

Intervenors comments Oct.4, 13

EB-2013-0233 East Durham Wind Inc.

Syd and Karen Parkin
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October 7, 2013

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms. Walli:

Re: East Durham Wind Inc. ("East Durham")
Application to Determine the Location of Distribution Facilities within Road Allowances Owned by the Municipality of West Grey Board File No. EB-2013-0233

We are intervenors. We are writing to include our comments for your consideration regarding East Durham's Oct. 4, clarification correspondence with respect to the record in the above noted proceeding.

The municipality of Glenelg is a community of families and farms, it is our home. The East Durham Wind project and its utility infrastructure has a service life of 25 years and more. Long after the council for East Durham and members of the Ontario Energy Board have moved their attention to other matters, we will still be here, living with the decisions that are made in this proceeding. It is from this place that we offer these comments.

On Aug.15/13, Board staff questioned East Durham about the method of determining the 1-4 metre setback from abutting property lines and requested documentation to qualify the 1-4 metre setback¹.

On Aug.26/13, East Durham Wind responded with a reply justifying the 1-4 metre setback on the experience of East Durham Wind and their affiliates, is generalized to the continent of North America and is without qualifying documentation².

¹ Aug.15/13 Board Staff Interrogatories to Applicant, pg4, Questions/ Request ii

² Aug. 26/13, East Durham Wind, IR Responses pg 5, line 4-9

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On Sept.10/13, Intervenors responding submissions to East Durham Argument in chief, again requested of East Durham to indicate how East Durham determined the “1-4 metres” parameter as being appropriate in Ontario and If it is standard practice in Ontario to, please submit relevant documentation³. Intervenors stated that a common setback for many land use applications require a 3 metre minimum setback.

On Sept.19/13, East Durham qualifies the 1-4 metre setback by stating the 1-4 metres setback is from the experience of East Durham and its parent company and references where East Durham had stated this previously⁴. There was no supporting documentation introduced.

On Oct.2/13, The Board requested of East Durham, a more detailed response regarding the determination of the 1-4 metre parameter and to submit relevant documentation that supports the request⁵.

On Oct.4/13, East Durham identifies the 1-4 meter setback as being “preferred” by counties and municipalities according to East Durham’s and Next Era’s experience. The attached documents, in East Durham’s clarification, does not support East Durhams notion of a 1-4 meter setback.

It is fact that, the “1-4 meter setback from a property line” as being accepted and appropriate, is not mentioned or even implied by anyone except East Durham. One would think that an organization that has experience with a “common practice” and “preferred” setback of 1-4 meters from the property line, would have some or any documentation to verify such.

East Durham quotes from the document “Utility Placement Policy on Grey County Right-of-Ways” to verify East Durhams story of a 1-4 metre setback from a property line.

- “Utility plants are usually confined to a two (2) metre horizontal strip along the highway where possible”
- “the horizontal strip should be adjacent to the right-of-way limit, unless that location is already occupied by another utility, trees, or other obstacles”

³ Sept.10/13 Intervenors Responding Submissions to East Durham Argument in Chief, Responding submission 1, Question/ Request b)

⁴ Sept.19/13, East Durham_ReplySUB 20130919, Pg 9, line 11-19, pg10, line 1-19, pg11, line 1-10

⁵Oct.2/13, Board Correspondence, paragraph 2

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- “the two (2) metre strip must be as close to the right-of-way limit as possible and not closer to the roadway or pavement than the centre of the roadside ditch. Any exceptions must be negotiated between the parties PRIOR to the start of construction.”

Confining utility plants to a 2 metre horizontal strip, rather than zig-zagging down the road allowance is good planning and makes sense.

There are Bell telephone lines buried in the proposed utility line locations and there is no documentation in East Durhams application that includes Bell telephone’s input. There are a number of mature trees in the right-of-way.

The statement “as close as possible” would imply that the utility placement would not create an encumbrance or reduce the use and function of the adjoining property.

The statement “as close as possible” could mean any distance one would care to make.

East Durham submits The Municipality of Lampton Shores Infrastructure Design Guidelines and Construction Standards agrees with the supposition of a 1-4 metre setback for utilities. East Durhams reference to the written document “ page 44 section 10.5” leads the reader to the “cross section” in this document, in Appendix B.

Upon examination of The Lampton Shores Appendix B cross section, the reference for cable utilities is for Ariel cable utilities, not buried cable utilities and this is the preferred distance from the streetline, not necessarily the property line. The Lampton Shores Infrastructure Guidelines document and appendix B refers to setbacks and grading requirements for the development of urban subdivisions. The 1.5 metre setback as referenced by East Durham is for Ariel cables from the street line, not buried cables from a possible property line. The only reference to buried utilities on this cross section is for gas lines to be 1 metre from the street line. This 1 metre setback for buried gas line utility is likely to comply with the municipalities easement on the subdivisions property’s front lawns to contain the utility infrastructure within a narrow corridor, to have easy access from the street and to disturb the ratepayers front lawn as little as possible in the event of needed service. We would be agreeable to a 1 metre setback from the streetline as indicated in this cross section, although the county and municipality would likely not be agreeable.

It is common practice when excavating near underground utilities, to have an authority provide a locate to identify where the underground utility lies. Excavation should only occur 1 metre on either side of the locate marking. In the event that a fence line needs to be replaced, if East Durhams placement of their distribution lines is only 1 metre from the property line, excavation to install a fence may require hand digging as a post hole auger or back hoe are not precession instruments. This would create a tremendous amount of additional expense to install the fence. Similar encumbrances would occur when considering planting trees and the root ball must be an acceptable distance from underground utilities. The OBC (1997) Table 8.2.1.6.B identifies the minimum clearance for distribution piping (irrigation water lines etc.) to be 3 metres from the property line. This 3 metres from the property line also applies to an underground septic or holding tank.

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East durham has had requests on several occasions to provide documentation to substantiate their 1-4 metre setback from the property line and has not provided the documentation. The only mention of a 1-4 metre set back has been from East Durham.

From our own personal history we know of a number of homeowners that had great expense and anguish when utility infrastructure was placed too close to their property line.

Sincerely

Syd and Karen Parkin
Intervenors

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