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Honourable George Heyman
Minister of Environment and Climate Change Strategy
112 Legislative Building
Victoria BC V8V 1X4

Sent via email to ENV.minister@gov.bc.ca and ea.revitalization@gov.bc.ca

Dear Minister,

RE: B.C. Environmental Assessment Consultation Process and Discussion Paper

AltaGas Ltd. ("AltaGas") is a leading developer of energy infrastructure projects in British Columbia. Our firm has significant experience in developing a diverse array of projects in multiple regions across B.C., including wind farms (Dawson Creek), run-of-river hydroelectric dams (Dease Lake), gas processing facilities (Fort St. John) and, most recently, Canada's first propane export terminal (Prince Rupert). We are proud to build, own and operate projects that have been catalysts for sustainable resource production, fueling local economic development, and providing benefits and economic opportunities to Indigenous communities. We continue to investigate opportunities to develop and add value to B.C.'s new energy economy.

AltaGas is writing to provide comment on the *British Columbia Environmental Assessment Revitalization Discussion Paper* ("the discussion paper"). We offer an important perspective in developing projects, engaging with communities, and participation in environmental assessments led by the B.C. Environmental Assessment Office ("EAO"). We understand the major thrusts behind the government's intended revitalization of the environmental assessment ("EA") process are to ensure public confidence in the process and to advance reconciliation with Indigenous nations. We support this direction, and also believe these aims should be achieved in a manner that assists firms in attracting investment and creating economic benefits. To that end, our comments will focus on the need to ensure clarity, predictability and timeliness within regulatory processes, which are topics of shared importance to all stakeholders, including Indigenous groups, members of the public, governments and investors.

AltaGas is of the view that rather than introduce wholesale change to the EA process, it would be prudent to focus on incremental areas for improvement so that implementation of changes can be done in a thoughtful manner. Such an approach would ensure that clarity and predictability is maintained and public confidence and reconciliation is appropriately fostered. Many components of the existing EA process work well and it may well be that efforts should be aimed at explaining the process, the expertise of those typically involved in the process (including technical representatives from Indigenous nations and other experts) and the existing opportunities to participate in the process. Focusing efforts on capacity building would also likely have very positive impacts.

We would like to raise the following concerns with regard to proposals identified in the discussion paper:

1. **Thresholds for Projects that would be Subject to EA**

   Establishing clear thresholds and timelines for projects that are to be subject to EA is necessary to provide proponents with clarity and predictability and to allow proponents to determine from the outset the level of environmental review that will be triggered by their proposed projects in B.C.

   AltaGas believes that only the projects with the most potential for significant adverse effects should be subject to the B.C. EA process. Furthermore, if specific project types (such as gas processing facilities or pipelines, for example) have well defined standard mitigation measures that are always adopted as a matter of practice, are subject to stringent provincial or federal regulatory requirements, and are proven to be effective in mitigating environmental effects, then such projects, or components of projects, should be excluded from EA. The elimination of duplicative processes permits time and resources of all stakeholders to be most effectively utilized.

   AltaGas is concerned that the discussion paper is recommending a shift away from regulatory thresholds based on specific capacity-based outputs to an alternative criterion that would be based on the potential for the specific project to result in adverse effects. From a project proponent's perspective, it is unclear how potential environmental effects could reasonably be prejudged as a way of determining which projects warrant a full environmental assessment – as it is the purpose of environmental assessments to determine the potential for projects to result in environmental effects. If the government opts to proceed in this direction, then we would recommend involving industry substantially in the design and identification of appropriate triggers for EAs that provide the required clarity and predictability.

   AltaGas also notes the suggestion in the discussion paper to allow greater Ministerial latitude to designate projects as reviewable, including upon request of Indigenous nations or the public. AltaGas notes that the Minister already has the power to designate projects as reviewable under the existing legislation. This power adds an element of unpredictability to the EA regime in B.C., and AltaGas believes that such powers must only be used in exceptional, project-specific circumstances. Further, where this exercise of power is justified, it must only be exercised early in a project's regulatory process.

2. **Application Development and Review**

   AltaGas notes that the discussion paper has recommended that additional public engagement and comment take place in advance of a proponent receiving a process order that would specify how the proponent must undertake the assessment. If a revitalized EA process requires taking additional time at the front end to solicit a clear understanding of community and Indigenous concerns to be applied and addressed in an EA, then it is AltaGas' expectation that this additional effort must lead to comprehensively scoped terms of reference that can be carried through to the conclusion of an assessment. Once process orders for EAs are established, these terms of reference must remain in place in order to allow proponents to conduct their assessments and field work with certainty and

a clear understanding of the rules, supported by clear guidance from EAO on fieldwork methodology and reporting. Allowing "iterative" stakeholder involvement while EA work is being undertaken eliminates this much needed certainty.

AltaGas is generally supportive of the standardization of processes and regulatory requirements so as to create predictability and to allow for efficient evaluation of projects such that determinations can be made within reasonable timelines. Further, to the extent that the proposed revitalization introduces new assessment concepts, those concepts must be well-defined in order to allow proponents to fully understand assessment requirements and to avoid litigation that could stem from ambiguity.

3. Dispute Resolution Process

The proposed "Effects Assessment and Recommendation" and "Decision" phases of the revitalized EA process, as outlined in the discussion paper, maintain timelines that are part of the current process. However, AltaGas is concerned that the discussion paper proposes to add time-bound alternative dispute resolution processes to be applied at multiple points during these phases, which would have consequences for maintaining established timelines that are a critical component of allowing industry to receive timely decisions around whether projects may proceed. Care must be taken to not create additional process steps that lead to further delay and potentially create avenue for additional litigation, instead of reducing the time, expense and waste of litigation. Although it is indeed preferable that all interested parties come to consensus, clear lines of authority for decision making must be maintained so that there is a pathway for sustainable project approvals.

4. Post-EA Certificate Compliance

The stated purpose of the B.C. EA process is to ensure that any potential environmental, economic, social, heritage and health effects that may occur during the lifetime of a major project are assessed to provide a strategic decision regarding acceptance of the project for permitting.

Given the purpose of the EA, the compliance objectives and commitments should be time bound. Instead of reliance on EA commitments to ensure adequate protections, reliance should be placed on robust regulatory (permit) compliance obligations for the long term operation of project facilities, recognizing that projects may have a lifespan of over 10 decades, undergo retrofits, and be extended beyond the initial project description timeline as additional resources (such as, for example, the discovery of additional mineral reserves) are identified or the facility is repurposed.

AltaGas believes that an Adaptive Resource Management ("ARM") approach should be applied by EAO as it oversees post-certificate compliance. In ARM, the uncertainty of effects predictions is accepted and the anticipated range of effects is managed by undertaking monitoring programs to determine project effects, and adjusting project infrastructure or operations as required to limit effects. Both EA monitoring and ARM approaches use monitoring to evaluate the effectiveness of mitigation and ecosystem response, however, in the EA approach, project infrastructure and operations are defined and fixed (constrained) such that monitoring is for confirmatory purposes. With ARM, monitoring is explicitly linked to defined actions.

In the ARM approach, decision makers acknowledge uncertainty in both the effects predictions and the extent of mitigation required, and identify additional mitigation that may be required, typically through the adjustment of project operations or the provision of additional mitigation or offsetting. The proponent acknowledges that they may need to adapt their operations in response to monitoring observations. ARM acknowledges uncertainty in the baseline conditions, predicted effects, mitigation required, effectiveness of mitigation, and monitoring results, but manages risk through flexible operational responses and mitigation. A critical element of ARM is a measurable action threshold that defines a target response criterion that dictates an operational response.

5. Final Decision

AltaGas notes that the discussion paper appears to suggest that multiple decision making bodies should make decisions on whether projects should receive EA certificates. AltaGas reiterates that while it is preferable that all interested parties come to consensus, clear lines of authority for decision making must be maintained so that there is a clear pathway for sustainable and timely project approvals.

AltaGas appreciates the opportunity to comment on the discussion paper and the proposed new EA process. A clear, predictable and timely regulatory process is vital to B.C.'s economy. AltaGas looks forward to continuing to provide input as the Government moves forward with the development of the new EA process.

Yours truly,

for:

Charles Lyons
Vice President Environment, Health, Safety, Security & Sustainability