

Enbridge Northern Gateway Project

Joint Review Panel

File OF-Fac-Oil-N304-2010-01 01
9 May 2012

To: All Parties to OH-4-2011

**Northern Gateway Pipelines Inc. (Northern Gateway)
Enbridge Northern Gateway Project (Project)
Hearing Order OH-4-2011
Procedural Conference**

In a letter dated 30 April 2012, the Gitxaala First Nation requested that the Panel convene a procedural conference to settle various procedural issues in relation to the final hearings for the proposed Project.

The Panel considers that such a conference will assist the Panel in obtaining input on certain procedural issues and has scheduled one for **Wednesday, 30 May 2012**. The conference will commence at 9:00 a.m. in the National Energy Board's hearing room, 2nd floor, 444 – 7th Avenue S.W., Calgary, Alberta.

The Panel will not be present during this conference. It will be facilitated by Secretariat staff.

The Panel will issue a procedural directive shortly, which will include details of the format of the conference as well as how parties can participate. Options will include participation by teleconference so it is not necessary for parties to travel to Calgary.

Parties must register to participate in the procedural conference by **12:00 pm MT, on 22 May 2012**. Registration should be by letter filed with the Panel.

In the registration letter, parties are asked to provide their comments on the following questions and points. Parties who are not available to participate in the conference may still submit their comments by the due date.

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National Energy Board
Office national de l'énergie

Canada



Canadian Environmental
Assessment Agency

Agence canadienne
d'évaluation environnementale

General

1. Will you be participating in the procedural conference? Do you plan to participate in person or by telephone?

Questioning phase

2. Final hearings for questioning will take place in three locations. The Panel intends to hold these hearings in Prince Rupert, BC, Prince George, BC and either Edmonton or Calgary, AB. These locations are centrally located, have adequate facilities and reasonable transportation access. Would fewer than three locations be appropriate? What are your comments on the locations chosen by the Panel?
3. For the duration of the questioning phase, the Panel anticipates that it will sit from Monday to Saturday for two week periods, followed by a one week break. Standard sitting hours would be from 8:30 a.m. to 1:00 p.m. Any specific exceptions to the general schedule will be addressed, as the final hearings proceed. Do you have any input on the proposed general schedule?
4. The Panel intends to have questioning on oral evidence completed prior to questioning based on written evidence pertaining to the List of Issues.
5. Questioning of witness panels will proceed at each location based on issues. These issues largely mirror the List of Issues set out in the Hearing Order (dated 5 May 2011) and discussed in the Panel Session Results and Decision (dated 19 January 2011). The Panel intends to address each issue listed below in relation to the entire Project at only one location. The location for each issue is as follows:

Prince Rupert

- (a) Potential Impacts of the Proposed Project on Aboriginal Interests (socio-economic matters; asserted and proven Aboriginal and treaty rights)
- (b) Environmental Effects
- (c) Socioeconomic Effects
- (d) Consultation (with the public and Aboriginal groups)
- (e) Safety, Accident Prevention and Response (related to the marine terminal and marine transportation)

Prince George

- (a) Potential Impacts of the Proposed Project on Landowners and Land Use (pipeline crossings; depth of cover; impacts on agricultural soils)
- (b) Routing (general route of the pipeline and route selection criteria).
General location of the facilities and siting of a marine terminal.
- (c) Design, Construction and Operation
- (d) Follow up and monitoring
- (e) Safety, Accident Prevention and Response (related to the pipeline)

Edmonton or Calgary

- (a) Need for the Proposed Project (supply and markets; commercial support; economic feasibility)
- (b) Potential Impacts of the Proposed Project on commercial interests
- (c) Financial and Tolling Matters (tolling structure and methodology; proposed financing; financial responsibility of the applicant)

Do you have any additional issues for each hearing location or any input on the general format identified?

6. What parties' witnesses do you anticipate questioning during the final hearings? What issues do you anticipate you will ask questions about? How much time do you anticipate you will require for questioning for each issue? *(Please note parties will not be held to these estimates; this is for planning purposes only)*
7. The Panel is considering a process for expert witnesses which would entail having expert witnesses for parties with conflicting opinions seated together in a single witness panel and questioned at the same time. This approach would be specific to issues or sub-issues that are highly technical in nature such as those related to Safety, Accident Prevention and Response. This process would be used to assess complex expert evidence, understand differences, and focus on certain technical issues in an efficient manner. Parties will not be precluded from seating their expert witnesses independently for other issues that are not highly technical in nature. Please provide any input you may have on this proposal.
8. The Panel intends to permit questioning of witnesses by telephone and is exploring other remote means. Do you have any input on the process that should be established for remote participation (either of witnesses or intervenors asking questions remotely)? Do you have any input on the type of technology that should be considered for remote participation?

Final argument phase

9. The Panel anticipates allowing parties to present final argument either: (i) orally; or (ii) in writing. On an exception basis, parties may request permission of the Panel to allow final argument on a specific topic both in writing and orally.

10. The Panel anticipates holding hearings for final argument in two locations; namely Prince Rupert, BC and either Edmonton or Calgary, AB. Mechanisms will be established to allow parties to participate remotely (i.e. via telephone or other electronic means). Do you have any input on these locations?

11. How and when should any outstanding motions, including Constitutional Questions such as that raised by the Gitxaala Nation, be addressed?

The Panel would also be interested in hearing any additional views that parties may have on measures that could be implemented to conduct the final hearings in an efficient and effective manner.

Comments provided to the Panel on all questions and points raised above, should be **no longer than five pages.**

Should you have any questions, please contact Mr. Andrew Hudson, Legal Counsel at 403-299-2708 or toll-free at 1-800-899-1265.

Yours truly,



for
Sheri Young
Secretary to the Joint Review Panel