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October 10, 2019

Ontario Energy Board
2300 Yonge Street, 27th floor
P.O. Box 2319
Toronto, ON M4P 1E4
Attn: Kirsten Walli, Board Secretary

Sent via email to: boardsec@oeb.ca

Dear Ms. Walli:

**Re: Imperial Oil Limited Application Number EB-2019-007 for Leave to Construct –
Waterdown to Finch Project (the "Project")**

We write pursuant to Procedural Order No. 4 and Rule 27.03 of the *Rules of Practice and Procedure*. We respectfully request that the Board order the disclosure of the following information:

- 1) the complete results of all audits, whether internal or external, conducted of Imperial's Safety and Loss Management System program, including Imperial's response to these audits;
- 2) a copy of Imperial's Integrity Management Program as required by CSA Z662-15 Clause 3.1.2 (f and v) and Clause 3.2, and complete details of all audits, whether internal or external, conducted of this Program including Imperial's response, and;
- 3) the complete risk analysis performed on the existing line, and on the proposed replacement line indicating where consequence levels may have changed between the existing and proposed pipelines.

This motion stems from non-responses or incomplete responses to the interrogatories of the City of Toronto ("Toronto"). Please accept this letter as Toronto's Notice of Motion.

Need for Disclosure and Supporting Municipalities

Toronto's motion for disclosure is supported by the Region of Halton, the City of Mississauga, and the Region of Peel. Toronto submits that this disclosure is necessary for the thorough, transparent, and complete assessment of Imperial's application, including assessing risks and providing submissions on appropriate conditions of approval. As detailed below, the disclosure has in Toronto's view been mandated by Procedural Order No. 4.

Procedural History

In Procedural Order 4, the Board ordered that:

Imperial Oil shall file with the OEB and deliver to all intervenors information referenced in the City of Toronto's letter dated August 14, 2019 related to certain interrogatories by August 23, 2019.

Toronto's letter referenced "records sought in Toronto's interrogatories but not provided to date". As summarized at pages 38 to 39 of the August 2, 2019 Response to Interrogatories, Toronto has sought:

25.3 Information Request

...

- b) The results of all audits, whether internal or external, conducted of the SLMS program, including Imperial's response to these audits.
- c) A copy of the company's Integrity Management Program as required by CSA Z662-15 Clause 3.1.2 (f and v) and Clause 3.2, and details of all audits, whether internal or external, conducted of this Program including Imperial's response.
- d) The results obtained from a detailed risk analysis performed on the proposed replacement line indicating where consequence levels may have changed between the existing and proposed pipelines.

Imperial's response did not provide the information requested in (c), (d), and (e), and stated respectively that "assessment results are proprietary", that "this program is not available for external review", and that "risk analysis results are not shared publically".

Subsequently, discussions regarding disclosure occurred between Imperial and the City. Imperial made two requests, dated August 30, 2019 and September 18, 2019, for extensions to the deadline for submissions. However, Toronto received correspondence today from Imperial from which it understands that Imperial will not be providing this disclosure as part of the interrogatory process. This has obligated Toronto to bring this motion at this date.

Timeliness of Disclosure

Toronto continues to seek a speedy and efficient resolution of Imperial's application, including achieving consensus where possible. Toronto is seeking limited disclosure that was requested in its interrogatories, and has not been provided by Imperial to date. Any delay to the Application timelines is attributable to the non-provision of this information.

Order Requested

To this end, Toronto respectfully requests an Order that Imperial provide:

- 1) the complete results of all audits, whether internal or external, conducted of Imperial's Safety and Loss Management System program, including Imperial's response to these audits;

- 2) a copy of Imperial's Integrity Management Program as required by CSA Z662-15 Clause 3.1.2 (f and v) and Clause 3.2, and complete details of all audits, whether internal or external, conducted of this Program including Imperial's response, and;
- 3) the complete results obtained from a detailed risk analysis performed on the existing line, and on the proposed replacement line indicating where consequence levels may have changed between the existing and proposed pipelines.

Please note that, for (3), Toronto is requesting disclosure pertaining to both the existing and proposed pipeline. This is because a full risk analysis may not yet have been completed for the proposed pipeline. The risk analysis for the existing pipeline, which will share the same start and end points, traverse the same watercourses, transport the same products, *etc.*, is relevant and necessary to examine in the context of an Application that may have been submitted prior to a full risk analysis being completed.

The disclosure must in Toronto's view be full and complete, rather than simply high-level summaries.

Finally, Toronto requests that the deadline for intervenors' submissions be extended to 14 days from when the disclosure is provided by Imperial.

Imperial has confirmed that it does not object to an extension of October 21, 2019 for intervenors' submissions.

Documents and Rules Relied Upon

Toronto relies upon the following:

- 1) Toronto's Interrogatories, City of Toronto_IR_IOL_20190712;
- 2) Imperial's Response to Interrogatories, IOL_IRR_Redacted_20190806, and;
- 3) The Board's Rules of Practice and Procedure, including Rules 8, 11, and 27.03.

Yours truly,



Nicholas Rolfe
City of Toronto, Legal Services