

**Speaking notes: The Canadian Environmental Assessment Act Review  
Presentation to the Standing Committee on the Environment  
Brenda Kenny – October 27, 2011**

Thank you and good afternoon.

I have spent a career as a regulator, an academic and now as an industry representative, focused on ensuring Canada is a world-leader in environmental assessment, with a robust, outcomes-based regulatory framework. I appreciate the opportunity to present to the Committee today and offer my perspective and views on the Canadian Environmental Assessment Act Review.

Some brief context before I embark on my main points: The Canadian Energy Pipeline Association, CEPA, represents companies that transport 97 per cent of the oil and natural gas produced and used in Canada. Our membership currently operates more than 100,000 kms of pipelines in North America. Pipelines are the only feasible, and safest, means of transporting large volumes of crude oil and gas over land. Our member companies are job creators, on the cusp of investing \$100 billion on a number of nationally-significant projects in Canada.

**Best-placed Regulator**

Turning now to the issue at hand: *The Canadian Environmental Assessment Act*. If I leave you with only one thought today, let it be this: CEPA and its members are fully supportive of the federal government's need for full and comprehensive environmental assessment of large-scale projects. **We believe these assessments should be conducted by and related decisions must be made by the best-placed regulator.** For federally related pipelines the best placed regulator is the National Energy Board in fulfillment of its mandate under the National Energy Board Act. For provincially regulated pipelines the applicable provincial process for assessment should be accepted on the basis of equivalency with the federal process under CEAA expressly limited to those aspects of the project requiring federal decision making.

## **Consolidate Assessment and Decision Making in the NEB**

### **The Precedent exists north of 60**

- The federal government has already acknowledged that CEAA is not the only piece of federal legislation that is capable of delivering comprehensive and robust EA in Canada.
- For example, north of 60, YESA has displaced CEAA for the most part. This model of various legislative platforms for the delivery of federal assessment should be applied south of 60.

### **Why the NEB Act?**

- Under its public interest mandate the National Energy Board has the jurisdiction to and has in fact has required an assessment that exceeds the scope of that required under CEAA.
- Specifically, the NEB looks at a project through a wider, public-interest lens, looking at not just the environmental impacts, but also the social and economic issues of a project.
- The National Energy Board is staffed by fully-versed, technical staff who understands the broad impact of a national pipeline project and is overseen by a quasi-judicial board who make decisions grounded on fact-based evidence.
- The NEB provides a public, transparent process and provides funding for public participation where required
- In sum, the mandate of the NEB, is consistent with and can facilitate the achievement of projects that are not only consistent with protection of the environment but also are capable of delivering important economic and social objectives. In other words, by looking at projects through a holistic and wide lens through its public interest test the NEB is the federal authority best placed to deliver decisions that are consistent with Canada's commitment to sustainable development.

## A word about self-assessment

- Self assessment has been a fundamental premise of CEAA since its enactment. Quite simply, self assessment requires decisions about project impacts by each and every federal decision maker. Typically, a federal pipeline will “trigger” the need for assessment decision making under CEAA by DFO, Transport Canada and the NEB – at a minimum. While various mechanisms at a policy or administrative level have tried to address the unavoidable duplication, in the preparation of an assessment, none have nor can they remedy the redundancy in decision making about the results of assessment.
- Why would the government continue work within a system with intentionally built in redundancies when there are simply more efficient ways to deliver good outcomes for the environment, the economy and for the national interest?
- CEPA strongly advocates for a one-process – *one-decision maker* system, comprised of regulators who have accountability for the full life-cycle of a project and who understand the impacts from the planning stage, through to execution to the eventual retirement of a pipeline asset

## Conclusion

As an industry association representing companies that operate and build critical energy infrastructure in Canada, our recommendations to you is: continue to advance regulatory reforms that will allow for timely regulatory decisions, enhance the investment climate, and build the economy; retain appropriate federal capacity to implement permitting requirements and ensure environmental compliance and protection. How do you achieve this, by allowing delivery of assessment by the best-place regulator. Thank you again for this opportunity to present to you today. I look forward to taking your questions.