



EB-2013-0339

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

AND IN THE MATTER OF an application by wpd White
Pines Wind Incorporated for an order or orders pursuant to
section 92 of the Act granting leave to construct
transmission facilities in Prince Edward County.

BEFORE: Ken Quesnelle
Presiding Member

Ellen Fry
Member

DECISION AND ORDER ON COST AWARDS
May 15, 2015

Background

wpd White Pines Wind Incorporated (White Pines) filed an application with the OEB dated September 18, 2013 for leave to construct approximately 28 km of 69 kV underground electricity transmission line and associated facilities.

On March 6, 2014, the OEB issued Procedural Order No. 1, granting the Alliance to Protect Prince Edward County (APPEC), Al S. Warunkiw and Gordon Gibbons intervenor status and cost award eligibility.

On March 19, 2015, the OEB issued its Decision and Order, in which it set out the process for intervenors to file their cost claims, for White Pines to object to the claims and for intervenors to respond to any objections raised by White Pines.

The OEB received cost claims from APPEC, Al S. Warunikiw and Gordon Gibbons.

On April 2, 2015, White Pines filed its response to the cost claims filed, submitting that a significant portion of the fees claimed by the intervenors related to matters that were outside the scope of the OEB's jurisdiction in the proceeding. White Pines noted that in its procedural orders the OEB had laid out the scope of its jurisdiction in applications for leave to construct transmission facilities under section 96(2) of the OEB Act. White Pines submitted that the costs claimed by each intervenor should therefore be reduced by 50%.

OEB Findings

The OEB disallows 30% of each of the claims because it agrees with White Pines that a significant number of issues raised were outside of the clearly identified scope of this proceeding. The OEB Notice and Procedural Orders No.1 and No. 2 outlined the scope in advance of granting intervention requests and in advance of the interrogatory process. This allowed the intervenors to determine the extent to which their interests were included in the matters to be determined in the proceeding and to guide their participation in the proceeding itself. Intervenors did not sufficiently use this information on scope to guide their participation. Therefore, the OEB will only award amounts equal to 70% of those claims.

The OEB in making this award does not accept the White Pines' submission on the degree (50%) of the disallowance. However, the OEB agrees with White Pines' submission that there is no precise manner in which to determine the amount of time spent on items that were in scope in comparison to time spent on items that were not. In addition, the OEB does not necessarily expect precision in the proceeding with respect to scope and therefore will provide some latitude in the cost award. As a result of these considerations the OEB finds that a disallowance of 30% is more appropriate than one of 50%.

The OEB finds that all parties are eligible for 70% of their reasonably incurred costs of participating in this proceeding. The OEB finds that the adjusted claims of APPEC, Al S. Warunikiw and Gordon Gibbons are reasonable and each of these claims shall be reimbursed by White Pines.

THE OEB THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, White Pines shall immediately pay the following amounts to the intervenors for their costs:
 - Alliance to Protect Prince Edward County \$11,600.81
 - Gordon Gibbons \$2,654.60
 - Al S. Warunski \$1,721.22
2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, White Pines shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

DATED at Toronto, May 15, 2015

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary