

Ms. Rumina Velshi
President and CEO
Canadian Nuclear Safety Commission
280 Slater Street, Ottawa K1P 5S9

January 29th 2021

Via e-mail

Dear Madame Velshi and fellow Commission Members:

Re: Request for Equal Time for Public Interest Representation at CNSC Meetings
Canadian Nuclear Safety Commission Meeting of January 21, 2021, 'Update on CNSC
Readiness for the Regulation of Small Modular Reactors and Advanced Reactor Projects'

We are writing today to request equal time for public interest representation at CNSC meetings, particularly in meetings such as you convened on January 21st.

We are deeply disappointed in your decision to use the Commission's virtual meeting of January 21, 2021 as a platform for would-be proponents and/or licensees of experimental small modular nuclear reactors without granting the same privilege to public interest groups and independent experts active on the SMR file. The Commission would benefit from hearing these views.

We wish to remind you that the need for the independence of regulatory bodies is affirmed in the *Convention on Nuclear Safety* and other international instruments that the Government of Canada has agreed to uphold. Further, the CNSC's credibility with the general public depends on whether it is regarded as being independent from the organizations it regulates, as well as independent from other government agencies or industry groups that promote nuclear technologies.

The net result of your decision to exclude public interest groups is that the Commission appears to be sole-sourcing its information about the experimental nuclear reactors from only those who are promoting this technology. If you had given equal time to public interest groups and independent experts, the Commission would have also heard about key issues such as proliferation risk, waste characteristics, viability of the technology, economic feasibility, safety concerns arising out of economic considerations, and social acceptance. These important issues were completely overlooked by both CNSC staff and the SMR promotional team that appeared before you on January 21.

The undersigned organizations include regular and responsible intervenors in CNSC licence hearings who contribute regularly through comment periods on regulatory documents, regulatory oversight reports and CNSC discussion papers, and several were part of the CNSC's previously proposed ENGO Advisory Committee (February 2020). We are committed to public participation and have contributed to CNSC reviews over decades, in most cases offering our expertise and perspective without remuneration.

In the past, we have requested opportunities to present to the Commission during the Commission's public meetings and our requests have been denied.

At your meeting on January 21, we witnessed a parade of presenters offering perspectives and opinion on small modular reactors, all from a common view, i.e. the view of SMR promoters and proponents. Where was the balance? Where was the public interest perspective?

While the regulations of the *Nuclear Safety and Control Act* permit the CNSC to determine its own process, the CNSC cannot exercise its authority in a way that offends the rules of natural justice or procedural fairness. Procedural fairness requires that the CNSC's decision-making be made free from a reasonable apprehension of bias. The test used to determine whether a reasonable apprehension of bias exists is whether a reasonable, well-informed person having thought the matter through would conclude that an administrative decision-maker is sufficiently free of factors that could interfere with his or her ability to make impartial judgments.

On January 21st the CNSC did not meet this onus as it allowed engagement and comment opportunities to aspiring proponents that it did not offer to others, including the undersigned. We submit that the CNSC is not acting impartially and due to the public interest nature of its role, should provide equal participation opportunities, including for those who do not have a vested interest in promoting small modular reactors.

We further note that while Canadian law might require this, international nuclear frameworks and requirements also set the bar for independence and freedom from bias much higher than we witnessed on January 21st. For example, the International Atomic Energy Agency (IAEA) *Governmental, Legal and Regulatory Framework for Safety*, General Safety Requirements No. GSR Part 1 (Rev. 1) sets out requirements regarding the need for a national regulatory body to be "independent" from political and economic influences.

We are requesting that the Commission seize the opportunity to redress this imbalance by convening a virtual meeting for the Commission to hear from independent experts and public interest groups on key issues related to SMRs which were missing from the presentations on January 21. We are prepared to assist the Commission by offering advice and guidance on appropriate presenters and meeting format. In addition, for future regular CNSC meetings, we request that equal time is scheduled to hear from both public interest groups and industry proponents.

If the Commission grants our request, it will have the opportunity to regain the trust of the undersigned organizations and avoid the current perception that the Commission is open to hearing the perspectives only of the nuclear industry. We anticipate that the Commission's timeline for addressing this situation will be communicated to us shortly.

Thank you for your consideration.

Cathy Vakil

Theresa McClenaghan

John Jackson

Canadian Association of Physicians for the Environment

Canadian Environmental Law Association

Citizens' Network on Waste Management

David Geary	Coalition for a Clean Green Saskatchewan
Susan O'Donnell	Coalition for Responsible Energy Development – New Brunswick
Candyce Paul	Committee for Future Generations
Ole Hendrickson	Concerned Citizens of Renfrew County and Area
Eva Schacherl	Council of Canadians - Ottawa Chapter
Michael Poellet	Inter-Church Uranium Committee Educational Cooperative
Dorothy Goldin Rosenberg	Just Earth, Canadian Voice of Women for Peace
Pippa Feinstein	Lake Ontario Waterkeeper
Brennain Lloyd	Northwatch
Johanna Echlin	Old Fort William Cottagers' Association
Elizabeth Logue	Ottawa Riverkeeper
Meg Sears	Prevent Cancer Now
Bill Noll	Protect Our Waterways - No Nuclear Waste
Ann Coxworth	Saskatchewan Environmental Society
Rick Cheeseman	Voices for Sustainable Environments and Communities
Anna Tilman	Watershed Sentinel Education Society

Reply correspondence should be directed to smrs-canada@gmail.com for distribution to the signator organizations

cc: Prime Minister Justin Trudeau
Hon. Seamus O'Regan, Minister of Natural Resources
Hon. Jonathon Wilkinson, Minister of the Environment and Climate Change
Greg McLean, Natural Resources Critic, Conservative Party
Richard Cannings, Natural Resources Critic, New Democratic Party
Mario Simard, Natural Resources Critic, Bloc Québécois
Elizabeth May, Parliamentary Leader, Green Party of Canada
Dan Albas, Environment Change and Climate Critic, Conservative Party
Laurel Collins, Environment Change and Climate Critic, New Democratic Party
Monique Pauzé, Environment Change and Climate Critic, Bloc Québécois

Dr. Timothy Berube, Commissioner
Dr. Sandor Demeter, Commissioner
Dr. Marcel Lacroix, Commissioner
Ms. Indra Maharaj, Commissioner
Dr. Stephen D. McKinnon, Commissioner