

# Summary of Comments on the Draft Terms of Reference

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## **Background**

The comment period for the National Energy Board (NEB) modernization Expert Panel Terms of Reference closed on 20 July 2016, and 48 submissions with comments were received from Indigenous peoples, companies, industry and landowner associations, non-governmental organizations and the general public.

In developing the Final Terms of Reference, the NEB Modernization Secretariat reviewed the comments and incorporated them into the draft Terms of Reference to the extent possible.

Below is a summary of major themes of the comments provided during the public comment period:

## **Industry and Professional Associations**

Submissions from industry and professional associations were largely supportive of the proposed scope of the review, and suggested specific revisions to wording. Some included references to consideration of project alternatives, and references to government commitments to address climate change. Additional comments related to the importance of maintaining flexibility for the Panel to make broad recommendations and a recommendation to focus on streamlining processes. Some also noted the role of the NEB in information gathering, analysis and dissemination.

## **Indigenous Peoples**

Indigenous peoples almost uniformly recommended adding wording relating to the United Nations Declaration of Indigenous Rights (UNDRIP) into the Terms of Reference, adding language relating to Indigenous rights, proposed an increased scope to consider Crown Consultation, proposed extending timelines to allow for meaningful consultation, proposed an Indigenous Panel member and specific requirements for expertise of Panel members relating to Indigenous traditional knowledge, and wished to see references relating to participant funding. Indigenous peoples from the North specifically requested broadening the scope to include the Northern legislative regime, such as the *Canada Oil and Gas Operations Act*.

## **Non-governmental and Lands Organizations**

There were a variety of themes presented by non-governmental and lands organizations. Lands organizations recommended adding landowners as a specific stakeholder to the Terms of Reference and highlighting these issues as a seventh theme, as well as providing reports in plain language and requiring the Panel to indicate how it addressed comments in its report. Environmental and other non-governmental organizations highlighted the need to reference governmental climate change commitments, referenced UNDRIP and Indigenous rights, and recommended that the Panel indicate how it addressed all comments in its report. Some also recommended allowing the Panel to recommend dissolution of the NEB or moving the adjudication functions to another body.

## **Individuals**

The vast majority of public comments related to concerns about the NEB or proposed changes to the *National Energy Board Act*, rather than the Terms of Reference. The majority of comments focused on the hearing process, public participation, climate change, cumulative effects, the independence of the NEB, and the scope of issues considered within hearing processes. Where comments related to the Terms of Reference, there were suggestions relating to the required background and expertise of Panel members and inclusion of wording relating to climate change.

## **Municipalities and other government**

Comments included suggestions for background and expertise of Panel, including climate change and other environmental considerations, including municipalities as a distinct stakeholder, and stakeholder participation in NEB reviews.