

From: BoardSec
Sent: April 28, 2014 9:58 AM
To: [REDACTED]
Subject: FW: Comments on OEB Application EB-2013-0442
Attachments: Letter OEB 780 Ballyduff Road April 27, 2014..docx

From: Susan Binnie [mailto:[REDACTED]]
Sent: April-27-14 8:55 AM
To: BoardSec
Subject: Comments on OEB Application EB-2013-0442


Dear Ms. Walli:

Please include the attached submission as a comment on Application EB -2013-0442

Yours truly

S. W. S. Binnie

[REDACTED]



April 26, 2014

Attention: Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor, 2300 Yonge Street
Toronto ON M4P 184

COMMENTS FOR ONTARIO ENERGY BOARD APPLICATION EB-2013-0442:
FOR DETERMINATION OF LOCATION OF DISTRIBUTION FACILITIES WITHIN ROAD
ALLOWANCES OWNED BY THE CITY OF KAWARTHA LAKES

This submission makes four main points concerning the application EB-2013-0442, FOR DETERMINATION OF LOCATION OF DISTRIBUTION FACILITIES WITHIN ROAD ALLOWANCES OWNED BY THE CITY OF KAWARTHA LAKES.

A. THE OEB IS PREMATURE IN CONSIDERING THIS APPLICATION AND INVITING COMMENT AT THIS TIME AS NOT ALL LANDOWNERS HAVE BEEN SERVED NOTICE OF THE APPLICATION

1. The application was originally filed on January 27th, 2014 and then re-filed on March 28th. Some local residents including at least one landowner whose large property abuts Gray Road (the main transmission route proposed by the developers), still have not been contacted and served with the required notice of application.

2. The deadline set for comment of April 28, 2014, is again premature and unjust as it has not given all those affected or concerned an opportunity to comment.

B. THE DEVELOPER IS REQUESTING CHANGES IN THE PROJECT PLAN, AGAIN MAKING CONSIDERATION PREMATURE BECAUSE CHANGES ARE UNKNOWN AND NOT APPROVED

3. An application should not be under consideration at present by the OEB as the developer, wpd (Canada) Inc., is in the process of requesting a change in approval for the project. The renewable energy project known as "Sumac Ridge," was originally approved by the Director, Ministry of the Environment (MOE) on December 11, 2013.

4. On April 24, 2014, during a conference call with the Environmental Review Tribunal panel, the developer confirmed that a changed plan for the project has not been finalised. The nature

of the new plan and the length of time required for the MOE to consider proposed changes are unknown. Lawyers appearing before the ERT for the MOE told the ERT panel on April 8, 2014 that the MOE expects to consider the proposals and, once satisfied, to post the new plan (or changes in the plan) on the Environmental Registry (EBR) for a certain length of time.

5. There should be no discussion or determination of the location of electrical facilities until three conditions are satisfied: (i) the developer communicates the form of the revised project to the MOE, and to the Ontario Electricity Board, the local community and all others concerned and affected; (ii) the MOE posts the content of the new plan on the Environmental Registry; and (iii) the changes in plans for the project are approved by the MOE.

6. If an application is allowed to proceed at the present time, for a project for which the plans are currently under revision, the Board cannot claim to be following a fair and impartial procedure. The effect, if the Board and its staff give consideration to an application for a project in the actual process of change, is at the very least to create an apprehension of bias.

7. It is essential for the OEB to wait and invite comments once the shape of the revised plan has been (a) disclosed and (b) posted on the EBR and (c) approved by the MOE.

C. ROAD ACCESS ROUTES FOR THE PROJECT ARE ALSO UNCERTAIN AND THIS MAKES THE OEB APPLICATION PREMATURE

8. The applicant is currently proposing eight (8) different road access routes for the Sumac Ridge project. It is not known which access routes will be selected for the project once it is revised and eventually approved by the MOE.

9. Several of the proposed access routes include an unadopted municipally-owned laneway on the Oak Ridges Moraine, known as Wild Turkey Road. Use of this road allowance has been refused by the City of Kawartha Lakes.

10. The OEB should not be considering an application from a developer for a project for which both the turbine locations and the access roads are not finalized.

D. IF THE APPLICATION PROCEEDS TO THE STAGE OF BOARD CONSIDERATION, IT SHOULD BE SET ASIDE AND NOT APPROVED

11. Gray Road gray is unsuitable for an access route and for a transmission corridor. It is an unopened road allowance with hydrogeological features including seeps, streams, vernal pools, and wetlands.

12. On the developer's own admission, there are environmental and rare species issues associated with the use of Gray Road. As a result, Gray Road is not one of the eight access routes for the project listed by wpd (Canada) Inc.

13. It is not in the public interest for the Ontario Energy Board to approve the use of Gray Road as a transmission corridor thereby damaging natural features. Approval would be inconsistent with the policies of the Government of Ontario which require “high safety and environmental standards.”

D. IF THE APPLICATION IS PERMITTED TO PROCEED TO CONSIDERATION BY THE BOARD

14. The undersigned wishes to support the four parties requesting intervenor status.

15. The undersigned supports their requests for funding to cover the costs of legal representation. Those seeking intervenor status have an “interest in land that is affected by the process” and therefore meet cost eligibility criteria set under the Ontario Energy Board’s Practice Direction on Costs Award.

Signed:

Susan W. S. Binnie