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CEPA's presentation to the Expert Panel on NEB Modernization

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Who is CEPA?



Trans-Northern Pipelines Inc.
Pipelines Trans-Nord Inc.



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Context and background

- Historically, the National Energy Board has been regarded as a respected, independent regulator that operated outside of the broader public policy debate.
- Change in public expectations has brought unprecedented attention on the NEB.
 - The NEB is now at the centre of public policy debates
 - There is growing expectation to address policy issues in the regulatory process.
- This has also led to uncertainty for industry and perceived loss in public confidence.

CEPA welcomes this review as an opportunity for continuous improvement.



CEPAs five principles

- I. The NEB must be an independent, quasi-judicial, expert regulator.
- II. The NEB must be a full life-cycle regulator, with responsibility for oversight of design and planning, the review process including environmental assessment, construction, operations, maintenance and abandonment.
- III. The NEB review process must be coordinated, efficient and provide process certainty.
- IV. The NEB review process is guided by government policy, but is not the appropriate venue to address broader public policy issues.
- V. The roles and responsibilities of the Federal government, industry, Indigenous groups and the NEB related to consultation and accommodation over the full life-cycle in the NEB process must be clarified.

CEPA's principles continued

The NEB must be an independent, quasi-judicial, expert regulator.

- Matters and issues that are not connected to the NEB's core responsibility as an independent, quasi-judicial regulator should not be part of its mandate.
- As a quasi-judicial regulator, its hearing processes must be grounded in fairness and transparency and be based on principles of administrative law, natural justice and procedural fairness.

CEPA's principles continued

The NEB must be a full life-cycle regulator, with responsibility for oversight of design and planning, the review process including environmental assessment, construction, operations, maintenance and abandonment.

- Each step, including the EA, is part of an integrated process, overseen by the full range of expertise required to ensure pipeline safety.
- Introducing another department or agency would heighten uncertainty, reduce the efficiency of regulatory processes, create duplication and potentially lead to disjointed or contradictory conditions of a pipeline project.

CEPA's principles continued

The NEB review process must be coordinated, efficient and provide process certainty.

- NEB Modernization should aim to preserve the existing level of protection while simultaneously supporting a coordinated and efficient process.



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CEPA's principles continued

The NEB review process is guided by government policy, but is not the appropriate venue to address broader public policy issues.

- Broader public policy issues such as climate change, the transition to a low carbon economy, Indigenous matters and consultation that go beyond the scope of a single project, overall Canadian energy policy, inter-provincial trade issues etc. are beyond the scope of a single project.

CEPA's principles continued

The roles and responsibilities of the Federal government, industry, Indigenous groups and the NEB related to consultation and accommodation over the full life-cycle in the NEB process must be clarified.

- These issues need to be addressed in this review in a manner that balances the rights and interests of all parties involved.
- CEPA recommends a coordinated strategy between industry, government, post-secondary institutions and Indigenous communities.

CEPA's *first* recommendation

Two-part review for Major Pipeline Projects.

- The first part of the review would address broader public policy considerations and whether the project is in the national interest
 - the question of “if” the project should proceed.
- The second part of the review would be a project specific assessment that would consider “how” a project could proceed.

CEPA's *second* recommendation

Environmental assessment and lifecycle oversight.

- The strength of the NEB is that its core responsibilities are tied to its quasi-judicial nature and its life-cycle oversight of pipelines.
- The NEB has decades of experience, it is familiar with industry best-practices.
- Introducing a separate department or agency to conduct EAs could compromise the effectiveness of the regulator.

Thank you

For more information:

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