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OEB Approves Pipeline Route Realignment on Motion to Review and Vary

By Fred D. Cass

On March 12, 2020, the Ontario Energy Board approved construction by Imperial Oil Limited of a pipeline for the transportation of refined petroleum products from a facility in Hamilton to a facility in Toronto. The pipeline was proposed by Imperial Oil to replace an existing pipeline that is reaching the end of its serviceable life and it largely follows the route of the existing pipeline. Subsequent to the OEB's decision granting leave to construct, Imperial Oil requested, by letter to the OEB, three changes to the OEB-approved route for the pipeline.

An OEB staff member, acting under delegated authority, found that two of the route changes proposed by Imperial Oil were not material, but that the third proposed change would be material. The third proposed change would directly affect 23 parcels of land including six properties, owned by five different landowners, that were not directly impacted by the OEB-approved route. Because the six properties were not part of the OEB-approved route, the owners of these properties did not receive notice of Imperial Oil's leave to construct application and did not have the opportunity to participate in the leave to construct proceeding.

The OEB determined that it would treat Imperial Oil's third proposed route change as a motion to review and vary the leave to construct decision. On December 17, 2020, the OEB issued its decision in respect of the motion to review and vary. The OEB found that the third proposed change was necessitated by requirements of the Ministry of Transportation and Hydro One Networks Inc. for their future expansion plans. The OEB went on to find that Imperial Oil had demonstrated the need for the route realignment, in that the previously approved route was no longer feasible for a portion of the pipeline.

In the December 2020 decision, the OEB also considered other aspects of the proposed route realignment, including environmental matters, landowner issues, safety and emergency response issues and indigenous consultation. The OEB concluded that the proposed route realignment is in the public interest and it approved the realignment subject to the same conditions of approval as set out in a schedule to the March 2020 decision.

Author



Fred D. Cass
Partner
T 416.865.7742
fcass@airdberlis.com

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