

Ontario Energy Board
P.O. Box 2319
27th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'énergie de l'Ontario
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416-481-1967
Télécopieur: 416-440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL

November 29, 2010

Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Plateau Wind Inc.
Application for determination of location of distribution facilities on road allowances owned by the Municipality of Grey Highlands
Board Staff Submissions
Board File No EB-2010-0253**

Attached is Board staff's submission with respect to the subject proceeding, filed in accordance with Procedural Order No. 1 dated October 29, 2010 as amended (due date extended to November 29, 2010) by Board letter dated November 17, 2010.

Please forward the submission to Plateau Wind Inc. and to all other registered parties to this proceeding.

Yours truly,

Original signed by

Robert Caputo
Project Advisor
Applications and Regulatory Audit

Encl.



ONTARIO ENERGY BOARD

STAFF SUBMISSION

**APPLICATION BY PLATEAU WIND INC.
FOR DETERMINATION OF THE LOCATION OF
DISTRIBUTION FACILITIES WITHIN CERTAIN ROAD
ALLOWANCES OWNED BY THE MUNICIPALITY
OF GREY HIGHLANDS**

EB-2010-0253

November 29, 2010

1.0 INTRODUCTION

Plateau Wind Inc. (“Plateau” or the “Applicant”) has filed an application dated July 30, 2010 with the Ontario Energy Board (the “Board”) under subsection 41(9) of the *Electricity Act, 1998*, S.O. 1998, c.15, Schedule A (the “*Electricity Act*”) for an order or orders of the Board establishing the location of Plateau’s proposed distribution facilities within road allowances owned by the Municipality of Grey Highlands (“Grey Highlands”).

The purpose of this document is to provide the Board with Board staff’s submissions in accordance with the Board’s Procedural Order No. 1 dated October 29, 2010.

The following excerpts from the Applicant’s pre-filed evidence suggest that the Applicant’s proposed distribution facilities comprise a distribution system and that the Applicant would own and operate the distribution system and be a “distributor” within the meaning of the *Electricity Act*. In its prefiled evidence, at Exhibit B, Tab 2, Schedule 1, Page 1, the Applicant states:

In addition to the Turbines, the Project consists of turbine access roads (the “Access Roads”) and a 44 kilovolt (“kV”) overhead and underground electrical power distribution system (the “Distribution System”), which is necessary to transport the electricity generated from each Turbine to the existing 44 kV local distribution system of Hydro One Networks Inc. (“HONI”) and ultimately to the IESO-controlled grid. The Distribution System is further described in Exhibit B, Tab 3, Schedule 1 (Proposed Use of Municipal Road Allowances) and shown on the map included at Exhibit B, Tab 2, Schedule 1, Appendix A.

Further, at Exhibit B, Tab 3, Schedule 1, Page 1 of the Applicant’s evidence:

The Electricity Act defines “distributor” to mean “a person who owns or operates a distribution system.” As noted in Exhibit B, Tab 2, Schedule 1 (Project Description), the Project includes a 44 kV overhead and underground Distribution System. As such, the Applicant is a distributor

- 2 -

under the Electricity Act. As a distributor, to construct or install distribution facilities within public streets or highways, the Applicant is not required to obtain the consent of the owner of such public streets or highways -- in this case, Grey Highlands. The only issue, pursuant to section 41(9) of the Electricity Act, is the location of the Distribution System within the Road Allowances.

These following submissions are intended to outline Board staff's understanding with respect to the definition/requirements of "distributor" as it pertains to this application.

2.0 SUBMISSIONS

Several letters of comment from observers expressed the view that the Applicant is not or may not be a distributor and therefore should not have standing to make the application under Section 41 of the *Electricity Act*.

The *Electricity Act* defines a distributor as "a person that owns or operates a distribution system". Section 2. (1) of the *Electricity Act* provides the following definitions for "distribute", "distribution system" and "distributor"

"distribute", with respect to electricity, means to convey electricity at voltages of 50 kilovolts or less;

"distribution system" means a system for distributing electricity, and includes any structures, equipment or other things used for that purpose;

"distributor" means a person who owns or operates a distribution system;

In Board staff's view, based on the above definitions, the distribution component of the Applicant's proposed facilities does qualify as a distribution system and the Applicant is a distributor and therefore has standing to bring the within application.

The Board may also wish to consider whether the Applicant is required to be a licensed distributor in order to file an application under Section 41 of the *Electricity*

- 3 -

Act and to subsequently operate the distribution facilities. While s. 57 (a) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (“*OEB Act*”) would generally require a distributor such as the Applicant to hold a distribution license, the Applicant appears to be exempt from requiring a distributor license by virtue of Ontario Regulation 161/99 under the *OEB Act* which states:

- 4.0.1** (1) Clause 57 (a) and sections 71, 72, 78, 80 and 86 of the Act do not apply to a distributor who distributes electricity for a price no greater than that required to recover all reasonable costs,
- (d) with respect to a distribution system owned or operated by a distributor, if the distributor is a generator and distributes electricity solely for the purpose of conveying it into the IESO-controlled grid. O. Reg. 72/02, s. 2; O. Reg. 15/03, s. 1; O. Reg. 41/04, s. 2; O. Reg. 478/05, s. 1

As the Applicant’s distribution system would transport electricity from its generation facilities to the Hydro One distribution system and ultimately to the IESO-controlled grid, and no other use of the distribution system has been identified by the Applicant, its distribution system would be exempt under Section 4.0.1 (d) of Ontario Regulation 161/99 from the licence requirement of section 57(a) of the *OEB Act*.

All of which is respectfully submitted.

End of document