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By email to: [NRCan.NEBModernization-ModernisationOne.RNCan@Canada.ca](mailto:NRCan.NEBModernization-ModernisationOne.RNCan@Canada.ca)

**Subject: National Energy Board (NEB) modernization expert panel: draft terms of reference**

Suncor is Canada’s largest integrated energy company with operations in all stages of the oil and gas industry – upstream, midstream and downstream. Our Oil Sands business is focused on the responsible development of one of the world’s largest petroleum resource basins – the Athabasca oil sands – through both mining and in situ technologies. Suncor holds one of the largest positions in the oil sands and we are committed to delivering safe, reliable, low-cost production, while being leaders in growth, technical innovation and environmental sustainability.

As a shipper on many pipelines that cross inter-provincial and international borders, Suncor Energy appreciates the opportunity to provide comments on the draft Terms of Reference (ToR) for the panel regarding the modernization of the NEB and support the Government’s approach to broad consultation.

**General Comments/Observations**

Suncor is supportive of the NEB Modernization’s focus on structure, role and mandate. It will be important for the panel to consider how the NEB process can avoid becoming a proxy for larger policy and societal issues which have the potential to overwhelm and delay the process.

In Minister Carr’s mandate letter he was directed to: “Modernize the NEB to ensure that its composition reflects regional views and has sufficient expertise in fields such as environmental science, community development, and Indigenous traditional knowledge”; this requires that NEB Board members have a broad range of skills and knowledge, industry knowledge and understanding of the role of technology, new and existing, focused on increasing environmental protection.

It will also be important to consult broadly, with representatives that have an appropriate level of deep subject expertise in all aspects of the NEB process. The panels’ findings and recommendations should reflect the facts and evidence gathered during their analysis and stakeholder engagement.

**Scope of the Review**

*Mandate*

We recognize through this process the mandate could expand with respect to: (i) collecting and disseminating energy data, information and analysis and (ii) emerging areas such as offshore renewables

and the transition to a low carbon economy. We support this forward-looking perspective on the mandate and note that this could mean skills and resource implications for the NEB to fulfil an expanded mandate.

#### *Decision-making Roles*

We anticipate that the NEB will review a wide range of projects and as such the design process should be scalable i.e. consider the different levels of risk inherent to each project (line reversal versus a new large pipeline project) and assign decision making roles accordingly.

#### *Legislative Tools for Lifecycle Regulation*

We agree that there is an opportunity to further optimize the legislative tools (i.e. *Pipeline Safety Act*) and to recognize the technological advances to address safety and environmental protection (i.e. spill / leak response system).

#### *Additional Topic as a Focus for NEB Modernization*

As noted in the draft ToR under Public Participation, stakeholders have expressed increased interest in hearing processes. As a result, the ToR Terms of Reference should also reflect an additional area of focus that addresses facility applications and hearing processes in detail.

With respect to such an area of focus and in support of the Panel's efforts to position the NEB as a modern, efficient and effective energy regulator, it may be helpful to consider some high-level principles in the ToR, such as fairness, timeliness and transparency, to help guide the Panel with respect to their findings and recommendations.

We recommend that the ToR be revised to:

- Include another potential topic of focus in the NEB Modernization work to address hearing processes
- Under the topic addressing hearing processes, include a direction to the Panel to steward to certain principles, such as fairness, timeliness and transparency in developing its findings and recommendations. The ToR may even pose certain questions to the Panel as an example of how to steward to such principles as:
  - With respect to public participation and Indigenous engagement and access in a hearing process, is this finding or recommendation adequate and accessible for Indigenous communities and all stakeholders? The panel will need to consider how best to balance adequacy and accessibility, with timely decision making.
  - Does this finding or recommendation provide or support transparency and clarity with respect to the NEB's scope and the policy framework and legislative standards within which the hearing process is operating? Does this finding or recommendation ensure that hearing processes are focused on issues, facts and evidence?
- Include a direction to the Panel that the potential outcomes of their findings and recommendations should ensure:

- robust oversight and thorough assessments under NEB jurisdiction, while working with all applicable stakeholders to avoid duplication,
- that the framework under which the hearing process is operating is clear and complies with recent jurisprudence, legislative standards and Canada's Constitution,
- that decisions are based on science, facts and evidence and serve the public interest,
- that relevant parties have the opportunity to meaningfully engage, and
- that project advocates comply with all protections, safeguards and standards outlined in all applicable legislation.

We would like to thank you for this opportunity to comment on the Draft ToR for the NEB Modernization Expert Panel Review and we welcome the opportunity to further engage with the expert panel on this important work going forward.

Sincerely,

Ginny Flood  
VP Government Relations  
Suncor Energy