



Ontario Energy Board Commission de l'énergie de l'Ontario

VARY ORDER EB-2014-0300

WINDLECTRIC INC.

Order Varying the Decision and Order issued on December 10, 2015.

By Delegation, before:

Lynne Anderson

December 8, 2016

INTRODUCTION AND SUMMARY

The Ontario Energy Board (OEB) has, on its own motion, pursuant to s.41 of the *OEB's Rules of Practice and Procedure* decided to review and vary its Decision and Order in this proceeding issued on December 10, 2015 (the Decision and Order).

The Decision and Order granted Windlectric Inc. (Windlectric) leave to construct certain transmission facilities in Loyalist Township in the County of Lennox and Addington, Ontario. The Decision and Order was issued with certain conditions of approval, including a requirement that Windlectric commence construction of the transmission facilities prior to December 10, 2016.

On November 15, 2016, Windlectric filed a letter requesting that the OEB extend the date by which construction must commence to May 31, 2017.

As described in this Vary Order, the OEB approves Windlectric's request.

THE PROCESS

The OEB has decided, pursuant to section 6(4) of the *Ontario Energy Board Act, 1998* (the Act), to review and vary the Decision and Order, without a hearing.

THE APPLICATION

On December 10, 2015, the OEB granted Windlectric leave to construct transmission facilities in Loyalist Township in the County of Lennox and Addington, Ontario. The Decision and Order for proceeding EB-2014-0300 (the Decision and Order) provided, in part, as follows:

Pursuant to section 92 of the Act, the Board grants Windlectric leave to construct the proposed Transmission Facilities in accordance with the Board's Decision in this proceeding. The Board's approval of the application is conditional on the existence of a FIT contract between the Applicant and the OPA, the fulfillment of the requirements of the SIA and CIA and the Applicant commencing construction within 12 months of the date of the Board's Decision. *Emphasis added.*

On November 15, 2016, Windlectric requested an extension of the construction-commencement deadline to May 31, 2017. Windlectric advised that the extension is

needed as it is anticipated that construction of the transmission facilities will not commence by December 10, 2016 due to the delay in receiving its Renewable Energy Approval (REA). Windlectric advised that the REA process was not concluded until an appeal of the REA decision was dismissed by the "Environmental Review Tribunal (the "ERT") on August 3, 2016 and this took longer than expected.

On November 19, 2016 the OEB received a letter from Laurie Kilpatrick on behalf of the Association to Protect Amherst Island (APAI). The OEB notes that APAI was granted intervenor status in the application for leave to construct and APAI made submissions on the application. The November 19, 2016 letter did not contain any submissions but indicated that APAI would follow-up within two weeks.

On December 2, 2016 APAI filed a letter requesting the extension to Windlectric's LTC approval be denied. APAI argued that:

- the extension would have an adverse impact on Ontario electricity consumers
- the reasons for the extension were questionable and understated the number of outstanding permits and approvals
- it was questionable whether Windlectric's FIT contract with the IESO was still valid.

APAI also indicated they would file a final letter after December 6, 2016.

In the Decision and Order, the OEB determined that the transmission facilities serve a public interest within the scope of the OEB's jurisdictional mandate regarding the interests of consumers with respect to pricing, reliability and quality of electricity service; promotion of the use of renewable energy sources, forms of land agreements offered to impacted land owners and municipal crossings.

APAI argued that the project will have an adverse impact on Ontario residents and that the project is no longer consistent with current directions and policies of the Government of Ontario. The OEB's jurisdictional mandate for the assessment of these transmission facilities remains the same as it was at the time of the Decision and Order.

APAI is concerned that there are outstanding permits and approvals. At the time of the Decision not all approvals had been obtained. The Decision and Order imposed conditions which remain in place if the deadline to commence construction is extended to May 31, 2016. The OEB's approval remains contingent on Windlectric obtaining its REA and all other necessary permits and approvals. Windlectric has received its REA and must obtain other necessary permits and approvals before commencing construction.

APAI questioned whether Windlectric continues to have a valid FIT contract. The IESO continues to include Windlectric in the Active Generation Contract List provided on their website. There is no evidence that the FIT contract has been or will be cancelled. Furthermore, the OEB received correspondence from Windlectric on December 7, 2016 that confirmed the FIT contract remains valid.

OEB FINDINGS

The OEB finds that an amendment to the conditions of approval to extend the deadline to May 31, 2016 to commence construction does not materially impact the approval granted by the OEB in the Decision and Order. Windlectric's request to extend the deadline for the commencement of construction is reasonable given that the extension period is relatively brief and other conditions of approval stipulated in the Decision and Order remain in force. The Decision and Order is varied to provide for an extension of the construction commencement date to May 31, 2016.

IT IS ORDERED THAT:

1. The Decision and Order in EB-2014-0300, issued December 10, 2015, is varied such that Windlectric's leave to construct is conditional upon Windlectric commencing construction within 18 months of the date of the Decision and Order. All other conditions of approval from the Decision and Order remain in force.

DATED at Toronto, December 8, 2016

ONTARIO ENERGY BOARD

Original Signed By

Lynne Anderson
Vice President, Applications