IS SOCIAL LICENCE A LICENCE TO STALL?*

A symposium on October 8, 2014 in Calgary, Alberta, organized by The School of Public Policy, University of Calgary

Mark Lowey

SUMMARY

The School of Public Policy at the University of Calgary organized a one-day symposium on Oct. 8, 2014 in Calgary, as part of the School's TransCanada Corporation Energy Policy and Regulatory Frameworks Program. The symposium was titled "Is Social License a License to Stall?" Held at the Hotel Arts, the event attracted a full-capacity audience of about 110 people, including representatives from industry, government and environmental non-government organizations. The symposium included four moderated panel sessions and a keynote speaker at lunch.

The School of Public Policy set the framework for discussion at the Calgary symposium with the following description:

Canada's regulators act in the public interest to review energy and infrastructure project applications. Regulators are guided by procedural fairness and follow a transparent application, review and hearing process with data filings and sworn testimony.

But that's changing.

"Social license" is a relatively new term, which some interests are using to create a different standard for the approval of projects — especially energy projects. According to social license advocates, projects must meet often ill-defined requirements set up by non-governmental organizations, local residents or other interests — a new hurdle for project approval, but without the rigour and rule of law of a regulator.

Is social license a meaningful addition to the regulatory process, or is it being used as a constantly moving goal-post designed to slow down regulatory processes, delay project implementation, frustrate energy infrastructure expansion and even enrich those advocates who promote it as a new model?

This paper summarises the discussion and the themes that emerged throughout the day. Most notably, panellists concluded that "social licence" is a real and significant issue that presents both an opportunity and a problem, not only for regulators but for all parties involved in the regulatory process.

LE CONTRAT SOCIAL EST-IL UN DÉCRET DE PARALYSIE ?*

Symposium organisé le 8 octobre 2014 à Calgary, Alberta, par la School of Public Policy, Université de Calgary

Mark Lowey

SOMMAIRE

La School of Public Policy de l'Université de Calgary a organisé un symposium d'une journée le 8 octobre 2014 à Calgary, dans le cadre du TransCanada Corporation Energy Policy and Regulatory Frameworks Program de l'institution. Le programme s'intitulait « Is Social License a License to Stall? ». L'événement, qui s'est déroulé à l'Hôtel Arts, a fait salle comble, ayant attiré un auditoire d'environ 110 personnes, dont des représentants de l'industrie, du gouvernement et d'organisations environnementales non gouvernementales. Le symposium incluait quatre tables rondes avec modérateurs et un conférencier d'honneur lors du déjeuner.

La School of Public Policy a expliqué le cadre de la discussion lors du symposium de Calgary dans la description suivante :

Au Canada, les régulateurs agissent dans l'intérêt public en passant en revue les soumissions pour les projets énergétiques et les projets d'infrastructure. Les régulateurs sont guidés par l'équité procédurale et se conforment à un processus de soumission, d'examen et d'audience transparent avec présentations de données et témoignages sous serment.

Les choses sont toutefois en train de changer.

« Contrat social » est un terme relativement nouveau que certains intérêts utilisent pour créer une norme différente pour l'approbation des projets, en particulier des projets énergétiques. Selon les promoteurs du « contrat social », les projets doivent satisfaire à des exigences souvent mal définies établies par des organisations non gouvernementales, des résidents locaux et d'autres groupes d'intérêts – ce qui constitue un nouvel obstacle à l'approbation des projets, sans la rigueur et la règle de droit qui régissent un organisme de réglementation.

Est-ce que le concept de « contrat social » est une addition valable au processus réglementaire ou est-ce qu'on l'utilise comme un jalon en perpétuel mouvement conçu pour ralentir les processus réglementaires, retarder la mise en œuvre des projets, freiner l'expansion de l'infrastructure et même enrichir les défenseurs qui en font la promotion comme d'un nouveau modèle ?

Le présent article est un sommaire de la discussion et des thèmes qui ont été abordés au cours de la journée. En particulier, les participants ont conclu que le « contrat social » est un enjeu véritable et important qui représente à la fois une opportunité et un problème, non seulement pour les régulateurs mais pour toutes les parties impliquées dans le processus réglementaire.

OVERVIEW

The first panel session addressed the questions: What is "social licence"? Is it real?
There was consensus among the three panellists that the concept of social licence is real. As one panellist noted, one only has to look at the number of proposed projects where social licence has become an issue. However, the panel also agreed that the term "social licence" is vague or not clearly defined or means different things to different people, depending on who is using the term and for what purpose. Panellists linked the rise in the awareness of social licence and demands for it to be satisfied to several factors, including:

• the federal government's revision of key pieces of regulatory and environmental legislation and the perceived "politicization" of the regulatory process;

• a broader decline of public trust in institutional authorities and the "larger polity" to make decisions in the greater public interest about proposed projects;

• an overall fragmentation and "atomization" of society;

• increasing worldwide attention paid to Alberta's oil sands and associated environmental issues, along with concerns about climate change and severe weather events;

• globalization and a significant increase in the use of social media; and

• the lack of a forum or process whereby people concerned about broader policy issues, such as climate change, can have their concerns heard and meaningfully addressed.

One panellist offered several positive examples of initiatives, groups or processes that succeeded by managing to achieve consensus on the things people can agree about. Another panellist said that managing social licence and the expectations it has created will require the rebuilding of institutions and structures, and ensuring that people have confidence in the regulators to make decisions. One panellist said that the concept of "public interest" (as in: What is in the best public interest in regulatory decisions?) needs a clearer definition and framework, and that Canadians need a shared national energy strategy and vision.

The moderator of the first panel session summed up what he had heard: 1) social licence exists and is real; 2) there's a good deal of variability in defining social licence and describing the maturity of the concept; 3) a defining of roles and responsibilities in the policy space is needed; and 4) government has a role in balancing competing values.

The second panel session addressed at the question: How is the phrase "social licence" used currently?
This session's moderator began by saying that social licence is a "nebulous issue," and that the energy development opportunities for Canada are time-limited in a globally competitive environment. The three panellists offered numerous examples of the use of the term "social licence" by industry, policy-makers, politicians, environmental non-government organizations and the media. However, one panellist noted that regulators rarely refer to social licence in providing reasons for their decisions. The panellists, while they generally agreed that the term "social licence" is either vague or highly variable in how it is used across all sectors of society, had different views of how social licence should be managed or applied. One panellist said the notion of social licence either should be recognized as being granted already through society's legislated regulatory system and other institutions, or the

concept should be rejected altogether because it is beginning to undermine democracy and capitalism. Another panellist said social licence reflects the democratic process, and that the courts, governments and First Nations' right to Aboriginal title will ultimately decide the context and significance of social licence. One panellist said Canadians have the right to approve or not approve social licence each time they vote in the electoral process. As for the role of regulatory bodies regarding social licence and the actual or perceived lack of public confidence in regulators, one panellist noted that if a regulatory agency is not fair, the regulatory process itself means nothing.

The luncheon keynote speaker conveyed several key messages to symposium participants, including:

- social licence is here to stay and has been here for a long time;
- social licence creates risk for industry and the obligation to attain and maintain social licence rests with project developers;
- Canada has a "world-class" regulatory system that provides a structured way to obtain legal approval along with social licence; and
- maintaining social licence requires leadership, trust and collaboration.

The keynote speaker offered several examples in Alberta of successful initiatives that he said are framed around attaining and maintaining social licence, including: the oil sands industry's training of a local Aboriginal workforce and hiring of aboriginal businesses, as well as the industry's ongoing technology innovations; Alberta's investment, through its levy on large emitters' carbon emissions, in developing new technologies and processes, including renewable energy sources; and the Canadian Oil Sands Innovation Alliance, whose member companies have shared hundreds of distinct technologies that cost several hundreds of millions of dollars to develop.

The third panel session addressed the questions: Who "owns" social licence? Where does the authority come from?
The three panellists had different views on whether any entity owned social licence or had the authority to grant it. One panellist said that attaining social licence or "social acceptability" is the project proponent's responsibility, and that the proponent shouldn't enter the regulatory process until social licence/acceptability has been attained. Another panellist the social licence was initially a metaphor with the legal license, and now the concept has also been developed into a management tool. The social licence is essentially the quality of the relationship — which can go up or down — that a project proponent has with the community. One panellist rejected the concept of social licence altogether, saying the term is so vague no one knows what the rules are, which he said gives ultimate authority to opponents of development, so social licence should actually be called "opponents' permission." The view that "society" must grant social licence represents an attack on democracy and established institutions, he said, adding that vital projects in the national interest and that are important to Canadians' prosperity should not and cannot be held hostage by special or regional interests. However, he noted that Canadians need to forge a new agreement and build a national political consensus around why certain projects are in the national interest and therefore should proceed.

The fourth and final panel session of the symposium addressed the questions: Where do we go from here? What is the potential use of "social licence" in the development of society?

There was consensus among the three panellists that the notion of social licence — especially as it means that public consultation and stakeholder engagement are required for proposed projects — is a global phenomenon and is not going away. Attaining social licence is all about communication, understanding and respecting other cultures and individuals, one panellist said. Another panellist preferred the term "social acceptance" rather than social licence, but noted that the heart of the issue is about public confidence, including confidence in the regulator, and that companies need to communicate better about how investors' money is used and be accountable for corporate responsibilities, such as a safety culture. One panellist said the institutions we have now don't fit well with the need and aspirations of First Nations and Aboriginal communities. Citizens need to rely on Canada's regulatory processes and we need to work on improving those processes and at rebuilding greater levels of public trust in due process, she said. Panellists offered positive examples in Alberta of long-term citizen engagement in proposed energy developments, and said citizens need to take advantage of all the information available, not just information that reinforces their own views. Regarding whether social licence constitutes a threat to the law, two panellists said that for a small minority, their view of social licence does constitute a threat to lawful authority, but that the majority of society doesn't think of it that way. Another panellist said social licence does not constitute a threat to the rule of law, although he noted that society is reaching a critical point in recognizing or applying social licence, but will get to "a place" where the rule of law is not threatened.

THE SYMPOSIUM

Dr. Jennifer Winter, associate director of energy and environmental policy at The School of Public Policy, began the symposium by noting that "social licence" is a relatively new term in the regulatory and policy arenas and the debate about its relevance and usefulness is not over. She asked the symposium participants to consider: Is social licence a meaningful addition to the regulatory process, or is it a constantly moving goalpost aimed at slowing down the regulatory process?

Session 1 — What is "Social Licence? Is It Real?

David Pryce, previously with the Canadian Association of Petroleum Producers, moderated the panel. Panellists were Michael Cleland from the Canada West Foundation, Ron Lehr from the American Wind Energy Association, and Ed Whittingham from the Pembina Institute.

Lehr, a lawyer based in Denver, Colo. and a former chair and commissioner of the Colorado Public Utilities Commission, said social licence is obviously real because one just has to look at what is happening to proposed projects where social licence has become an issue. "You have to be cognizant of the setting you're in, and if you're not, your project won't work," he said. Giving stakeholders effective notice of a proposed project is the

most important element of due process, Lehr said, adding: "You have to know who the stakeholders are." Society is in a public decision-making gridlock, he said, with ordinary citizens feeling disengaged and unheard while journalists are "elevating" the level of opposition to proposed projects.

Consultation with as many people as possible is crucial and will make for better decisions, Lehr said, noting that we always need "more democracy." Project proponents need to build informal agreements before getting to the formal decision-making process, he said, and he recommended the book, *Getting to Yes*.[1] Lehr cited several examples of initiatives, groups or processes that achieved consensus on the things people can agree on. Examples included: the National Wind Coordinating Collaborative;[2] the Rocky Mountain Area Transmission Study;[3] the New York State Department of Public Service's *Reforming the Energy Vision* report;[4] and the "Powering Forward Plan"[5] developed with convening help from the Aspen Institute. Processes for achieving consensus and support for initiatives include: dialogue processes; "Deliberative Polling,"[6] as originated by James S. Fishkin at Stanford University; ballot initiatives such as that used to decide Colorado's proposed renewable energy standard, which started out at 10 per cent and is now 30 per cent; and performance-based regulation approaches.[7]

Panellist Ed Whittingham, executive director of the Pembina Institute, said the term "social licence" emerged about three years ago, and it wasn't a term used initially by environmental non-governmental organizations (ENGOs) or First Nations. Since then, the term has achieved "mythical beast" status like the yeti or Bigfoot but, like those creatures, "remains elusive," he said.

Many in industry though the regulatory process worked fine prior to 2012, but has entered a "darker age" filled with sinister ideas, where it is difficult getting either oil and gas pipelines or wind turbines built, Whittingham said. One view of social licence is that it represents democracy in action and is a meaningful addition to the regulatory process, and the beneficiaries include First Nations and ENGOs, he said. Starting in 2012, it feels like Canadians stopped having rational discussions about energy development, Whittingham said, adding that much of the current situation has to do with concerns about climate change and the links between pipelines and climate change. People are holding pipeline

[1] Bruce Patton, Roger Fisher and William L. Ury, *Getting To Yes: Negotiating Agreement Without Giving In* (New York: Penguin Books, 2011).

[2] National Wind Coordinating Collaborative, https://nationalwind.org.

[3] Roger Hamilton et al., *Integrating Wind into Transmission Planning: The Rocky Mountain Area Transmission Study* (presented at the Global WindPower Conference, March 29-31, 2004), http://www.nrel.gov/docs/fy04osti/35969.pdf, accessed November 15, 2014.

[4] New York State Department of Public Service, *Reforming The Energy Vision*, Staff Report and Proposal (April 2004), http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/26be8a93967e604785257cc40066b91a/$FILE/ATTK0J3L.pdf/Reforming%20The%20Energy%20Vision%20(REV)%20REPORT%204.25.%2014.pdf, accessed November 15, 2014.

[5] Bill Ritter Jr., "Obama Powers Forward on Clean Energy," *The Aspen Idea*, Summer 2014, 38-40, http://www.scribd.com/doc/230169580/The-Aspen-Idea-Summer-2014, accessed November 15, 2014.

[6] "Deliberative Polling: Executive Summary," Center for Deliberative Democracy, http://cdd.stanford.edu/polls/docs/summary/, accessed November 15, 2014.

[7] Western Interstate Energy Board, "New Utility Model," http://westernenergyboard.org/western-energy-issues/resources/electricity-overview-of-wirab-crepc-spsc/cost/new-utility-model/, accessed November 15, 2014.

companies responsible for things outside the companies' "fence" of responsibilities, such as climate change, he said. Also, a couple of years ago, the world started paying attention to Alberta's oil sands and fears grew about severe weather events such as "Superstorm" Hurricane Sandy — whether or not such events are linked to climate change, he added.

Whittingham said one reason for the rise of social licence is that people lack a forum or a process for talking about and addressing issues such as climate change, and to feel they have to raise policy concerns that have little or nothing to do with a regulatory hearing process that considers only the merits of individual proposed projects. The federal government poured "political gas" on the fire by revising key pieces of regulatory and environmental legislation, and by calling Canadian environmentalists foreign-funded political radicals, he said. To resolve the current stand-off, Alberta has to become a global leader in environmental performance, Whittingham said, adding that he thinks (then) new Alberta Premier Jim Prentice, based on his public comments, has made a "good start" in moving forward.

Michael Cleland, Nexen executive in residence at the Canada West Foundation, said he doesn't think "social licence" is a very helpful term. Protests against proposed energy projects have more to do with governing institutions, he said, adding that there has been a decline of public trust in institutional authorities making decisions about such projects. There is lots of evidence that the current situation is due to what has been happening to the process of democracy and people's perceptions of being treated unfairly in that process, Cleland said. Societal fragmentation and "atomization" have increased. If people no longer trust the larger polity to look after their interests, they are going to look elsewhere to have their concerns addressed. In addition, he noted that the communications environment has changed, due to social media and globalization — a change that was first apparent in the "war of the woods"[8] in the forestry sector.

Governments can worsen perceptions and public mistrust, Cleland said, citing the backlash in Ontario over the provincial government's support for wind energy and the federal government's environmental "reforms." Public mistrust and cynicism of institutions doesn't affect only the energy sector, he added, as is evident from the Idle No More movement and public outcry over the police shooting of a young black man in Jefferson City, Mo. Canadians don't hear enough about the things they're concerned about from sources they trust, and trust in government has declined steadily in the last 30 to 40 years, Cleland said.

As for what can be done to improve the current situation, Cleland said that corporate culture and practices could change, and some progressive companies are now seeing close and continuous public consultation as a competitive advantage. Governments have "been truant" and could do better, for example, on climate change policy and environmental regulation, enforcement and monitoring, he said. However, the current regulatory processes are impossibly burdened by failures in policy and planning, he added. "It's a big issue, it's pervasive." Many of today's basic governing institutions have been weakened or were never properly built for the needs of the 21st century, Cleland said. For example, many people — including some former regulators — think that the National Energy Board's (NEB)

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[8] Kim Nursall, "Twenty years later, the 'War in the Woods' at Clayoquot Sound still reverberates across B.C," Global News, August 11, 2013, http://globalnews.ca/news/774070/twenty-years-later-the-war-in-the-woods-at-clayoquot-sound-still-reverberates-across-b-c/, accessed November 15, 2014.

authority was weakened after federal government changes to the National Energy Board Act gave ultimate authority for deciding on a proposed project not to the NEB but to the federal cabinet, with the NEB's role relegated to making recommendations to the federal government. In Alberta, critics, including in media reports,[9] raised concerns about whether there was political interference in the Alberta Utilities Commission's 2012 decision[10] to approve a 500-kilovolt, direct transmission line between Genesee, west of Edmonton (an area with several coal-fired power plants), to the Langdon area east of Calgary.

Moderator Pryce asked the panellists to address the notion of scale and of roles in responding to or incorporating the concept of social licence.

Whittingham noted that the number of participants in National Energy Board hearings has significantly increased. However, the concept of "public interest" (as in: What is in the best public interest in regulatory decisions?) is ill-defined and needs a clearer definition and framework, he said. Canada has no national energy strategy and Canadians need a commonly held vision of energy development, Whittingham said, calling the lack of such a strategy the "No. 1 gap" and the most important thing for government to address.

Cleland, however, said he didn't think the national energy strategy was "going anywhere," and that the problem is that Canada has allowed policy (and policy-making) to "drift" into the regulatory process.

Lehr said people are going to bring whatever they bring to the regulatory process and the process has to respect this. He mentioned an example of a mother who appeared before regulatory officials and pleaded "Please don't fry my baby!" by approving the proposed project. The regulatory board invited her to the hearings, and she attended and her concerns were duly heard, Lehr said. People need to be brought into the process and there needs to be more inclusion and more democracy, he added. "We need a process that (takes) into account what people bring to it." Regulators then can weigh all the different perspectives appropriately, Lehr said, adding: "It's a judgment call."

A symposium participant asked the panel how the "trusted information" (as opposed to incorrect, misleading or biased information) could be provided to stakeholders and the broader public.

Cleland replied that institutions could do a "way better job" of providing information. Whittingham said people misunderstand what a hearing process does. But the underlying problem, he said, is that people don't agree with certain policy and they feel they haven't had a say in that policy. Lehr said that regulators in a hearing can distinguish facts, such as the consensus of scientific thinking as represented by research published in peer-reviewed journals, from opinion or rhetoric. Regulators can use their "bully pulpit" to make this distinction and explain to hearing participants how the facts are arrived at in the decision-making process.

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[9]   Andrew Nikiforuk, "How Alberta's $16-billion Electricity Scandal Plugs into the Oil Sands," *The Tyee*, February 8, 2011, http://thetyee.ca/News/2011/02/08/AlbertaElectricity/, accessed November 15, 2014.

[10]   Government of Alberta, "Alberta Utilities Commission approves Western Alberta Transmission Line," news release, December 6, 2012, http://alberta.ca/release.cfm?xID=333867199E89F-9474-6FDC-AFC3F972463EAC65, accessed November 15, 2014.

Another symposium participant took issue with the view that always having more democracy in the regulatory process is a good thing, saying that sometimes property rights trump democracy. Lehr replied that private property rights don't trump everything else, adding: "The elites have had their day. I think that's over." Cleland agreed that sometimes there is too much democracy in the process, but "it's out of the box" (when it comes to social licence), so the question is how to manage it. Doing so will require the rebuilding of institutions and structures, and ensuring that people have confidence in the regulators to make decisions, Cleland added. Whittingham said it isn't practical to have a plebiscite on a proposed project on a landowner-by-landowner basis. But there has to be other forums, such as electronic town halls, to ensure democratic inclusion and that a range of voices are heard, he said.

Whittingham said it feels like it is 1917 when it comes to energy development in Canada, with scientists alienated and a lot of people walking around shell-shocked from the energy debate. Canadians need to get back to having rational conversations in public forums, he said. Lehr said there are always going to be extreme religious zealots on both sides of the debate, but that regulators and their decisions "need to be driven by facts." Cleland urged a rebuilding from the bottom up of our established regulatory organizations, and decisions that are evidence-based as well as science-based.

Asked by a symposium participant about the role of corporations in finding solutions, Lehr replied that corporations have a vital role and need to take responsibility. Start building some arguments in the middle, based on facts, and build human relationships, he said, adding: "Let's find that middle ground and build on it." Cleland noted that such processes need to start happening farther upstream (and outside of the formal regulatory process). Whittingham said the burden of policy failure has fallen on companies' shoulders, so companies are faced not only with issues of local impacts or what's good for a community affected by a proposed project, but also the climate change issue and the transition away from fossil fuels. "We're having no national conversation on that."

A symposium participant asked the panel who is in charge of balancing what's best for society. Whittingham replied that it's about better defining the meaning of public interest. Lehr said regulators should try to get the most or the best of competing values. He pointed to successful new business models for electric utilities in the United States that are based on giving customers what they want. Cleland said the political processes are going to have to sort out competing values.

Moderator Pryce, in summing up the first panel session, said he heard that: 1) social licence exists and is real; 2) there's a good deal of variability in defining social licence and describing the maturity of the concept; 3) a defining of roles and responsibilities in the policy space is needed; and 4) government has a role in balancing competing values.

Session 2 — Reality TV: How is the Phrase "Social Licence" Used Currently?

Tony Palmer, senior vice-president of stakeholder relations at TransCanada Corp., moderated the panel. Panellists were Gaétan Caron from The School of Public Policy at the University of Calgary, Kenneth P. Green from the Fraser Institute, and Kai Nagata from the Dogwood Initiative.

Palmer began the session by noting that there have been controversies in the past over energy projects, including the "Great Pipeline Debate"[11] in Parliament in the mid-1950s over TransCanada's mainline across Canada. The parliamentary episode contributed to the federal government's defeat in 1957, ending many years of Liberal rule. The question of social licence is a "nebulous issue," Palmer said, noting that Canadians live a very privileged lifestyle and that the energy development opportunities for Canada are time-limited in a globally competitive world.

Panellist Caron, former chair of the National Energy Board, said it is not regulators who use the phrase "social licence," but policy-makers, politicians, industry, environmental non-governmental organizations and the media. Rarely do regulators refer to social licence in providing reasons for their decisions, although the Alberta Energy Regulator uses the term on its website and (then) Alberta Premier Jim Prentice has publicly referred to "social licence challenges," he said. In Quebec, he added, the more common term is "social acceptability." Suncor Energy, on its website, links social licence to "those impacted by our business," while Husky Energy's website doesn't use the term. Encana uses the term in the company's sustainability report. The Canadian Association of Petroleum Producers' website refers to social licence, TransCanada Corp. uses the term on the Canadian Business for Social Responsibility website and Enbridge's website uses the term and links it to the need to maintain goodwill and support. The Canadian Energy Pipeline Association's website refers to social licence, uranium producer Cameco uses the term and Ernst and Young says the Mining Institute of Canada identifies social licence as business risk in mining, Caron said. The Pembina Institute's website links social licence to the "local population" affected by a proposed project. Media use the term, he said, showing a slide of its use in the *Prince George Citizen* newspaper, where social licence was described as good decisions for the majority of the people, even when the majority of the people disagree. People talk about different things when they talk about social licence, and the context is often a moving target, Caron said. Obtaining social licence is essentially practising corporate social responsibility, he said. However, there is a question of scale in using the term social licence or applying it, Caron noted, questioning whether social licence as applied to a local mining project is an appropriate approach for cross-border national pipelines.

Ken Green, senior director, Centre for Natural Resources at the Fraser Institute, said the origin of social licence to operate can be traced back to the idea of corporate social responsibility (CSR). But CSR itself is a "dubious concept," since a chief executive officer's duty is to maximize return to the company's shareholders, he said. He referred to the "share-a-ride" initiative implemented by regulators about 20 years ago in Los Angeles, to try to address the city's smog problem. The initiative led to large plans to share a ride and

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[11]   Robert Bothwell, "Pipeline Debate," *The Canadian Encyclopedia* (Historica Canada),
        http://www.thecanadianencyclopedia.ca/en/article/pipeline-debate/, accessed November 15, 2014.

new jobs to run a ride, he said. Hughes Aircraft gave preferred parking spaces at its facility to share-a-ride participants. The initiative has created a "mess,"[12] Green said. CSR is good if it makes sense from a business perspective and is good for a company's bottom line, he said. If not, CSR diverts money from the bottom line, encourages cronyism and makes the company's operation less attractive to investors, Green said. The social-licence-to-operate concept is beginning to undermine democracy and the whole idea of capitalism, he said, suggesting that opponents of a proposed development have the choice of not buying the company's product, not voting for the government supporting such projects, or moving to a different jurisdiction. There are now special-interest groups that are saying if they don't get their way, they're going to become violent, chain themselves to equipment and stop projects. Canadian society has reached a point where we now need to decide if social licence to operate is compatible with democracy and with other democratic jurisdictions, Green said.

Kai Nagata, energy and democracy director with the Dogwood Initiative, described himself as a political journalist by training and not an "environmentalist" who sees humans as separate from nature. He said he became involved in the Northern Gateway pipeline issue when the Joint Review Panel (JRP) hearings into the pipeline visited Bella Bella in B.C and the visit, in his view, was unnecessarily and unfairly deemed a security risk to the hearings panel. A government minister verbally attacked his mother, Nagata said, noting that the JRP hearings in B.C. felt like the people of the province were being put on trial. There is a crisis of faith in industry and pipeline operators — and a project proponent can't be asked to referee — but also a crisis of faith in the regulator, he said. A Dogwood Initiative poll found that only one-third of people in B.C. have faith in the federal regulatory process for pipelines. There is also a crisis of understanding or faith in the product that will be carried via the Northern Gateway pipeline — oil sands bitumen, Nagata said. He doesn't like the term "social licence" or use it, he said, calling the term vague and nebulous. However, social licence to operate needs to be looked at in terms of the rule of law, he said, adding that Canada's courts still command more respect than the country's politicians. Support for and opposition to the Northern Gateway pipeline and other energy projects is much divided among B.C residents, which reflects the democratic process, Nagata said.

The panel was asked whom it is that wields the authority to grant social licence for a cross-border pipeline.

Caron replied that the National Energy Board has the authority to approve an interprovincial pipeline if the regulator's recommendations are approved by the federal cabinet. However, it is the people of Canada who have the right to approve or not approve social licence by exercising their democratic rights (e.g., the right to vote), he said. Green said that all of society grants social licence through the regulatory and other institutions we've built, and if we move to extra-institutional means in granting social licence, we jeopardize the democratic system. Nagata said social licence ultimately will be decided by the courts, by federal, provincial and municipal government systems, and by First Nations who collectively hold title to their traditional territory.

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[12]   Douglas MacMillan, "Ride-Sharing Services Face Legal Threat From San Francisco, Los Angeles," *The Wall Street Journal*, September 26, 2014, http://online.wsj.com/articles/sidecar-faces-legal-threat-from-san-francisco-los-angeles-1411699355, accessed November 15, 2014.

A symposium participant asked what happens when there are problems with the electoral process and elected representatives.

Caron replied that communications technologies and social media are changing the way democracy unfolds. People are more aware of their democratic rights and are using their rights as they should. The public still trusts decisions by the Federal Court and the Supreme Court of Canada, he noted. The system is working, and those who don't want to be criticized while participating in the process are in the wrong business, Caron said. Green said that people in B.C. don't trust the regulatory process and don't believe that it is honest and transparent. But existing institutions have worked well and should be retained, Green said, calling the Northern Gateway hearings a "stunning level" of process. Nagata said it was politicians who chose to politicize the regulatory process by such actions as calling the pipeline a "no-brainer" even before the regulatory process had concluded. British Columbia, he noted, has "direct democracy" legislation that was used to scrap the province's HST tax. Such mechanisms provide a "safety valve" for people who don't feel they are being heard, Nagata said.

A symposium participant asked the panel about the usefulness of corporate investment in communities affected by a company's project.

Nagata replied that such investments come back to the company's reputation in the community, noting that Northern Gateway proponent, Enbridge Inc., withdrew as title sponsor of the Ride to Conquer Cancer event in B.C. after public opposition. He said that community investment is not a solution to obtain social licence; it is a happy add-on if you already have a good reputation in the community. Green said the usefulness of community investment depends on the nature of the investment and whether there's a long-term benefit to the community. Caron said that providing local services/equipment procurement and hiring opportunities is important, as is having consistent operational excellence.

A symposium participant asked the panel whether businesses need to re-examine their underlying business and accounting principles (for example, to take into account the things that a community values).

Green replied that corporate social responsibility, the "triple bottom line" and the view that corporations should be responsible for providing solutions to social problems are all nebulous. People have to keep in mind how businesses work and the structure and function of democratic institutions, he said. Caron said the term "public interest" (as in acting in the best interests of the public) has stood the test of time, and that introducing a new way of accounting for the public interest would only make things more complicated.

The panel was asked about the role of regulatory bodies when it comes to social licence, and what might be done to address the lack of public confidence in regulators.

Nagata replied that, in the hearings on Kinder Morgan's proposed Trans Mountain pipeline expansion, the National Energy Board is stepping up and acting more like a referee. He compared society's support for the Mackenzie Valley Pipeline inquiry led by Justice Thomas Berger in the 1970s and the public acceptance of its findings with the "dystopian" hearing process on the Northern Gateway pipeline. Green said there is a growing perception that there is a loss of social trust in the regulatory process, but as a

result, we're moving into a world where our "default position" on proposed projects is "no" rather than "yes." Caron noted that regulatory panels are independent from government and industry. Yet the regulatory hearings on Enbridge's proposed Line 9 project weren't able to conclude with oral testimony because of violent protests in Montreal that required the presence of riot police; the hearings were forced to conclude with written testimony, he said. "If a regulatory agency is not fair, it (the process) is nothing," Caron said, adding that deep, meaningful listening is important for regulators. Elected officials can then approve or disapprove the regulator's recommendations, but it is normal for the regulators to be publicly criticized, he said.

A symposium participant asked the panel about the integrity of the National Energy Board's hearing process.

Caron replied that there is no evidence of the NEB process ever being affected or influenced by politicians in the NEB's history. Nagata pointed out that there are, to date, nine challenges before the Federal Court of Appeal on the NEB's decision on the Northern Gateway pipeline. The parameters put around the hearing didn't address the real-life downstream and upstream implications of the project, he said, adding there was clear politicization of the regulatory process by federal government politicians. British Columbia was told that the pipeline is in the national interest, yet the province will receive only eight per cent of the project's total benefits, Nagata said, noting that Saskatchewan gets four per cent of the project's benefits and the pipeline "doesn't even touch" that province.

One symposium participant asked: What happens if the Northern Gateway project is blockaded by a community?

Caron replied that it then becomes a corporate decision whether to proceed or not with the project. Green said a clear signal from all levels of government is needed that violence is not acceptable. Nagata said: "If Enbridge were to try to put shovels in the ground tomorrow it would be ugly (and) nobody wants that."

Luncheon Keynote Talk

Robert Mansell, academic director at The School of Public Policy, introduced the luncheon keynote speaker, Eric Newell, chancellor emeritus and special adviser to the provost at the University of Alberta, chair of Alberta Innovates: Energy and Environment Solutions, chair of Alberta's Climate Change and Emissions Management Corp., and former CEO of Syncrude Canada Ltd.

Newell said he wanted to convey several key messages to the symposium, including:

- social licence is here to stay and has been here for a long time;
- the obligation to attain social licence rests with project developers;
- the regulatory process provides a structured way to obtain legal approval along with social licence; and
- maintaining social licence requires leadership, trust and collaboration.

The concept of social licence is here to stay, although it can change over time and there is no set standard for attaining social licence, Newell said. The ultimate expression of trust (for example, in a business relationship) is co-ownership, he noted. Social licence creates risk for industry, but it's a risk that must be addressed and managed, he said. Without community acceptance of a project, operators may struggle to get it built or implemented and may create damage to a company's reputation.

Corporations do have a social responsibility and the benefits of a project must accrue to all participants, Newell said. He pointed to Syncrude's $187-million worth of business conducted last year with Aboriginal companies, and the $1.6 billion in business that all oil sands operators conducted with aboriginal companies. Syncrude built a facility for training local people for jobs, as part of Keyano College in Fort McMurray. Such corporate responsibility was essential for the oil sands to be a profitable undertaking, he said, adding that companies must demonstrate real caring in their day-to-day decisions. In terms of the role of the regulator, Canada has a world-class regulatory system, with a valued and structured way of decision-making, that offers the certainty that investors desire, Newell said. However, "If you (the project proponent) don't have social licence and acceptance, then you shouldn't be going into the regulatory process." From a community's perspective, companies are only as good as their last actions, he said, adding there will always be those people in a community who will never support or compromise on a proposed project, so a company will never get social licence from them.

Positive examples of working toward and maintaining social licence include oil sands companies' investment in developing new solutions for oil sands tailings, Newell said. Suncor has spent more than $1.3 billion to develop new tailings reclamation technology, and the company's work is far surpassing what regulations require, he said. Another example he pointed to is the Climate Change and Emissions Management Corp.'s $237-million investment in nearly 100 projects, which has leveraged more than $1.6 billion of research and development projects underway. It is no longer enough for the oil sands and other industries to reduce greenhouse gas (GHG) emissions intensity; absolute GHG emissions must be reduced, Newell said. An emerging technology using electromagnetic heating for in situ bitumen extraction would eliminate water use and significantly reduce GHG emissions, he noted. Another example of maintaining social licence, Newell said, is the formation of the Canadian Oil Sands Innovation Alliance, whose member companies have shared 560 distinct technologies that cost more than $900 million to develop.

In response to a question from Mansell, Newell said that the oil sands will continue to be a target for non-governmental environmental groups that are trying to move the world away from fossil fuels. However, he noted that he is co-chairing an expert panel for the Council of Canadian Academies[13] looking at new and emerging technologies to reduce GHG emissions and other environmental impacts in various aspects of oil sands operations. The panel's report was released in May 2015.

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[13]   Council of Canadian Academies, Expert Panel on the Potential for New and Emerging Technologies to Reduce the Environmental Impacts of Oil Sands Development, http://www.scienceadvice.ca/en/assessments/completed/oil-sands/expert-panel.aspx, accessed January 24, 2016.

Session 3 — Who "Owns" or "Issues" Social Licence? Where Does the Authority Come From?

Dan McFadyen, executive fellow at The School of Public Policy, moderated the panel. Panellists were Michael Binder from the Canadian Nuclear Safety Commission, Robert Boutilier from Stakeholder 360, and Brian Lee Crowley from the Macdonald-Laurier Institute.

McFadyen, former chair and CEO of the Alberta Energy Resources Conservation Board, set the stage for the panel by noting that the symposium has heard that industry has increasing responsibility for obtaining social licence. But who grants it and where is the legislation and policy guidance underpinning social licence? he asked.

Binder, president and CEO of the Canadian Nuclear Safety Commission (CNSC), said his organization is Canada's nuclear "watchdog," and all of its hearings are public and webcasted. The commission's decisions can only be reviewed by the Federal Court of Canada, he said. Binder said he doesn't like the word "licence." The commission uses "social acceptability," although the organization doesn't have any mandate to consider social acceptability in its decisions and there is no globally shared view of what the term means. The CNSC decides whether a proposed project is safe or not, he said. The public often uses the commission's hearing process to raise policy concerns and as a forum for policy dissent, he said, noting that the public's risk perceptions of nuclear energy often are not based on science. Binder cited a case study[14] in Matoush, Que. of a proposed uranium exploration project, a case in which he said the lack of social and political acceptability trumped science-based conclusions. Social licence is a proponent's responsibility, and proponents shouldn't come to the CNSC unless they've done some serious public consultation, he said. The CNSC recognizes social licence as an issue, but the commission cannot be expected to reject a safe project due to lack of social acceptability, he added. As a positive-model example of attaining social acceptability, Binder pointed to Cameco's uranium mining operation in northern Saskatchewan.

Robert Boutilier, originator of Stakeholder 360 and president of a Vancouver-based consulting firm specializing in stakeholder relations, said that the term "social licence" was fist coined by Jim Cooney, then with Placer Dome Inc., in 1997. The term meant the ongoing approval or acceptance by the community of a company's project or operations, Boutilier said.

Referring to the book, *The Social License to Operate: Your Management Framework for Complex Times*,[15] he said "We've turned it (the concept) from a metaphor into a management tool" for managing the relationship with communities impacted by projects. Social licence is essentially the quality of the relationship — which can go up or down — that a project proponent has with the community, he said. Boutilier noted that a dependence on resource wealth can cause several problems, including a decline in the rule of law and

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[14] Canadian Nuclear Safety Commission, "The Matoush Uranium Exploration Project," http://www.cnsc-ccsn.gc.ca/eng/resources/status-of-new-nuclear-projects/matoush/index.cfm, accessed November 14, 2015.

[15] Leeora Black, *The Social License to Operate: Your Management Framework for Complex Times* (Bradford, U.K.: Dō Press, September 2013), http://www.dosustainability.com/shop/the-social-license-to-operate-your-management-framework-for-complex-times-p-36.html, accessed November 15, 2014.

respect for regulations. Resource wealth stimulates widespread rent-seeking, which makes weak institutions weaker; outside of the "bubble" of prosperity and "good" governance, the governing authority is contested, he said. Stakeholders often have power over corporations and who is in control is an empirical question, Boutilier said, noting that only the most politically astute can build coalitions in such an environment.

Brian Lee Crowley, managing director at the Macdonald-Laurier Institute, began his presentation by asking symposium participants for the address, the form, the authorities, the procedures and the appeal process for attaining and maintaining social licence. There are no answers to those questions, because the term "social licence" is so vague we cannot know what the rules are, he said. Social licence gives ultimate authority to opponents of development, because no one knows when the rules are satisfied. Society needs to be governed by the rules of law, and has to balance the harms created (by a project, for example) with the benefits created, Crowley said. Legislators must subject themselves to the voters, and well-designed institutions and procedures that treat all parties fairly win the confidence of the public, he added. But opponents of development argue that "society" must grant social licence, he said — a view, he argued, that represents an attack on democracy and established institutions. It is undemocratic to say you simply disregard legislatively mandated regulators' decisions and that your voice is the only one that should decide, Crowley said. Those who take such a position are really saying that any change must be approved by its opponents, he said, so social licence should actually be called "opponents' permission." People who live far away from a proposed project shouldn't have input, only those who are directly affected, he said. Vital national projects cannot be held hostage to every local interest group, Crowley said, citing as examples opposition to trains hauling commodities passing through towns, ships carrying goods on the St. Lawrence River and interprovincial pipelines. Petty local interests represent NIMBYism ("Not In My Backyard") and protectionist views, and such interests shouldn't be allowed to extract "booty" from projects that are in the national interest, Crowley said.

The panel was asked about the lack of leadership in managing the social licence issue.

Binder reiterated that the Canadian Nuclear Safety Commission's mandate doesn't include consideration of social licence. Boutilier said the regulators aren't to blame for any mismanagement of social licence, because social licence was originally a socio-political risk-management approach for businesses, intended to help them focus on reducing costs and losses. Crowley said a national political consensus around projects that are in the national interest needs to be built, adding that such a consensus once existed but is now in the process of falling apart. He cited as a positive model the Macdonald Commission[16] (chaired by Donald Macdonald) that made recommendations to the prime minister on whether Canada should pursue a free trade agreement with the U.S., which the country did — changing Canada forever. Canadians need to forge a new agreement on why certain projects are in the national interest and should be developed, Crowley said.

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[16]   Keith G. Banting, "Royal Commission on Economic Union and Development Prospects for Canada," *The Canadian Encyclopedia* (Historica Canada), http://www.thecanadianencyclopedia.ca/en/article/royal-commission-on-economic-union-and-development-prospects-for-canada/, accessed November 15, 2014.

A symposium participant asked the panel: Who is the "ordinary average person" that regulators and policy-makers should consider in making decisions and policy?

Crowley replied that every legal system in the world employs a "reasonable person" standard, which he said is the bedrock of our legal system and jurisprudence. Society has painstakingly built these institutions that we rely on to make decisions, he added. Binder said the courts will ultimately decide who represents the "reasonable person."

Symposium participants asked whether one region of the country should be allowed to say "no" to a project that is in the national interest, and when does a local project become in the national interest.

Crowley replied that Canada can't be run on the basis that one part of the country feels it is not getting the benefits it wants from national projects. He reiterated that under social licence, the rules are a moving target. Binder said any disagreement about whether a project is in the national interest becomes a political issue that has to be negotiated.

A symposium participant asked whether, given Canada's colonial past, the existing institutions still work effectively. Crowley replied that First Nations have accepted the authority of Canadian institutions, including the Supreme Court of Canada, because it is to those institutions that they turn to defend and protect their rights. By their own actions they have accepted the authority of Canadian institutions.

Another symposium participant asked about the economic costs of regulatory delays. Boutilier replied that it costs about $1 million per day for an average large gold mine for every day it is shut down. Crowley said such delays cost every Canadian in terms of prosperity, and lead to a loss of the credibility and authority of institutions.

Session 4 — Where Do We Go From Here? What is the Potential Use of "Social Licence" in the Development of Society?

Dr. Michal Moore, director of energy and environmental policy at The School of Public Policy, moderated the panel. Panellists were Martha Hall Findlay from The School of Public Policy, Brenda Kenny from the Canadian Energy Pipeline Association, and Randy Pettipas from Global Public Affairs.

Pettipas, president and CEO of Global Public Affairs, began with a quote from the Chinese government about proposed projects requiring public consultation and stakeholder engagement. Social licence is not a North American phenomenon; it's global, he said. "Even in places like China, the public has a big, big say … Social licence is not going away." Communities see industries as "the industry" — a collective rather than as separate industrial sectors, Pettipas said. The rise of social media is a big reason why communities are more aware and informed about proposed projects, he noted. Government does care about social media, and most government ministers now have a Twitter handle, he said. Project proponents "are not looking to get solely regulatory approval," because this is no longer enough, he added. Attaining social licence is all about communication, and understanding and respecting another culture, he said. It is critical that the company

proposing a project (rather than consultants or another third party) engage and communicate directly with the community and that the company really cares about doing so, Pettipas said.

Brenda Kenny, president of the Canadian Energy Pipeline Association, said she believes "social licence" is "the wrong term" because it suggests a point in time or a toggle switch, and she prefers the term "social acceptance." There is no national political consensus on energy development, she said. At the same time, there is no other nation on the planet like Canada, with such massive amounts of natural resources and the know-how to develop them sustainably. Canadians have values that are typically identified as Canadian, she added, including being tolerant, honourable and accommodating. "I think we need a new beginning" and to find a better way to collaborate, she said. Referring to the book *Doing Democracy*[17] by Bill Moyer, Kenny said she applauds "well-done" activism, adding that society needs to confront its complaints and fears about capitalism. However, some activists make a lot of noise but never offer any solutions. If Canada is to achieve a lower carbon footprint, we need investment and development, she said. The issue of social licence/social acceptance is here to stay, she said, and companies need to communicate better about how investors' money is used. The heart of the issue is about public confidence, including confidence in the regulator, Kenny said, adding there will be less controversy at a regulatory hearing if people trust, for example, the water monitoring in the region or the company's emergency response plan.

Martha Hall Findlay, executive fellow at The School of Public Policy and a former Liberal MP, said she thinks of herself as an environmentalist who believes that development should be environmentally sustainable. The institutions we have now don't fit well with the needs and aspirations of First Nations and Aboriginal communities, she said. Based on various companies' websites, she said that her impression is that companies won't conduct business if they don't have social licence and that is a real problem. Not everybody in society is getting the same high-quality information, and political decisions are often made on the basis of the "squeaky wheel" — the small minority of people who complain the loudest. We are seeing decision-based evidence-making, not evidence-based decision-making, she added. Citizens need to rely on Canada's regulatory processes and we need to work on improving those processes, she said. "It's not an option to say, 'We don't like it (the regulator's decision), so we're just going to usurp it," which smacks of anarchy, Hall Findlay said. It is "shameful" that we have politicians that question the integrity of the regulatory bodies, she said, adding that we need to work at rebuilding greater levels of trust in due process. Referring to the Northern Gateway pipeline, she noted that it would be "one hell of a world-leading project" if all 209 conditions imposed by the National Energy Board are met and the pipeline gets built. If the project gets blockaded, then it's the government's responsibility to pick up those people and "put them on the side," she said.

Panel moderator Moore noted that Canadians would also be "throwing away" the country's financial system (i.e., in terms of investment) if such a blockade was allowed after the project proponent had received regulatory approval and met all the regulator's conditions.

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[17] Bill Moyer et al., *Doing Democracy: The MAP Model for Organizing Social Movements* (Gabriola Island, B.C.: New Society Publishers, 2001).

Moore asked the panel whether regulatory approval for a project can be transferred if conditions change, such as a change in land planning, for example.

Kenny replied that groups such as the Clean Air Strategic Alliance[18] and the Sundre Petroleum Operators Group[19] are positive examples in Alberta of long-term citizen involvement in changing landscapes and that "reflexive law" accounts for changing conditions. Hall Findlay said that each citizen has a responsibility to do his or her due diligence regarding changing conditions. Technology often outpaces government-implemented solutions to problems, she noted, citing as an example Canada's anti-spam legislation which isn't needed anymore because anti-spam software has taken care of the problem, but the law now hinders small businesses' communications with customers and potential customers.

A symposium participant asked about the usefulness of social media and the Internet as communication tools to engage stakeholders given that most people look for information that supports their particular viewpoint.

Hall Findlay agreed that "It's a really big problem," adding that people certainly shouldn't believe everything they read. Kenny noted that a large swath of the Canadian public is undecided or conflicted about proposed major energy projects, and that many people are looking for a reason to trust — and not blindly. She said the "trust equation" consists of asking: Are you credible, reliable and known? However, people aren't taking advantage of all the information available and they are getting their own views reinforced, Kenny said.

A symposium participant asked what companies could change in seeking social licence. Pettipas replied that companies should try to understand another person's and another community's culture. Kenny said that it's important to take accountability for the things a company is responsible for, such as a safety culture. A good model is the Canadian chemical industry's Responsible Care[20] program, which was developed in Canada and provides a framework of responsibility and verification, she said. Canadians also need more accountability from regulators, industry and activists, Kenny said, adding: "We need to work together." Hall Findlay pointed out that all sectors in Canadian society don't have a common, shared lexicon with which to discuss problems and solutions; for example, proponents use the term "oil sands" or "ethical oil" while opponents use the term "tar sands."

Moore asked the panel whether social licence constitutes a threat to the law. Kenny replied that social licence as defined by the majority of Canadians doesn't threaten the law, but that for some groups, their view of social licence does intentionally constitute a threat to lawful authority. Hall Findlay said whether social licence is a threat to the law depends what the various players do with the concept. Allowing a small group to veto a project that has gone through all the other due processes and the rule of law would constitute a threat to the law, she suggested. However, the social-licence concept could also be used to improve the regulatory process and institutions, Hall Findlay said. Pettipas said he didn't think social

[18]   Clean Air Strategic Alliance, http://casahome.org.

[19]   Sundre Petroleum Operators Group, http://www.spog.ab.ca.

[20]   Chemical Industry Association, "Responsible Care," http://www.canadianchemistry.ca/responsible_care/index.php/en/index.

licence is a threat to the rule of law. Society is hitting a critical point in terms of going forward (in recognizing and/or applying social licence), but will get to "a place" where the rule of law is not threatened, Pettipas said.

CONCLUSION

In conclusion, a few themes from the day have emerged. There was disagreement and agreement between panellists on many of these themes and ideas, underlining the challenge of the concept.

1. "Social licence" is a real and significant issue that presents both an opportunity and a problem, not only for regulators but for all parties involved in the regulatory process.

2. There is no useful, practical or applicable working definition of the term "social licence" for regulators, and other parties (industry, government, non-governmental organizations and the media) use the term in various ways to mean different things.

3. Public confidence in the regulatory system and other institutions responsible for decision-making in the public interest has declined — or is widely perceived to have declined — and some "fixes" to and rebuilding of the system and institutions are necessary.

4. The regulatory process must be fair and transparent and make decisions in the greater public interest; if not, the process essentially means nothing.

5. It is necessary to address, within the legislated boundaries of a formal regulatory process, the issue of social licence, perhaps through complementary "informal processes" that might include informal meetings (i.e., outside of the formal regulatory process) with regulators and other stakeholders, town halls, consensus building, dialogue processes, "Deliberative Polling," ballot initiatives, performance-based standards and other approaches.

6. It is important to provide some sort of venue or mechanism or process, separate from the regulatory process, where the public can engage in — and have meaningfully addressed — broader social and policy issues such as climate change, cumulative impacts, future energy systems, etc.

7. There is a risk of social licence slowing the regulatory system and impacting investment, especially if the current uncertainties and impacts of social licence are not sorted out and resolved by regulators, industry, government and other stakeholders. However, social licence does not constitute a threat to the rule of law, except for of a minority of groups or individuals who might put social licence above the law.

8. The developers of a project are primarily responsible for obtaining and maintaining social licence.

9. A defining of roles and responsibilities in the policy space is needed.

10. Government has a role in balancing competing values.

11. Canadians need to engage in a meaningful national dialogue about what they want their current and future energy systems and environment to look like; a shared national strategy or vision is needed.

12. Projects that are considered vital and in the national interest cannot be held hostage to the application of social licence, to various regions of the country or to every local interest group; social licence should not be viewed or used as giving ultimate authority over such proposed projects to a minority who opposes them.

About the Author

Mark Lowey lives in Calgary, Alberta, where he has worked as a professional journalist for more than 35 years. He is the publisher and managing editor of *EnviroLine*, a business publication for western Canada's environmental business industry. He is also a freelance writer and editor, and the former communications director at the Institute for Sustainable Energy, Environment and Economy at the University of Calgary. His journalism has garnered numerous awards, including: two Canadian Science Writers' Association national awards; a Governor General's Michener citation; the first Alberta Science Technology Foundation award for science journalism; and the first Canadian Petroleum Association/Banff Centre national award for environmental reporting. Mark worked at the Calgary Herald for 20 years, where he became a senior reporter. He is a former president of the Canadian Science Writers' Association and a member of the Writers' Guild of Alberta.

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