



EB-2011-0209

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF an application by Trout Creek Wind Power Inc. pursuant to section 74(1)(b) of the *Ontario Energy Board Act, 1998* to amend Hydro One Networks Inc.'s Electricity Distribution Licence ED-2003-0043 to exempt Hydro One from sections 6.2.4.1(e)(i) and 6.2.18(a) of the Distribution System Code with respect to Trout Creek Wind Farm (Hydro One Connection No. 12,780).

**NOTICE OF APPLICATION AND WRITTEN HEARING
AND
PROCEDURAL ORDER NO. 1**

The Application

On May 25, 2011, Trout Creek Wind Power Inc. ("Trout Creek" or the "Applicant") filed an application with the Ontario Energy Board (the "Board") under section 74(1)(b) of the *Ontario Energy Board Act, 1998* (the "Act") to amend the distribution licence of Hydro One Networks Inc. ("Hydro One") to exempt Hydro One from sections 6.2.4.1(e)(i) and 6.2.18(a) of the Distribution System Code (the "DSC") with respect to Trout Creek Wind Farm (Hydro One Connection No. 12,780) (altogether, the "Project") and to substitute a special rule for the Project.

Section 6.2.4.1(e)(i) of the DSC states that a distributor's capacity allocation process must include a requirement that a generator have its capacity allocation removed if the generator does not sign a connection cost agreement with the distributor within 6 months of the date on which the generator received a capacity allocation. Section 6.2.18(a) of the DSC states that the connection cost agreement must include a requirement that the generator pay a connection cost deposit ("CCD") equal to 100% of

the total estimated allocated cost of connection at the time the connection cost agreement is executed.

Trout Creek requested that the Board amend Schedule 3 of Hydro One's distribution licence to reflect Trout Creek's proposed exemption. Trout Creek also requested that the Board implement a different rule for the Project ("Trout Creek's Proposed Rules"). Trout Creek's Proposed Rules are attached to this document as Appendix A.

The Applicant stated that the Project has been subject to significant delays as a result of the Ministry of Natural Resources' site release procedure; therefore, the Applicant has not been able to complete necessary studies and permits for the Project. The Applicant further indicated that because of these delays that are beyond the Applicant's control, Trout Creek cannot obtain funding at this time to make the full CCD payment as required by the provisions of the DSC.

INTERIM DECISION AND ORDER

The Applicant requested that the Board render an interim decision and order by May 26, 2011 prohibiting Hydro One from taking any steps to remove the capacity allocated to the Project and setting a date by which Hydro One must execute the Connection Cost Agreement in relation to the Project with Trout Creek and an amount to be paid on that date.

On May 26, 2011, the Board issued an Interim Decision and Order exempting Hydro One from the requirements of sections 6.2.4.1e(i) and 6.2.18(a) of the DSC in relation to the Project until the Board's final disposition of proceeding EB-2011-0209.

The Board also ordered that "upon execution of the Connection Cost Agreement, Hydro One will collect \$200,000 from Trout Creek. The execution of the Connection Cost Agreement will occur within thirty days from the date of this Interim Decision and Order."

How to see Trout Creek's Application

Copies of the application are available for inspection at the Board's office in Toronto and on its website, www.ontarioenergyboard.ca/OEB/Industry, and at Trout Creek's office and may be on its website.

How to Participate

You may participate in this proceeding in one of three ways:

1. Become an Intervenor

Intervenors participate actively in the proceeding (i.e., submit written questions, evidence, and arguments, and cross-examine witnesses at an oral hearing).

A request for intervenor status must be made by letter of intervention and be received by the Board no later than **7 days** from the publication or service date of this notice. A letter of intervention must include: (a) a description of how you are, or may be, affected by the outcome of this proceeding; (b) if you represent a group, a description of the group and its membership; and (c) whether you intend to seek an award of costs and the grounds for your cost award eligibility.

You must provide a copy of your letter of intervention to the applicant.

Everything an intervenor files with the Board, including the intervenor's name and contact information, will be placed on the public record, which means that all filings will be available for viewing at the Board's offices and will be placed on the Board's website.

If you already have a user ID, please submit your intervention request through the Board's web portal at www.errr.ontarioenergyboard.ca. Additionally, two paper copies must be submitted to the address set out below.

If you do not have a user ID, visit the Board's website under e-Filing Services and complete a user ID/password request form. For instructions on how to submit documents and naming conventions please refer to the RESS Document Guidelines found at www.ontarioenergyboard.ca/OEB/Industry, e-Filing Services.

The Board also accepts interventions by e-mail, at the address below, and again, two additional paper copies are required. Those who do not have internet access are required to submit their intervention request on a CD in PDF format, along with two paper copies.

2. Send a Letter with your Comments to the Board

If you wish to comment on the proceeding without becoming an intervenor, you may submit a letter of comment to the Board Secretary.

All letters of comment sent to the Board will be placed on the public record, which means that the letters will be available for viewing at the Board's offices and will be placed on the Board's website.

Before placing the letter of comment on the public record, the Board will remove any personal (i.e., not business) contact information from the letter of comment (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the letter of comment will become part of the public record.

A complete copy of your letter of comment, including your name, contact information, and the content of the letter, will be provided to the applicant and the Hearing Panel.

Your letter of comment must be received by the Board no later than **30 days** from the publication or service date of this notice. The Board accepts letters of comment by either post or e-mail at the addresses below.

3. Become an Observer

Observers do not participate actively in the proceeding but receive documents issued by the Board in the proceeding. There is no fee for observers to receive documents issued by the Board.

A request for observer status must be made in writing and be received by the Board no later than **7 days** from the publication or service date of this notice. The Board accepts observer request letters by either post or e-mail at the addresses below.

All letters requesting observer status will become part of the public record, which means that the letters will be available for viewing at the Board's offices and will be placed on the Board's website.

Before placing the request for observer status on the public record, the Board will remove any personal (i.e., not business) contact information from the request (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the request for observer status will become part of the public record.

Observers may also request documents filed by the applicant and other parties to the proceeding but must request these documents directly from the relevant party. Observers may be required to pay for the costs of reproducing and delivering the material.

Most documents filed in this application will also be available on the Board's website.

Written Hearing

The Board intends to proceed with this matter by way of a written hearing unless a party satisfies the Board that there is a good reason for not holding a written hearing. If you object to the Board holding a written hearing in this matter, you must provide written reasons why an oral hearing is necessary. Any submissions objecting to a written hearing must be received by the Board and copied to the applicant within **7 days** of the publication or service date of this notice.

The Board considers it necessary to make provision for the following matters related to this proceeding at this time. The Board may amend this procedural order or issue further procedural orders from time to time.

IT IS THEREFORE ORDERED THAT:

1. If the Applicant has any objections to any intervention requests and/or requests for cost eligibility, it shall file its written objection with the Board and serve it on the party that made the request on or before **June 27, 2011**.
2. Intervenors or Board staff wishing information and material from the Applicant that is in addition to the Applicant's pre-filed evidence, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and served on the Applicant and all intervenors on or before **July 11, 2011**.

3. The Applicant shall file its complete responses to the interrogatories with the Board and serve them on the intervenors on or before **July 21, 2011**.
4. The Applicant shall file its argument-in-chief with the Board and serve it on all intervenors on or before **August 2, 2011**.
5. Intervenors or Board staff wishing to file a written submission shall file their submission with the Board and serve it on the Applicant and all intervenors on or before **August 12, 2011**.
6. If the Applicant wishes to file a written reply submission, it shall file its reply submission with the Board and serve it on all intervenors on or before **August 22, 2011**.

How to Contact Us

In responding to this Notice, please reference Board file number EB-2011-0209 in the subject line of your e-mail or at the top of your letter. It is also important that you provide your name, postal address and telephone number and, if available, an e-mail address and fax number. All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

Need More Information?

Further information on how to participate may be obtained by visiting the Board's www.ontarioenergyboard.ca/OEB/Industry or by calling our Consumer Relations Centre at 1-877-632-2727.

IMPORTANT

IF YOU DO NOT FILE A WRITTEN SUBMISSION OBJECTING TO A WRITTEN HEARING OR DO NOT PARTICIPATE IN THE HEARING BY FILING WRITTEN SUBMISSIONS IN ACCORDANCE WITH THIS NOTICE, THE BOARD MAY PROCEED WITHOUT YOUR PARTICIPATION AND YOU WILL NOT BE ENTITLED TO FURTHER NOTICE IN THIS PROCEEDING.

Addresses

The Board

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Attention: Board Secretary
Filings:
<https://www.errr.ontarioenergyboard.ca/>

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

The Applicant

Trout Creek Wind Power Inc.
49 Bathurst Street, Suite 101
Toronto, ON M5V 2P2
Attention: Mr. Thomas Schneider
E-mail: t.s@schneiderpower.com
Tel: 416-847-3724 ext. 235
Fax: 416-847-3729

The Applicant's Counsel:

Aird& Berlis LLP
Suite 1800, box 754
Brookfield Place, 181 Bay Street
Toronto, ON M5J 2T6
Attention: Mr. Scott A. Stoll
E-mail: [sstoll@airdberlis.com](mailto:ssoll@airdberlis.com)
Tel: 416-865-4703
Fax: 416-863-1515

DATED at Toronto, June 7, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A
NOTICE OF APPLICATION AND WRITTEN HEARING
AND
PROCEDURAL ORDER NO. 1

EB-2011-0209

For the Trout Creek Wind Farm (Hydro One Project #12,780), Hydro One shall be exempted from the current connection cost deposit stipulated in s. 6.2.18(a) of the Distribution System Code (the "DSC") and shall, instead, adhere to the following schedule:

1. \$20,000 per MW of capacity shall be paid by the proponent to Hydro One upon the execution of the Connection Cost Agreement.
2. An additional deposit in the amount of 30% of the total estimated cost, as estimated by Hydro One, less the amount received by Hydro One under paragraph 1 above, shall be paid by the proponent to Hydro One no later than 4 months after the proponent notifies Hydro One that it has completed the Renewable Energy Approval.
3. No later than 180 days after Hydro One receives payment of the amount referenced in paragraph 2 above, Hydro One shall provide to the proponent a construction schedule and a more accurate estimate of the project cost, if such estimate is requested and paid for by the proponent. The payment for the estimate shall be drawn from the deposit to the extent possible.
4. The balance of the total estimated cost, as estimated by Hydro One based upon the best available information, shall be paid by the proponent to Hydro One no later than 30 days after the proponent notifies Hydro One that it is proceeding to construction.
5. Hydro One and the proponent shall mutually agree upon an in-service date that is no later than 2 years after Hydro One receives the balance referenced in paragraph 4, above, subject to the following: in cases where a transmission upgrade or new transmission facilities are required, Hydro One and the proponent may agree to an in-service date that is later than two years after Hydro One receives the balance referenced in paragraph 4, above.
6. The Expansion Deposit, as stipulated by Section 3.2.20 of the DSC shall be paid to Hydro One at the same time as the payment in paragraph 4.

Notwithstanding the foregoing, if at any time the above-noted payments to Hydro One are insufficient to cover Hydro One's costs as estimated by Hydro One, the proponent shall pay, to Hydro One, additional funding sufficient to meet the shortfall identified by Hydro One, and Hydro One shall be relieved of its obligation to perform such further work until it receives the said additional funding.