



Canada Energy Regulator Régie de l'énergie du Canada

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Files OF-Surv-Gen-T217 01
OF-Surv-Gen-T217 03
17 July 2020

Ms. Gail Sharko
Manager, Regulatory & External Affairs
Trans-Northern Pipelines Inc.
109-5305 McCall Way NE
Calgary, AB T2E 7N7

Mr. Lars Olthafer
Blake, Cassels & Graydon LLP
Suite 3500, Bankers Hall East Tower
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Calgary, AB T2P 4J8

Dear Ms. Sharko and Mr. Olthafer:

**Application dated 19 May 2020 pursuant to section 69 of the *Canadian Energy Regulator Act (CER Act)*
Trans-Northern Pipelines Inc. (TNPI)
Application for Variance of Reporting Timelines
Amending Safety Order AO-001-SO-T217-03-2010 dated 20 September 2016 as revised on 24 October 2016 and 11 April 2017 (ASO)
Conditions 2.c, 3.c, 7.d, and 8.e**

On 19 May 2020, the Commission of the Canada Energy Regulator (Commission) received an application from TNPI for Variance of reporting timelines for Conditions 2.c, 3.c, 7.d, and 8.e of the ASO (Application).

Conditions 2.c, 3.c, and 8.e

The Commission has reviewed the information regarding the request to postpone the requirement to prepare and file the annual Engineering Assessments (EAs) from 2020 to 2021 under conditions 2.c, 3.c, and 8.e.

The Commission has considered TNPI's statements regarding the COVID-19 health crisis and the impact on its pipeline system operations. TNPI submitted that it has suffered economic impacts and reduced revenues due to COVID-19. The preparation of EAs involves significant resources, and given the business challenges TNPI is facing, it is seeking to ensure available funds are used for those activities most closely related to risk reduction.

The Commission has considered TNPI's on-going programs to address the recommendations of the 2019 EAs and all other activities undertaken to ensure the safety and integrity of its pipeline system. TNPI has complied with the EA-related conditions since the requirements were put in place, and continues to be subject to multiple regulatory requirements focused on the safe operation of its pipeline system. The Commission acknowledges that in light of the exceptional nature of the significant economic impacts of COVID-19, temporary relief from the preparation and filing of EAs is justified if it makes available those compliance reporting resources for activities more focused on direct risk reduction.

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The Commission notes that the EAs filed in compliance with Conditions 2.c, 3.c, and 8.e of the ASO in 2019, state that the pipelines are fit-for-service (FFS) until 30 September 2020 and 31 December 2020 respectively, based on the scope of the EAs which were restricted to a one year assessment in accordance with the condition requirements.

The Commission is of the view that temporary relief from conducting the 2020 EAs can be granted if TNPI can provide confirmation that the pipeline system is FFS until 2021. Therefore the Commission has ordered that TNPI is relieved of its obligation to file its annual EAs required under conditions 2.c, 3.c, and 8.e for 2020 only, provided TNPI's Accountable Officer files confirmation that TNPI pipeline system is FFS until 30 September 2021 (Schedule B sections) and 31 December 2021 (Schedules C and D sections). Additionally, for each section of the pipeline system which is currently operated at a pressure below the reduced maximum operating pressure imposed by the ASO, TNPI shall file the operating pressure for each section of the pipeline system that the FFS is applicable for until 30 September 2021 and 31 December 2021, and the 2019 EA recommendations supporting the FFS at the current operating pressure that will be completed by those dates. Further, the Commission notes that the requirements of Conditions 2.c, 3.c, and 8.e in the ASO regarding the annual filing of the EAs continue to apply in 2021 and beyond.

Condition 7.d

The Commission has reviewed the request to vary the Condition 7.d requirement to allow TNPI to prepare and file the Commitment Plan each year on a biannual basis instead of the current quarterly requirement, and has requested the reporting reduction be permanently varied.

TNPI has also cited the economic impact of COVID-19 as well as the lack of a negative impact on the system's safe operation to justify this request. It notes that the reporting under condition 7.d can reasonably be reassessed in light of whether the resource draw to fulfill reporting requirements is justified when the resources can be used more directly for risk reduction. It also notes that it has made significant progress and has achieved compliance with most of the ASO conditions already, and this further supports reducing ongoing reporting.

The Commission has considered TNPI's statements regarding the Condition 7.d requirements for filing the Commitment Plan. The Commission is of the view that TNPI has made significant progress towards compliance with the ASO requirements. Additionally, its quarterly reports over the past three years do not show significant variance in risk profiling month-to-month. As a result, the Commission is satisfied that the Commitment Plan updates can temporarily be filed biannually instead of quarterly, with filings due in February and August of each year beginning on 17 August 2020. As set out in the attached Amending Safety Order, the relief to vary the filing frequency required in Condition 7.d from quarterly to biannually will expire on 17 August 2022. At that point, the filing frequency will revert back to quarterly filings and TNPI may reapply to vary the filing frequency of Condition 7.d.

Amending Safety Order AO-004-SO-T217-03-2010 is attached.

The CER is dedicated to the safety and well-being of its staff, Indigenous communities, the public, and all those with whom we work closely. For more information on how the CER is continuing its regulatory oversight during the COVID-19 pandemic, please refer to the following letter issued 12 May 2020: www.cer-rec.gc.ca/CovidProcessUpdate.

Yours sincerely,

Original signed by S. Wong for

Jean-Denis Charlebois
Secretary of the Commission

Attachment



ORDER AO-004-SO-T217-03-2010

IN THE MATTER OF the *Canadian Energy Regulator Act* (CER Act) and the regulations made thereunder;
and

IN THE MATTER OF an application made by Trans-Northern Pipelines Inc. (TNPI), pursuant to section 69 of the CER Act, dated 19 May 2020, filed with the Commission of the Canada Energy Regulator (Commission) under Files OF-Fac-Surv-Gen-T217 01 and OF-Fac-Surv-Gen-T217 03

BEFORE the Commission on 17 July 2020.

WHEREAS the Canada Energy Regulator (CER) regulates the construction and operation of the TNPI pipeline system;

AND WHEREAS on 20 September 2016, the National Energy Board (NEB) issued a letter decision and Amending Safety Order AO-001-SO-T217-03-2010;

AND WHEREAS on 24 October 2016, the NEB issued a letter and Amending Safety Order AO-002-SO-T217-03-2010;

AND WHEREAS on 11 April 2017, the NEB issued Amending Safety Order AO-003-SO-T217-03-2010;

AND WHEREAS the Commission received an application from TNPI, pursuant to section 69 of the CER Act, dated 19 May 2020 to vary the reporting timelines established by Conditions 2.c, 3.c, 7.d, and 8.e of the Amending Safety Order AO-001-SO-T217-03-2010 dated 20 September 2016, as revised on 24 October 2016 and 11 April 2017 (ASO);

AND WHEREAS the Commission has examined the application, and considers the requested variance has been adequately justified and considers that the safe operation of TNPI pipeline system will not be negatively impacted by the requested variance;

AND WHEREAS Amending Safety Orders AO-001-SO-T217-03-2010, AO-002-SO-T217-03-2010, and AO-003-SO-T217-03-2010 remain fully in force except as amended by this Amending Order;

NOW THEREFORE, pursuant to subsection 69(1) of the CER Act, the Commission orders the following:

1. TNPI is relieved of its obligation to file its annual Engineering Assessments (EAs) required under conditions 2.c, 3.c, and 8.e for 2020 only, provided TNPI files by 14 August 2020:

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- a. An addendum to the EAs filed on 26 September 2019 and 19 December 2019 pursuant to Conditions 2.c, 3.c, and 8.e, signed by the Accountable Officer appointed under subsection 6.2(1) of the *Canadian Energy Regulator Onshore Pipeline Regulations*, confirming that TNPI pipeline sections are fit-for-service as follows: those in Schedule B until 30 September 2021 and those in Schedules C and D until 31 December 2021, at the applicable reduced maximum operating pressures; and
 - b. For sections of the pipeline system for which TNPI is still working towards the implementation of the 2019 EA recommendations and are currently operated below the reduced maximum operating pressures, a table listing the operating pressure for each section part of the pipeline system that the FFS is applicable for until 30 September 2021 and 31 December 2021, and the 2019 EA recommendations supporting the Fitness-for-Service at the current operating pressure that will be completed by those dates.
2. The Commission hereby varies Condition 7.d in ASO as follows:
- a. TNPI shall file Updates to the Commitment Plan with the CER on a biannual basis specifically in February and August of each year for a two year period, commencing on 17 August 2020. On 17 August 2022, TNPI shall file Updates to the Commitment Plan with the CER on a quarterly basis, unless otherwise directed by the Commission.

THE COMMISSION OF THE CANADA ENERGY REGULATOR

Original signed by S. Wong for

Jean-Denis Charlebois
Secretary of the Commission