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*Federal Public Sector  
Labour Relations and  
Employment Board Act and  
Federal Public Sector  
Labour Relations Act*



Before a panel of the  
Federal Public Sector  
Labour Relations and  
Employment Board

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BETWEEN

**CANADIAN ENERGY REGULATOR**

Applicant

and

**PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA**

Respondent

Indexed as

*Canadian Energy Regulator v. Professional Institute of the Public Service of Canada*

In the matter of a request for the Board to exercise any of its powers under section 43  
of the *Federal Public Sector Labour Relations Act*

**Before:** Edith Bramwell, a panel of the Federal Public Sector Labour Relations and  
Employment Board

**For the Applicant:** Jasjit Dhillon

**For the Respondent:** Rukiya Mohamed Nur

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Decided on the basis of written submissions,  
filed April 11, 2025.

**I. Request before the Board**

[1] In a decision dated September 17, 2003 (see *National Energy Board v. Public Service Alliance of Canada*, 2003 PSSRB 79), the Public Service Staff Relations Board (now the Federal Public Sector Labour Relations and Employment Board; “the Board”) ordered that a single bargaining unit composed of all employees at the National Energy Board (“NEB”), save and except those who are specifically excluded from collective bargaining by the operation of law or determination of the Board, replace two existing bargaining units. A subsequent decision of the Board (see *National Energy Board v. Public Service Alliance of Canada*, 2004 PSSRB 6) confirmed the Professional Institute of the Public Service of Canada (“PIPSC”) as the certified bargaining agent of this bargaining unit.

[2] On April 11, 2025, the Canadian Energy Regulator (“CER”) and PIPSC jointly forwarded to this Board a joint application, which is quoted in its entirety, below:

...

***Re: Canada Energy Regulator application under sections 43 and 70 of the Federal Public Sector Labour Relations Act to review bargaining unit structure and amend Public Service Staff Relations Board Certification dated February 20, 2004***

*This is an application by the Canada Energy Regulator (CER), with consent of the bargaining agent, Professional Institute of the Public Service of Canada (PIPSC), under sections 43 and 70 of the Federal Public Sector Labour Relations Act (FPSLRA), to review the CER's bargaining unit structure and amend the employer's Public Service Staff Relations Board Certificate dated February 20, 2004 (certificate attached).*

*The proposed amendments would:*

- (a) replace the Certificate's reference to the National Energy Board (NEB) with the CER, since the NEB was replaced by the CER in 2019;*
- (b) remove executive-level positions, defined as “Executives” below, from the bargaining unit;*
- (c) remove Human Resources Advisors, Human Resources Group Leaders, Human Resources Analysts, and Human Resources Technical Specialists from the bargaining unit.*

***Background***

***Parties***

- 1. The CER is the federal regulator responsible for ensuring that pipeline, powerline and offshore renewable energy projects within*

*Parliament's jurisdiction are constructed, operated and abandoned in a safe and secure manner.*

*2. On August 28, 2019, the Canadian Energy Regulator Act (CER Act) came into force and the National Energy Board Act was repealed. Section 10 of the CER Act establishes the Canadian Energy Regulator, which operates as the Canada Energy Regulator, to replace the NEB.*

*3. The CER is a separate employer under Schedule V of the Financial Administration Act, as was the NEB. The transitional provisions associated with the CER Act continued the collective agreement in place at the time and all employees of the NEB became employees of the CER.*

*4. The CER, like the NEB before it, consists of employees within one occupational group and PIPSC remained the certified bargaining agent for this unit.*

*5. PIPSC was founded in 1920 and has over 70,000 members, representing scientists and professionals employed at the federal and some provincial and territorial levels of government. The Institute was founded to protect the interests of professional public employees and became a bargaining agent following the implementation of the Public Service Staff Relations Act (PSSRA) in 1967.*

#### ***Bargaining Unit Description and Classification Structure***

*6. The PIPSC bargaining unit presently comprises all CER employees, except those specifically excluded from collective bargaining by operation of law or determination of the Board.*

*7. CER employees, including executives, currently belong to a single occupational group.*

*8. Executive Positions are occupied by individuals who exercise high-level management and executive functions, named Executive Vice-Presidents (EVP), Vice-Presidents (VP) and Professional Leaders (PL). Such employees have significant executive managerial or executive policy roles and responsibilities or other significant influence on the direction of CER business units. They are responsible and accountable for exercising executive managerial authority or providing recommendations and advice on the exercise of such authority. The positions are functionally equivalent to levels EX-02 to EX-05 of the Executive Group within the core public administration.*

*9. Human Resources Advisors, Human Resources Group Leaders, Human Resources Analysts, and Human Resources Technical Specialist positions are occupied by individuals who provide advice and guidance by making and giving recommendations on a course of action, informing, notifying, cautioning and consulting on matters of importance on a regular basis to CER Management regarding labour relations, staffing, or classification matters. Additionally, the occupants of the Human Resources positions and the HR Analyst position are directly involved in the process of collective bargaining on behalf of the employer and they have substantial duties and responsibilities in the formulation and*

determination of policies or programs. By being unrepresented, the above-mentioned positions will not be placed in conflict-of-interest situations between their role as employees in collective bargaining and their role as representatives of the employer in their employment responsibilities. This would give the CER confidence that they will represent the organization's interests; and would protect the distinctive common interests of represented employees. The positions are functionally equivalent to the Personnel Administration Group (PE Group) within the core public administration.

### ***The Current Certificate***

10. On May 15, 2002, the NEB applied to the Public Service Staff Relations Board (PSSRB) to consolidate two bargaining units into one.

11. At the time, the NEB had approximately 290 employees. Approximately 250 were represented and 40 were not (i.e., they were either "excluded" by virtue of occupying managerial and/or confidential positions or otherwise "unrepresented").

12. On September 17, 2003, the PSSRB granted the NEB's application (2003 PSSRB 79). It held that a single bargaining unit was appropriate. The approved unit was as follows:

[163] This bargaining unit will include all currently unionized employees of the NEB and be described as: "All employees of the NEB save and except those who are specifically excluded from collective bargaining by operation of law or determination of the Board."

13. On February 20, 2004, following a representation vote to select a bargaining agent, the PSSRB issued the Certificate certifying PIPSC as the bargaining agent for the unit.

14. The Certificate has not been amended since that time.

### ***Reasons for the Amendment***

15. In the past 20 years since the Certificate was issued, several changes have taken place. These changes make amending the Certificate both necessary and beneficial.

16. The NEB no longer exists as it has been replaced by the CER. Although the transitional provisions associated with the CER Act continued the employment of NEB staff and the collective agreement, the Certificate's outdated reference to the NEB should be corrected.

17. The parties are of the view that Executives, Human Resources Advisors, Human Resources Group Leaders, Human Resources Technical Specialists, and Human Resources Analysts are not compatible for participation in the bargaining unit due to their roles and responsibilities.

18. The usual labour procedure in the federal public sector is for the above-mentioned positions to be unrepresented as a group as opposed to excluded on a case-by-case basis. These employees are not represented by any bargaining agent but are still guaranteed the freedom of association under the Canadian Charter of Rights of Freedoms.

19. Both parties are of the view that the proposed amendments will promote harmonious labour relations. Advancing this harmony is one of the Board's overarching duties [Public Service Alliance of Canada v. Statistics Survey Operations, 2021 FPSLREB 65, para 13].

20. The following amendments to the Certificate are proposed:

(a) the reference to "all employees of the NEB" will be replaced by "all employees of the CER";

(b) the inclusion of language making Executives unrepresented; and

(c) the inclusion of language making Human Resources Advisors, Human Resources Group Leaders, Human Resources Analysts and Human Resources Technical Specialists positions unrepresented.

21. The name-change will ensure that the Certificate accurately identifies the CER as the employer.

22. Removing the above-mentioned positions from the bargaining unit would make these positions unrepresented. They will be subject to terms and conditions of employment set by the CER.

23. Removing the above-mentioned positions from the bargaining unit will not affect the status of other CER positions as far as their inclusion in the bargaining unit is concerned and will continue to co-exist within the single occupational group that is presently in place. The Applicants will continue to address any exclusion issues pertaining to managerial or confidential positions as appropriate and in the ordinary course.

### ***Amendment Requested***

24. Based on the foregoing, the Applicant respectfully requests that the Board issue an order including the following language:

Upon the application of the Canada Energy Regulator (CER), with the consent of the Professional Institute of the Public Service of Canada (PIPSC), the certificate dated February 20, 2004, issued by the Public Service Staff Relations Board (now known as the Federal Public Sector Labour Relations and Employment Board) is amended so that PIPSC is the bargaining agent for the following bargaining unit:

"All employees of the Canada Energy Regulator, save and except (i) Executives, being the Executive Vice-Presidents (EVP), Vice-Presidents (VP), and Professional Leaders (PL); (ii) Human Resources Advisors, Human Resources Group Leaders, Human Resources Analysts and Human Resources

Technical Specialists; and (iii) those that are excluded from collective bargaining by operation of law or determination of the Board.”

...

[Emphasis in the original]

## II. Reasons

[3] Section 43 of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; “the Act”) provides that the Board may review, rescind, or amend any of its orders or decisions.

[4] In any review of bargaining unit structure, the Board must have regard to the employer’s classification of persons and positions, as set out in s. 70 of the *Act*. Section 70(2) requires that bargaining units be co-extensive with the applicant’s occupational groups unless defining a unit in this way would not permit the satisfactory representation of employees.

[5] The proposed bargaining unit is co-extensive with the occupational group established by the CER. There is no evidence (and there are no allegations) before the Board that the proposed bargaining unit would not permit the satisfactory representation of the employees to be included in it.

[6] Having reviewed the joint submissions of the parties, I find that the application to review the CER’s bargaining unit structure and the amendment of the certificate to reflect the current name of the CER meets the requirements of s.70 of the *Act*.

[7] Accordingly, the application is granted, and the Board makes the following order:

*(The Order appears on the next page)*

**III. Order**

[8] The description in the certification of the Professional Institute of the Public Service of Canada as bargaining agent for the National Energy Board bargaining unit, as set out in *National Energy Board v. Public Service Alliance of Canada*, 2004 PSSRB 6, be amended as follows:

*All employees of the Canadian Energy Regulator, save and except*

*(i) Executives, being the Executive Vice-Presidents (EVP), Vice-Presidents (VP), and Professional Leaders (PL);*

*(ii) Human Resources Advisors, Human Resources Group Leaders, Human Resources Analysts and Human Resources Technical Specialists; and*

*(iii) those that are excluded from collective bargaining by operation of law or determination of the Board.*

[9] A new certificate will be issued.

October 28, 2025.

**Edith Bramwell,  
a panel of the Federal Public Sector  
Labour Relations and Employment Board**