

NEB Modernization Discussion Paper #5 Determining the Canadian Public Interest

Question #1: What does the 'Canadian public interest' mean to you?

Canadian public interest is the total social welfare of Canadians. The Canadian public interest is served by projects that provide a net benefit to Canadians as a whole over the life of the project while considering financial, environmental and social factors. In addition to there being a net benefit for Canadians as a whole with the project compared to without the project (efficiency), there needs to be consideration of rights and equity. Rights cannot be violated whatsoever but equity can be achieved through compensating mechanisms to Canadians who otherwise may be made worse off by a project.

Question #2: What factors should be taken into account when determining whether a pipeline or power line project is in the 'public interest'?

In addition to the factors listed in Discussion Paper #5, the factors that should be taken into account when determining whether a pipeline or power line project is in the public interest include:

1. consideration of global greenhouse gas emissions impacts, including incremental greenhouse gas emissions upstream from the project and downstream.
2. marine environmental effects related to the project either directly or indirectly that may be felt in Canada's exclusive economic zone.
3. citizenship of financial beneficiaries of the project (i.e. financial benefits to shareholders of companies which profit from the project who are not Canadian should not be included as a benefit to Canada).
4. incremental wages of Canadian workers employed by the project in construction and operation (i.e. incremental wages of non-Canadian workers should not be included as a benefit to Canada).

With respect to the considerations listed in Discussion Paper #5, the NEB should also take into consideration the specific circumstances in specific geographic areas. An example of this would be safety, environmental and emergency response considerations for both land and water areas impacted by the Trans Mountain Expansion Project, and the number of population potentially impacted within the densely populated urban areas of Metro Vancouver.

Question #3: For factors that fall within the jurisdiction of provinces and territories, such as land use planning, should the federal government and agencies take these into account in their public interest determination? If so, how?

In determining the Canadian public interest, all Canadians have equal standing. Effects of a project that violate provincial or territorial land use planning rules or other factors that fall within their jurisdiction presumably impose a cost on Canadians in those jurisdictions. Therefore, those costs need to be included in the determination of whether a project provides a net benefit to Canadians and therefore is in the Canadian public interest. In addition to the efficiency argument of maximizing net benefits to Canadians, equity concerns need to be considered because national energy projects will most often impose costs and benefits in an inequitable fashion given the regional nature of their effects.

The factors that fall within the jurisdiction of provinces and territories can be taken into account within the framework of benefit cost analysis. Benefit cost analysis employs a variety of tools depending on the initiative being analyzed and all of those tools may be used to take these factors into account in the public interest determination. In benefit cost analysis there is no fundamental difference between benefits and costs occurring in areas under provincial or territorial jurisdiction and those occurring in areas of federal, regional, municipal or private jurisdiction when all Canadians have standing. In this case, efficiency is measured as the effect on social welfare of Canadians. Nevertheless, it is possible that there may be equity concerns at the provincial or territorial level depending on which jurisdictions are affected by the factors under consideration.