

COURT FILE
NUMBER

KB No. _____ of 2025

COURT OF KING'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

APPLICANTS

CITIZENS FOR PUBLIC JUSTICE, KIKÉ DUECK a
minor by their litigation guardian KRIS DUECK,
SHERRY OLSON, MATTHEW WIENS, and the
SASKATCHEWAN ENVIRONMENTAL SOCIETY
INC.

RESPONDENT

THE GOVERNMENT OF SASKATCHEWAN

ORIGINATING APPLICATION

NOTICE TO THE RESPONDENT

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court. To do so, you must be in Court when the application is heard as shown below:

Where Court of King's Bench
520 Spadina Crescent East
Saskatoon, SK S4K 3G7

Date AUGUST 12, 2025

Time 10:00AM

Go to the end of this document to see what you can do and when you must do it.

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PARTICULARS OF APPLICATION

I. Introduction

1. On June 18, 2025, the Government of Saskatchewan announced its decision to refurbish and extend coal-fired electricity generation in the province to 2050 (the “Coal Decision”). The Government of Saskatchewan issued the decision via a 3-page letter to all Saskatchewan Power Corporation employees (see affidavit of applicant Sherry Olson, commissioned July 15, 2025, at Exhibit “A”). The Coal Decision letter offered limited justification for the “fundamental reconsideration of the future of coal in our system.”

II. Orders Sought

The Applicants seek the following remedies and orders:

2. An order in the nature of *certiorari* setting aside or quashing the Coal Decision;
3. An order for an interim stay of the Coal Decision pending the determination of this application for judicial review;
4. Such further and other relief as ordered by this Court; and
5. An order for each party to bear its own costs.

III. Overview of Grounds for Application

Judicial Review

6. Judicial reviews exist to ensure that decision makers exercise their authority in an appropriate manner. Judicial review supports the development and maintenance of a culture of justification in administrative decision making. It provides a mechanism for reviewing the legality of administrative decisions with respect to all relevant legal and factual constraints, including legislation, common law, and international law, constitutional rights and powers, the evidence before the decision maker and

facts of which the decision maker may take notice, and the potential impact of the decision on the individual to whom it applies.¹

7. Through judicial review courts safeguard the rule of law in context to government decision making. As Bastarache and LeBel JJ. explained in *Dunsmuir*:

By virtue of the rule of law principle, all exercises of public authority must find their source in law. All decision-making powers have legal limits, derived from the enabling statute itself, the common or civil law or the Constitution. Judicial review is the means by which the courts supervise those who exercise statutory powers, to ensure they do not overstep their legal authority. The function of judicial review is therefore to ensure the legality, the reasonableness and the fairness of administrative process and its outcomes.²

8. The presumptive standard of review on judicial review is reasonableness, although this is rebutted in a limited number of circumstances, including:

legislated standards of review, statutory appeal mechanisms, constitutional questions, general questions of law of central importance to the legal system as a whole, and questions related to the jurisdictional boundaries between two or more administrative bodies... [and] when courts and administrative bodies have concurrent first instance jurisdiction over a legal issue in a statute.³

9. As the Supreme Court of Canada explained in *Vavilov*, courts may be called upon to review a wide variety of decisions from a wide variety of decision makers:

...The administrative decision makers whose decisions may be subject to judicial review include specialized tribunals exercising adjudicative functions, independent regulatory bodies, ministers, front-line decision makers, and more. Their decisions vary in complexity and importance, ranging from the routine to the life-altering. These include matters of “high policy” on the one hand and “pure law” on the other. Such decisions will sometimes involve

¹ *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [*Vavilov*].

² *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190, at para 28, as cited in *Anderson v Saskatchewan Apprenticeship and Trade Certification Commission*, 2020 SKCA 54, at para 9.

³ *Altus Group Limited v Saskatchewan Assessment Management Agency*, 2023 SKKB 129, at para 41 [*Altus*].

complex technical considerations. At other times, common sense and ordinary logic will suffice.⁴

10. In spite of this diversity, the Supreme Court of Canada insists on a “coherent and unified approach to judicial review” in which “elements of a decision’s context do not modulate the standard or the degree of scrutiny by the reviewing court”.⁵ The Court subsequently reinforced this point by extending its reasonableness analysis to purely legislative decisions of the Governor in Council to enact regulations.⁶
11. This application is validly brought before this Court pursuant to Rule 3-49(1)(g)⁷ as the Applicants seek judicial review of the Coal Decision. An action may be started by originating application if the remedy claimed is the judicial review of a decision, act or omission of a person or body.⁸
12. The Applicants seek judicial review of a final decision made by the Government of Saskatchewan to extend the life of coal plants. The Government has not outlined any future process to determine whether such an extension is in the public interest, such as an environmental assessment. They simply made the decision. It is final, and therefore, ripe for judicial review. There are no alternative remedies available. This is analogous to the ratio in *Altus* where the Court explained that the availability of judicial review in such circumstances is premised on the principle that the “rule of law demands a remedy when a state actor does not comply with the law.”⁹
13. Two fundamental flaws can make a decision unreasonable: i) when there is a failure of rationality internal to the reasoning process; and ii) when a decision is in some respect untenable in light of the relevant factual and legal constraints that bear upon it. The Coal Decision is plagued by fundamental flaws in both categories.¹⁰

⁴ *Vavilov supra* note 1, at para 88.

⁵ *Vavilov supra* note 1, at paras 88-89.

⁶ *Auer v Auer*, 2024 SCC 36.

⁷ Saskatchewan, *The King’s Bench Rules*, r 3-49(1)(g).

⁸ *Altus supra* note 3 at para 18, appealed on other grounds.

⁹ *Ibid* at para 3.

¹⁰ *Vavilov supra* note 1, at para 101.

14. As the Supreme Court of Canada stated in *Vavilov*, “[w]here the impact of a decision on an individual’s rights and interests is severe, the reasons provided to that individual must reflect the stakes [... including] decisions with consequences that threaten an individual’s life, liberty, dignity or livelihood”. The Coal Decision purports to authorize actions that will entrench reliance on coal fired electricity in this province in direct defiance of federal law, compromising Canada’s ability to fulfil its international legal obligations, and in conflict with the protection of the *Charter* rights of Saskatchewan residents and other Canadians to life, liberty, and security of the person against the worst impacts from human-caused climate change and other environmental impacts. The constitutional, national, international, and long-term dimensions of this decision mean that it requires careful scrutiny from the judiciary to ensure its consistency with the rule of law.
15. It is also for these reasons, among others, that the Applicants respectfully ask for an interim stay of the Coal Decision to preserve the status quo pending determination of this application for judicial review. As this Court has long acknowledged in this context, “the Court has not only the right, but the duty, to preserve the rights of the parties as nearly as possible in status quo until the merits can be fully tried”.¹¹
16. The Government of Saskatchewan’s Coal Decision is incorrect or unreasonable on several bases:
 - A. It unreasonably relies on irrelevant and inaccurate information, including an outdated economic analysis, which it fails to address through any independent costing or economic analysis of the Coal Decision;
 - B. It unreasonably fails to consider or grapple with Canada’s obligations under conventional and customary international law or the best available science that informs these legal obligations with respect to mitigation of climate change;

¹¹ *Blackwoods Beverages Ltd. v Dairy Employees, Truck Drivers and Warehousemen, Local No. 834* (1956), 1956 CanLII 447 (SK CA), 3 DLR (2d) 529 (Sask CA) at 533, cited and followed in *Goldade v Saskatchewan Apprenticeship and Trade Certification Commission*, 2019 SKQB 158, at para 11.

- C. It incorrectly determines the federal government’s authority over the abatement of coal-powered electricity and unreasonably engages with the Government of Saskatchewan’s obligations to phase out unabated¹² coal-powered electricity by 2030 under federal law.
- D. It incorrectly fails to identify the implications of the decision upon the rights of Saskatchewan residents and other Canadians under the *Charter of Rights and Freedoms*¹³ against the adverse impacts of human-caused climate change, and it unreasonably fails to proportionately weigh the impacts of the decision on *Charter* protections against the other factors it took into consideration; and
- E. It unreasonably fails to justify why this decision has been reached in spite of it being a marked departure from past decisions and positions of the Government of Saskatchewan with respect to the phaseout of unabated coal-powered electricity by 2030.

A. Unreasonable Reliance on Irrelevant and Inaccurate Economic Analysis

17. The Coal Decision refers to an economic analysis wherein:

...the Saskatchewan First Act Tribunal estimated that compliance with the Clean Electricity Regulations would cost the province \$7.1 billion in economic growth, lead to the direct loss of at least 4,200 jobs, and there would be an \$8.1 billion negative effect on Saskatchewan’s exports.

18. The Coal Decision is unreasonable because it relied upon an economic analysis of the Saskatchewan First Act tribunal that was irrelevant and inaccurate given that the tribunal’s report was based on draft federal regulations. The tribunal report was not

¹² “unabated” throughout this application refers to power generation not equipped with Carbon Capture and Sequestration technology (CCS) that would otherwise reduce or abate the pollution intensity associated with fossil-fuelled electrical generation.

¹³ *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982 c 11 [*Charter*].

updated to reflect the relevant legal framework that now applies to Saskatchewan (i.e. the final federal regulations as proclaimed in December 2024).

19. The Coal Decision is furthermore unreasonable as there was no independent analysis of costing completed—neither the cost to refurbish the coal plants, nor the cost to replace with 1,500 MW of new alternative electricity generation, such as renewables or nuclear, nor the cost of the anticipated, additional pollution from the coal-fired plants' operation to 2050 or beyond.

B. Unreasonable Failure to Grapple with Canada's International Legal Obligations

20. International law can operate as an important constraint on an administrative decision maker for two reasons. First, all legislation is presumed to operate in conformity with Canada's international obligations and the values and principles of customary and conventional international law. Second, international law can inform whether a decision was a reasonable exercise of administrative authority.¹⁴
21. A decision's reasonableness can also be evaluated against facts of which the decision maker may take notice.¹⁵
22. We are living in an era of dangerous climate change, primarily caused by the burning of fossil fuels. This is a fact that is beyond reasonable dispute among those who have taken the time to properly inform themselves about climate science.
23. Climate change poses an existential threat to humanity's future and greenhouse gas emissions must be reduced to address this threat. These are facts beyond reasonable dispute as well. As acknowledged by the Supreme Court of Canada in 2021:¹⁶

Climate change is real. It is caused by greenhouse gas emissions resulting from human activities, and it poses a grave threat to humanity's future. The

¹⁴ *Ibid* at paras 72 and 105.

¹⁵ *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 at para 106.

¹⁶ *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 at para 2 [*GGPPA Reference*].

only way to address the threat of climate change is to reduce greenhouse gas emissions.

24. It is also beyond any reasonable debate that an effective response to climate change requires cooperation between all levels of Canadian government. As acknowledged by the Supreme Court of Canada in 2021:¹⁷

As a global problem, climate change can realistically be addressed only through international efforts. Any province's failure to act threatens Canada's ability to meet its international obligations, which in turn hinders Canada's ability to push for international action to reduce GHG emissions. Therefore, a provincial failure to act directly threatens Canada as a whole.

25. Canada's commitments and duties under international law to mitigate its greenhouse gas emissions and reduce the risks and harms posed by dangerous climate change provide key constraints for the reasonableness of the impugned decision.
26. In 2015, Canada was one of 195 nations that adopted the Paris Agreement, a legally binding treaty on climate change, at the United Nations Climate Change Conference in Paris, France. The Paris Agreement commits its signatories to "[h]olding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change."¹⁸
27. In 2016, the United Nations Human Rights Council—the main intergovernmental body within the United Nations with responsibility for human rights—emphasized that:

¹⁷ *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 at para 190.

¹⁸ United Nations Framework Convention on Climate Change, *Paris Agreement*, Adopted at the United Nations Climate Change Conference (COP21) in Paris, France, on 12 December, 2015. Canada is a signatory to the international treaty and ratified the Paris Agreement on October 5, 2016. The Paris Agreement entered into force on November 4, 2016, online: https://unfccc.int/sites/default/files/english_paris_agreement.pdf accessed July 9, 2025, at Article 2, s 1(a).

the adverse effects of climate change have a range of implications, which can increase with greater warming, both direct and indirect, for the effective enjoyment of human rights, including, inter alia, the right to life, the right to adequate food, the right to the enjoyment of highest attainable standard of physical and mental health, the right to adequate housing, the right to self-determination, the right to safe drinking water and sanitation and the right to development [...].¹⁹

28. Among other actions, it called on “States to consider, among other aspects, human rights within the framework of the United Nations Framework Convention on Climate Change.”²⁰
29. Canada announced in 2016 its plan to eliminate coal power by 2030. Canada and the United Kingdom launched the Powering Past Coal Alliance in 2017 at COP23 (the “PPCA”) as a diplomatic initiative to accelerate the transition from coal power around the world. Initially there were 27 national, provincial, state, and city governments which endorsed the PPCA Declaration. The PPCA membership now spans across 180 national and subnational governments, businesses, and organisations. PPCA members commit to accelerating the transition from coal to clean energy, grounded in the objectives of the PPCA Declaration. As stated by the Government of Canada: “Coal power is the largest global source of greenhouse gas emissions driving climate change.”²¹
30. In 2023, the Intergovernmental Panel on Climate Change (IPCC)—the intergovernmental body set up by the United Nations in 1988 to provide all levels of government with scientific information they can use to develop climate policies—found with high confidence that “[l]imiting human-caused global warming requires net zero CO₂ emissions”²² and “[p]athways that limit warming to 1.5°C and 2°C

¹⁹ Human Rights Committee, *General Assembly resolution 70/1 - "Human rights and climate change"*, 32nd sess, UN Doc A/HRC/RES/32/33 (18 July 2016) [United Nations], Preamble.

²⁰ Human Rights Committee, *General Assembly resolution 70/1 - "Human rights and climate change"*, 32nd sess, UN Doc A/HRC/RES/32/33 (18 July 2016) [United Nations], para 9.

²¹ “Powering Past Coal Alliance: phasing out coal” Government of Canada (2024), online:

<https://www.canada.ca/en/services/environment/weather/climatechange/canada-international-action/coal-phase-out.html> accessed July 16, 2025.

²² IPCC, 2023: Summary for Policymakers. In: *Climate Change 2023: Synthesis Report. Contribution of*

involve rapid and deep and, in most cases, immediate GHG emission reductions in all sectors this decade”.²³ Net Zero refers to a state in which “anthropogenic emissions of greenhouse gases into the atmosphere are balanced by anthropogenic removals of greenhouse gases from the atmosphere over a specified period”.²⁴

31. The IPCC found with high confidence that Net Zero CO₂ energy systems will:

... require a substantial reduction in overall fossil fuel use, minimal use of unabated fossil fuels, and use of carbon capture and storage in the remaining fossil fuel systems; electricity systems that emit no net CO₂; widespread electrification; alternative energy carriers in applications less amenable to electrification; energy conservation and efficiency; and greater integration across the energy system.²⁵

32. The IPCC also found with high confidence that “[e]nergy generation diversification (e.g., via wind, solar, small-scale hydropower) and demand-side management (e.g., storage and energy efficiency improvements) can increase energy reliability and reduce vulnerabilities to climate change”.²⁶

33. All the IPCC’s reports are subject to review and endorsement by IPCC member countries, including Canada, with member countries acknowledging these reports as authoritative assessments of the scientific knowledge on climate change that provide “a comprehensive, objective, and balanced view of the subject matter”.²⁷

34. In 2021, the parties to the Paris Agreement, including Canada, endorsed the Glasgow Climate Pact at the United Nations Climate Change Conference in Glasgow, Scotland. The Glasgow Pact:

Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 1-34, doi: 10.59327/IPCC/AR6-9789291691647.001 at s. B.5 [*IPCC 2023 Synthesis Report*].

²³ *Ibid* at s. B.6.

²⁴ *Canadian Net-Zero Emissions Accountability Act*, S.C. 2021, c 22 at s 2.

²⁵ *IPCC 2023 Synthesis Report Supra* note 22 at C.3.2.

²⁶ *IPCC 2023 Synthesis Report Supra* note 22 at C.3.2.

²⁷ *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law*, Case No. 31, Advisory Opinion, International Tribunal for the Law of the Sea (21 May 2024), at para 49.

[r]ecognizes that limiting global warming to 1.5 °C requires rapid, deep and sustained reductions in global greenhouse gas emissions, including reducing global carbon dioxide emissions by 45 per cent by 2030 relative to the 2010 level and to net zero around mid-century, as well as deep reductions in other greenhouse gases.²⁸

35. The Pact also:

[c]alls upon Parties to accelerate the development, deployment and dissemination of technologies, and the adoption of policies, to transition towards low-emission energy systems, including by rapidly scaling up the deployment of clean power generation and energy efficiency measures, including accelerating efforts towards the phasedown of unabated coal power and inefficient fossil fuel subsidies, [...] recognizing the need for support towards a just transition.²⁹

36. With respect to human rights, the Preambles of the Paris Agreement and the Glasgow Climate Pact state as follows:

Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.³⁰

37. Consistent with this recognition that climate change policy implicates human rights, international and domestic courts and tribunals across the world have articulated in greater detail the human rights-related obligations of governments to, among other things, ensure the greenhouse gas emissions they authorize remain consistent with

²⁸ United Nations Framework Convention on Climate Change, *Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on its third session, held in Glasgow from 31 October to 13 November 2021*, Adopted at the United Nations Climate Change Conference (COP26) in Glasgow, Scotland, on 13 November, 2021 at para 22 [*Glasgow Pact*].

²⁹ *Glasgow Pact*, *Ibid* at para 36.

³⁰ *Glasgow Pact* and *Paris Agreement* preambles.

the temperature goals set out in the Paris Agreement.³¹ Most recently, the Inter-American Court on Human Rights issued an advisory opinion on the international human rights obligations of member states of the Organization of American States, including Canada, with respect to climate change, finding a legal obligation to take urgent and effective action to reduce greenhouse gas emissions based on the best available science, among other rights-based duties.³² Canada and other states have also been found to have international legal obligations to reduce greenhouse gas emissions under the Law of the Sea.³³

38. Various bodies in the United Nations, including the Committee on Economic, Social and Cultural Rights, human rights treaty bodies, and Special Rapporteurs have repeatedly “pointed out the staggering environmental and social costs of the use of fossil fuels” and clarified the need to phase out fossil fuel production and use.³⁴

39. More specifically, in 2021:

Two Special Rapporteurs identified coal-fired power stations and petroleum refineries as among the most heavily polluting and hazardous facilities. In addition, they called upon all countries to immediately stop constructing new coal power plants, phasing them out completely by 2030 in advanced economies and by 2040 globally. In addition, they recommended terminating all forms of financial support for unabated coal-fired power plants, immediately terminating all subsidies and export financing for all actions related to coal-fired power plants and mining of thermal coal, with the sole exception of pollution-abatement technologies that do not prolong the lives of power plants.³⁵

³¹ See e.g. *Verein KlimaSeniorinnen Schweiz and Others v Switzerland*, No 53600/200, [2024] ECHR 304 [European Court of Human Rights]; *Urgenda v Netherlands*, ECLI:NL:HR:2019:2007 (Supreme Court of Netherlands, 20 December 2019), English translation in (2020) 59 ILM 811.

³² *The Climate Emergency and Human Rights*, Advisory Opinion OC-32/25, Inter-American Court of Human Rights Series A No 32 (29 May 2025).

³³ *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law*, Case No. 31, Advisory Opinion, International Tribunal for the Law of the Sea (21 May 2024).

³⁴ Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera*, 56th sess, UN Doc A/HRC/56/46 (24 July 2024) [Special Rapporteur], para 8.

³⁵ Special Rapporteur, *supra*, para 10.

40. The Government of Saskatchewan's Coal Decision fails to grapple with any of these constraints, including the most basic and notorious facts surrounding the human rights related impacts of climate change or the legal obligations on Canada and other states to dramatically curtail our emissions under international law to reduce these impacts on human rights. No indication is given of how the Coal Decision can be reconciled with these international law commitments and obligations.

C. Unreasonable Failure to Grapple with Constraints from Federal Law

41. The Supreme Court of Canada made it clear in *Vavilov* that the reasonableness of a decision is not only assessed against constraints set out in the governing statutory scheme for the decision maker, but also against constraints from "other relevant statutory or common law".³⁶ There is a presumption of coherence between statutes that decision makers must keep in mind when exercising their discretion. There is also a presumption of constitutionality for legislation. Regardless of these legal constraints, the Coal Decision unapologetically conflicts with binding federal law, providing no explanation beyond a bare assertion that the federal government has no legitimate role to play in this field of regulation.

42. Coal is the dirtiest form of energy production. The impacts of burning coal are severe and well-documented. The Government of Canada summarizes the impacts of burning coal as follows:

Coal-fired power plants are among the largest stationary sources of air pollution in Canada. These harmful air pollutants include sulphur dioxides, nitrogen oxides, particulate matter, and mercury. These pollutants cause significant environmental impact, including acid rain, smog, and environmental damage.

³⁶ *Vavilov supra* note 1, at paras 105-106.

Air pollutants from coal-fired electricity can adversely affect the health of Canadians, especially small children, the elderly, and those with heart and lung conditions, even at low concentrations.³⁷

43. As acknowledged by the Supreme Court of Canada in the *GGPPA Reference*:
... a matter dealing with toxic substances that originate in a particular province may nonetheless be predominantly extraprovincial and international in character if the substances in question have serious effects that can cross provincial boundaries.³⁸
44. Children and older people are particularly vulnerable to harmful pollution from coal-fired power plants. According to Health Canada's 2021 report on air pollution impacts, over 15,300 premature deaths occur annually in Canada due to air pollution, with coal-fired power plants being a significant contributor.³⁹
45. The climate impacts of coal-fired generation are significant as unabated coal generation "is almost two times more GHG intensive than natural gas [thermal generation]".⁴⁰
46. The Coal Decision made no mention of these relevant factual constraints that are of a national scope.
47. For more than a decade, all levels of Canadian government have recognized that coal-fired generation must be phased out due to the dangerous emissions caused by the combustion of coal. The Government of Canada first introduced federal regulations on coal-fired generation in 2012 when it was led by Prime Minister

³⁷ "Sources of pollution: electricity" Government of Canada (2023) online: <https://www.canada.ca/en/environment-climate-change/services/managing-pollution/energy-production/electricity-generation.html> accessed July 16, 2025.

³⁸ *GGPPA Reference Supra* note 16 at para 148.

³⁹ "Health Impacts of Air Pollution in Canada" Government of Canada, 2021, online: <https://www.canada.ca/en/health-canada/services/publications/healthy-living/health-impacts-air-pollution-2021.html> accessed June 29, 2025.

⁴⁰ "Market Snapshot: Canada's power generation: switching from coal to natural gas" Canada Energy Regulator (2017) online: <https://www.cer-rec.gc.ca/en/data-analysis/energy-markets/market-snapshots/2017/market-snapshot-canadas-power-generation-switching-from-coal-natural-gas.html> assessed July 17, 2025.

Stephen Harper. These federal regulations were amended in November of 2018 to accelerate the timeline required to phase out unabated coal-fired generation.

Saskatchewan and the Government of Canada reached an agreement in principle to finalize an equivalency agreement for Canada's coal-fired regulation in November of 2016, and Saskatchewan subsequently proclaimed *The Management and Reduction of Greenhouse Gases (General and Electricity Producer) Regulations* in December of 2017.⁴¹

48. Saskatchewan initially signed the equivalency agreement with respect to Canada's *Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations* on May 3, 2019 (the "Federal Coal Regs").⁴² A successor equivalency agreement was then executed between Saskatchewan and Canada on November 29, 2024.
49. After the execution of the equivalency agreement with Saskatchewan, the federal government issued an order declaring that the *Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations* Do Not Apply in Saskatchewan: SOR/2019-167 (the "Order"). The Regulatory Impact Analysis Statement was published on May 31, 2019, along with the Order. The following is an excerpt from the Regulatory Impact Analysis Statement related to Saskatchewan air pollution impacts related to the Order:

Standing down the federal Regulations will result in a low increase of sulphur oxides (SOx) and nitrogen oxides (NOx) emissions in the province of Saskatchewan. Over the January 1, 2018, to December 31, 2029, period, the cumulative change in SOx will be a net increase of 37 kilotonnes (kt), while the cumulative change in NOx will be a net increase of 8 kt. These air pollutants are known to cause adverse human health impacts, through inhalation of directly emitted pollutants or via their transformation in the atmosphere to secondary particulate matter (PM)2.5 and ground-level ozone.

⁴¹ *Management and Reduction of Greenhouse Gases (General and Electricity Producer) Regulations*, Sask Reg M-2.01 Reg 1.

⁴² *Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations*, SOR/2012-167 [Federal Coal Regs].

The health effects of these pollutants are well documented in the scientific literature and include an increased risk of various cardiovascular and respiratory outcomes, which lead to an increased risk of premature mortality.⁴³

50. While negotiating the first equivalency agreement with the federal government, Saskatchewan announced the decision not to install Carbon Capture and Storage (“CCS”) on units #4 and #5 at Boundary Dam on July 9, 2018. Unit #4 was placed on standby at the end of 2021 and Unit #5 at the end of 2024. The *Federal Coal Regs* serve to phase out unabated coal-fired power generation by Dec 31, 2029. Coal-fired generation units equipped with CCS will be able to operate beyond Dec 31, 2029, because they can meet the *Federal Coal Regs* emissions standard of 420 tonnes of carbon dioxide per gigawatt hour of electricity produced (t CO₂/GWh).
51. In keeping with Canada’s commitments under international law, the Federal government enacted the *Canadian Net-Zero Emissions Accountability Act* on June 29, 2021.⁴⁴ This statute enshrines in legislation the Government of Canada’s commitment to achieve net-zero greenhouse gas emissions by 2050.
52. In March 2022, the Government of Canada introduced *Canada’s 2030 Emissions Reduction Plan*, which commits to achieve 40-45% emissions reductions below 2005 levels by 2030. On December 12, 2024, pursuant to Canada’s commitment to achieve Net Zero emissions by 2050 in the *Canadian Net-Zero Emissions Accountability Act*, Canada announced its target to reduce emissions by 45–50% below 2005 levels by 2035.
53. On December 13, 2024, Canada proclaimed the *Clean Electricity Regulations* (the “CERs”).⁴⁵ These regulations were published in draft form on August 19, 2023. All provinces (including the Government of Saskatchewan) participated in consultation with the federal government to shape the regulations as proclaimed with the

⁴³ Regulatory Impact Analysis Statement of the Order SOR/2019-167, Environment and Climate Change Canada (2019), online: <https://gazette.gc.ca/rp-pr/p2/2019/2019-06-12/html/sor-dors167-eng.html> accessed July 16, 2025.

⁴⁴ *Canadian Net-Zero Emissions Accountability Act*, S.C. 2021, c 22.

⁴⁵ *Clean Electricity Regulations*, SOR/2024-263 [CERs].

necessary flexibility to ensure Canada’s electricity grid would remain reliable and that electricity rates would remain affordable. The Regulatory Impact Analysis Statement for the *CERs* made findings of minimal or negligible economic impacts to the province of Saskatchewan.⁴⁶

54. The *CERs* will begin to apply in 2035 with objective to reduce pooled emissions within each province from fossil-fuel electricity generation to less than 100t CO₂/GWh from 2035-2049.

55. Evidence shows that provinces can undermine one another in their climate mitigation efforts, thereby holding Canada back in achieving its Net Zero obligations:

Illustrative of the collective action problem of climate change, between 2005 and 2016, the decreases in GHG emissions in Ontario, Canada’s second largest GHG emitting province, were mostly offset by increases in emissions in two of Canada’s five largest emitting provinces, Alberta and Saskatchewan.⁴⁷

56. The Coal Decision puts Saskatchewan on a pathway to violate presumptively valid federal law: the *CERs* and the *Federal Coal Regs*. The Coal Decision’s statement to “not recognize the legitimacy of the federal *Clean Electricity Regulations*” is a direct challenge to federal law without explanation for its inapplicability. Defying federal law in this way and making highly consequential decisions without regard to it fundamentally undermine the rule of law in Canada.

57. Furthermore, given the presumption of constitutionality and the principles of cooperative federalism, it is legally incorrect for the Coal Decision to state that the federal government “has no standing in the discussion” surrounding the future of coal generation in Saskatchewan.

⁴⁶ The Regulatory Impact Analysis Statement for the *CERs* (though not part of the regulations) is published online following the regulations, online: <https://gazette.gc.ca/rp-pr/p2/2024/2024-12-18/html/sor-dors263-eng.html> accessed July 9, 2025.

⁴⁷ *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 at para 24.

D. Unreasonable Failure to Grapple with *Charter* Constraints

58. Administrative decision makers must consider both *Charter* rights and relevant values embodied in the *Charter* that may be impacted by their discretionary decisions.⁴⁸ Among other circumstances, it may be evident that a value must be considered because of the link between the value and the matter under consideration.⁴⁹ If an administrative decision infringes on *Charter* rights or limits the values underlying them, it must proportionately balance these rights and values with the statutory objections in respect of which its discretion was granted.⁵⁰
59. *Charter* values are those that underpin each right and give it meaning; they are the values that are inseparable from and reflected in *Charter* rights.⁵¹ In particular, the purposes underlying the entrenchment of certain rights in the text of the supreme law of Canada must be reflected in the decision-making process of various branches of government.⁵² For example, s. 23, a *Charter* right that guarantees certain categories of citizens the right to instruction in a minority language, reflects an underlying value that minority language communities must be preserved and developed.⁵³ By analogy, s. 7 should be seen as a reflection of an underlying value that the life, liberty, and security of the person of Canadian citizens should be secured against threats such dangerous climate change and regressive climate policy that invites a greater magnitude of harm from climate change.
60. To be reasonable, an administrative decision must show that relevant *Charter* protections were meaningfully addressed to reflect the impact that the decision may have on the concerned group or individual.⁵⁴ This is true of *Charter* values even in

⁴⁸ *Commission scolaire francophone des Territoires du Nord-Ouest v Northwest Territories (Education, Culture and Employment)*, 2023 SCC 31 [*Commission scolaire*].

⁴⁹ *Commission scolaire*, *supra*, at para 66.

⁵⁰ *Commission scolaire*, *supra*, at para 67.

⁵¹ *Commission scolaire*, *supra*, at para 75.

⁵² *Commission scolaire*, *supra*, at para 75.

⁵³ *Commission scolaire*, *supra*, at para 75.

⁵⁴ *Commission scolaire*, *supra*, at para 68.

the absence of any infringement of a right.⁵⁵ Courts must inquire into the weight accorded to the relevant considerations in order to assess whether a proportionate balancing was conducted by the decision maker.⁵⁶ If there was an option reasonably open to the decision-maker that would reduce the impact on the protected right or value while still permitting sufficient furtherance of the relevant objectives, the decision will be unreasonable.⁵⁷

61. Moreover, to be correct, the decision maker must appreciate where a *Charter* right arises from the facts before it, and it must clearly acknowledge and analyze the impacts of its decision on any *Charter* rights that it puts directly at stake.⁵⁸
62. Consistent with the rapid expansion of rights-based climate litigation across the globe, Canadian courts have been asked to determine what obligations Canadian governments have to protect Canadians against the adverse impacts of climate change on rights under the *Canadian Charter of Rights and Freedoms*.
63. For example, on December 13, 2023, the Federal Court of Appeal released its decision in *R v La Rose*, restoring two lawsuits against the Government of Canada based on allegations that Canada is breaching the *Charter* rights of the various plaintiffs through its authorization of greenhouse gas emissions.⁵⁹
64. On October 17, 2024, the Ontario Court of Appeal released its decision in *Mathur v Ontario*, allowing a lawsuit to be remitted to a new hearing to assess whether a decision of the Government of Ontario to significantly increase the amount of provincially authorized greenhouse gas emissions breached the plaintiffs' *Charter* rights.⁶⁰ On May 1, 2025, the Supreme Court of Canada dismissed the applications

⁵⁵ *Commission scolaire, supra*, at para 77.

⁵⁶ *Commission scolaire, supra*, at para 72.

⁵⁷ *Commission scolaire, supra*, at para 72.

⁵⁸ *York Region District School Board v Elementary Teachers' Federation of Ontario*, 2024 SCC 22, at paras 63, 94.

⁵⁹ *La Rose v Canada*, 2023 FCA 241.

⁶⁰ *Mathur v Ontario*, 2024 ONCA 762.

to appeal and cross appeal from the decision of the Ontario Court of Appeal in *Mathur v Ontario*.⁶¹

65. Likewise, on March 31, 2023, a lawsuit was filed before the Court of King's Bench of Saskatchewan, arguing that the Government of Saskatchewan has breached the Applicants' *Charter* rights through various actions to authorize further greenhouse gas emissions within the province.⁶²
66. While none of these cases has been fully and finally resolved on its merits, the Government of Saskatchewan is aware of credible arguments that it has obligations to address the impacts of dangerous climate change on *Charter* rights, in particular given that they have been sued on this basis alongside other Canadian governments.
67. Furthermore, while none of these cases have been finally resolved, the jurisprudence to date does support a more general proposition that climate change and regressive climate policy have disastrous implications for *Charter* rights. For example, Justice Vermette of the Ontario Superior Court of Justice concluded in *Mathur v His Majesty the King in Right of Ontario* that it was "indisputable" that human-caused climate change is increasing the risk of death and the risk to security of the person.⁶³
68. Regardless of the fate of these lawsuits, *Charter* protections, including rights to life, liberty, and security of the person, and the underlying values these rights reflect, are clearly implicated in decisions related to greenhouse gas emissions. The Coal Decision failed to meaningfully appreciate, consider, or balance relevant *Charter* protections against other objectives. The Coal Decision offers no evidence that any proportionate balancing was conducted by the decision maker. Furthermore, as there are alternatives reasonably open to the decision-maker that would reduce the impact on *Charter* protections while still permitting sufficient furtherance of the relevant objectives, the Coal Decision is unreasonable.

⁶¹ Judgement on leave application (Dismissed), Supreme Court of Canada (1 May 2025) online: <https://decisions.scc-csc.ca/scc-csc/scc-l-csc-a/en/item/21002/index.do> accessed July 16, 2025.

⁶² *Dykstra et al v Saskatchewan Power Corporation et al*, SKKB court file: KBG-RG-00848-2023 [*Dykstra*].

⁶³ *Mathur v His Majesty the King in Right of Ontario*, 2023 ONSC 2316 at para 120.

E. Unreasonable Failure to Justify Departure from Past Positions

69. Another hallmark of unreasonableness is a failure to explain or justify departure from past practices and past decisions.⁶⁴ Unexplained inconsistency from decision makers poses a risk of arbitrariness and thereby undermines public confidence; for these reasons, decision makers bear a “justificatory burden of explaining” departures from long-standing practices or established decisions.⁶⁵
70. In this case, the Government of Saskatchewan itself has characterized the Coal Decision as a “fundamental reconsideration of the future of coal in our system”.⁶⁶ Nevertheless, the decision offered no explanation for its marked departure from the previous, long-standing position and decisions of the Government of Saskatchewan regarding the phase-out of coal-fired electricity. The Government of Saskatchewan had signed two equivalency agreements with the federal government pursuant to the *Canadian Environmental Protection Act, 1999*, spanning a period of nearly a decade (2018-2026). Furthermore, it committed \$20 million in coal transition support for the communities of Estevan and Coronach.
71. Moreover, the Saskatchewan Power Corporation (“SaskPower”), which the Coal Decision purports to direct, had embarked on a comprehensive public consultation process to solicit feedback on various scenarios for future power supply options. Throughout that consultation process, none of the scenarios presented by SaskPower contemplated refurbishing coal-fired power plants or extending the use of unabated coal-fired generation to 2050 or beyond. The Government of Saskatchewan had a justificatory burden to explain this radical departure from its past practices and decisions. The Coal Decision is unreasonable for failing to justify this radical deviation from the government’s long-standing position that unabated coal generation would be phased out by 2030.

⁶⁴ *Vavilov, supra*, at para 112.

⁶⁵ *Vavilov, supra*, at para 131.

⁶⁶ *Coal Decision* letter dated June 18, 2025, Honourable Minister Jeremy Harrison, at para 3.

72. The unreasonableness of this failure to justify a departure from past practices and decisions in this case is exacerbated by its anti-democratic character. Saskatchewan citizens, including some of the Applicants, were involved in SaskPower’s public consultation process that purported to determine the future generation options for the electricity grid and none of those scenarios considered what is being directed by the Coal Decision.⁶⁷
73. The enhancement of democracy is a well-established *Charter* value.⁶⁸ There is also a principle of international human rights law that “States should provide for and facilitate public participation in decision-making related to the environment, and take the views of the public into account in the decision-making process”.⁶⁹
74. Furthermore, the *Charter* right to life, liberty, and security of the person gives rise to procedural protections like a right to reasons.⁷⁰ Given the implications of the Coal Decision upon the life, liberty, and security of the person of Saskatchewan residents and other Canadian citizens, the existence of a public consultation process that honoured the public’s right to participate in determining the future of the province’s electricity grid, and the Government of Saskatchewan’s about-face reversal from past practices and decisions, the burden on the Government of Saskatchewan to intelligibly justify the Coal Decision was onerous and was not met in the circumstances.

⁶⁷ See Exhibit “B” of the affidavit of Sherry Olson, commissioned July 15, 2025, at pages 62, 65, 68, 71.

⁶⁸ See e.g. *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37, at para 88; *Health Services and Support – Facilities Subsector Bargaining Assn v British Columbia*, 2007 SCC 7, at para 81.

⁶⁹ Human Rights Council, *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, 37th sess, UN Doc A/HRC/37/59 (24 January 2018), at 12.

⁷⁰ *Suresh v Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, [2002] 1 SCR 3, at para 126 (see also paras 113-115).

F. Interim Stay of the Coal Decision

75. Pursuant to Rule 3-60 of the *King's Bench Rules*, the Applicants seek an interim stay of the Coal Decision to preserve the status quo of the parties pending the outcome of this judicial review.

76. This Court followed the Saskatchewan Court of Appeal decision of *Blackwoods Beverages Ltd. v Dairy Employees, Truck Drivers and Warehousemen, Local No. 834* (1956) in the decision of *Goldade v Saskatchewan Apprenticeship and Trade Certification Commission*:

In considering the application to quash the order of February 1st, the Court is exercising its inherent jurisdiction. **In the exercise of that jurisdiction the Court has not only the right, but the duty, to preserve the rights of the parties as nearly as possible *in status quo* until the merits can be fully tried.** In granting the interim stay and continuing the same until the final disposition of the original application, the Court is doing that which it has a right to do and, under the facts disclosed herein, a duty to do. ... [Emphasis added] ⁷¹

77. The test to be considered for granting an interim stay is articulated in *RJR-MacDonald v Canada (Attorney General)* as this Court has stated in *Goldade*.⁷² RJR sets out a three-stage test for courts to apply:

- i. An assessment of the merits of the case to ensure there is a serious question to be tried;
- ii. Whether the applicant would suffer irreparable harm if the application were refused; and,
- iii. An assessment as to which of the parties would suffer greater harm from granting or refusal of the remedy pending a decision on the merits.

⁷¹ *Goldade v Saskatchewan Apprenticeship and Trade Certification Commission*, 2019 SKQB 158 (CanLII), at para 11 [*Goldade*].

⁷² *Ibid* at paras 14-15 citing *RJR-MacDonald Inc. v Canada (Attorney General)*, 1994 CanLII 117 (SCC), [1994] 1 SCR 311 [*RJR*].

78. The jurisprudence following *RJR* suggests that the first stage of the inquiry is quite low. Here, the Applicants are seeking judicial review of the Coal Decision alleging that the Coal Decision is illegal and unreasonable on numerous grounds. The Court should be satisfied that the claim herein is neither frivolous or vexatious. Rather, the Coal Decision represents one of the most important (and potentially costly) policy decisions on energy in Saskatchewan since the decision to install carbon capture and storage (“CCS”) on Boundary Dam #3 was made on April 26, 2011. The application herein poses serious questions to be addressed by the Court.
79. The Applicants, and indeed all citizens of Saskatchewan and Canada, will suffer irreparable harm in terms of climate impacts, economic impacts, and health impacts should the Government of Saskatchewan be permitted to proceed with implementing the Coal Decision prior to an order from this Court in the nature of *certiorari* that considers the Coal Decision.
80. The third stage of the test for granting an interim stay requires an assessment of which party would suffer the greater harm in granting or refusing the remedy of the interim stay of the Coal Decision.
81. Given that the province appears to have made the Coal Decision in haste considering that only a few months prior Saskatchewan announced an additional \$10 million dollars to assist Estevan and Coronach with the transition away from coal, a similar time frame to determine this application on merits is warranted.
82. It is noteworthy that Saskatchewan has been committed to winding down unabated coal generation for more than 15 years. According to data published in the annual reports of SaskPower, coal generation represented 46% of gross electricity supplied in 2015, falling to 33% in 2020, and 24% in 2024.
83. It is the Applicants’ position that they will suffer much greater harm if the interim stay of the Coal Decision is refused than the Government of Saskatchewan will suffer if the interim stay is granted. The record demonstrates that Saskatchewan has been considering numerous alternatives to coal-generation for more than a decade,

so presumably a few more months of delay before the refurbishment and recertification work begin will have minimal impact, particularly now that coal generation represents less than a quarter of provincial electricity generation in Saskatchewan.

84. For the foregoing reasons, the Applicants suggest that the balance of conveniences favours this Court granting an interim stay of the Coal Decision until the merits of the application to quash the Coal Decision can be fully considered.

IV. The Parties

85. The Respondent, THE GOVERNMENT OF SASKATCHEWAN, is the Crown in Right of Saskatchewan as designated in *The Proceedings Against the Crown Act, 2019*.⁷³

86. The applicants KIKÉ DUECK (a minor by their litigation guardian KRIS DUECK), SHERRY OLSON, MATTHEW WIENS are natural persons and residents of Saskatchewan and Manitoba (the “Personal Applicants”). The Personal Applicants share common interests in that they are affected by dangerous climate change, and they all rely on emissions reductions by SaskPower to mitigate the severity of anthropogenic climate change caused by burning of fossil fuels. More information about each of the Personal Applicants is provided in their affidavits.

87. The SASKATCHEWAN ENVIRONMENTAL SOCIETY INC. (“SES”) is an applicant seeking public interest standing in this action. SES is a civil society organization based in Saskatoon, Saskatchewan that advocates for energy and climate solutions, water protection, biodiversity preservation, and the reduction of toxins throughout Saskatchewan. More information about SES is provided in the affidavit of ROBERT HALLIDAY on behalf of SES.

⁷³ *The Proceedings Against the Crown Act, 2019*, SS 2019, c P-27.01.

88. The CITIZENS FOR PUBLIC JUSTICE (“CPJ”) is an applicant seeking public interest standing in this action. CPJ is a civil society organization based in Ottawa, Ontario. CPJ is a Canadian organization that advocates for social and environmental justice. More information about CPJ is provided in the affidavit of WILLARD METZGER on behalf of CPJ.
89. The Applicants have demonstrated commitment to pushing for rapid and effective government action through individual and collective action. They have significant concerns about the risks that climate change poses to their health and wellbeing, their futures, their lives, their communities as well as the environment. As outlined in the affidavits of the Personal Applicants, these applicants are already experiencing harms of anxiety and depression caused by the impacts of dangerous climate change coupled with sensations of helplessness as the provincial government continues to finance, encourage, and approve expanding infrastructure that increases Saskatchewan’s GHG emissions, exacerbating dangerous climate change.
90. The Applicants have demonstrated a serious and genuine interest in the subject matter of this Originating Application. This Application is a reasonable and effective way to bring these issues to the Court for reasons that include: (i) the claim at issue impacts all Canadian residents and future generations; (ii) the Applicants have the support of counsel with the expertise, resources and commitment to bring this Application forward; and (iii) the Applicants are well-placed to bring this Application and it is unlikely to expect that others (or future generations) will bring a similar application now.

V. Summary of Material Facts and the available Coal Decision record

Coal Decision Available Record

91. SaskPower embarked on a public consultation process in the fall of 2022 to solicit feedback on various scenarios related to future power supply options. This consultation process spanned more than two years. The five-stage consultation

process engaged with people across the province on how SaskPower will supply power to Saskatchewan beyond 2030. The consultation process, often entitled “Our Power Future,” presented many scenarios with respect to the future mix of power generation sources as SaskPower considered the many ways to decarbonize its power generation. Throughout this process, none of the scenarios presented by SaskPower contemplated refurbishing the coal-fired power plants or extending the use of unabated coal-fired generation to 2050 or beyond.

92. The Saskatchewan government proclaimed *The Saskatchewan First Act* on March 16, 2023. *The Saskatchewan First Act* created an administrative body called the Economic Impact Assessment Tribunal (the “EIAT”), which was tasked with conducting a review of potential economic impacts of the federal *Clean Electricity Regulations*.
93. The EIAT report on the potential economic impact of the draft CERs was publicly released on June 25, 2024.
94. The final *CERs* were proclaimed in December 2024. The *CERs* as proclaimed include many revisions compared to the earlier draft regulations to limit the impact on Saskatchewan and other provinces that rely more heavily on fossil fuel generation assets such as coal and natural gas.
95. The EIAT did not amend or revise their report on the economic impacts of the final *CERs* as proclaimed by the Government of Canada.
96. The Respondent has not issued any record of the decision-making process or reasons other than the letter dated June 18, 2025, which was sent to SaskPower employees. There was no corresponding media release by the Respondent. Instead, the Minister of Crown Investments Corp. and SaskPower, Jeremy Harrison, was interviewed on a podcast discussing the reasons for the decision on June 20, 2025.⁷⁴ The Applicants

⁷⁴ The Minister participated in a podcast interview hosted by Biran Zinchuk entitled “Pipeline Online.ca Podcast Jeremy Harrison” episode 12, June 20, 2025, online: <https://pipelineonline.ca/pipeline-online-podcast-ep-12-jeremy-harrison-on-saskatchewan-rebuilding-its-coal-fleet/> accessed July 17, 2025.

position is that the Coal Decision must be judicially reviewed as the policy decision and the lack of reasons for the decision does not demonstrate justification, transparency, and intelligibility.

Climate Change

97. Human activity, primarily the burning of fossil fuels, is the main cause of dangerous climate change.⁷⁵ GHG emissions from human activities have already heated the earth more than 1.4 degrees Celsius above pre-industrial levels.⁷⁶ Ongoing and increasing GHG emissions serve to accelerate dangerous climate change that will impact all species on the planet and damage the environment.
98. There is a relationship between cumulative anthropogenic CO₂ emissions and the global warming they cause.⁷⁷ Every additional tonne of GHG emitted by human activity exacerbates the magnitude of these impacts. The failure to act in a timely way to reduce GHG emissions risks pushing the Earth system into abrupt and irreversible climate changes known as ‘large-scale discontinuities’ or ‘tipping points.’ Tipping points have high impacts and are interconnected across different biophysical systems that can lead to cascading effects and dangerous positive feedback. Many changes due to past and future greenhouse gas emissions are irreversible for centuries to millennia, especially changes in the ocean, ice sheets, and global sea level.⁷⁸

Related Coal Context in Saskatchewan

99. Units #1 and #2 at the Boundary Dam coal-fired generating station were opened in 1959. As stated on the SaskPower website, “Units #1 and #2 retired from service in

⁷⁵ *GGPPA Reference Supra* note 16 at para 7. See also “Causes and Effects of Climate Change” United Nations, online: <https://www.un.org/en/climatechange/science/causes-effects-climate-change> accessed July 15, 2025.

⁷⁶ “Global Temperature” The National Aeronautics and Space Administration (USA), online: <https://climate.nasa.gov/vital-signs/global-temperature/?intent=121> accessed July 15, 2025.

⁷⁷ *GGPPA Reference Supra* note 16 at paras 190-191.

⁷⁸ For more information on Global Tipping Points see here: <https://global-tipping-points.org/> accessed July 15, 2025.

2013 and 2014. This was because of federal rules on carbon dioxide (CO₂) emissions.”⁷⁹ This confirms that the Respondent has known or ought to have known for more than 12 years that coal-fired generation must be shutdown.

100. Saskatchewan has provided \$20 million dollars to the communities of Estevan and Coronach “to build new economic opportunities and support coal transition efforts in the Estevan and Coronach regions.” As stated in Saskatchewan’s media release of September 23, 2024:

“The newly announced funding is in addition to the \$10 million invested by the provincial government in 2020 to support coal transition in the area. The new investment will be equally distributed to the two community regions: \$5 million to the Coronach region and \$5 million to the Estevan region.”⁸⁰

101. As outlined in the SaskPower 2024 - 2025 Annual Report, gross electricity supplied during the reporting period was 26,174 GWh provided by fossil gas (47%), coal (24%), hydroelectricity (11%), wind (10%), imports (7%), and other sources (1%).
102. Renewable energy from solar and wind is proven and ready to deploy at scale now. Scotland now generates 97% of its electricity from renewable sources.⁸¹ The Energy Institute released the 74th edition of the *Statistical Review of World Energy*, which analyses key trends in the global energy sector for 2024. Notably highlights include:
- i. Wind and solar continued to be the fastest-growing areas of the energy system increasing by 16% in 2024.
 - ii. Generation from wind and solar increased its share of total global generation from 13% to 15% in 2024. The past ten years have witnessed a fourfold

⁷⁹ “Boundary Dam Power Station” SaskPower (2025) online: <https://www.saskpower.com/our-power-future/our-electricity/electrical-system/system-map/boundary-dam-power-station> accessed June 29, 2025.

⁸⁰ “Additional Support to Estevan and Coronach Regions for Coal Transition” Government of Saskatchewan (2024), online: <https://www.saskatchewan.ca/government/news-and-media/2024/september/23/additional-support-to-estevan-and-coronach-regions-for-coal-transition> accessed June 29, 2025.

⁸¹ “Statistics, Electricity” Scottish Renewables (2025) online: <https://www.scottishrenewables.com/our-industry/statistics> accessed June 29, 2025.

increase in their combined output with wind broadly responsible for 55% and solar 45% of their joint output.

- iii. Over the past ten years, coal's share of China's generation fleet has fallen from 70% to 58%. In India, its share has remained fixed at around 75%.
- iv. In 2024, grid-scale battery electricity storage system (BESS) capacity more than doubled, rising 113% to reach 126 GW. China led the way in its deployment adding 67% of the increase. It now hosts 60% of total installed BESS capacity followed by the US at 20% and the UK at around 5%.⁸²

103. Numerous methods of electrical storage exist and could be implemented in Saskatchewan to support intermittent generation from renewables like solar and wind. In addition to energy storage, many jurisdictions have successfully deployed demand response and overcapacity strategies leading to grid penetration of wind and solar renewables with respect to total demand exceeding 33% in Denmark, Netherlands, Ireland, Spain, Germany, and Portugal, as of 2024, for example.⁸³ The ceiling of what is possible with renewable solar and wind energy is constantly rising and Saskatchewan is presently far below the ceiling of what is possible, despite having the among the best solar and wind resources in Canada.

104. Put plainly, we in Saskatchewan have numerous options for electricity generation and energy storage, and Saskatchewan is not limited to coal for affordable and reliable generation.

VI. The Applicants' Supporting Material

105. The Applicants rely upon the following materials and the exhibits contained therein:
- a. A portion of the record of expert evidence filed in the *Dykstra* Originating Application, court file KBG-RG-00848 of 2023, namely the affidavits of:

⁸² "Statistical Review of World Energy" (74th Ed) Energy Institute, 2025, online: https://www.energyinst.org/_data/assets/pdf_file/0007/1658077/Statistical-Review-of-World-Energy.pdf accessed June 29, 2025.

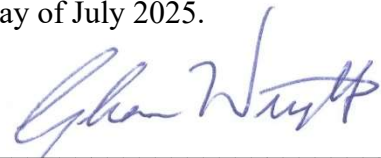
⁸³ *Ibid* at page 11.

- i. The Affidavit of Dr. Katherine Arbuthnott sworn March 22, 2023;
 - ii. The Affidavit of Dr. Lindsay Galway sworn March 19, 2023; and
 - iii. The Affidavit of Dr. James E. Hansen sworn March 17, 2023.
- b. The affidavit of WILLARD METZGER on behalf of the CITIZENS FOR PUBLIC JUSTICE, commissioned remotely via electronic means July 15, 2025;
- c. The affidavit of KIKÉ DUECK a minor by their litigation guardian KRIS DUECK, commissioned remotely via electronic means on July 17, 2025;
- d. The affidavit of litigation guardian of minor of KRIS DUECK, commissioned remotely via electronic means on July 17, 2025;
- e. The affidavit of SHERRY OLSON, commissioned remotely via electronic means July 15, 2025;
- f. The affidavit of MATTHEW WIENS, commissioned remotely via electronic means July 17, 2025;
- g. The affidavit of ROBERT HALLIDAY on behalf of the SASKATCHEWAN ENVIRONMENTAL SOCIETY INC, commissioned in person on July 16, 2025;
- h. The letter from Minister Jeremy Harrison to all SaskPower employees dated June 18, 2025;
- i. The Saskatchewan Economic Impact Assessment Tribunal's report on the federal Clean Electricity Regulations dated May 1, 2024;
- j. The Regulatory Impact Analysis Statement of the *Clean Electricity Regulations* dated December 13, 2024;
- k. Canada-Saskatchewan equivalency agreement regarding greenhouse gas

emissions from electricity producers, 2025 executed November 29, 2024
(available online:
<https://www.canada.ca/content/dam/ecccc/documents/pdf/cepa/20241217-SKEqA2025-eng.pdf>);

- l. The Regulatory Impact Analysis Statement published on May 31, 2019 with respect to the order declaring that the Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations Do Not Apply in Saskatchewan: SOR/2019-167; and
- m. Such other affidavit material and evidence as Counsel may advise and this Court may deem proper.

DATED at the City of Saskatoon, Saskatchewan, this 18th day of July 2025.



Glenn Wright, solicitor for the
Applicants

This notice is issued at the above-noted judicial centre on the _____ day of July 2025.

Court Seal

Local Registrar

NOTICE

You are named as a respondent because you have made or are expected to make an adverse claim with respect to this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form.

The rules require that a party moving or opposing an originating application must serve any brief of written

argument on each of the other parties and file it at least 3 days before the date scheduled for hearing the originating application.

If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must serve a copy of the affidavit and other evidence on the originating applicant at least 10 days before the originating application is to be heard or considered.

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