



File OF-Fac-Oil-E101-2012-10 02
4 April 2013

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Facsimile 403-767-3863

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Legal Counsel
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15th Floor, Bankers Court
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Facsimile 403-268-3100

Dear Ms. Robert, Ms. Fowke, and Mr. Crowther:

**Hearing Order OH-002-2013 - Enbridge Pipelines Inc. (Enbridge)
Application for the Line 9B Reversal and Line 9 Capacity Expansion Project (Project)
pursuant to section 58 and Part IV of the *National Energy Board Act* (NEB Act)
Procedural Update No.1 – List of Issues and Application to Participate form**

On **19 February 2013**, the National Energy Board issued Hearing Order OH-002-2013, convening a public hearing to assess Enbridge's proposed Project. The comment period on the List of Issues ended on 21 March 2013 and the Revised List of Issues to guide this proceeding is attached. Further information on participating in the hearing process can be found in the attached Procedural Update, which expands on the information found in the Hearing Order.

Procedural Update No. 1 includes:

- the Revised List of Issues (Appendix I) to be used in this proceeding;
- the Application to Participate form (Appendix II); and
- Section 55.2 Guidance (Appendix III).

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Comments on the List of Issues

The Board received comments from the following groups and individuals:

- The Canadian Voice of Women for Peace
- The City of Hamilton
- The City of Kingston
- The City of Mississauga
- The City of Toronto
- Collectif en Environnement Mercier-Est
- The Council of Canadians & Mark Calzavara
- Enbridge
- Équiterre
- The Hamilton 350 Committee
- The Natural Resources Defense Council
- The Ontario Ministry of Energy
- The Peace and Social Action Committee for the Toronto Quakers
- Dr. Laurel C. Thompson
- The Toronto 350 Committee
- The Toronto and Region Conservation Authority
- The Town of Ajax
- The Vermont Department of Environmental Conservation

Comments received on the List of Issues are contained in a separate folder on the electronic Project repository. The Board notes that some submissions requested consideration of specific evidence. In accordance with paragraphs 27-33 of the Hearing Order, to submit evidence on the record in this proceeding, interested persons must apply for and be granted participation rights.

The Board integrates all relevant economic, environmental and social dimensions when it decides to approve or deny a Project in the public interest. The Board notes that this Project is of a limited scope and is defined as additions and modifications required to allow the reversal of crude oil flow within a segment of the existing Line 9 pipeline which is already in operation, as well as a capacity increase and a change to the Rules and Regulations Tariff to allow for the transportation of heavy crude for the entire Line 9. The Board also notes that construction would be limited to previously disturbed areas, contained within Enbridge's existing facilities or right-of-way, and that no new lands would be required. After considering the proposed clarifications, additions, and inclusions to the List of Issues, and being aware of the limited scope of the Project as proposed, the Board has revised issues 3 and 8. The Board's reasons are as follows:

Issue 1: The need for the proposed Project.

Several submissions asked the Board to consider alternatives to the Project. Section 4.2.2 of the Board's Filing Manual requires applicants to describe the need for the project, other economically-feasible alternatives to the project examined, along with the rationale for selecting the applied-for project over these other possible options. As part of the Board's public interest determination under the NEB Act and related consideration of Project need, the Board considers alternatives to the Project as proposed. This assessment may include, for example, a consideration of other viable methods of transportation. The Board will not revise Issue 1 since it is broad enough to consider the relative merits of the proposed Project against other economically-feasible alternatives.

Issue 2: The potential commercial impacts of the proposed Project.

Some submissions asked the Board to expand or clarify this issue to include consideration of supply and markets, energy security, and socio-economic impacts. To the extent these issues are relevant to the proposed Project, the Board will consider them. Socio-economic impacts are specifically included in Issue 4.

The Board will not revise Issue 2 since "potential commercial impacts" is broad enough to encompass all commercial matters the Board may consider relevant in this proceeding.

Issue 3: The appropriateness of the tolling methodology.

Enbridge asked the Board to remove consideration of tolling methodology and to include consideration of the Rules and Regulations Tariff, since Enbridge is specifically asking for approval of a change to the Rules and Regulations Tariff to allow for the transport of heavy crude. Other submissions also asked that the Rules and Regulations Tariff be specifically addressed.

The Board's Filing Manual states that the toll impacts of proposed facilities are relevant (at page 4A-72). Since Enbridge is not asking for approval of tolls at this time, the Board's consideration of tolling methodology in this proceeding is of limited scope, relating primarily to the duties of a pipeline pursuant to section 71 of the NEB Act. If the proposed Project is approved, Enbridge will still be required to file the Line 9 toll with the Board according to subsection 60(1) of the NEB Act.

The Board has revised Issue 3 to: "The appropriateness of the proposed Rules and Regulation Tariff and tolling methodology."

Issue 4: The potential environmental and socio-economic effects of the proposed Project, including the potential effects of malfunctions or accidents that may occur, and any cumulative environmental effects that are likely to result from the proposed Project.

Several submissions were received regarding the Board's assessment of cumulative effects and the statement that the Board will not consider the environmental and socio-economic effects associated with upstream activities, the development of oil sands, or the downstream use of the oil transported by the pipeline.

Section A.2.7 of the NEB's Filing Manual provides information on how the Board considers cumulative effects. The Board will assess the potential for environmental effects of the Project to act in combination with environmental effects from other past, present or future projects and activities. Typically, future projects or activities are those for which formal plans or applications have been made. The Board does not include those projects or activities that are not reasonably foreseeable or that are hypothetical. While the Board may consider the effects of projects that are expected to act cumulatively with this Project's environmental effects, the Board may not have any regulatory authority over these projects. The Board will not assess the environmental effects of those projects other than for the purpose of the cumulative effects analysis.

The Board considers cumulative effects in four steps by:

1. First considering the environmental effects of the Project and whether, after the applicant implements mitigation, residual effects will remain.
2. If no residual effects from the Project are predicted, further analysis of cumulative effects is not required.
3. If residual effects are predicted, the Board considers the potential for those effects to interact both temporally and geographically with the effects of other past, present and reasonably foreseeable future projects and activities.
4. If there is interaction, the combined effects are considered along with proposed mitigation, and the significance and the relative contribution of the residual project effect of the cumulative effect will be considered.

Many submissions suggested that, as part of the cumulative effects assessment, the Board include the issues of upstream and downstream effects. The Board understands this to suggest a consideration of environmental effects associated with oil sands projects and the consumption of oil, including refining activities.

With respect to submissions concerning upstream cumulative effects, the Board will not consider the environmental effects of oil sands projects beyond our specific and limited assessment of the potential for cumulative effects. To the extent that the source of the crude oil to be transported

could come from Alberta's oil sands or other oil production projects, these projects have already been subjected to or will be subject to regulatory assessment.

With respect to submissions concerning downstream cumulative effects, a reversal of flow, if authorized, would facilitate delivery from different sources, but would not necessarily result in changes to the location or capacity of the refining destinations. The effects associated with refining activities are also under the jurisdiction of other regulatory authorities. Consequently, and in accordance with the 4 steps explained above, the Board will not consider the environmental effects associated with downstream consumption of oil beyond our specific and limited assessment of the potential for cumulative effects.

Other submissions suggested that the Board specifically include the contribution of the Project to sustainability as part of the cumulative effects assessment. Sustainability involves the consideration of economic, environmental and social dimensions taken together. As mentioned earlier in this letter, when determining if a proposed project is in the public interest or not, the Board will integrate relevant economic, environmental and social considerations as the circumstances of a specific application may warrant.

In response to submissions on the topic of greenhouse gas (GHG) emissions and climate change, the Board confirms that its assessment will include consideration of the environmental effects of GHG emissions associated with the Project, as outlined by Table A-2 in the NEB's Filing Manual. Some submissions requested that the Board consider federal and provincial GHG policy and legislation, and international commitments. Any detailed consideration of such policies, legislation, and commitments, beyond their direct impact on the Project and its environmental effects, is outside the appropriate scope of the present review.

With respect to impacts of the Project on the air and water quality of Ontario and Québec, the Board confirms that its assessment will include a consideration of the potential effects of the Project on these elements, within an appropriate geographical extent and within the context of the defined Project. The Board will not revise Issue 4 since it is broad enough to consider these matters.

Issue 5: The engineering design and integrity of the proposed Project.

A number of submissions identified concerns related to the types of products proposed to be shipped on a reversed Line 9. Several raised concerns with the potential integrity effects due to internal corrosion from these products, and other detrimental integrity effects of the proposed increase in flow rate for the pipeline system. Integrity management of pipelines, for the products being transported and in the environment through which the pipeline traverses, are of key

concern to the viability of a pipeline. The Board will not revise Issue 5 since it is broad enough to consider pipeline integrity and maintenance.

Issue 6: The safety, security, and contingency planning associated with the construction and operation of the proposed Project, including emergency response planning and third-party damage prevention.

Several submissions asked that further detail be included in Issue 6 related to spill response and downstream effects of a potential spill. The financial wherewithal of Enbridge to support and maintain an adequate response to a release was raised as a concern by several parties. Issue 6 is broad enough to address the capability of Enbridge to carry out an emergency response of the scale, scope, and duration required to effectively control and mitigate the effects of an emergency.

Some submissions raised concerns with the safe operation of the proposed Project. While Issue 6 is sufficiently broad to cover these issues, the Board also notes that operating facilities are subject to the Board's compliance verification activities which serve to promote safe operations through audits, inspections, and ongoing monitoring of a company's compliance and incidents.

The Board will not revise Issue 6 since it is broad enough to cover the submissions on this issue.

Issue 7: Consultation with Aboriginal groups and the potential impacts of the proposed Project on Aboriginal interests.

Some submissions suggested that Issue 7 be amended to include Treaty Rights. Issue 7 is broad enough to include these rights, which are a type of interest. Therefore, the Board will not revise Issue 7.

Issue 8: Consultation with affected landowners and the potential impacts of the proposed Project on affected landowners and land use.

The Board received a letter from the Ontario Ministry of Energy requesting that Issue 8 be amended to include municipalities.

As described in Chapter 3.3.2 of the NEB Filing Manual, the NEB expects companies to develop a project-specific consultation program that includes consultation with local residents, land users, and government authorities. Therefore, the Board has revised Issue 8 to: "Consultation activities and potential impacts of the proposed Project on affected landowners and land use," which is broad enough to include municipalities and other affected land users.

Issue 9: The terms and conditions, related to the above issues, to be included in any approval the Board may issue for the proposed Project.

No comments were received with respect to Issue 9.

Matters not Included in the List of Issues

The Board will not consider the environmental and socio-economic effects associated with upstream activities, the development of oil sands, or the downstream use of the oil transported by the pipeline. These issues are not within the Board's mandate to regulate, and are not part of the Project as proposed by the applicant.

Discussion or consideration of alternatives to fossil fuels, or to the development of the oil sands, bear on broader policy questions that are beyond the jurisdiction of the Board and separate from the proposed Project. The proposed Project is defined in paragraphs 1-2 of the Hearing Order.

The actual end use of oil to be transported by the Project and, more specifically, the related impacts of such product delivery on the overall mix or patterns of energy use in potential downstream markets, are either uncertain or insufficiently discernible or material to merit consideration. Therefore, any examination of potential environmental effects from such speculative impacts on the downstream mix or patterns of energy use in destination markets would be hypothetical and of no meaningful utility to the Board's environmental assessment or public interest determination. Further, the end use of transported hydrocarbons is subject to the relevant regulatory or policy direction of jurisdictions other than the Board.

Process Update

Further information on participating in the hearing process can be found in the attached Procedural Update No. 1. This Procedural Update contains the Application to Participate form (Appendix II). Those who are seeking the opportunity to participate in the Board's process for this Project must submit a completed Application to Participate Form by **noon on 19 April 2013**.

Those applying to participate are reminded of the following:

- (a) You must apply for and be granted participation rights by the Board in order for your views to be considered in this hearing.
- (b) Submissions made prior to you being granted participation rights will not be included on the record of this hearing.
- (c) Applications to Participate must be served on Enbridge by the application deadline and in accordance with paragraph 4 of the Procedural Update.

- (d) After the Board has made its decision regarding the Applications to Participate, it will issue a List of Parties comprised of the Applicant and those who have been granted Intervenor status. At the same time the Board will advise which persons have been approved to submit a Letter of Comment.

If you have any questions about this letter or about participating in the NEB's hearing process, please contact Michael Benson, Process Advisor, at 403-299-1992, or through the Board's toll-free number at 1-800-899-1265. Hearing Order OH-002-2013 may also be accessed through the Board's Internet site at www.neb-one.gc.ca (Under "Major Applications and Projects" click on "[Enbridge Line 9B Reversal and Line 9 Capacity Expansion](#)").

Yours truly,



Sheri Young
Secretary of the Board

OH-002-2013
Enbridge Pipelines Inc. (Enbridge)
Application for the Line 9B Reversal and Line 9 Capacity Expansion Project (Project)
under s.58 and Part IV of the *National Energy Board Act* (NEB Act)
File OF-Fac-Oil-E101-2012-10 02

National Energy Board (NEB or Board)
Procedural Update No. 1

Note: The following information is in addition to the information in the Board's 19 February 2013 Hearing Order OH-002-2013 (Filing ID [A50521](#)). Any information not specifically updated in this procedural update remains as provided in the Hearing Order.

List of Issues

1. The revised List of Issues is provided in Appendix I of this procedural update.

Public Viewing

2. The Montréal library address provided in the Hearing Order (paragraph 6) has been updated as follows:

Bibliothèque et Archives nationales du Québec
475, boulevard de Maisonneuve Est
Montréal (Québec) H2L 5C4
514-873-1100

Correspondence Related to this Hearing

3. The file number for this proceeding has been revised. Any information filed with the previous file number (OF-Fac-Oil-E101-2012-10 01) has been appropriately filed. New documents submitted should now refer to the following:

Hearing Order OH-002-2013 and
File OF-Fac-Oil-E101-2012-10 02

4. The addresses for Enbridge have been updated (see paragraph 11 of Hearing Order) to include email addresses and additional addresses. Service on Enbridge means service on the following:

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Application to Participate

5. Please refer to paragraphs 27 to 33 of the Hearing Order for a description of how interested persons or groups can apply to participate in this process. The Application to Participate Form described in paragraph 29 of the Hearing Order is provided as Appendix II of this procedural update. The Section 55.2 Guidance is provided as Appendix III of this procedural update, to assist with completion of the Application to Participate.
6. The deadline for the Application to Participate given in paragraph 30 has been revised to **19 April 2013**.

List of Parties and Letters of Comment

7. After the Board has made its decision regarding the Applications to Participate it will issue a List of Parties comprised of the Applicant and Intervenor. At the same time the Board will advise which persons can submit a Letter of Comment. Additionally, a revised Timetable of Events will be released at that time.

Appendix I – List of Issues

The Board will consider the following issues in this hearing:

1. The need for the proposed Project.
2. The potential commercial impacts of the proposed Project.
3. The appropriateness of the proposed Rules and Regulation Tariff and tolling methodology.
4. The potential environmental and socio-economic effects of the proposed Project, including the potential effects of malfunctions or accidents that may occur, and any cumulative environmental effects that are likely to result from the proposed Project.
5. The engineering design and integrity of the proposed Project.
6. The safety, security, and contingency planning associated with the construction and operation of the proposed Project, including emergency response planning and third-party damage prevention.
7. Consultation with Aboriginal groups and the potential impacts of the proposed Project on Aboriginal interests.
8. Consultation activities and potential impacts of the proposed Project on affected landowners and land use.
9. The terms and conditions, related to the above issues, to be included in any approval the Board may issue for the proposed Project.

The Board will not consider the environmental and socio-economic effects associated with upstream activities, the development of oil sands, or the downstream use of the oil transported by the pipeline.

Appendix II – Application to Participate form

Proposed Project and Hearing Information

Company: Enbridge Pipelines Inc. (Enbridge)	Project Name: Line 9B Reversal and Line 9 Capacity Expansion Project
NEB File Number: File OF-Fac-Oil-E101-2012-10 02	Hearing Order: OH-002-2013

The Project to be assessed in this hearing is defined as:

- the additions and modifications at the Project sites and resulting necessary changes to related procedures and commitments required to reverse a 639 km segment of pipeline to enable crude oil to flow between North Westover, Ontario and Montréal, Québec;
- the additions and modifications at the Project sites and resulting necessary changes to related procedures and commitments to enable an increase in capacity from 240,000 barrels per day (bpd) to approximately 300,000 bpd from Sarnia, Ontario to Montréal, Québec; and
- the revision to the Line 9 Rules and Regulations Tariff to allow for the transportation of heavy crude.

Step 1 - Important Information and Instructions

This form must be used to request participation in the OH-002-2013 hearing and must be filed appropriately with the National Energy Board (Board) and served on Enbridge, by **noon on 19 April 2013**, to be considered. A PDF copy of this form is available for download on the Board's website at www.neb-one.gc.ca under *Major Applications and Projects: Enbridge Pipelines Inc. – Line 9B Reversal and Line 9 Capacity Expansion Project*.

The Board will use the information you provide to make a decision as to whether you will be allowed to participate in the hearing. Previously-submitted information will not be considered. For more information, the *Guidance Document on Section 55.2 and Participation in a Facilities Hearing* is attached to the Hearing Order OH-002-2013 as Appendix VI, and again in Procedural Update No.1 for OH-002-2013 as Appendix III.

You must provide all required information in order for your application to be considered. If you do not provide sufficient information on this form, your Application to Participate will be denied.

Once you have completed this form, you must file it with the Board, and serve it on Enbridge. See paragraphs 28-33 of OH-002-2013 for directions on how to do so. It can be:

- sent by fax, mail or courier, or
- submitting it through the Board’s electronic filing system once you have created a PDF version of your completed form. Instructions are provided at paragraph 12 of Hearing Order OH-0002-2013.

Please read the instructions for each section carefully. NOTE: You are not limited to the space or box provided in each section. The boxes are provided for your convenience and to indicate where information is required. If necessary, you may attach a separate sheet.

If you need support to fill out this form, please contact the Process Advisor, Michael Benson, by calling 403-299-1992 or toll free 1-800-899-1265. His contact information is in paragraph 65 of the Hearing Order for this proceeding. The Process Advisor cannot tell you what content you should provide on the form. It is your responsibility to demonstrate that you should be allowed to participate. You must provide an explanation to support your answers.

Step 2 - Your Application to Participate

Applicant for Participation - Contact Information

Date:	
Name:	Address:
Title:	City:
Organization (only if you are representing an organization)	Province:
Telephone:	Postal Code:
Facsimile:	E-mail:
Address for Courier/Personal Service: (if different from mailing address)	
Address:	Telephone:

Only check this box and provide information below if this is applicable to you.

I have permission to speak on behalf of others and to identify those persons and their interests on this Application to Participate.

NOTE: If the persons you are representing are applying to participate and listing you as their authorized representative, you do not need to complete this form or request to participate separately.

List the persons you are representing (only if applicable):

--

Only check this box and provide information below if this is applicable to you.

I have an authorized representative who may speak on my behalf.

Authorized Representative – Contact Information
 (If you do not have an authorized representative, please leave blank)

Name:	Address:
Title:	City:
Organization (if applicable)	Province:
Telephone:	Postal Code:
Facsimile:	E-mail:
Address for Courier/Personal Service: (if different from mailing address)	
Address:	Telephone:

Step 3 - Your Interest or Expertise

Before you continue with this form, refer to the Board’s Guidance Document on Section 55.2 and Participation in a Facilities Hearing attached to the Hearing Order OH-002-2013 as Appendix VI, and again as Appendix III of Procedural Update No.1 for OH-002-2013.

I consider myself or the persons I am representing (check only one of the following):

- [] **directly affected** by the proposed Project
- [] having **relevant information or expertise**
- [] **both**

If you checked “**directly affected**” or “**both,**” provide the following information in the box below:

- a) Describe your specific and detailed interest in the proposed Project. Note that mere opposition to or support for the proposed Project will not be enough.
- b) Describe how an approval or denial of the proposed Project causes a direct effect on your interest.
- c) Include information about: the degree of connection between the proposed Project and your interest; the likelihood and severity of harm you may be exposed to; and the frequency and duration of your use of the area near the proposed Project.

If you checked “**relevant information or expertise**” or “**both**”, check all sources of knowledge that apply and explain or outline your knowledge source in the box below.

The source of my knowledge is

- Academic

- Local (regional) knowledge

- Aboriginal knowledge

- Traditional knowledge

- Professional/Technical/Commercial

- Other

If available, please provide documentation with your application that supports your qualifications or describes the source of your relevant information (for example, a curriculum vitae, reference letter, description of your relevant experience, etc.).

Step 4 - List of Issues

Appendix I of Procedural Update No.1 for OH-002-2013 sets out the List of Issues (Issues) that the Board will consider for this hearing. These Issues are all listed below for your convenience.

Refer to page 1 of this form and paragraphs of the Hearing Order for this proceeding for a description of the application before the Board and the project being assessed.

Check off the Issues you wish to speak to, and include for each:

- an explanation of the information you will be providing related to that Issue;
- how you will provide that information (i.e. format of the information); and
- an explanation of why your information is relevant.

If you check off an Issue you must indicate in the space below what you plan to submit.

NOTE: The Board will not consider the environmental and socio-economic effects associated with upstream activities, the development of oil sands, or the downstream use of the oil transported by the pipeline.

<input type="checkbox"/>	1. The need for the proposed Project.
The information I will provide:	

<input type="checkbox"/>	2. The potential commercial impacts of the proposed Project.
The information I will provide:	

[]	3. The appropriateness of the proposed Rules and Regulation Tariff and tolling methodology.
The information I will provide:	
[]	4. The potential environmental and socio-economic effects of the proposed Project, including the potential effects of malfunctions or accidents that may occur, and any cumulative environmental effects that are likely to result from the proposed Project.
The information I will provide:	
[]	5. The engineering design and integrity of the proposed Project.
The information I will provide:	
[]	6. The safety, security, and contingency planning associated with the construction and operation of the proposed Project, including emergency response planning and third-party damage prevention.
The information I will provide:	

[]	7. Consultation with Aboriginal groups and the potential impacts of the proposed Project on Aboriginal interests.
The information I will provide:	

[]	8. Consultation activities and potential impacts of the proposed Project on affected landowners and land use.
The information I will provide:	

[]	9. The terms and conditions, related to the above issues, to be included in any approval the Board may issue for the proposed Project.
The information I will provide:	

Step 5 - Your Method or Level of Participation

Please talk to the Process Advisor for this hearing, Michael Benson, for general information on the Board's hearing process and a description of what each method or level of participation typically involves.

- Commenters participate by submitting a Letter of Comment with the Board. Writing a Letter of Comment allows you to share your views on the Application in a letter. Commenters do not ask questions about other Participants' evidence or make a final argument at the oral portion of the hearing. This option is not eligible for the Board's Participant Funding Program.
- Being an Intervenor requires a time commitment to the hearing process. Intervenors are obligated to respond to information requests on any evidence they file. Further, Intervenors may ask information requests of other participants who filed evidence, file evidence themselves, and present final argument. They may also apply for and be granted funding through the Board's Participant Funding Program.
- Government Participants have participation rights similar to Intervenors, but may not be subject to answering questions from other Participants. They are not eligible for funding. This participation option is only available to government departments and agencies.

I wish to participate: (select **only** one)

as a Commenter ***

as an Intervenor

as a Government Participant

***** Do not attach any Letter of Comment to your application to participate.** The Board will review your application to participate first and notify you if you are allowed to participate as a Commenter before you may file a Letter of Comment. If you attach a Letter of Comment to this form, it will not be placed onto the record or considered as part of your Application to Participate. **NOTE:** The Board will not accept form letters and petitions.

Step 6 - Access, Notification, Service

If you are allowed to participate, which official language do you wish to use in correspondence with the Board and during the hearing?	English []	French []
Documents submitted electronically are available on the Board's electronic document repository, (Click "View" under "Regulatory Documents" at www.neb-one.gc.ca). If you have the capability to access the repository, the Board and other Participants in this proceeding may serve you by notifying you that a document has been filed and is available in the repository, instead of serving you with a hard copy of the <i>document</i> .		
Are you able to access the Board's electronic document repository?	Yes []	No []

Step 7 - Privacy Agreement

The Board, as a quasi-judicial tribunal, is authorized to collect and use personal information in the context of any Board Proceeding as set out in the NEB Act. The Board will collect, use and disclose that information for the purpose of the Proceeding.

Please note that, under the federal [Personal Information Protection and Electronic Documents Act](#) (PIPEDA), the [Regulations Specifying Publicly Available Information](#) state that personal information, as defined in PIPEDA, that appears in a record or document of a quasi-judicial body is publicly available provided that the collection, use and disclosure of that personal information relate directly to the purpose for which the information appears in the record or document. Personal information in a quasi-judicial record or document may therefore be considered public for the purpose of collection, use and disclosure without consent under section 7 of PIPEDA.

By submitting this form, you are acknowledging the above.

Date submitted: _____

Print Name: _____

Appendix III

SECTION 55.2 GUIDANCE – PARTICIPATION IN A FACILITIES HEARING

The *National Energy Board Act*¹ (NEB Act) sets out when the National Energy Board (Board) will allow a person² to participate in a hearing to consider an application to construct and operate a pipeline or power line.³

Persons wishing to participate must demonstrate to the Board's satisfaction that they fall within one or both of the two categories described in the NEB Act and set out below.

Directly Affected Person

The Board must hear from any person who, in the Board's opinion, is directly affected by the granting or refusing of a project application. The Board decides on a case-by-case basis who is directly affected. The Board may consider these factors when making this decision:

1. The nature of the person's interest.
 - Whether a person has a specific and detailed interest, rather than a general public interest.
 - Examples of interests that could support participation are:
 - commercial, property or other financial interest (including employment);
 - personal use and occupancy of land and resources; or
 - use of land and resources for traditional Aboriginal purposes.
2. Whether the granting or refusing of a project application causes a direct effect on the person's interest.
 - The degree of connection between the project and the interest.
 - The likelihood and severity of harm a person is exposed to.
 - The frequency and duration of a person's use of the area near the project.

1 Section 55.2 of the NEB Act states:

On an application for a certificate, the Board shall consider the representations of any person who, in the Board's opinion, is directly affected by the granting or refusing of the application, and it may consider the representations of any person who, in its opinion, has relevant information or expertise. A decision of the Board as to whether it will consider the representations of any person is conclusive.

2 The word "person" includes an individual, company, organization or group.

3 Specifically, this guidance applies to applications made under sections 52, 58 and 58.16 of the NEB Act.

Relevant Information or Expertise

The Board may choose to hear from any person who, in the Board's opinion, has relevant information or expertise.

1. The Board may consider these factors when deciding if a person has relevant information:
 - the source of the person's knowledge (for example, local, regional or Aboriginal);
 - the extent to which the information is within the project scope and related to the list of issues; and
 - how much value the information will add to the Board's decision or recommendation.

2. The Board may consider these factors when deciding if a person has relevant expertise:
 - the person's qualifications (for example, the person has specialist knowledge and experience);
 - the extent to which the person's expertise is within the project scope and related to the list of issues; and
 - how much value the information will add to the Board's decision or recommendation.