
Executive Director
CANADIAN ENVIRONMENTAL LAW ASSOCIATION

And

Shawn-Patrick Stensil
Senior Energy Campaigner
GREENPEACE