



## **SECTION 55.2 GUIDANCE – PARTICIPATION IN A FACILITIES HEARING**

**The *National Energy Board Act*<sup>1</sup> (NEB Act) sets out when the National Energy Board (Board) will allow a person<sup>2</sup> to participate in a hearing to consider an application to construct and operate a pipeline or power line.<sup>3</sup>**

**Persons wishing to participate must demonstrate to the Board's satisfaction that they fall within one or both of the two categories described in the NEB Act and set out below.**

### **Directly Affected Person**

The Board must hear from any person who, in the Board's opinion, is directly affected by the granting or refusing of a project application. The Board decides on a case-by-case basis who is directly affected. The Board may consider these factors when making this decision:

1. The nature of the person's interest.
  - Whether a person has a specific and detailed interest, rather than a general public interest.
  - Examples of interests that could support participation are:
    - commercial, property or other financial interest (including employment);
    - personal use and occupancy of land and resources; or
    - use of land and resources for traditional Aboriginal purposes.
2. Whether the granting or refusing of a project application causes a direct effect on the person's interest.
  - The degree of connection between the project and the interest.
  - The likelihood and severity of harm a person is exposed to.
  - The frequency and duration of a person's use of the area near the project.

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<sup>1</sup> Section 55.2 of the NEB Act states:

On an application for a certificate, the Board shall consider the representations of any person who, in the Board's opinion, is directly affected by the granting or refusing of the application, and it may consider the representations of any person who, in its opinion, has relevant information or expertise. A decision of the Board as to whether it will consider the representations of any person is conclusive.

<sup>2</sup> The word "person" includes an individual, company, organization or group.

<sup>3</sup> Specifically, this guidance applies to applications made under sections 52, 58 and 58.16 of the NEB Act.

## **Relevant Information or Expertise**

The Board may choose to hear from any person who, in the Board's opinion, has relevant information or expertise.

1. The Board may consider these factors when deciding if a person has relevant information:
  - the source of the person's knowledge (for example, local, regional or Aboriginal);
  - the extent to which the information is within the project scope and related to the list of issues; and
  - how much value the information will add to the Board's decision or recommendation.
2. The Board may consider these factors when deciding if a person has relevant expertise:
  - the person's qualifications (for example, the person has specialist knowledge and experience);
  - the extent to which the person's expertise is within the project scope and related to the list of issues; and
  - how much value the information will add to the Board's decision or recommendation.