

Oil and Gas Commission Advisory Committee

Terms of Reference – December 2004

General:

- a) The Committee is a Minister's Committee that provides advice to the Oil and Gas Commission and not to the Minister;
- b) The terms of reference will be amended from time-to-time by the Oil and Gas Commission with input from the Advisory Committee and will be approved by the Minister.
- c) The key functions of the Committee are to respond to the plans of the Commission, recommend Alternative Dispute Resolution where appropriate and to bring forward important issues for consideration by the Commission, some of which may be requested to be brought to the attention of the Minister and
- d) These Terms of Reference constitute a "living" document and as such can be updated to reflect experience gained by the Committee.

Representation

1. The Minister of Energy and Mines is responsible for establishing an Advisory Committee with a broad representation of interests within the constraints of an eight-member committee. Collectively, Committee members will contribute valuable knowledge and make group recommendations to the Oil and Gas Commission. Representation will strive to reflect geographic diversity and perspectives on broad interests regarding oil and gas development in British Columbia. There will be two ex-officio members of the Committee: the Commissioner of the Oil and Gas Commission and a staff member of the Ministry of Energy and Mines. References in this document to the conduct of Committee members and the operation of the Committee apply to Members and Ex-Officio Members.

It is recognized that members have been selected primarily for their personal contributions to the Committee, rather than for their ability to represent a particular constituency. Members provide the Commission with the benefit of their experience and knowledge, and are not expected to speak on behalf of a particular sector or lobby.

Advisory Process

2. The Committee establishment and purpose is outlined in the *Oil and Gas Commission Act*:

7 (1) The Minister must establish an advisory committee to

(a) provide advice and make recommendations to the commission as to the fulfillment of the commission's purposes and its adherence to the responsibilities of the Commission under section 17,

- (b) fulfill that committee's role described in section 9,
- (c) anticipate and identify environmental, economic and social issues arising out of the Commission's operations,
- (d) by June 30 of each year, review the Commission's operating plans and audited financial statements for the fiscal year of the Commission that ended on March 31 of that year, and
- (e) assist the Commission to develop short and long term operating plans.

Sections 9 and 17 are attached as Appendix A.

Scope of Advice

- 3. Committee recommendations to the Commission will be limited to advice on non-operational level issues pertaining to the Commission's operations. With the exception of the Reconsideration for Alternate Dispute Resolution under Section 9 of the *Oil and Gas Act*, the Committee will not comment on or provide advice to the Commission regarding specific application decisions, enforcement actions, or pending applications which could be seen as fettering the Commission's statutory decision-making responsibilities.

While specific examples may serve to illustrate generic non-operational issues for which the committee may provide advice, the scope of the Committee's work should not reference or address operational or application-specific issues under consideration by the Commission.

Annual Report

- 4. The Commission's annual report will summarize the activities of the Committee. This is normally completed by June 30 of each year. The content and format of the material will be shared and reviewed with the Committee. The purpose of the section is to demonstrate that the Committee is fulfilling its mandate and how the Commission is responding to the advice.

Limitations

- 5. The Committee will not have the ability to commit funds on behalf of the Commission.
- 6. Commission staff will authorize communication on behalf of the Commission.

Length of Appointment

- 7. Appointments to the Committee are four years and staggered to allow for continuity within the Committee.

Ex-officio members and roles

8. Ex-officio committee members include the OGC Commissioner or alternate (Deputy Commissioner) and Ministry of Energy and Mines, Assistant Deputy Minister Oil and Gas Division or designated alternate. Ex-officio members will participate in discussions and represent views or opinions relevant to their organizational perspectives. They will be available to assist the committee by providing information or resources which the committee may require in order to successfully meet the committee's mandate.

The Assistant Deputy Minister of the Ministry of Energy and Mines may provide feedback from the committee to the Deputy Minister of Energy and Mines as appropriate to the committee's deliberations.

Ex-officio members will not vote or participate in decision-making discussions or deliberations leading up to a decision by the committee.

Communications

9. The work of the Committee, including reports and recommendations generated by the Committee, will be made available to the public after the Commission has responded or after 60 days of receipt by the Commission whichever comes first.
10. In any discussions with the public, media or constituencies, members shall not characterize the positions, suggestions or comments of other members.

Operations

Conduct of Members

11. Committee participants shall conduct themselves and discuss issues in a constructive, interest-based manner that is respectful of other participants. Where there is disagreement on an issue, participants shall seek to clearly define the nature of the disagreement, and clearly define the different perspectives with respect to the issue.

Committee members, other than the Chair, shall not make representations on behalf of the committee. Committee members are encouraged to make others aware of their membership on the Committee in the context of the Committee's roles and responsibilities outlined in this Terms of Reference. Committee members will not reference their committee membership in making representations not specifically related to activities of the Committee or the Commission.

Chair

12. The Chair of the Committee will be appointed by the Minister for a two-year term and the term may be extended by the Minister.
13. The Chair will:
 - lead the group in fulfilling its mandate;

- act as a facilitator, identify points of agreement within the Committee and generally assist the Committee on resolving those issues where general agreement is lacking;
- act as the spokesperson for the Committee.

An alternate chair will assume the role of the Chair in the absence of the Chair or the passing of the gavel.

Agenda Items

14. Agenda items submitted to the Chair and Secretariat for meetings shall be consistent with the Committee's scope of advice and directly related to the fulfillment of the Committee's legislated mandate.

Information

15. Members may circulate any information to the Committee, through the Secretariat, that they believe may be helpful in pursuing the mandate of the Committee. No information, reports or other documents shall be characterized as being sanctioned by the Committee until specifically agreed to by the Committee.
16. Where the Commission or a Member presents information of a confidential nature to the Committee, and indicates that confidentiality is required, the Committee will treat such information as confidential.

Advice arising from Committee Deliberations

17. The Committee will strive for consensus in providing advice and recommendations to the Commission. Where full consensus is not achieved, all views will be recorded for presentation to the Commission, including points of agreement and disagreement, without attribution.
18. Consensus shall be defined as no substantial disagreement on an issue, and may consist of agreement on a document that reflects different points of view on an issue. Consensus can include abstentions.

Committee's role in Reconsideration by Alternative Dispute Resolution

19. The Committee may be asked by an interested party to recommend reconsideration by alternative dispute resolution of a decision by the Commission. Logistical procedures to administer this Committee role within prescribed time lines will be established by the Committee and administered by the secretary to the Committee.

Science and Community Environmental Knowledge Fund (the Fund)

20. The Advisory Committee can identify research envelopes of the Fund and the

approximate funding targets for each. They can also review projects being seriously considered by the Fund and make recommendations for funding to the Commission. The Committee will designate specific members interested in providing advice within defined timeframes.

Funding

21. Participation in the Committee is voluntary in nature. The Commission will support participation in the Committee by compensating for travel expenses and other costs as per the standard government allowance.
22. The Commission may pay remuneration to a Committee member at rates set by the Lieutenant Governor in Council, if the member is not a member of the Legislative Assembly or public servant.

Minutes

23. A record of “advice to the Commission” will be recorded and noted in meeting summaries which briefly summarize the matters discussed and the any conclusions reached. The summaries shall not attribute specific points of view to individual members of the Committee.

Frequency of Meetings

24. The Committee will meet four times annually.

Secretariat Support

25. The Commission will provide the administrative support to the Committee through an Advisory Committee Secretary. Under the administrative supervision of the Division Leader, Corporate Services, of the Commission. The Secretary shall attend to all required administrative and logistical matters and attend to such other tasks as may be requested by the Committee.

Conflict of Interest

26. Existing BC government guidelines shall apply. (Attached as Appendix B)

Advisory committee's role in reconsideration by alternative dispute resolution

9 (1) The advisory committee, on application in the prescribed manner by an interested person, may request that the commission grant an authorization, referred to in section 8 (2), in respect of any decision of the commission other than a decision for which a right of appeal is provided under section 136 of the Petroleum and Natural Gas Act, section 44 of the Waste Management Act or section 40 of the Water Act.

(2) If the commission grants the authorization requested by the advisory committee,

(a) the effect of the commission's original decision is suspended pending the outcome of the reconsideration under paragraph (b), and

(b) following the consensual alternative dispute resolution process, and after taking into account the recommendations referred to in section 8 (3), if there are any, the commission must reconsider the original decision and re-decide the matter in a manner the commission considers appropriate.

(3) The advisory committee must exercise its discretion to make a request under subsection (1) within the prescribed period after the decision that is the subject of the request.

(4) The commission must

(a) grant or refuse the request within the prescribed period after it receives the request, and

(b) re-decide the matter that is the subject of the request within the prescribed period after granting the request.

Commission's responsibilities under various enactments

17 (1) For the regulation of oil and gas activities and pipelines, the commission, instead of the official named in a specified enactment,

(a) has all the powers relating to a discretion, function or duty referred to in the specified enactment, and

(b) is charged with the all the responsibilities pertaining to that discretion, function or duty.

(2) The exercise of the powers conferred on the commission by subsection (1), the carrying out of each discretion, function and duty referred to in a specified enactment and the responsibilities with which the commission is charged under this section remain subject in all respects to the Act that contains the specified enactment, and that Act continues to apply.

(3) Despite subsections (1) and (2), the commission must not grant or refuse a road use permit under section 117 of the Forest Act without first consulting with the district manager under that Act.

(4) Despite subsections (1) and (2), but subject to subsection (5), the commission and the appropriate officials under the various Acts that contain the specified enactments are each responsible for enforcing the provisions of those Acts in relation to the matters described in the specified enactments.

(5) Despite subsections (1) and (2), the appropriate officials under the Forest Practices Code of British Columbia Act, and not the commission, continue to be responsible for enforcing the provisions of that Act in relation to logging plans.

(6) Despite subsections (1) and (2), section 143 of the Forest Act does not apply to a determination, order or decision of the commission under section 76 or 77 of the Forest Act.

(7) The production of an approval as defined in section 1 of the Water Act, or a copy of an approval so defined, certified to be a copy by the commission or an employee of the commission authorized by it to certify copies, is without further proof evidence in a court of the matters and things set out in the approval.

CONFLICT OF INTEREST FOR PUBLIC SERVICE EMPLOYEES

A conflict of interest occurs when an employee's private affairs or financial interests are in conflict, or could result in a perception of conflict, with the employee's duties or responsibilities in such a way that:

- the employee's ability to act in the public interest could be impaired; or
- the employee's actions or conduct could undermine or compromise:
 - the public's confidence in the employee's ability to discharge work responsibilities, or
 - the trust that the public places in the public service.

While the government recognizes the right of public service employees to be involved in activities as citizens of the community, conflict must not exist between employees' private interests and the discharge of their public service duties. Upon appointment to the public service, employees must arrange their private affairs in a manner that will prevent conflicts of interest, or the perception of conflicts of interest, from arising.

Employees with questions regarding interpretation of the policy may discuss them with the designated ministry contact. Employees who find themselves in an actual, perceived or potential conflict of interest must disclose the matter to the designated ministry contact, their supervisor or manager. Employees who fail to disclose may be subject to disciplinary action up to and including dismissal.

Examples of conflicts of interest include, but are not limited to, the following:

- an employee uses government property or the employee's position, office or government affiliation to pursue personal interests;
- an employee is in a situation where the employee is under obligation to a person who might benefit from or seek to gain special consideration or favor;
- an employee, in the performance of official duties, gives preferential treatment to an individual, corporation or organization, including a non-profit organization, in which the employee, or a relative or friend of the employee, has an interest, financial or otherwise;
- an employee benefits from, or is reasonably perceived by the public to have benefited from, the use of information acquired by reason of the employee's employment;
- an employee benefits from, or is reasonably perceived by the public to have benefited from, a government transaction over which the employee can influence decisions (for example, investments, sales, purchases, borrowing, grants, contracts, regulatory or discretionary approvals, appointments);
- an employee requests or accepts from an individual, corporation or organization, directly

or indirectly, a personal gift or benefit that arises out of their employment in the public service, other than:

- the exchange of hospitality between persons doing business together,
- tokens exchanged as part of protocol,
- the normal presentation of gifts to persons participating in public functions, or
- the normal exchange of gifts between friends.
- an employee solicits or accepts gifts, donations or free services for work-related leisure activities other than in situations outlined above.