

Dec 11, 2020

OEB Issues Order in Respect of Province-Wide Pole Attachment Charge

By Fred D. Cass

On November 16, 2020, we wrote about a decision of the Ontario Divisional Court dismissing an appeal with respect to the charge approved by the Ontario Energy Board for wireline attachments to electricity distribution poles. This decision related to the province-wide pole attachment charge, which applies by default when a utility-specific pole attachment charge has not been approved for a particular electricity distributor.

In the decision, the Divisional Court upheld the OEB's process for updating the province-wide charge, but it also indicated that the OEB should issue an order in respect of the updated charge. On December 10, 2020, the OEB issued an order embodying the pole attachment charge that was the subject of the Court's decision.

The OEB's order also referred to a mandate letter sent by the Minister of Energy, Northern Development and Mines to the OEB on October 1, 2020. In an appendix attached to the mandate letter, the Minister identified a number of Priorities for a Modernized OEB. One of these priorities is: "Consider pole attachment policy in the context of opportunities to better serve areas that are currently underserved." The OEB's order said that it is currently considering how best to move forward with this priority and that it expects to provide more information in the new year. In the meantime, the OEB has determined that the inflationary adjustment to the province-wide charge for 2021 will be suspended and the current charge will remain in effect on an interim basis, until further notice. This approach, the OEB said, will provide it with the flexibility to determine the next steps in pursuing the initiative referred to in the mandate letter.

Author



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

This communication offers general comments on legal developments of concern to business organizations and individuals and is not intended to provide legal advice. Readers should seek professional legal advice on the particular issues that concern them.