

Introduction

The Ontario Energy Board's (OEB) legislative authority with respect to applications seeking approval to expropriate land for a work is set out in section 99 of the *Ontario Energy Board Act, 1998* (OEB Act).

A person that has received leave to construct from the OEB or who is exempt from obtaining leave under section 95 or by regulation, may apply for expropriation where they have been unable to reach an agreement with an affected landowner. The OEB may make an order authorizing the expropriation if it determines that the expropriation is in the public interest. Applicants are expected to make best efforts to negotiate an agreement with landowners before resorting to an expropriation application.

The main issue in an expropriation proceeding is not whether the project itself is in the public interest (as this will already have been determined in the leave to construct decision), but rather whether the specific expropriations requested are in the public interest.

Section 100 of the OEB Act provides that, if the applicant and affected landowners cannot agree on compensation for expropriation, the compensation is determined by the Ontario Land Tribunal under the *Expropriations Act*, R.S.O. 1990, c. E.26.

The standard issues list below is intended to capture the issues that are within the scope of a typical expropriation application under section 99 of the OEB Act.

Section 99 Expropriation Issues List

1. Is the proposed expropriation in the public interest?
2. Has the applicant requested expropriation of the minimum amount of land needed for the project, and the minimum legal interest required for that land?
3. What conditions, if any, should be attached to the OEB's Order in this proceeding?