

Responsible Utility Regulation and the Energy Transition

A comparative review of provincial utility board
mandates and rules for intervening

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Efficiency
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About Efficiency Canada

Efficiency Canada is the national voice for energy efficiency. Our mission is to create a sustainable environment and better life for all Canadians by making our country a global leader in energy efficiency policy, technology, and jobs. Efficiency Canada is housed at Carleton University's Sustainable Energy Research Centre, which is located on the traditional unceded territories of the Algonquin nation.

The views expressed, as well as any errors or omissions, are the sole responsibility of the author.

Summary

Utility regulatory governance is widely recognized as critical to the success of net-zero energy system transitions but needs modernization. Contemporary institutions for utility regulation evolved around a relatively narrow set of issues and a constrained sphere of concern. In recent years, they have grown in complexity, been challenged to address emerging issues outside the utility system, and have (in some jurisdictions) welcomed a wider range of interested parties into proceedings. Chief among contemporary challenges is the pressing issue of a net-zero energy transition — a complex, multi-decade problem that utility regulatory boards are not institutionally well-positioned to manage.

Clear mandates and effective intervenors are among the many components of net-zero-aligned utility regulation. There is a growing body of literature pointing to the need for, and necessary shape of, regulatory reform to confront this challenge. The purpose of utility regulation needs to evolve, which entails clearer mandates for boards to consider environmental issues. This could include concrete emissions targets or rules to recognize and allow for strategic or beneficial electrification. Rules and procedures around public-interest intervenors must be clear and reliable. Proceedings need to be accessible, and adequate support (e.g., cost awards) must be in place to enable sophisticated and consequential intervention. This report surveys provincial utility regulation legislation, rules and procedures, and select proceedings to evaluate the extent to which mandates and intervenor rules are facilitative of a net-zero transition.

Provincial legislation generally falls short of establishing clear utility board mandates to realize a net-zero energy transition. Only two provinces — Nova Scotia and Quebec — have language in the core, founding legislation for their regulatory board that explicitly includes environmental or transition objectives. However, British Columbia has the strongest expression of explicit net-zero-aligned objectives in the *Clean Energy Act*, which the utility board is instructed to consider in a wide range of cases. All three provinces include some mention of fuel switching or conversion in the wider set of legislation informing utility board mandates; Ontario does as well, but its broader policy objectives are not clearly aligned with a net-zero energy transition.

The clarity and comprehensiveness of the rules and procedures for intervenors, and the extent of intervenor participation, vary across provinces and type of proceeding. Our survey suggests planning proceedings, particularly long-term resource plans, garner the most participation from intervenors but may be closed to third-party intervention.

As these proceedings are essential to aligning regulation with an energy transition, they should not be closed to intervenors. Furthermore, there is a risk in provinces with a legislated consumer advocate and/or public intervenor that establishing the necessary rules and support to enable comprehensive third-party intervention is neglected. British Columbia and Quebec have rules and procedures that are most conducive to a healthy, effective, and sophisticated body of transition-minded intervenors.

Utility regulatory governance institutions are not yet sufficiently positioned to facilitate a net-zero energy transition. While some provinces demonstrate better-aligned regulatory systems than others, these are not yet adequate to ensure regulatory governance is directed toward realizing an energy transition. British Columbia and Quebec presently demonstrate relatively strong transition-oriented mandates and support for effective intervenors, but some ambiguity and limits to intervenors remain. Both provinces' governments set explicit objectives — either in legislation or a government-led energy plan — that new governments could dismantle with relative ease. The long-term incorporation of these principles into utility board decisions thus remains contingent on continued political support.

The challenge of durably modernizing utility regulatory governance is as much a policy problem as an institutional one — evolving the responsibility of regulators to address new challenges. Utility regulation focuses primarily on economic issues in the utility system. Over time, the content of the core principles that inform how regulators interpret and operationalize that responsibility has broadened, even while boards mostly remain economic regulators. There is space within these principles to absorb new content to better align with a net-zero energy transition. That can happen through policy, but also through the collective efforts and work of the people, networks, and civil society organizations involved. Effective intervenors — that are well-resourced, coordinated, and supported with networks of experts and others — will therefore be essential to the durable incorporation of such principles into utility governance.

Introduction

Canada is in the midst of an energy system transition, though its continuity and direction are uncertain. Over the past decade and more, Canadian governments at all levels have set goals and introduced many policies for this transition, generally understood to be a net-zero economy by 2050. While policy change may be a necessary condition for a transition, it is by no means sufficient. The best rules cannot eliminate the need for ongoing work by those committed to realizing the change to keep things on track.

One particularly important segment of this broader challenge is the provincial regulation of electric and natural gas utilities. While models vary across jurisdictions, utility regulation in Canada is typically delegated to arms-length bodies separate from — yet accountable to — provincial or territorial governments. Often empowered to oversee utility resource planning, investment decisions and rate setting, utility regulatory proceedings will be a critical site of intervention to address energy transition questions.

Yet regulatory boards have historically not been mandated to achieve long-term goals like net zero by 2050. Their core function is more often to balance utility business objectives with public-interest goods, like reliability, safety and “just and reasonable” rates. Hearings are typically quasi-judicial in structure, with testimony and cross-examination, and often with participation by other parties or interests (“intervenor”), leading to a final decision by the board (which can be appealed). While some boards are staffed with their own public policy and utility system experts, proceedings are susceptible to regulatory capture. The work of effective intervenors will thus be essential to informing transition-aligned board outcomes.

This report sets out to assess the state of regulatory democracy in Canada — specifically as it pertains to a net-zero transition and the role energy transition intervenors can play in it. Accordingly, we seek to answer two main questions:

1. To what extent do utility boards possess mandates to achieve net zero?
2. To what extent is meaningful and effective third-party intervention enabled?

It is informed by a jurisdictional scan of provincial utility board legislation and associated rules and processes, supplemented by discussions with sectoral experts and active intervenors. We conclude with recommended actions to complement policy change for aligning utility regulatory governance with a net-zero energy transition.

Utility regulatory governance and transitions

Early in the development of today's utility systems, utilities were understood to operate optimally as "natural monopolies." That is to say, it did not generally make sense for multiple companies running multiple sets of wires or pipes to compete with one another on price. The cost of that infrastructure would be so immense that customers would ultimately pay more in a competitive system like this than in one served by a single firm. Utilities — especially energy utilities — thus evolved to be large, vertically integrated, and often publicly owned companies with a government-granted right to act as monopolies in a given jurisdiction. To guard against the obvious risks of this arrangement, utility regulatory boards in Canada and the United States were established as arms-length, quasi-judicial entities tasked with balancing private interests of the utility (i.e. to earn a return for shareholders) with the public's interest in safe, reliable, non-discriminatory, and affordable service.

This regulatory compact, and the underlying public policy and economic principles and theories that supported it, started to shift in the 1970s and 1980s.¹ In the academic literature, scholars began to question whether this model truly worked toward the public interest.² The basic argument was that economic regulation was highly subject to capture, since the utility — a single actor — has a much clearer, unitary interest in proceedings and the resources to sustain pursuit of it, while other participating parties have no such commonality of purpose (and often fewer resources).³ On the utility public policy side, a new paradigm emerged that emphasized competition, deregulation and privatization.⁴ In a more competitive system, the prevailing logic held, there would be less need for heavy-handed regulation to reinforce public policy objectives (such as affordability), since markets would deliver the optimal system arrangement on their own.

This era of deregulation played out over several decades but never quite came to deliver on the fullest hopes of a market-based system. The way energy and energy companies were regulated did evolve, however. According to Doern and Gattinger, four themes characterized the emerging paradigm for regulatory governance in Canada.⁵ For one, the system had moved from simple and centralized to complex, opaque, and decentralized,

¹ Swartwout, "Current Utility Regulatory Practice from a Historical Perspective."

² Priest, "The Origins of Utility Regulation and the 'Theories of Regulation' Debate."

³ Stigler, "The Theory of Economic Regulation."

⁴ Hall, "Policy Paradigms, Social Learning, and the State."

⁵ Doern and Gattinger, *Power Switch*.

with informational and financial resources distributed among a plethora of public, private, and civic actors. Second was a cautious embrace of “managed” competition in the utility space, an acceptance that some elements were no longer natural monopolies, but that there were clear limits to how far we could travel down that road. Third was increased “regulatory stacking” – additional layers of concern being added on top of each other, and sometimes haphazardly. The emerging regime, they suggest, can thus be paradoxically characterized as having less regulation, but more rules (particularly around social and environmental concerns). Finally, the locus of political accountability had shifted. Energy was no longer regulated strictly by regulators, but by a “complex melange” of statutes, regulations, codes and so forth. Consequently, energy regulation was at risk of becoming inaccessible to most Canadians and increasingly based on trust that the institutions would work as originally designed.

These evolving frameworks of regulatory governance also create new opportunities for third parties to play important and effective roles in shaping utility system developments. Utility regulation is not solely the concern of the utility and the regulatory board. In a reflection of the 50 years of study of regulation that had passed since the 1970s, Peltzman points to the importance of coalition-building and mobilization to help overcome the collective action challenges that can bias regulatory processes toward capture and maintenance of the status quo.⁶ In fact, he notes, research has demonstrated that systems may alternate between periods of stasis and rapid change. “When the status quo is no longer viable politically,” he writes, “major regulatory change can occur whether or not it is sought by the regulated industry.” Once that change occurs, however, the system tends back toward industry dominance.

We are arguably in such a time of regulatory change in Canada now, driven by the increasing political unviability of the status quo. According to Cleland and Gattinger, this instability is a consequence of continued rapid social, value, and technological change, leading to less consensus and less public confidence in the authority of regulators.⁷ There is increasing recognition of serious policy gaps around reconciliation with Indigenous peoples, climate change, and the distribution of risks and rewards.

⁶ Peltzman, “‘The Theory of Economic Regulation’ after 50 Years.,” 12.

⁷ Cleland and Gattinger, *System under Stress: Energy Decision-Making in Canada and the Need for Informed Reform*.

Regulation is increasingly asked to adjudicate among divergent interests across a wide range of issues, though it may be ill-suited to doing so when and where these issues fall outside the narrow, economic mandate of regulators. This increased pressure to deal with big issues despite unclear mandates could result in broad actions that further weaken the public's confidence — restricting access to hearings, shortening the timelines of proceedings, and reducing the overlap between different interest groups. Conversely, governments may intervene and overrule or weaken utility boards if they are perceived to act prematurely on certain issues.

Many studies have thus pointed to the need for regulatory reform. In 2022, the Rocky Mountain Institute published a four-part series on public utility commission modernization for net-zero grids, covering purpose (core mission and authorities), people (individuals and governance structures with commissions), processes (stakeholder engagements), and regulatory agility (ability of boards to be responsive, adaptable, and flexible).

Regarding “purpose,” the authors stress the importance of updating the statutory authority of public utility commissions to better align with public policy. State/provincial governments should ensure the availability of clear climate roadmaps and direct regulatory boards to incorporate them in their activities. The regulatory board as an organization needs to refocus its work with a new vision, updated mission statement and renewed strategic plan. Both government and commissions need to clearly redefine “the public interest” to include climate (e.g., limit to 1.5 C warming) and equity obligations.⁸

On “process,” the authors highlight the need for boards to set clear expectations on the scope of proceedings and be explicit in how stakeholders can participate and add value.⁹ The role of external stakeholders in providing solutions should be expanded via stronger compensation programs, rules to enable diverse participation, and improved accessibility of hearings and processes. Stakeholder-centric working groups can be struck to focus on creative solutions for specific issues (e.g., new equity metrics). Importantly, boards should take steps to make the data, information and technical models in proceedings far more accessible and transparent to stakeholders. This could include requiring that utility modelling software licenses be shared with stakeholders

⁸ Ciulla et al., *Purpose: Aligning PUC Mandates with a Clean Energy Future*.

⁹ Becker et al., *Regulatory Process Design for Decarbonization, Equity, and Innovation*.

or directing utilities to use data that is accessible and up to date. Stakeholder working groups should be held to share and discuss key inputs, assumptions, scenarios, and forecasts. Finally, boards need to adopt new processes and rules to speed equitable decarbonization, which can include updating cost-benefit analyses (to better value distributed energy resources, for example) or establishing regulatory sandboxes for innovation.

Several organizations have pointed to the need for change in utility regulatory governance in Canada. For example, a 2024 report from Clean Energy Canada also highlighted the need to integrate climate/net-zero objectives into regulator mandates, to take steps to enable innovation and flexibility within regulatory governance institutions and actors (to take “proactive” initiatives, for example), and to facilitate more distributed energy resources (DERs) and demand-side management (DSM).¹⁰ Previous work from Efficiency Canada has also noted the need for regulatory reform to ensure that demand-side resources are treated on an equal footing with other, traditional resources in utility system planning,¹¹ and as an enabler (though perhaps not a necessary condition) for doing beneficial electrification in utility DSM.¹²

In late 2024, the Canadian Electricity Advisory Council released its final report, *Powering Canada: A blueprint for success*, which was informed by extensive interviews and consultations with stakeholders over a 12-month period.¹³ The focus of the report is broadly on enabling both the decarbonization and massive expansion of the country’s electricity systems. Regulatory governance reform was a common thread running through many of the recommendations, and the report identifies five “key principles” and several concrete steps governments could take to realize them. The key principles reflect the underlying qualities of effective regulatory governance – comprehensiveness (i.e. covering all energy sources), transparency, accountability, flexibility and innovation. Also included are principles more specific to the energy transition, such as having a clear net-zero objective and embracing demand-side solutions and non-wires alternatives.

¹⁰ Pivnick et al., *Modernizing Energy Sector Planning and Oversight for a Net-Zero World*.

¹¹ Gaede and Haley, *No Margin for Error: Aligning Utility Resource Planning with a Net-Zero Future*.

¹² Haley et al., *Breaking Fuel Silos in Demand-Side Management: Policy Options to Align Energy Efficiency with Net-Zero Emissions across All Fuels*.

¹³ Canadian Electricity Advisory Council, *Powering Canada*.

To enact these principles in practice, the report recommends several actions. These include reviewing and revising mandates of regulators, system operators, and Crown utilities to incorporate net-zero objectives; extending regulator purview to emerging energy types (e.g., renewable natural gas); coordinating integrated planning between electricity and natural gas utilities; requiring the sharing of core assumptions in modelling and analysis; directing regulators to consider all available resource options (like DSM, DERs, energy storage, etc.); and reviewing cost-benefit testing procedures.¹⁴

Synthesizing across these reports, we find a number of characteristics of regulatory governance reform relevant to the energy transition. It is not within the scope of this report to evaluate progress toward all these characteristics across all jurisdictions in Canada. Instead, we focus on two broad objectives: decarbonization mandates and “effective intervenors.” Based on the literature above, this report will survey provincial utility regulatory governance regimes to ascertain conformance with four characteristics across these two objectives. The table below summarizes the principles of interest in this study and the characteristics of their realization in practice.

Table 1. Framework for assessing utility regulatory governance

Objective	Characteristics
Decarbonization mandates	• Inclusion of environmental/transition considerations in core legislation • Specific performance targets (e.g., GHG reductions) • Provisions for beneficial electrification
Effective intervenors	• Rules of standing for intervenor participation • Consumer representation • Reliable and comprehensive support for intervenors

Comparative review

Energy regulatory governance is a broader topic than utility regulatory governance, and the lines between the two can be blurry. Energy regulation in Canada encompasses a wider array of government and non-government actors, and the federal government plays a much bigger role (e.g., through the Canadian Energy Regulator). Broadly

¹⁴ Canadian Electricity Advisory Council, *Powering Canada*, app. A.

speaking, energy regulation governs things like primary resource development, cross-border trade and transmission, or primary energy project siting and environmental assessment. Utility regulation focuses mainly on matters within the province on the lower part of this list, such as system reliability and safety, rates and prices, and sometimes customer satisfaction. Somewhere in between lies energy and resource planning, utility energy supply, and investment, which may be subject to regulatory board oversight depending on the provincial system.

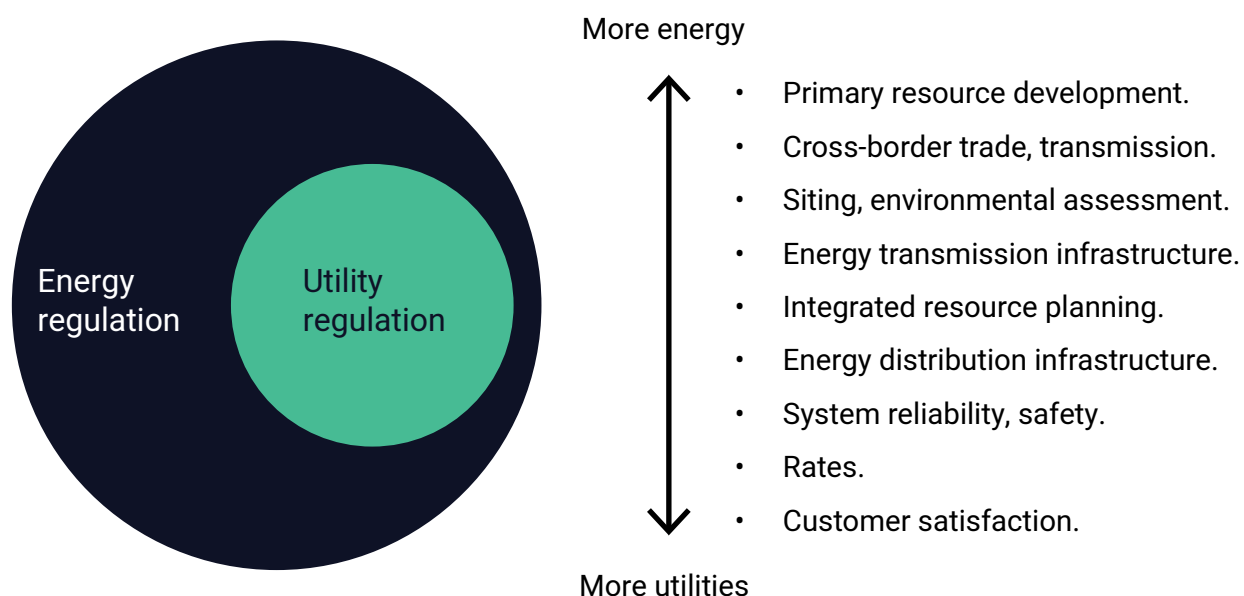


Figure 1. Energy regulation versus utility regulation

This report focuses on utility regulatory governance issues, though we recognize this is an incomplete picture of the true readiness and alignment of energy regulation with a net-zero transition. Within this set of issues, we can distinguish between proceedings relating to energy or resource planning, infrastructure, or supply, which would be adjudicated by boards under a broader “public interest” principle, and rate applications, which are typically subject to a narrower “just and reasonable” economic evaluation. While the line between these two is blurry, it is worth clarifying for its potential bearing on where and how boards possess mandates, or for the kinds of proceedings that intervenors are able to participate in.

As noted above, this report seeks to answer two main questions.

1. To what extent do utility boards possess mandates to achieve net zero?
2. To what extent is meaningful and effective third-party intervention enabled?

To answer these questions, we conducted a jurisdictional scan of provincial utility board legislation (the founding act, as well as other acts directly related to utility energy distribution), rules, and processes; surveyed 42 recent or ongoing proceedings to identify intervenors and the interests they represent; and consulted with active intervenors and experts across Canada.

To assess whether boards have a mandate to achieve net zero, we looked for general language pointing to environmental considerations, such as reducing pollution or promoting conservation, all the way up to clearly specified targets, objectives or deadlines for emissions reduction or reaching net zero. We also looked for language or objectives that connected energy resource planning, particularly for DSM, with electrification (for the purposes of emissions reduction). For the second question, we reviewed provincial legislation and board rules and procedures to answer two broad topics: how and on what grounds intervenors are officially recognized in proceedings, and how they are supported (i.e. compensated). Intervenors and experts conducted a peer review of our findings, and we have incorporated their suggested revisions where applicable.

Net-zero mandates

There are utility regulatory boards in almost every Canadian province, with a range of responsibilities. In some provinces, there are multiple regulatory agencies (e.g., Alberta has both the Alberta Utilities Commission and the Alberta Energy Regulator). Regulating utilities may not be their only energy-related regulatory responsibility, either — several also regulate the insurance and motor carrier industries, for example. Saskatchewan is a partial exception — there is a rate review panel appointed by the government, but it does not have regulatory oversight over other commonly regulated utility activities and can only issue recommendations to the provincial government.

The table below summarizes energy-related regulatory oversight each board possesses, by province.

Table 2. Provincial utility regulatory board areas of oversight

Province	Who	Electric utilities	Gas utilities	Pipelines/ storage	Petroleum products	Other energy related
AB	AUC	●	●	-	-	●
BC	BCUC	●	●	●	-	○
MB	PUB	●	●	●	◐	-
NB	NBEUB	●	●	●	●	-
NL	PUB	●	-	-	●	-
NS	NSEB	●	●	●	●	-
ON	OEB	●	●	●	-	-
PE	RAC	●	-	-	●	-
QC	REGIE	●	●	●	●	-
SK	RRP	●	●	-	-	-

● = Renewable energy development

◐ = Propane

○ = Reliability of the transmission grid

These boards are generally established through a single piece of legislation but draw their full mandate and powers from a broader set of legislation, often including electricity or hydro acts, gas distribution and pipelines acts, and more. Appendix A lists the main regulatory entity of interest to this study, its founding legislation and some (but not all) relevant acts and regulations. Boards are also generally quasi-judicial, meaning they hold hearings, receive and review evidence, recognize parties with standing, and issue reasoned decisions that are subject to judicial review. Accordingly, precedent also plays a role in shaping and informing the mandate of regulators. And, as noted above, government policy and direction may weigh differently on utility board authority and objectives, depending on the nature of the matter at hand (e.g., planning versus rates).

It can, as such, be difficult to determine whether a board possesses the authority to incorporate transition-related considerations into decision-making strictly from

reading the text of the establishing statutes. Much of this authority is worked out in interpretation of broad statutory standards (such as “just and reasonable”), the application of established rate design principles, and in doctrines governing the prudence of utility investments.¹⁵ While these standards, principles and doctrines do not close the door on environmental matters, they also do not clearly allow them or require them.

Environmental considerations

This review finds that, with few exceptions, the founding legislation for provincial utility regulatory boards does not include either general language or specific targets related to the energy transition. More typically, these statutes establish the institutional structure, functions, and accountability procedures for utility boards, but stop short of prescribing or defining basic principles. The basic principles are usually those of traditional utility regulation: safe and reliable services and facilities, and just and reasonable rates.

Exceptions include Nova Scotia and Quebec, which both include environmental objectives in the founding legislation of their energy regulatory boards. **Nova Scotia** recently reformed its regulatory institutions, separating a regulatory and appeals board from the Nova Scotia Energy Board. The latter body regulates energy utilities, as well as the new independent system operator and Efficiency Nova Scotia (the DSM program administrator). Section 6 of the *Energy and Regulatory Boards Act* establishes the criteria the new board can consider in fixing rates. These include competition and innovation; a competitive electricity market; safe, secure, reliable, and economical energy supply; and sustainable development and sustainable prosperity.¹⁶ In **Quebec**, Section 5 of the *Act respecting the Régie de l'énergie* defines the board's mission with respect to the public interest, to promote “meeting of energy needs, an orderly energy transition at the lowest cost, innovation, and the maximizing of the economic, social and environmental benefits of energy for Quebecers,” in accordance with provincial policy and long-term energy resource plans or targets.¹⁷

¹⁵ Isser, “Just and Reasonable”; James C. Bonbright, *Principles of Utility Regulation*; Cusano et al., “Prudence, Stranded Assets, and the Regulation of Utilities.”

¹⁶ Energy and Regulatory Boards Act, § 6.

¹⁷ Act respecting the Régie de l'énergie, § 5.

The inclusion of these general considerations in legislation does not force regulators to evaluate them in all cases, however. For example, in a recent ruling on a proposal to adopt a new cost-effectiveness test in Nova Scotia, the energy board determined that the *Public Utilities Act* took precedence. As such, as an economic regulator, they could not consider matters like sustainability in evaluating cost effectiveness, as proposed by EfficiencyOne.¹⁸

It is more common to find language regarding environmental objectives in other core pieces of legislation, such as provincial electricity or electric power acts. In some cases, the establishing legislation for the utility board will point explicitly to those objectives. For example, the *Utilities Commission Act* in **British Columbia** repeatedly references the province's energy objectives, which are defined in the act as being synonymous with Section 2 of the province's *Clean Energy Act*.¹⁹ That section establishes several objectives, including a timeline for reducing greenhouse gas emissions (reaching 80 per cent below 2007 levels by 2050).²⁰ This was the most explicit statement of emissions reduction goals we found in our scan. However, stakeholders we consulted noted that the British Columbia Utilities Commission (BCUC) is not bound to make decisions based solely on those objectives (it must only consider them), and they do not apply to "just and reasonable" considerations for rate setting.

Other provinces use regulatory board legislation to set energy policy beyond traditional objectives, but not necessarily for a net-zero transition. In **Ontario**, the *Ontario Energy Board Act*, for example, establishes clear objectives for regulating both natural gas and electricity in Section 1. The board is directed to "facilitate the rational expansion" of natural gas transmission and distribution systems, and regulate the electric sector "in a manner that supports economic growth," consistent with provincial policy.²¹

References to environmental considerations are often set in accompanying legislation that is directed at the energy types/utilities themselves. For example, **Alberta's** *Hydro and Electric Energy Act* defines objectives for the sector, including safety, reliability, economic efficiency, and "controlling pollution and ensuring environmental

¹⁸ Nova Scotia Energy Board, "Decision: Proposed New Benefit-Cost Test for Evaluating Demand Side Management Plans."

¹⁹ Utilities Commission Act.

²⁰ Clean Energy Act.

²¹ Ontario Energy Board Act.

conservation.”²² **Newfoundland and Labrador’s** *Electric Power Control Act* establishes the province’s policy with respect to the electricity sector, which includes that it be managed to provide the lowest possible cost, “in an environmentally responsible manner” and consistent with reliability.²³ The *Public Utilities Act* in **Nova Scotia** allows for the NS Energy Board to establish performance standards for Nova Scotia Power, which can include equity, low-income service, energy poverty and environmental performance.²⁴ **Ontario’s** *Electricity Act* lists promoting “economic efficiency and sustainability” as one of its many purposes. In **Manitoba**, the *Manitoba Hydro Act* states its purpose is to promote economy and efficiency in the supply of electricity in a manner that will “meet the requirements of the province.”²⁵ When preparing its integrated resource plans, s.38(2) of this act specifies Manitoba Hydro must also consider the government’s environmental policy.

Direction is less clear in other provinces. For example, in **Prince Edward Island**, the *Island Regulatory and Appeals Commission Act* contains no language or targets related to environmental considerations but does include “environmental matters” in the list of issues from which commissions are expected to possess some knowledge. We did not identify any language or targets for environmental issues in the core legislation in **New Brunswick** or **Saskatchewan**.

Technology and resource objectives

Some provinces have incorporated specific technological definitions or resource objectives into the broader legislative corpus that informs regulatory board mandates. The **New Brunswick** *Electricity Act*, for example, defines “clean sources” of electricity generation (e.g., wind/solar, hydro, tidal, nuclear), and restricts private facilities from selling electricity produced from other sources.²⁶ Regulation 2015-60 under this act also requires NB Power to ensure 40 per cent of total in-province electricity sales comes from renewable sources.²⁷ Section 3(f) of **Newfoundland and Labrador’s** *Electrical Power Control Act* states that the future power supply of the province cannot include

²² Alberta King’s Printer, § 2.

²³ Electrical Power Control Act, § 3(b).

²⁴ Public Utilities Act, § 52A.

²⁵ The Manitoba Hydro Act, § 2.

²⁶ Electricity Act, n.d., § 72.1.

²⁷ Electricity from Renewable Resources Regulation, § 3(1).

nuclear power.²⁸ **British Columbia's** *Clean Energy Act* also rules out nuclear power.²⁹ A regulation passed in 2024 amended the act to set a requirement ensuring 100 per cent of domestically generated electricity and supplied to the integrated grid comes from clean or renewable sources (and to ensure rate increases do not exceed cumulative inflation).³⁰ **Prince Edward Island** used to have a renewable portfolio standard, though that was removed in 2016.³¹ **Ontario's** *Electricity Act* states the promotion of cleaner energy sources and technologies ("including alternative energy sources and renewable energy sources") as one of its purposes.

Several provinces have also incorporated objectives or language to prioritize energy efficiency, conservation, and demand-side resources in the legislation informing board mandates. Sometimes, these objectives are explicitly connected with transition-related objectives. For example, **Manitoba's** *Efficiency Manitoba Act* establishes Efficiency Manitoba and its mandate, which includes meeting legislated energy saving targets and reducing greenhouse gas emissions.³² In **British Columbia**, the Utilities Commission Act requires utilities to explain why planned supply-side projects and energy purchases are "not planned to be replaced by demand-side measures."³³ The *Clean Energy Act* also notes fuel switching to reduce greenhouse gas emissions as a core objective.³⁴ **Ontario** amended its *Electricity Act* in 2025 to allow beneficial electrification to reduce its overall emissions.³⁵ **Quebec's** *Act respecting the Ministère de l'économie, de l'innovation et de l'énergie* states the energy transition and "energy conversion, sobriety and efficiency" as part of the Minister's mission.

Section 79A of **Nova Scotia's** *Public Utilities Act* covers DSM and defines it to include "strategic electrification" of energy end uses in order to reduce overall greenhouse gas emissions and electricity costs."³⁶ However, the inclusion of "electricity costs" in this definition, coupled with a recent board ruling to limit consideration to utility

²⁸ Electrical Power Control Act, § 3(f).

²⁹ Clean Energy Act, § 2(o).

³⁰ The regulation notes these two objectives have priority over other objectives but does not provide guidance to the BCUC on prioritizing between them. https://www.bclaws.gov.bc.ca/civix/document/id/oic/arc_oic/0060_2024.

³¹ CBC, "Renewable Energy Requirements for P.E.I. Electrical Utilities Removed."

³² The Efficiency Manitoba Act, § 4(1)a.

³³ Utilities Commission Act, § 44.1.

³⁴ Clean Energy Act, § 2(h).

³⁵ Electricity Act, n.d., § 1(a.2).

³⁶ Public Utilities Act, § 79A.

system costs and benefits (i.e. ignoring benefits of fossil fuel savings) makes it difficult for beneficial electrification programs to pass cost-effectiveness testing.³⁷ As a consequence, Efficiency Nova Scotia has judged that it cannot practically offer beneficial electrification options within its electric DSM portfolio in its latest filed plan.

Others require utilities to develop plans or hit savings targets but stop short of framing emissions reduction or electrification as objectives. Section 117 of the *Electricity Act* in **New Brunswick** covers DSM responsibilities of NB Power, requiring it to meet savings targets set by regulation but not ascribing any emissions reduction objectives. Regulation 2022-74 under this act specifies savings targets and budgets for an energy-efficiency fund, and it also requires NB Power to report on greenhouse gas reductions from its DSM activities.³⁸ **Prince Edward Island's** *Electric Power Act* gives the board the ability to require a DSM plan from any public utility and sets the criteria for approval, which are mainly that the plan is considered achievable and the costs and benefits are reasonable.³⁹

Effective intervenors

The powers of the board and the rules around intervention may be found in legislation, regulations made under legislation, or the board-defined rules of procedure. Intervenors generally need to demonstrate a “substantial interest” in a proceeding to have standing, though this is usually not clearly defined.

Rules of standing

All provinces (except Saskatchewan) recognize intervenors, though some are slightly more explicit about the criteria for standing. Alberta and Ontario are perhaps the most explicit in defining “interest.” In **Alberta**, the *Utilities Commission Act* formally recognizes “local intervenors” as those having an interest and having land affected by the matter. While the board presumably has the capacity to recognize other intervenors, our scanning of several proceedings suggests this is not happening extensively in practice. In the most recent version of the **Ontario** Energy Board’s (OEB) rules, intervenor

³⁷ Haley et al., *Breaking Fuel Silos in Demand-Side Management: Policy Options to Align Energy Efficiency with Net-Zero Emissions across All Fuels*.

³⁸ New Brunswick Regulation 2022-74.

³⁹ Electric Power Act, § 16.1.

status requires demonstration of “substantial interest” and the intention to participate responsibly.⁴⁰ The rules further define substantial interest as a material interest in the proceeding, including the direct interests of consumers/ratepayers, representing an interest or policy perspective relevant to the OEB’s mandate, having an interest in land that might be affected, or having constitutionally protected Aboriginal or treaty rights.

Most other provinces just state the need to demonstrate interest, or similar language, and to follow the rules for participation. In **British Columbia**, the *Utilities Commission Act* uses the term participants to include both applicants and intervenors, and does not specify eligibility conditions for the latter. The BCUC Rules of Practice and Procedure state that applicants must demonstrate they are “directly or sufficiently affected” to have standing.⁴¹ In **New Brunswick**, to be approved, a prospective intervenor must demonstrate a “substantial interest” and the intention to participate actively and responsibly. In **Nova Scotia**, the Board Regulatory Rules define an intervenor as someone who establishes “an interest” in proceeding. The board has the ability to accept or disallow an intervention but does not clearly state the criteria for evaluation.

In **Prince Edward Island**, the Island Regulatory and Appeals Commission’s Rules of Practice and Procedure distinguish between two kinds of intervenors: “added party” and “Friend of the Commission” intervenors. While both must demonstrate “substantial interest” in the proceeding, Friend of the Commission intervenors represent the public interest and are not vested with all of the rights of parties to the proceeding (though what this specifically entails is not explicit in the rules). In **Quebec**, the act respecting the Régie states that “any interested person” may apply to intervene, and that the Régie “shall grant the application if the intervention is useful for its proceedings, based on whether the person’s interest, taking into account the person’s field of activities, is compatible with the issues to be dealt with, with regards to the public interest.”⁴²

Manitoba and Newfoundland and Labrador are similar in that neither uses the language of interests in setting rules for intervenors. In **Manitoba**, the board’s rules of procedures suggest it “may invite” intervenor applications if it determines their participation is likely to further understanding of the issues or enable the perspective of different ratepayer groups to be fairly represented. To be approved, the applicant needs to demonstrate

⁴⁰ Ontario Energy Board. “Rules of Practice and Procedure.”

⁴¹ BC Utilities Commission, “Rules of Practice and Procedure,” sec. 9.

⁴² Act respecting the Régie de l’énergie, § 35.1.

to the board that they or persons they represent would be affected, or that they have specific information or expertise relevant to the matter.⁴³ Stakeholders we consulted suggested that, in practice, the Manitoba Public Utilities Board regularly approves intervenors, and there is no invitation process, as suggested by legislation.

In **Newfoundland and Labrador**, section 117 of the *Public Utilities Board Act* gives the lieutenant governor the power to appoint a dedicated consumer advocate, but otherwise has little to say about intervention. The *Electrical Power Control Act* gives the board the authority to appoint representatives of classes of users of power. Regulation 39/96 under the *Public Utilities Act* establishes the rules and procedures for applying for intervenor status, but does not state any criteria for the board's evaluation of applications. **Saskatchewan** does not recognize formal intervenor status at its Rate Review Panel, though the Panel can invite public comments and submissions from any customer or interested party. The Panel may also hire independent experts to assist with more technical questions.

There does not appear to be any correlation between the stringency or clarity of the rules and the extent of intervention in utility hearings. Our scan of 43 recent utility board proceedings found an average of eight intervenors per proceeding, though the results varied by the type of case. Overall, the average intervenor count was lowest for rates proceedings and highest for planning matters, though this could be an artifact of the cases we reviewed.⁴⁴ As noted above, different proceedings are subject to somewhat different principles – just and reasonable for rates and a more general “public interest” consideration for planning and infrastructure issues. We did not conduct a thorough review of the latter issues, opting instead to look mainly at long-term or “integrated” utility resource planning. See Appendix B for a summary of the cases we reviewed.

Utilities do not conduct public, long-term resource planning in every province, and even where they do, the plans may not be subject to a full regulatory proceeding with third-party intervenors. This research suggests three groups in this regard: provinces where utilities prepare long-term plans that are subject to full regulatory oversight (British Columbia, Manitoba, Nova Scotia); provinces without comprehensive integrated utility planning or limited/transitioning oversight (Newfoundland and Labrador, Ontario,

⁴³ Manitoba Public Utilities Board, “Rules of Practice and Procedure,” sec. 16.

⁴⁴ We also reviewed select “other” proceedings that were either DSM plans or proceedings around transition-related issues, like cost-effectiveness testing in Nova Scotia or building decarbonization programs in Quebec.

Quebec, New Brunswick); and provinces where planning sits outside regulatory review (Alberta, Prince Edward Island, Saskatchewan). In our review, the proceeding with the highest intervenor count was BC Hydro's 2021 integrated resource plan.

Table 3 summarizes whether utilities conduct public, long-term resource planning and whether those plans are subject to regulatory processes with third-party oversight.

Table 3. Summary of regulatory oversight of utility long-term planning

Province	Utilities conduct integrated resource planning	Utilities' plans subject to regulatory proceeding
Alberta	-	-
British Columbia	●	●
Manitoba	●	●
New Brunswick	●	○
Newfoundland and Labrador	○	○
Nova Scotia	●	●
Ontario	○	○
Prince Edward Island	-	-
Quebec	●	●
Saskatchewan	○	-

- Utility conducts public integrated resource planning and these plans are subject to public regulatory review proceeding
- Non-comprehensive integrated utility planning or limited/transitioning oversight
- Utilities do not conduct public resource planning and/or planning occurs outside of regulatory oversight

Provinces in the second group require further elaboration. NB Power produces an integrated resource plan every three years through a process that includes public consultation. That plan is submitted to the Energy and Utilities Board, but we did not find any public hearings on previous plans. Newfoundland and Labrador Hydro regularly produces reliability and resource adequacy studies that are subject to regulatory oversight, but these are narrower than a full integrated resource planning process. Hydro Québec files supply plans with the Régie that do receive intervenor participation, though the provincial government has recently taken steps to centralize integrated resource

planning under its own authority. This could restrict regulatory oversight and the role of intervenors in shaping long-term planning.

Ontario is a special case. Like in **Alberta**, the system operator conducts long-term electricity supply planning, not utilities, and this is not subject to regulatory oversight. While there is an integrated resource planning framework in place for natural gas (the Ontario Energy Board’s proposed framework is listed in Appendix B), in practice, this does not equate to regular long-term planning by Enbridge. Rather, it seems more equivalent to a geo-targeted, “non-pipes” alternative planning process. There is considerable stakeholder engagement in these efforts, however. Finally, the provincial government has also absorbed a role here, recently releasing its own long-term energy resource plan (without comprehensive public intervention or regulatory oversight).

Consumer advocates

Several provinces have established a dedicated consumer advocate through legislation to represent specified groups (e.g., residential ratepayers), or have otherwise designated a public intervenor to represent the general public interest (New Brunswick). The manner in which they have done so and the scope of responsibilities of the agency vary, and it does not preclude the ability of other interested parties to seek intervenor status. Table 4 summarizes the differences in what their mandate is, who they are intended to represent, where they are housed (if applicable), what their particular issue focus is (to the extent it is specified), and how they are funded.

Table 4. Provincial consumer advocates / public intervenors established by legislation

Province	Mandate	Represents	Housed	Focus	Funded
AB	Regulatory, information, customer	Small business, farm, residential	Ministry of Affordability & Utilities	Costs	Government
NB	Regulatory	Public interest	Attorney General	Not specified	Board expenses
NL	Regulatory	Domestic, general service	Ministry of Justice & Public Safety	Not specified	Board expenses
NS	Regulatory	Residential, small business	Appointed on case-by-case basis	Not specified	Board expenses

Alberta's Office of the Utilities Consumer Advocate is established in Schedule 13.1 of the *Government Organization Act*. It has several broad objectives, including to represent residential, farm, and small business consumers in proceedings at the Alberta Utilities Commission; to disseminate independent and impartial information about regulatory processes and electricity/natural gas distribution; and to inform and educate consumers about electricity, natural gas, and water utilities. Of all the provinces with a consumer advocate, Alberta's model most firmly entrenches this office within government.

The other three provinces follow a seemingly similar model: establishing a consumer advocate (or, in New Brunswick's case, a public intervenor) appointed to the office whose mandate is primarily regulatory, and whose costs are typically paid by the board (but ultimately recovered through the board's general assessment against industry, i.e. ratepayers). There are some subtle differences, though. In Newfoundland and Labrador, there are very few details about scope or responsibilities – the relevant section in the legislation simply notes that the Lieutenant Governor “may” appoint a consumer advocate. In Nova Scotia, there are two separate advocates – a consumer advocate and a small business advocate – each of which is appointed by the board on a case-by-case basis and not housed in any government ministry.

Conversely, New Brunswick's public intervenor is a permanent, standing office with dedicated legislation that intervenes in all proceedings. Most crucially, the public intervenor in New Brunswick explicitly represents the public interest, not a narrower class of utility customers. It is also restricted from agreeing to any settlements that are within the jurisdiction of the board, though it can agree to the resolution of procedural or evidentiary matters. The office is housed within the Attorney General, submits budgets to that office for approval, and must issue an annual report to the Attorney General. While the consumer advocates in Nova Scotia and Newfoundland and Labrador are ostensibly more independent from government than in New Brunswick, they are also not standing offices and could, in practice, be appointed only as deemed necessary.

Residential ratepayer advocates may exist in other provinces, but they are not established in legislation as in the above provinces. For example, the Residential Consumer Intervener Association in British Columbia is constituted as an independent organization focused mainly on residential consumer costs and was borne of a request for proposal issued by the BCUC in 2020 to establish standing representation for

residential ratepayers.⁴⁵ It operates as a regular intervenor, applying for status as any other prospective participant. While it received some seed funding from the original agreement, it now relies solely on cost awards.

Support for intervenors

Participant cost awards are the principal means of support for third-party intervenors in most provinces. Rules around cost awards can further clarify both the expectations intervenors need to fulfill as a condition of their status and the items for which intervenors can receive compensation. Cost-award rules can therefore play an important role in defining (and enabling) “effective intervention” from the standpoint of the regulatory board, just as they can also limit or restrict it through ambiguous expectations or insufficient support.

There is commonality across provinces with institutionalized cost-award rules and processes. In addition to having a substantial interest, it is common for boards to condition eligibility on the extent to which intervenors:

- contributed to a better understanding of the issues
- refrained from pursuing irrelevant issues or from duplicative requests
- made reasonable efforts to coordinate with other intervenors
- did not unnecessarily lengthen the process
- generally abided by the rules and procedures for participation

Notably, it is for the board to decide whether an intervenor met such conditions. Rules often also specify organizations that are not eligible for cost awards, which typically include other regulated entities, governments, or municipalities. Both Nova Scotia and Manitoba note the importance of an intervenor acting in the public interest, and not a narrower business or commercial interest. Nova Scotia also notes “limited financial resources” as a criterion for consideration in deciding cost awards. The rules in Quebec are the most expansive, stating that any participant other than the carrier of electric

⁴⁵ British Columbia Utilities Commission, “BCUC Enters Agreement to Support the Establishment of a Residential Ratepayer Group.”

power or distributor can file a claim for costs. We did not find any further specification of considerations in awarding costs.

We did find some differentiation in the things intervenors can receive compensation for, and the clarity and certainty of funding. In all provinces with clear cost-award rules, intervenors can receive compensation for hiring legal counsel and technical experts. In Nova Scotia, intervenors may receive cost awards for legal counsel and technical experts, but we were unable to identify the accepted rates for compensation (as they appear to be determined on a case-by-case basis).

In Ontario, British Columbia and Quebec, intervenors are also able to recoup costs associated with managing or coordinating with other intervenors. This form of compensation could be particularly valuable where regulatory boards encourage intervenors with similar interests to coordinate or work together. For instance, it would allow an intervenor to hire a project manager to facilitate group collaboration.

Table 5. Provincial cost awards coverage, hourly rates

Province	Legal (\$)	Consultants (\$)	"Case manager" / Coordinator (\$)	Advances
AB	190–475	160–370	-	-
BC	130–420	145–280, 325*	90	●
MB	119–343	119–291	-	●
NB	-	-	-	-
NL	-	-	-	-
NS	●	●	-	●
ON	120–359	196–359	170**	-
PE	-	-	-	-
QC	95–335 (ext) 53–160 (int)	160–284 (ext) 83–118 (int)	95 (ext) 53 (int)	-
SK	-	-	-	-

* BCUC establishes a separate hourly rate of \$325 specifically for expert witnesses, distinct from the rates for consultants

** OEB cost-award rules designate a separate rate for consultants if they also provide case-management services

Quebec is the only province to make an explicit distinction between consultants external or internal to (i.e. employed by) the intervening organization, and it recognizes different rate scales for compensation accordingly. As such, staff at the intervening associations (e.g., a project manager at a non-profit organization) are able to recoup some costs associated with their role, over and above the compensation provided for them to hire legal counsel or technical experts, or to act as a coordinator among other like-minded intervenors. Case management costs in Ontario and British Columbia are available as well, but there is no explicit recognition of the internal/external distinction (for coordination or any other cost category).

One final area of differentiation is in the provision of pre-approval or advance funding to intervenors, which is available in British Columbia, Manitoba, and Nova Scotia. Advance funding or pre-approval could reduce barriers to non-profit groups with limited resources from carrying the costs of participation until the conclusion and reduce uncertainty as to whether those costs will be deemed eligible.

Assessment

The landscape for utility regulatory governance and transitions is varied, complicated, and messy. There is rarely a single document that clearly and explicitly establishes mandates and targets, and where environmental considerations are incorporated, they are often vague, weak, or ascribed to a single stakeholder in the broader utility system. These institutions evolved to vest considerable interpretive authority in board members around ambiguous objectives (e.g., just and reasonable). Other system objectives, such as safety, reliability or cost-effectiveness, are accompanied by extensive technical definitions and practices that help to minimize interpretative ambiguity. Transition-related objectives are less institutionalized. And while boards are intended to be arms-length from governments, they take direction from government policy. In a democracy, this policy may change from administration to administration.

Institutionalization of transition-related objectives is thus only a partial solution to the challenge – effective intervenors are also needed. Effective intervention relies upon clear rules, diverse interests, accessible proceedings, and reliable and comprehensive compensation. While these must be balanced with the need for efficiency and economy in regulatory review, the long-term public interest suffers from tilting too far in one direction.

We set out to ascertain the extent to which provincial utility regulatory regimes are facilitative of a net-zero transition. It is difficult to develop an assessment framework that respects the many nuances of this issue, as well as the mixed levels of progress we've found across the provinces. The tables below lay out an assessment framework, as well as our assessment of the status in each province.

Table 6. Assessment framework

	Net-zero mandates	Effective intervenors
Good ●	Clear statement of environmental considerations in core legislation, explicit GHG reduction objectives, support for beneficial electrification	Well institutionalized process and evidence of diverse participation, certain and comprehensive compensation
Mediocre ○	Some mention of environment in primary/secondary legislation, vague targets, limited or no beneficial electrification	Recognizes intervenors/has strong public intervenor; costs are awarded, but rules are opaque, compensation uncertain; limited oversight on long-term planning
Poor ●	No mention of environment or only in secondary legislation, no targets, no electrification	Limited or no role for intervenors, no clear process for compensation, low or no observed intervention

Table 7. Assessment of provincial regulatory regimes for transition

Province	Net-zero mandates	Effective intervenors
AB	●	○
BC	●	●
MB	○	●
NB	●	○
NL	●	●
NS	○	○
ON	○	●
PE	●	●
QC	●	●
SK	●	●

Our review suggests **British Columbia** has the clearest regulatory mandate to achieve a net-zero transition, accomplished by explicitly enumerating a number of energy policy goals for emissions reduction and electrification in a central piece of legislation. However, those objectives apply mainly to matters pertaining to energy and resource planning, not rate setting, and the BCUC needs only consider them. Both **Nova Scotia** and **Quebec** have incorporated transition-related language and electrification into the core legislation establishing their regulatory boards, but do not similarly set explicit targets. Nova Scotia does make specific mention of strategic electrification as an energy system objective for the regulator to consider, but ambiguity remains in practice.

Most other provinces fall into a second group where some energy legislation includes statements about environmental sustainability but falls short of establishing a net-zero energy transition as a clear objective. Among these, **Ontario** is closest – while the province has amended legislation to allow for electrification for emissions reduction, it is only a narrow section in the Electricity Act, not the core mandate of the OEB. It is also part of a broader suite of recent legislative and regulatory developments in the province that suggest greenhouse gas reductions or a net-zero transition is not the government’s objective. In **Manitoba**, the pursuit of emissions reduction is an objective mainly for Efficiency Manitoba, not the regulation of Manitoba Hydro. However, the utility is required to consider government environmental policy when creating its integrated resource plans.

Alberta, Prince Edward Island, and Newfoundland and Labrador all include some mention of environmental considerations, but briefly and with no elaboration. We found limited language regarding emissions reduction in **New Brunswick**, though it (like other Atlantic provinces) has rules concerning the proportion of renewable energy sold in the province.

With respect to effective intervenors, we find that **British Columbia, Manitoba, Ontario** and **Quebec** provide the most comprehensive support across a range of issues. While there is not much differentiation across provinces in establishing rules and expectations for intervenors, these four stand out for providing compensation for coordination or case management. We also observed strong participation from a diverse group of intervenors in the proceedings we reviewed. In some respects, rules in Quebec are actually less specific about expectations, which could benefit diverse participation. The availability of support for employees of the intervening organization appears to be unique to Quebec.

In several provinces, we observed a trend toward encouraging intervenors to collaborate or coordinate with similar interests. This could work in the interest of effective intervention, or against it. Without adequate support, or if too much emphasis is placed on recognizing only one “environmental perspective,” for instance, trends toward coordination could be limiting.

We noted that several provinces have established dedicated consumer advocates or, in the case of New Brunswick, a designated ‘public intervenor’ in legislation. While having a consumer advocate does not appear to preclude participation from other intervenors, observed participation from diverse interests tends to be lower in some of these provinces. It is conceivable that policy or rule-makers may consider the legislated existence of a consumer or public interest advocate a more efficient use of limited resources to ensure representation of certain groups than to have robust, third-party intervention supported by participant cost awards. In provinces without sufficient civil society organizations, such advocates are a partial solution to achieving regulatory democracy. A broad mandate (i.e. the public interest, not just rates), strong separation from government, and sufficient resources to meaningfully participate in all proceedings can strengthen these initiatives.

On the whole, our research suggests that regulatory regimes across Canada currently do not possess the mandates or support for effective intervenors to facilitate the energy transition. The framework used here was deliberately narrow, focusing on mandate clarity and intervenor capacity; a fuller accounting of transition-readiness would consider many other factors. The variation among provinces, the modest progress in even the better-aligned cases, and the occasional backward step point to a deeper challenge than uneven policy adoption.

Working toward responsible utility regulation

At their core, institutions of utility regulatory governance evolved around a rather narrow problem set, operating within a sphere of concern that is self-contained. That problem set is mainly economic, and that sphere of concern is the utility system. Matters of interpretation — public interest, just and reasonable, prudence — get refracted through these core institutional parameters. If regulators venture too far outside that sphere, or if the political stakes of an issue grow too large for the government to bear,

the government is likely to intervene by overruling decisions, amending legislation, or asserting control over matters and removing them from public oversight and intervention.⁴⁶

Evolution in utility governance that relies too heavily on explicit policy direction alone is thus inherently fragile. “Clear mandates” understood largely as “clear targets” are liable to be removed with a change in government. The ultimate objective of modernizing utility governance, accordingly, should be to deeply embed core principles of attendance to, and accountability for, the interaction of the utility system with its broader environment — to be just, reasonable, and responsible.

The Clean Electricity Advisory Council has outlined a comprehensive and detailed list of regulatory reforms that would align utility governance with a net-zero energy transition. These recommendations give content to a principle of responsibility, though they are phrased to require a supportive government to enact (and maintain) them. But existing regulatory concepts, like the public interest, prudence, or just and reasonable, can and do evolve and take on new content without explicit policy. This kind of institutional evolution occurs through the combined practices of adjudication, academic and professional writing, technical committees and conferences, intervening, and advocacy. In the absence of supportive governments, these processes take on additional importance. In other words, while clear policy direction may be sufficient for “economic regulators” to become “energy transition regulators,” a robust regulatory democracy is necessary for durable, institutional change.

What does this mean in practice? Based on this research, we propose the following:

1. **More allowance for and consideration of risk and uncertainty when interpreting core principles.** Few would argue that the relatively stable and predictable utility systems of the 2000–10s (in terms of long-term trends in demand and technological innovation) remain the case today. And while current policies may not be enough to get on a track toward net zero by 2050, the constraints on future emissions will continue to grow. Whatever current policy, it is not prudent to assume, *ceteris paribus*, that future policy will be the same. While that may

⁴⁶ *CBC News*, “Minister to Overrule Ontario Energy Board’s Natural Gas Decision, Says It Would Raise Cost of New Homes.”

not be enough to justify decisions that go far beyond current policy, it may entail premiums on certain courses of action with heightened risk.

2. **Clear and permissive rules that do not restrict third-party intervenors on a wide array of matters pertaining to energy utilities.** “Substantial interest” should be interpreted broadly and must not be restricted to those with a direct, material interest in a matter. This is particularly true of planning and infrastructure proceedings. Where the responsibility for resource planning does not fall on the utility (e.g., if centralized in government, or managed by system operators), provisions must be made to ensure comprehensive, meaningful third-party engagement.
3. **Transparent, reliable and sufficient cost awards for third-party intervenors, with additional support provided to facilitate coordination and collaboration** (especially if encouraged or required by the board). Support for employees of the intervening organization (i.e. “internal” experts or coordinators, as per Quebec) should not be ruled out, though it should be means-tested to target organizations with fewer resources. Providing advances can ensure continued, effective participation and reduce uncertainty on the part of the intervenor about whether or how much cost awards they will receive.
4. **No undue limits on diverse perspectives because of consumer advocates, forced collaboration or coordination.** Establishing consumer advocates for ratepayer groups unlikely to organize on their own is beneficial to regulatory democracy but must not preclude open third-party intervention. Similarly, though coordination and collaboration among third-party intervenors can be valuable for regulatory and cost efficiency, and for identifying unexpected common interests, there is a risk it could be used to constrain participation. There is more than one environmental (or equity, Indigenous or business) position in any given proceeding. Rewarding successful collaboration across interests may be as valuable as encouraging similar-interest-based coordination.
5. **Greater civil society organization of and support for networks of energy transition intervenors.** A main reason why utility regulation is subject to capture, according to the academic literature, is that the interests of the regulated party are singular, while the interests of the public are varied, uncoordinated, and lacking the resources of the utility. Intervenor cost awards are a partial solution to this within the regulatory system. Yet there are few, if any, civil society initiatives to address it. Organizations and initiatives exist to coordinate and train regulators themselves, but not intervenors per se.

6. Increased funding for academic research. Though it may appear removed from the day-to-day practical affairs of utility regulation, academic work has historically been essential to the definition and evolution of the core principles underpinning it. It can continue to play this role for the energy transition, perhaps by working to flesh out new, theoretically grounded frameworks for evolving the content of traditional concepts like the public interest or just and reasonable, as they pertain to the energy transition. When connected to networks of civil society actors and the intervenors themselves, innovative interpretative frameworks can begin to work their way into practice.

Conclusion

This report set out to assess the state of regulatory democracy in Canada, specifically as it may be facilitative of a net-zero transition. We aimed to answer two main questions. First, to what extent do utility board mandates incorporate transition-related objectives? Second, what are the rules surrounding intervenors, and what support exists to facilitate their effective participation in hearings?

We found considerable variation, as well as messiness and nuance, in how utility regulatory governance is incorporating net-zero objectives or clarifying rules, expanding accessibility, and providing support for public interest intervention. Across all provinces, British Columbia's system is most aligned with a net-zero transition. Quebec and Nova Scotia also have reasonably aligned systems. British Columbia and Quebec are most conducive to diverse and effective intervenor participation as well. Ontario has clear objectives, clear institutions for intervening, and limited support for beneficial electrification, but these do not point toward a broader public policy objective of net zero.

On the whole, however, all provincial regulatory systems are presently insufficiently enabled to facilitate an energy transition that is safe, reliable, affordable, and environmentally sustainable. The challenge is institutional as much as it is a matter of public policy and will thus require continued and sophisticated intervention from those with the goal of making utility regulation more responsible.

Appendix A: Utility regulators and important legislation

Province	Regulator	Founding legislation	Other acts & regulations
AB	Alberta Utilities Commission	<i>Alberta Utilities Commission Act</i> , https://open.alberta.ca/publications/a37p2	<i>Hydro and Electric Energy Act</i> ; <i>Gas Utilities Act</i>
BC	BC Utilities Commission	<i>Utilities Commission Act</i> , https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96473_01	<i>Clean Energy Act</i>
MB	Public Utilities Board	<i>The Public Utilities Board Act</i> , https://web2.gov.mb.ca/laws/statutes/reccsm/p280e.php	<i>Manitoba Hydro Act</i> ; <i>Efficiency Manitoba Act</i>
NB	NB Energy and Utilities Board	<i>Energy and Utilities Board Act</i> , https://laws.gnb.ca/en/document/cs/2013,%20c.7	<i>Electricity Act</i> ; <i>Gas Distribution Act</i>
NL	Public Utilities Board	<i>Public Utilities Act</i> , https://www.assembly.nl.ca/legislation/sr/statutes/p47.htm	<i>Electrical Power Control Act</i>
NS	Nova Scotia Energy Board	<i>Energy and Regulatory Boards Act</i> , https://nslegislature.ca/sites/default/files/legc/statutes/energy%20and%20regulatory%20boards.pdf	<i>Public Utilities Act</i> ; <i>Electricity Act</i> ; <i>Gas Distribution Act</i>
ON	Ontario Energy Board	<i>Ontario Energy Board Act</i> , https://www.ontario.ca/laws/statute/98o15	<i>Electricity Act</i>
PE	PEI Regulatory & Appeals Commission	<i>Island Regulatory and Appeals Commission Act</i> , https://www.princeedwardisland.ca/en/legislation/island-regulatory-and-appeals-commission-act	<i>Electric Power Act</i> ; <i>Renewable Energy Act</i>
QC	Régie de l'énergie	<i>Act respecting the Régie de l'énergie</i> , https://legisquebec.gouv.qc.ca/en/showdoc/cs/R-6.01	<i>Act respecting the Ministère de l'Économie, de l'Innovation et de l'Énergie</i>
SK	Rate Review Panel	<i>The Crown Corporations Act</i> , https://publications.saskatchewan.ca/api/v1/products/450/formats/541/download	

Appendix B: Utility board hearings surveyed

Province	Planning	Rates	Other
AB	-	Apex 2025 GRA (2); ATCO Pipelines 2024-26 (5); EPCOR Distribution Tarriff (3)	-
BC	BC Hydro 2021 IRP (36); FortisBC 2021 LTERP (9); FortisBC Energy 2021 LTERP (18)	BC Hydro F26-27 RRA (0); BC Hydro F23-25 RRA (15); FortisBC 2025-26 (5) FortisBC Energy 2025-26 (5)	FortisBC 2022-2027 DSM (5); FortisBC Energy 2024-2027 DSM (5);
MB	Manitoba Hydro 2025 IRP (6);	Manitoba Hydro 2026-28 GRA (6); Centra Gas 2025 GRA (3);	Efficiency Manitoba 2020-2022 Plan (5);
NB	-	NB Power 2024-2025 GRA (10);	-
NL	NL Hydro Reliability & Adequacy (4); NL Hydro 2025 Capital Budget (3); NL Hydro 2024 Capital Budget (4);	NFLD Power 2025-26 GRA (3);	NFLD Power 2021-2025 CDM Plan (2);
NS	NS Power 2025 IRP Update (10);	NS Power 2025 Adjustment (7); NS ISO Proposed budget (9);	EfficiencyOne BCA Test proposal (8); EfficiencyOne 2023-2025 DSM (11);

Province	Planning	Rates	Other
ON	OEB Natural Gas IRP Framework (14);	Hydro Ottawa (11); Toronto Hydro 2025 (10); Alectra 2025 (2); Enbridge 2024-2028 (18)	Enbridge 2026-2030 DSM (19)
PE	Maritime 2024 Capital Budget (2); Maritime Supplemental Capital Budget (4);	Maritime Electric 2023 GRA (3);	PEI Energy Corp 2021 Efficiency Plan (2);
QC	Hydro Québec 2023-2032 Supply plan (14);	Hydro Québec 2026-2028 (12); Enérgir 2023 (8);	Hydro Québec / Enérgir - Measures for decarbonization of building heating (11)
SK	-	SaskEnergy 2022 (4); SaskPower 2022 & 2023 (5)	-
Total	124	146	68
Average	10	7	8

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