

March 4, 2019

VIA EMAIL ONLY (pipeline.financialresources@neb-one.gc.ca)

National Energy Board  
Suite 210, 517 Tenth Avenue SW  
Calgary, Alberta, Canada T2R 0A8

Attn. Ms. Sheri Young, Secretary of the Board

In the matter of *NEB Draft Pipeline Financial Requirements Guidelines, and Implementing of Financial Resource Requirements*

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The Explorers and Producers Association of Canada, ("EPAC") has reviewed the *National Energy Board (NEB or Board) – Draft Pipeline Financial Requirements Guidelines, and Implementation of Financial Resource Requirements*. We appreciate the National Energy Board's opportunity for engagement on these draft requirements. At this time, we do not believe all aspects of this proposed program have been based on reasonable evidence and have concerns with some aspects of the program. We would encourage increased transparency around a comprehensive regulatory impact assessment, which clearly outlines the reasons for the specific "financial liability limits" and associated financial implications to companies.

### **Oil Class 3 Pipelines**

An EPAC specific concern relates to the financial limit of \$200,000,000 (CAD) for Oil Class 3 pipelines. This amount seems unreasonably high in some cases and not based on evidence of the different volumes, lengths and degree of risk associated with various operating pipelines within this category. After initial internal review and discussions with knowledgeable EPAC producer members, we believe that greater clarity could be placed into this category to ensure NEB and legislative outcomes are met in a manner that also meets the Government's stated policy objective to ensure a Canadian oil and gas sector that is internationally competitive. Oil Class 3 pipelines is a broad category and we recommend allowing operators to apply for reductions of the \$200,000,000 amount if risk-based evidence can be provided that a lower amount is appropriate. As an alternative to this suggestion, the NEB should consider putting in graduated categories for Oil Class 3 pipelines that would consider the broad risk based operating conditions of different Oil Class 3 pipelines. Producers are concerned about the high cost of liability insurance when such insurance may not be necessary based on the individual risk of each Oil Class 3 operating pipeline.

### **NEB Reference to C-69**

A further concern of EPAC is with the timeframe provided for review of this draft. It seems rushed given there is little time between genuinely hearing feedback and the time that the NEB has indicated the passage of the requirements. The NEB references the timeframe of passing these requirements with the ongoing development of draft Canadian Parliamentary Legislations Bill C-69. See the following:

<http://www.neb-one.gc.ca/bts/ctrq/gnnb/pplnfnnclrqrmnts/2019-02-15nb-eng.html#s4>

EPAC reminds the National Energy Board that although the Canadian House of Commons has passed Bill c-69 our parliamentary system of government continues review of C-69 draft legislation in the Senate of Canada. The references to what may happen in the final bill if passed by the Senate and approved through Her Excellency the Governor General is inappropriate for a government agency and could be perceived to pre-empt the democratic processes of the Canadian Parliament. Bill C-69 remains in draft form and EPAC recommends that until Bill C-69 becomes law it is not referenced. It is a draft piece of legislation and could be passed in its current form, passed with changes or not passed into law.

### **About EPAC**

EPAC is an industry association representing some 150 companies engaged in the production of conventional oil and gas in Alberta, British Columbia, Saskatchewan and Manitoba. Our members operate over 60,000 producing oil and gas wells that deliver about twenty five percent of Canada's crude oil, natural gas and liquids production. EPAC advocates on behalf of its member companies for evidence and risk-based government policy that promotes a thriving independent Canadian oil and gas sector. Our members pride themselves on being Canadian based and developing environmentally responsible energy resources in partnership with our local communities and indigenous nations.

We welcome any opportunity to provide further evidence or solutions to our concerns to the National Energy Board and interested stakeholders.

Sincerely,

A handwritten signature in blue ink that reads "Tristan Goodman". The signature is fluid and cursive, with a horizontal line underneath the name.

Tristan Goodman, Ph.D., LL.M., LL.B.  
President  
The Explorers and Producers Association of Canada