

December 7, 2016

RESS, EMAIL & COURIER

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto, ON
M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

Re: Windlectric Inc. - Application for Leave to Construct Transmission Facilities (EB-2014-0300) – Response to APAI re Request for Extension

We are counsel to Windlectric Inc. (“Windlectric”) in respect of its application for leave to construct transmission facilities in EB-2014-0300 (the “Application”). On December 10, 2015 the Ontario Energy Board (the “Board”) issued a Decision and Order granting Windlectric leave to construct its proposed transmission facilities (the “Decision and Order”). On November 15, 2016 Windlectric filed a request to extend the date by which construction of the transmission facilities must commence, from December 10, 2016 to May 31, 2017. The following is in response to a letter filed by APAI on December 2, 2016 concerning Windlectric’s request.

APAI raises three bases for objecting to Windlectric’s request.

First, APAI argues that granting the requested extension would adversely impact consumers and is not in the public interest. The essence of APAI’s argument is that constructing the approved transmission line would enable generation from Windlectric’s renewable energy generation facility to be injected into the grid, and that generation may not be the lowest cost supply option or may not be required to meet supply needs. As confirmed in the Decision and Order, the issues raised by Windlectric are beyond the scope of the Board’s jurisdiction to consider in the context of a leave to construct proceeding. The Board’s jurisdiction is not altered by the passage of time, nor by APAI’s perceived changes in the broad policy directions of the provincial government since the Decision and Order was issued. Moreover, the Board’s jurisdiction on a request to extend the construction start date under an order granting leave to construct is no greater than the jurisdiction it had to consider the underlying application.

Second, APAI argues that the reasons for the requested extension are questionable and understate the number of outstanding permits and approvals required. Windlectric strongly disagrees with these assertions. The reasons for the request are clearly set out in Windlectric’s November 15, 2016 request letter. The status of other requirements is not relevant as the

granting of leave to construct is conditional upon Windlectric obtaining all other approvals needed for construction of the approved transmission facilities. This would continue to be the case if the Board grants the requested extension. Windlectric reiterates that it will ensure it has all necessary permits and approvals in hand, and complies with any applicable conditions of such permits and approvals, as and when needed for construction of the transmission facilities, which it intends to commence prior to the May 31, 2017 amended start date that it has requested.

Third, APAI alleges that Windlectric has failed to comply with the obligations of its FIT Contract with the IESO and asks the Board to ensure there is a valid FIT Contract in considering the extension request. Windlectric hereby confirms that its contract with the IESO (FIT Contract No. F-001563-WIN-130-601) for the Amherst Island Wind Energy Project is valid and has not been subject to any notices of default. Further, we confirm that the FIT Contract will remain valid beyond the requested extension to the construction commencement date of May 31, 2017.

Please let us know if the Board requires anything further.

Yours truly,



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cc: Mr. J. Stewart, Windlectric Inc.
Mr. A. Bautista, Windlectric Inc.
Mr. M. Lesychyn, OEB