



Energy - Regulatory

Stikeman Elliott lawyers have a proven reputation in energy regulatory matters throughout Canada, advising on many of the most complex undertakings in the sector in recent years. These initiatives include the construction and development of major projects to ongoing operations; supporting the regulatory elements of major acquisitions, divestments and development projects; and acting as counsel in complex regulatory proceedings, including appeal and judicial review proceedings.

Members of the team frequently appear in proceedings relating to the approval, development and operation of oil and gas wells, pipelines, storage facilities, petrochemical plants and oil sands developments, as well as power plants, generation facilities and transmission lines. These matters often involve the application and interpretation of environmental legislation, including licensing requirements, enforcement issues, carbon emissions regulation, and the remediation of contaminated sites. We also represent electric and gas utilities in rate regulation and tariff matters, and have considerable experience in land rights acquisition and expropriation matters. In addition, we have substantial experience in dispute resolution.

Stikeman Elliott has represented energy market participants in proceedings before essentially all federal and provincial regulators in the sector, including the Canada Energy Regulator (CER) (formerly the National Energy Board), the Alberta Energy Regulator, the Alberta Utilities Commission, the Ontario Energy Board, the British Columbia Utilities Commission, the Manitoba Public Utilities Board, the Surface Rights Board, the Land Compensation Board, the Northwest Territories Public Utilities Board, the Yukon Utilities Board, and the Yukon Water Board; as well as appeal and review proceedings before provincial appellate courts and the Supreme Court of Canada.

Our Expertise

- Carbon emissions regulation
- Contamination and remediation
- Compliance and enforcement proceedings
- Deregulation and market design
- Dispute resolution and appeals
- Environmental licensing
- Facility approvals
- Hearings and public meetings
- Land rights acquisition and expropriation
- Land use approvals
- Project development
- Rate regulation
- Regulatory approvals
- Tariff matters

Accolades

- Natural Resources Law Firm of the Year - *Best Lawyers in Canada 2018*
- *Chambers Canada 2020* for Energy: Power

- *Chambers Canada 2020* for Energy: Oil & Gas
- *Chambers Canada 2020* for Energy: Provincial Regulatory & Litigation in Alberta
- *Chambers Canada 2020* for Energy: Provincial Regulatory & Litigation in Ontario
- *Chambers Global 2019* for Energy: Oil & Gas - Canada
- *Chambers Global 2019* for Energy: Power - Canada
- *The Legal 500 Canada 2019* for Energy: Oil & Gas
- *The Legal 500 Canada 2019* for Energy: Power
- *Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada* for Energy Regulatory
- *The Canadian Legal Lexpert Directory 2019* for Energy (Oil & Gas)
- *The Canadian Legal Lexpert Directory 2019* for Energy (Electricity)
- *Lexpert 2019 Guide to the Leading US/Canada Cross-Border Lawyers in Canada* for Regulatory
- Energy Law Firm of the Year - *Chambers Canada Awards 2016*

Recent Work

- The Alberta Electric System Operator in a proceeding before the Alberta Utilities Commission in which the Commission considered three applications for approval of the construction and operation of a new 60 kilometer electrical transmission line through Jasper National Park.
- West Isle Energy Inc. in successfully obtaining the rescission of an order of the Alberta Energy Regulator's Closure & Liability Branch that directed West Isle close and abandon certain natural gas facilities that had to be shut-in due to a third party natural gas processor shuttering its plant. The Alberta Energy Regulator accepted West Isle Energy's action plan to recommence operation of the shut-in facilities.
- ITC Holdings Corp. in obtaining NEB certificate and other approvals to construct first merchant transmission project to connect to the Ontario system and the first transmission link between Ontario and PJM market in Mid-Atlantic and Midwest states.
- The Alberta Electric System Operator (AESO) in its application to the Alberta Utilities Commission for legal determinations regarding the effect of termination of a power purchase arrangement (PPA) by the PPA buyer upon the buyer's related transmission system access service agreement with the AESO.
- Phillips 66 in objecting to an application made by Trans Mountain Pipeline to the National Energy Board for approval to include in pre-expansion pipeline tolls the approximate C\$100M cost of enhancing the marine spill response capabilities required for Trans Mountain's proposed expansion of the oil pipeline between Edmonton, Alberta and Burnaby, British Columbia.
- The Alberta Electric System Operator (AESO) in its application to the Alberta Utilities Commission for approval of its proposed 2018 ISO Tariff, which includes the AESO's proposed rates for each type of transmission system access service it provides and substantially revised terms and conditions of service.

- OEB in successful appeal to the Supreme Court of Canada restoring OEB's decision to disallow rate recovery by Ontario Power Generation of C\$145M in collective bargaining related costs.
- AltaGas in respect of its termination, and return to the Alberta Balancing Pool, of a Power Purchase Arrangement in reliance upon a change in law provision.
- Capstone Infrastructure in successful proceedings before Ontario Superior Court, Court of Appeal and Supreme Court of Canada, in complex litigation concerning cost index contained in long-term power purchase agreements.
- The Alberta Electric System Operator in the Module C component of Proceeding 790 before the Alberta Utilities Commission, which involves the reallocation of transmission system loss factor charges and credits for the period of 2006 to 2016, which are estimated to be in the order of C\$1.5B.
- Secure Energy Services in respect of energy regulatory matters and appeals.
- *Hydro-Québec v. Churchill Falls (Labrador) Corp.* (pending) - Representing the owner of the Churchill Falls Hydro plant in a motion to obtain a declaratory judgment on the interpretation of the renewal terms of a long-term energy purchasing contract signed in 1969 which will become effective in 2016.
- OEB as independent enforcement counsel in proceeding under s.112 of the *Ontario Energy Board Act* relating to anti-competitive practices by an electricity distributor.
- Cambridge and North Dumfries Hydro, now Energy+ Inc., in their Ontario Energy Board application to amalgamate with Brant County Power.
- Seven Generations Energy Ltd. in its acquisition of a minority interest in Steelhead LNG Limited Partnership, which is proposing two LNG export facilities on Vancouver Island, and related joint venture arrangements.
- Independent Electricity System Operator in various generation and ancillary services competitive procurements.
- A panel of the Ontario Energy Board in a compliance proceeding against Summitt Energy for engaging in unfair practices in the retailing of natural gas and electricity.
- Orca LNG Ltd. in its joint venture and offtake arrangements, and regulatory requirements, in relation to its proposed West Coast floating LNG project.
- Isolux Corsan and TC Energy Corporation in their joint proposal to the Ontario Energy Board's designation proceeding for the East-West Tie Line.