



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

VARY ORDER

EB-2016-0268

WPD WHITE PINES WIND INCORPORATED

Order Varying the Decision and Order issued on March 19, 2015

**BEFORE: Peter C.P. Thompson QC
Presiding Member**

March 30, 2017

INTRODUCTION AND SUMMARY

On March 19, 2015, the OEB issued a Decision and Order granting WPD White Pines Wind Incorporated (White Pines) leave to construct certain transmission facilities in Prince Edward County. The Decision and Order was issued with certain conditions of approval, including a requirement that White Pines commence construction of the transmission facilities prior to March 19, 2016.

On February 19, 2016, White Pines filed a letter requesting that the OEB extend the construction-commence deadline to March 19, 2017. On March 17, 2016, the OEB issued a Vary Order approving a six-month extension. On September 9, 2016, White Pines filed a letter requesting that the OEB extend the construction-commence deadline to June 2017. On September 20, 2016, the OEB issued an Interim Order approving a one-month extension until White Pines filed additional information to support its request.

On October 20, 2016, the OEB issued a Vary Order, granting an extension to the construction-commence deadline to March 31, 2017.

As described in this Vary Order, the OEB approves an extension to the construction-commence deadline to September 29, 2017.

THE PROCESS

The OEB has decided, pursuant to section 21(4)(b) of the *Ontario Energy Board Act, 1998* (the Act), to review and vary the Decision and Order, without a hearing. The OEB has determined that no person will be adversely impacted by the outcome of this proceeding. The OEB will not be re-hearing the merits of the original leave to construct application. That decision was determined in the March 19, 2015 Decision of the OEB. This application deals with the request to vary the condition of approval relating to the construction-commence date for a third time.

THE APPLICATION

On March 19, 2015, the OEB granted White Pines leave to construct transmission facilities in Prince Edward County. The Decision and Order provided, in part, as follows:

“Pursuant to section 92 of the Act, the OEB grants White Pines leave to construct the Transmission Project in accordance with the OEB’s decision in this proceeding. The granting of this leave to construct is conditional on:

- I. The existence of an executed FIT contract between White Pines and the IESO;
- II. The fulfillment of the requirements of the SIA Documents,
- III. The fulfillment of the requirements of the CIA: and
- IV. White Pines commencing construction within 12 months of the date of the OEB’s decision. (Emphasis added)”.

On February 19, 2016, White Pines requested that an extension of the construction-commence deadline be granted to March 19, 2017. On March 17, 2016, the OEB approved a six-month extension (EB-2016-0046).

On September 9, 2016, White Pines filed a letter along with its existing Renewable Energy Approval (REA). White Pines requested that the OEB grant an additional six-month extension from the end of 2016 to the construction-commence deadline due to the ongoing appeal of White Pines’ REA at the Environmental Review Tribunal (ERT). In effect, the request was for an extension of approximately nine months from the expiry of the six-month extension granted in EB-2016-0046. The OEB assigned File No. EB-2016-0268 to the September 9, 2016 request.

On September 20, 2016, the OEB issued an interim order providing a one-month extension to the original construction-commence deadline and required that White Pines file the schedule of events anticipated in the ERT hearing process and any additional information to assist the OEB in making its determination on White Pines’ request.

On September 22, 2016, White Pines filed supporting documentation containing the schedule in the ongoing ERT proceeding.

On October 20, 2016, the OEB approved a six-month extension to the construction commence date, to March 31, 2017. In granting the extension, the OEB stated that:

“White Pines has asked for an extension to June 2017. The material provided by White Pines does not address why a nine-month extension is required. Should White Pines require a further extension beyond the March 31, 2017 date, White Pines will be required to seek a further extension from the OEB providing reasons as to why a further extension is required and why construction cannot be commenced in the next six months.”

The OEB granted the extension conditional specifically on White Pines providing reasons behind any future extension requests.

On March 3, 2017, White Pines filed a letter with the OEB requesting an additional six month extension of the construction commencement deadline to September 29, 2017. The grounds for the request are that the REA appeal process before the ERT has not yet been completed. An e-mail from the ERT Case Coordinator indicates that the decision completing that process is expected in April 2017. Construction is now expected to commence in the third/fourth quarter of 2017.

OEB FINDINGS

In this motion to vary, the OEB is not re-hearing the Leave to Construct application.

The OEB is making a determination as to whether a condition of the original Leave to Construct decision should be modified to extend the construction-commence date.

The OEB is satisfied that it is reasonable to delay the construction-commence date a further six months to September 29, 2017 to allow the REA appeal process to be completed. A deadline extension to that date is hereby granted. White Pines shall advise the OEB on or before August 1, 2017 of the status of the REA appeal and the ERT decision, and the anticipated construction-commence date. The OEB may give further direction at that time.

White Pines is reminded to notify the OEB in a timely manner if there are any material changes to the transmission facilities that were approved by the OEB in the EB-2013-0339 proceeding that would result in changes to the System and Customer Impact Assessments.

THE BOARD ORDERS THAT:

1. The Decision and Order in EB-2013-0339, issued March 19, 2015, is varied such that White Pines' leave to construct is conditional upon White Pines commencing construction by September 29, 2017.
2. White Pines shall advise the OEB of any proposed material changes in the transmission facilities, including but not limited to changes in: the proposed route, construction schedule or the necessary environmental assessment approvals,

including the REA, and all other approvals, permits, licences, certificates and rights required to construct the transmission facilities.

DATED at Toronto March 30, 2017

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary