



File OF-Fac-Oil-E266-2014-01 02
10 May 2017

To: All interested parties

IN THE MATTER OF:

**Energy East Pipeline Ltd. and TransCanada PipeLines Limited
(collectively, the Applicants)**

**Energy East Project and Asset Transfer (Energy East), and Eastern Mainline
Project (Eastern Mainline) [collectively, the Projects]**

**Comment period on the draft Lists of Issues and draft Factors and Scope of the
Factors for the Environmental Assessments pursuant to the *Canadian
Environmental Assessment Act, 2012* (CEAA 2012) [EA Factors Documents]**

Introduction

The National Energy Board (Board) is mandated to review each of the applied-for Projects under both the *National Energy Board Act* (NEB Act) and the CEAA 2012. Under the NEB Act, the Board will make its public interest determinations through its consideration of each project's potential impacts and benefits.

For the Board, the public interest refers to a balance of economic, environmental, and social interests that changes as society's values and preferences evolve. The Board will assess the overall public good the Projects may create and their potential negative aspects. The Board will also weigh the Projects' various impacts and make its recommendations and decisions.

In this hearing, the Board intends to consider the context in which the Projects are being proposed, including Canadian and provincial energy and greenhouse gas strategies, policies, laws, or regulations.

Under the CEAA 2012, the Board will conduct an environmental assessment (EA) of each project. The Board's hearing process will serve to fulfil the requirements of both Acts for both Projects.

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In developing its recommendations on the Projects, the Board will consider the relevant information that hearing participants file on the hearing record. To describe what subjects will be explored in a hearing, the Board typically releases two documents with respect a given application:

- A List of Issues that outlines what the Board will consider during the hearing.
- An EA Factors Document that elaborates upon the elements that the CEAA 2012 EA will cover and the scope or manner in which the Board will consider those elements.

The Board will communicate at a later time more details on participating in the public hearing, including with respect to the CEAA 2012 EAs, in line with section 55.2 of the NEB Act and section 28 of the CEAA 2012.

As the Board indicated in [Ruling No. 2](#), although the Energy East and Eastern Mainline applications will be heard together through a coordinated review, a separate List of Issues and EA Factors Document will be issued for each project.

Documents being released for comment

At this time, the Board is releasing the following four documents for comment, as it committed to do in [Ruling No. 1](#):

1. Draft List of Issues for Energy East ([Appendix 1](#))
2. Draft EA Factors Document for Energy East ([Appendix 2](#))
3. Draft List of Issues for Eastern Mainline ([Appendix 3](#))
4. Draft EA Factors Document for Eastern Mainline ([Appendix 4](#))

Two of the CEAA 2012's purposes, as identified in paragraphs 4(1)(d) and (e) of that Act, are:

- to promote communication and cooperation with Aboriginal peoples with respect to EAs of designated projects;¹ and
- to ensure that opportunities are provided for meaningful public participation during an EA of a designated project.

Once established, the hearing process will include many opportunities and steps that are in line with these purposes, not only in relation to the Board's CEAA 2012 EAs, but also to its overall review of the Projects under the NEB Act.

The current request for comments allows for some initial communication with, and input from, Aboriginal groups and the public in general with respect to the breadth of the Board's reviews under both of these Acts.

¹ "Designated project" is defined in subsection 2(1) of the CEAA 2012.

Guidance for providing comments

It is important to note that the attached documents are drafts issued to solicit comments on their contents. The Board will consider the relevant comments received when preparing the final Lists of Issues and EA Factors Documents.

Anyone may comment on one or all of the attached documents. The Board requests that those commenting make it clear in their submissions which document(s) their comments relate to.

At this time, what is most helpful to the Board are views on whether the draft Lists of Issues and EA Factors Documents cover all matters relevant to its review of the project applications. Although all comments filed by the deadline described below are welcome and will be considered, the Board has identified within the draft Lists of Issues themselves (Part C of Appendices 1 and 3) certain items where it is particularly interested in hearing comments on if and why they should be included in the Lists of Issues and/or in the CEAA 2012 EAs.

Any evidence, information, or argument related to the topics themselves should only be filed by participants later in the process once the hearing begins (i.e., after the Board issues its Hearing Order). Any such information filed at this time cannot be considered in the Board's assessments.

Deadlines and process for filing comments

All comments must be filed with the Board on or before **noon, Calgary time, on Wednesday, 31 May 2017.**

Those commenting can file their comments by hand delivery, mail, fax, or courier, or electronically through the Board's [e-filing tool](#) or [Participation Portal](#)² (for previous participants with an online account). **Emailed comments will not be accepted.**

To ensure that comments are properly considered, all filings must refer to File No. OF-Fac-Oil-E266-2014-01 02 and must be addressed to:

Ms. Sheri Young
Secretary of the Board
National Energy Board
Suite 210, 517 Tenth Avenue SW
Calgary, AB T2R 0A8
Facsimile 403-292-5503 (toll-free 1-877-288-8803)

² Previous commenters that have already made a filing through the Participation Portal will be unable to use this online tool for future submissions. These individuals or groups must use any of the other accepted methods of filing described in this letter.

Those commenting must send the Applicants and their counsel a copy of their comments filed with the Board, or a notification that the filing was made.³ This service can be done via email. Each of the following requires this notification:

Ms. Adrienne Menzies
Manager, Facilities Applications
Commercial & Regulatory Services, Liquids
Pipelines
TransCanada PipeLines Limited
450 – 1 Street SW
Calgary, AB T2P 5H1
Facsimile 403-920-2285
Email adrienne_menzies@transcanada.com

Mr. Jaron Dyble
Regulatory Project Manager
Regulatory Services, Canadian Gas Pipelines
TransCanada PipeLines Limited
450 – 1 Street SW
Calgary, AB T2P 5H1
Facsimile 403-920-2347
Email jaron_dyble@transcanada.com

Mr. C. Kemm Yates, QC
Blake, Cassells & Graydon LLP
855 – 2 Street SW, Suite 3500
Calgary, AB T2P 4J8
Facsimile 403-663-2297
Email kemm.yates@blakes.com

Ms. Shairoze Damji
Senior Legal Counsel, Regulatory Law
TransCanada PipeLines Limited
450 – 1 Street SW
Calgary, AB T2P 5H1
Facsimile 403-920-2310
Email shairoze_damji@transcanada.com

For any questions, please contact the Board's Process Advisory Team by phone at 403-292-4800 or 1-800-899-1265 (toll-free), or by email at energyeast.processhelp@neb-one.gc.ca.

Yours truly,

Original signed by

Sheri Young
Secretary of the Board

Attachments

³ Comments made by previous participants through the Participation Portal will automatically be sent to the Applicants.