



The National Energy Board (NEB) has been mandated to review its structure, role and mandate. The following submission from the Saskatchewan First Nation Natural Resource Centre of Excellence (SFNNRC) would like to comment on the following sections of the Terms of Reference for the National Energy Review. Many of the terms of reference are associated with the internal workings of the NEB. We feel we cannot realistically engage with these areas. The areas that SFNNRCE has opinions on are related to the following areas:

- Legislative Tools for Lifecycle Regulation: To ensure that the NEB is a modern, efficient, and effective energy regulator, its legislative tools for lifecycle regulation must be comprehensive and robust. To date, there have been significant efforts to optimize these legislative tools (Pipeline Safety Act);
- Land acquisition matters and related negotiation proceed;
- Lifecycle oversight and public engagement tools (e.g., effective legislative tools throughout project planning, construction and operation and abandonment);
- Safety and emergency preparedness tools (e.g., effective compliance monitoring and enforcement legislative tools; safety standards and emergency response requirements);
- Indigenous Engagement; and,
- Enhancing the role of Indigenous communities in monitoring pipeline development and operations and in developing emergency response plans.

More specifically, SFNNRCE desires to address the following particulars associated:

General Advisory Role s. 26 – 28:

- Currently it is unclear from the legislation the extent of the NEB's role in their capacity as Advisors. It is not apparent as how decisions are made, and who has been consulted to provide either the expert advice or how the decision will impact either Aboriginal or Treaty Rights or the Holder of such rights.
- This includes the range of possible topics in which are related to energy minerals (oil, gas or mined minerals and their production) or energy projects (wind, solar or hydro (fresh or ocean energy)).
- There is not any indication that the NEB has a role in the overall management of the energy minerals in concert with the Provincial counterparts.

Oil and Gas Interest, Production and Conservation s. 28.1 – 28.8:

- Since the inception of the oil and gas industry, emphasis has been directed toward production and a definition of conservation that does not include a concept related to preservation. Historically, conservation is assumed to encompass the goals of maximizing production, ensuring efficiency and effective operations towards maximum returns for the producer.
- Only recently has the conversation related to conservation included the concept of sustainability. This area is underdeveloped both in logistics, implementation, as well as for the creation of the necessary technologies to ensure either effective use or compliance.

Construction and Operation of Pipelines – General ss. 29 – 33:

- Before the taking up of Crown Lands for legitimate legislative objectives start with consultation with Canadian Indigenous peoples – regardless of whether the communities have either Aboriginal, Treaty Rights or Rights associated with a Land Claim Agreement. This consultation would include the design of the possible route, environmental assessment that would include surface disruption, water ways, subsurface analysis along the corridor, technology of the pipe and workmanship of the weld, post-construction monitoring technologies, and spill management strategies. This consultation must occur before the Pipeline Company has developed its mature feasibility plans, either for the construction of a new or replacement pipeline.
- General reliance of Industry for best practices.
- Surface pipelines and standards for monitoring strategies and technologies related to the Pipeline Safety Act S.C. 215, c. 21.
- Spill management and integration with the Pipeline Safety Act.
- Associated infrastructure such as pumping stations, access roads, electrical management to be included in both the permitting and environmental assessment and reporting.

Traffic, Tolls and Tariffs: Contracts Limiting Liabilities s. 70, Transmission, etc., of Oil or Gas s. 71, & Transmission and Sale of Gas s. 72:

- Opening these three areas for further discussion to include the series of pipelines that are not administered by the NEB.
- The relationship between the NEB, the Indian Oil and Gas Commission, and Provincial counterparts for harmonization, data collection and reporting.

Powers of Pipeline Companies: ss. 73-78.1; 85-115:

- Currently the Pipeline Company drives the process and the NEB appears to take on a minor regulatory role. It is unclear who is legally responsible to set, evaluate or maintain standards of a pipeline that includes: A) Route Design (rivers, creeks, lakes and ponds); B) Pipe for the Line, Foundations, Fill, & Spill-Monitoring Devices; C) Line Construction, Depth, Water Tables, & Frost Lines; D) Infrastructure associated

with Electrical Systems, Road Access, Pumping Stations & Training and Education requirements for Monitors.

- Reporting of pipeline route, monitoring reports and evaluation of post-spill remediation work.

Exports and Imports: ss. 116-119.01:

- NEB needs to create specific discussion around this area in concert with the Saskatchewan First Nation Natural Resource Centre of Excellence, the Indian Oil & Gas and Provincial counterparts.

Interprovincial Oil & Gas Trade ss. 123-128:

- The domestic market of energy minerals (oil, gas & mined minerals) needs attention. It appear that this area, Provincial needs or relationships are missing in the current set of Terms of Reference.
- In addition, there is no mentions of the how NEB is to act with respect to the Saskatchewan First Nation Natural Resource Centre of Excellence, the Indian Oil & Gas Commission, or the Indian Resource Council, given the many Saskatchewan First Nation are Oil & Gas Producers and members of these organizations.

Regulations: ss.129-133:

- This section needs much more clarity and integrated into the Pipeline Safety Act, the Canadian Environmental Assessment Act, 2012, S.C. c. 19, and Transportation of Dangerous Goods Act, S.C. 1992, c. 34.
- Currently the regulations direct the NEB to maintain accounts, general regulations, security and reporting to Parliament on an annual basis
- There is no mention of the alternative sources of energy, mainly, the mined minerals and electricity.

Administrative Monetary Penalties: ss. 134-154:

- Although NEB has the power to levy fines, it is unclear as to the standards that are necessary to achieve determine compliance.
- There needs to be integration with the Pipeline Safety Act.
- Land acquisition matters and related negotiation proceedings;
- Safety and emergency preparedness tools (e.g., effective compliance monitoring and enforcement legislative tools; safety standards and emergency response requirements).

Respectfully Submitted,

A large black rectangular redaction box covering the signature area.