



National Energy
Board

Office national
de l'énergie

DECIDING ON THE FORMAT FOR A PUBLIC HEARING

ISSUE: DECIDING ON THE FORMAT FOR A PUBLIC HEARING



When it comes to hearings at the National Energy Board (NEB or Board), there's no one-size-fits-all approach.

The *NEB Act* requires that a public hearing be held when a proponent is seeking a certificate to construct and operate a pipeline that is 40 km or longer. For all other pipeline projects, the Board can decide to hold a public hearing, and in all cases, it can choose the format of the public hearing. In some instances, like international power line permit applications, the *NEB Act* does not allow the Board to hold a public hearing.

According to the *NEB Act*, the Board must hear from anyone who, in the Board's opinion, is directly affected

by the granting or refusing of a pipeline application. The Board may also choose to hear from anyone who it believes has relevant information or relevant expertise.

For larger pipeline projects, the NEB typically has a maximum time limit of 15 months from the determination that an application is complete to a final decision or recommendation. With about three months required to prepare the decision and translate it into both official languages, that leaves just 12 months to gather, test and challenge all of the information.

The format of the hearing can depend on a number of things. An oral hearing may be considered if there are just a limited number of issues being considered. In a hearing with a broad range of issues, or one that requires technical expert evidence, a written hearing may be more appropriate. Even oral hearings have a substantial written portion.

In a few cases, like tolls or tariff disputes, a quick decision may be required to avoid significant commercial impacts. In these cases, hearings may be called on short notice and most of the submissions and evidence are given orally. Decisions may be provided the same day, and written reasons may be issued later.

QUICK FACTS:

- The *NEB Act* requires a public hearing be held for any proposed pipeline 40 km or longer. These can be written or oral hearings.
- For large pipeline projects, the NEB often has a time limit of 15 months from the determination that a project application is complete to the time a final decision must be made.
- In tolls or tariff disputes, hearings may be called on short notice and decisions may be provided quickly, with written reasons issued later.

The Board often hears a wide variety of diverse opinions about proposed projects. The proponent submits its case through its application and other filings. Those who may be directly affected by a project must have the opportunity to test and challenge that case, and provide their own views to the Board. Sometimes this is done through oral cross-examination, but most often it is done through written questions, filing of opposing evidence and final argument.

It's extremely important that the NEB hears from Indigenous groups who may be potentially impacted by a proposed project. Many Indigenous groups have an oral tradition of passing information from generation to generation. The NEB respects that tradition and often provides an opportunity for these groups to provide oral traditional evidence.

When it comes to choosing a location for an oral public hearing, the NEB looks for a facility close to the proposed project. Some of the proposed projects before the NEB are contentious. In some cases, increased security precautions must be taken so all participants, including NEB staff and any member of the public, can be safe and secure.

