



Canada Energy
Regulator

Régie de l'énergie
du Canada

Suite 210
517 Tenth Avenue SW
Calgary, Alberta
T2R 0A8

517, Dixième Avenue S.-O.
bureau 210
Calgary (Alberta)
T2R 0A8

File OF-Surv-Gen-T217 01
1 November 2022

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

Dear Gail Sharko:

Trans-Northern Pipelines Inc. (TNPI)
Application dated 17 June 2022, pursuant to section 69 of the *Canadian Energy Regulator Act* and Part 3 of the *National Energy Board Rules of Practice and Procedure, 1995*
Amending Safety Order AO-001-SO-T217-03-2010, as amended (ASO)
Application for Variance of Reporting Frequency for Condition 7.d

**Before: K. Penney, Presiding Commissioner; T. Grimoldby, Commissioner;
W. Jacknife, Commissioner**

On 20 September 2016, the National Energy Board (**NEB**) issued the ASO to TNPI as a result of several overpressure incidents that occurred since 2010, imposing pressure restrictions on TNPI's pipeline system.

On 17 June 2022, the Canada Energy Regulator (**CER**) received an application from TNPI to vary the reporting frequency for Condition 7.d of the ASO to a biannual basis or such other diminished frequency that the Commission of the CER (**Commission**) may consider appropriate.

For the reasons set out below, the Commission has decided to grant TNPI's application.

TNPI's request to vary the ASO to reduce Condition 7.d filing frequency

Subsection 69(1) of the *Canadian Energy Regulator Act* authorizes the Commission to review, vary, or rescind any decision or order it makes. There is no automatic right of review; rather, the Commission has a discretionary power to review its decisions, which it must exercise sparingly and with caution.

The Commission considers applications for review through a two-step process. In the first step, the Commission considers whether the applicant has raised a doubt as to the correctness of the decision based on an error of law or jurisdiction, changed circumstances or new facts that have arisen since the close of the original proceeding, or facts that were

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not placed in evidence in the original proceeding and that were then not discoverable by reasonable diligence. The application must also include the nature of the prejudice or damage that has resulted or will result from the decision or order. If the Commission finds that the applicant has met the first step, then it will proceed to the second step and review the decision on its merits.

The Commission finds that TNPI has met the first part of the test. TNPI submitted that, since the Commission issued Order AO-001-SO-T217-03-2010 in 2016 and subsequent amendments, TNPI has achieved compliance with the majority of the conditions and that many of the outstanding conditions relate to ongoing reporting requirements or involve long-term compliance activities and, as a result, the content of the Commitment Plan updates does not change significantly on a quarterly basis. TNPI submitted that biannual reporting would achieve the same results as quarterly reporting. The Commission finds that TNPI's compliance with the majority of the conditions constitutes changed circumstances since the ASO was issued in 2016.

The Commission finds that it is appropriate to vary the ASO to reduce the reporting frequency for Condition 7.d to annual reporting for two reasons. The first reason is that it is not necessary for TNPI to provide quarterly updates on the outstanding information that TNPI must provide pursuant to the ASO because annual updates will be sufficient for the CER to monitor TNPI's compliance and progress. The outstanding information to be filed includes annual engineering assessment updates (Conditions 2.c, 3.c, and 8.e) and confirmation of completion of corrective and preventive measures regarding the overpressure protection (Conditions 4.a.viii, 5.b, and 5.d). TNPI may also file applications to reduce or lift the pressure restrictions on the pipeline segments (Condition 4.f). The second reason that annual filings are appropriate is that the Commission agrees with TNPI's submission that unnecessary quarterly reporting would result in unnecessary use of staff and financial resources that could otherwise be used to improve TNPI's pipeline system and comply with the outstanding conditions.

TNPI must file updates to the Commitment Plan on an annual basis on 17 February, commencing on 17 February 2023, as reflected in the attached Amending Safety Order AO-007-SO-T217-03-2010.

Yours sincerely,

Signed by

Ramona Sladic
Secretary of the Commission

Attachment



ORDER AO-007-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 17 June 2022, filed with the Canada Energy Regulator (**CER**) under File OF-Surv-Gen-T217 01.

BEFORE the Commission of the CER (**Commission**) on 1 November 2022.

WHEREAS the CER regulates the construction and operation of the TNPI pipeline system;

AND WHEREAS on 20 September 2016, the National Energy Board issued a letter decision and Amending Safety Order AO-001-SO-T217-03-2010, which it amended on 24 October 2016 and 11 April 2017, and the Commission further amended on 17 July 2020, 8 June 2022, and 6 September 2022;

AND WHEREAS the Commission received an application from TNPI, dated 17 June 2022, to vary Order AO-001-SO-T217-03-2010, as amended, to reduce the required filing frequency of Condition 7.d for Commitment Plan updates from a quarterly to a biannual basis or such other diminished frequency that the Commission may consider appropriate;

AND WHEREAS on 1 November 2022, the Commission approved TNPI's application;

AND WHEREAS Order AO-001-SO-T217-03-2010, as amended, remains in force and is further amended by this Amending Safety Order;

IT IS ORDERED that, pursuant to subsection 69(1) of the CER Act, Order AO-001-SO-T217-03-2010, as amended, is varied by changing the Condition 7.d requirement to the following:

TNPI shall file updates to the Commitment Plan with the CER on an annual basis on 17 February, commencing on 17 February 2023, and continuing until otherwise directed by the Commission.

THE COMMISSION OF THE CANADA ENERGY REGULATOR

Signed by

Ramona Sladic
Secretary of the Commission