



February 3, 2017

Peter Watson,  
Chair and CEO  
National Energy Board  
517 Tenth Avenue SW  
Calgary, Alberta  
T2R 0A8

Dear Mr. Watson,

On behalf of the National Energy Board (NEB) Modernization Expert Panel, we would like to thank you and your colleagues for taking the time to present your technical briefing on January 11th. The full video of this session will be available shortly on the NEB Modernization website, and we trust that it will be helpful to Canadians in better understanding the role, structure and mandate of the NEB.

To complement the video presentation of the technical briefing, the Panel requests that you answer the following questions which were asked at the briefing:

1. Please describe the NEB's decision making process on a project, and how it sets conditions on a yes and a no recommendation:
  - a. Please explain the process the NEB would follow if the Governor in Council were to ask the NEB to reconsider its recommendation or its conditions.
2. How does the NEB communicate through NRCan to Governor in Council?
  - a. Does the Minister have the ability to influence NEB decisions?
  - b. Is the NEB's work guided or confined by government policy?
3. Please describe the roles of NEB Board Members:
  - a. Are there differences in how temporary and permanent Board Members are trained and contribute to the organization?
  - b. Does the dual role of Chair / CEO create a challenge for the NEB?
  - c. Are there currently any Indigenous Board Members?
4. Is it important for the NEB head office to be located in Calgary? Please elaborate.
5. How does the NEB deal with changing views on what the "public interest" is?
  - a. Should the public interest determination include cumulative impacts? If so, how?
  - b. Should the definition of the public interest be codified in the NEB Act? If so, how?
  - c. How does the NEB address situations where people wish to discuss impacts beyond the NEB's mandate, such as downstream impacts of a project related to climate change?
6. Please comment on the 2012 changes to the NEB Act, and the conditions under which they came about:
  - a. Is it challenging to meet legislated time limit for reviewing projects?
  - b. Is it challenging to enforce the standing requirements for hearing participants?
7. Does the NEB have on staff experts on the Crown's "Duty to Consult"?
8. Please describe the NEB's participant funding program, including strengths and possible areas for improvement.

9. Regarding Right of Entry:
  - a. Do companies apply for Right of Entry often?
  - b. Are decisions regarding Right of Entry appealable in court?
  - c. Does the NEB hear many concerns related to Right of Entry?
10. How does the NEB address issues related to confidential or secure information? For example, when companies submit emergency and incident response plans, how does the NEB ensure the public has access to information they need?
11. Please elaborate on how safety and environmental protection is assured; in particular:
  - a. What impact did the Pipeline Safety Act have on safety regulation?
  - b. What other changes are underway to modernize life cycle regulation and continuously improve safety outcomes?
  - c. For inspections and verification, what processes and capacity are in place today and what do you see as key changes needed in the future?
12. Please describe how the NEB ensures safety and environmental protection in situations where responsibility is shared between jurisdictions. For example, in the case of a safety incident on the coast, does NEB jurisdiction end at the water line? How would the NEB work with other organizations to support the response?

In addition, the Panel requests that you provide written responses to the following question, which was not included as part of the briefing:

1. Please describe the steps that the NEB takes to support the Crown in discharging its Duty to Consult for major pipeline projects.

The Expert Panel requests that you provide responses to these questions no later than February 24, 2017.

Sincerely,



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Hélène Lauzon  
Co-Chair  
NEB Modernization Expert Panel



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Gary Merasty  
Co-Chair  
NEB Modernization Expert Panel

c.c.: Josée Touchette, Chief Operating Officer  
Meara Angen, Technical Specialist, Regulatory Policy  
Suchaet Bhardwaj, Market Analyst, Regulatory Policy