



EB-2016-0310

Henvey Inlet Wind GP Inc.

**Application for leave to construct transmission facilities
between Henvey Inlet First Nation Reserve No. 2 and
Parry Sound, Ontario**

DECISION AND PROCEDURAL ORDER NO. 3

April 20, 2017

On October 18, 2016 Henvey Inlet Wind GP Inc. (Henvey Inlet GP) on behalf of Henvey Inlet Wind LP (Applicant) filed an application with the Ontario Energy Board (OEB) under section 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B (Act) for an order or orders granting leave to construct facilities to connect a proposed 300 megawatt wind project (Henvey Inlet Wind Energy Centre or HIWEC) to an existing Hydro One Networks Inc. Parry Sound transmission station. The Applicant subsequently filed an amended application on November 30, 2016.

The Applicant's facilities will consist of two 230/34.5 kV substations located on Henvey Inlet Reserve No. 2; approximately 103 kilometers of single circuit overhead 230 kilovolt electricity transmission line; and a 230 kV switching station (collectively, the Transmission Facilities) at the connection point to Hydro One's transmission system.

The Applicant has also applied under section 97 of the Act for approval of the form of land use agreements and under section 101 of the Act authorizing the construction of portions of the proposed Transmission Facilities upon, under or over a highway, utility line or ditch.

The Applicant has requested that the OEB proceed by way of a written hearing, pursuant to Section 32.01 of the OEB's *Rules of Practice and Procedure*.

Procedural Orders Nos. 1 and 2

In Procedural Order (PO) No.1 which was issued on February 16, 2017, the OEB denied requests by Mr. Jeffrey Todd Hull (Mr. Hull) and Richard and Anne Kaster (the Kasters) for intervenor status. On March 8, 2017, Mr. Hull filed a Notice of Motion for a review and variance of that decision, and the Kasters filed an e-mail dated March 10, 2017 objecting to the decision. In their e-mail the Kasters state:

We hereby contest this decision, as the map on page 61 of the application for a leave to construct, clearly indicates that our property is within the boundaries of the proposed transmission corridor. Our property is also shown within the orange section on the map as permanently affected lands.

In its March 17, 2017 submission responding to Mr. Hull's Motion, the Applicant stated:

Based on recently obtained information and the analysis thereof, Henvey has determined that Mr. Hull is an affected landowner in relation to the proposed transmission facilities, as further discussed below .

On March 20, 2017, the OEB issued PO No. 2 in which it addressed Mr. Hull's review motion and the objection by the Kasters. The OEB varied its decision and granted Mr. Hull Intervenor status based on the statements the Applicant made in its March 17, 2017 submission. The OEB also allowed the Kasters the opportunity to file additional information supporting their request for intervenor status.

PO No. 2 set out the following deadlines for submitting new evidence by the parties:

1. Mr. Hull was to file his written interrogatories, if any, with the OEB and serve them on the Applicant on or before March 27, 2017;
2. The Kasters were to file any new information supporting their request for intervenor status by March 27, 2017;
3. The Applicant was to file its written responses to the Hull interrogatories and the Kaster information on or before April 3, 2017;
4. The Applicant was to provide information, such as detailed signed drawings or land surveys, that illustrates clearly the location of the proposed transmission line in relation to the properties owned by Mr. Hull and the Kasters (Property Information) on or before April 3, 2017;

5. The Kastars had until April 10, 2017 to file their reply, if any, to the Applicant's responding material referred to in paragraph 3, above; and
6. Mr. Hull and the Kastars had until April 10, 2017 to file their comments, if any, on the Property Information filed by the Applicant.

Filed Evidence

a) Mr. Hull's Property

On March 23, 2017, the Applicant responded to paragraph No. 4 of PO No.2 that required the Applicant to provide information that clearly illustrates the location of the proposed transmission line in relation to the properties owned by Mr. Hull and the Kastars. Appendix C of the Applicant's March 23, 2017 submission clearly illustrates the path of the proposed transmission line over Mr. Hull's property.

On March 27, 2017 and in response to paragraph 1 in PO No. 2, Mr. Hull's counsel filed an interrogatory requesting the Applicant provide:

All reports, studies, and/or documents in the possession or power of the Applicant in relation to the impact of the proposed transmission lines to Mr. Hull's property.

On April 3, 2017, in response to Mr. Hull's interrogatory and in response to paragraph 3 in PO No. 2, the Applicant filed evidence that shows the steps that were followed in planning the route of the proposed transmission line in proximity to and across Mr. Hull's property. These documents clearly identify the approximate routing of the proposed transmission line over Mr. Hull's property and also the location of two transmission poles in proximity to Mr. Hull's property line.

b) The Kastars' Property

On March 22, 2017 and in response to paragraph 2 of PO No. 2, the Kastars filed a submission that included a Plan of Survey indicating their property ownership by parcel, and a copy of page 61 of the Applicant's filed evidence that illustrates the routing of the proposed transmission line over their property.

As part of the March 23, 2017 submission in response to paragraph No. 4 of PO No. 2, the Applicant filed maps as Appendices D, E and F that illustrate the proposed transmission line in relation to the Kastars' property and pole locations within the Ministry of Transportation of Ontario (MTO) corridor. In respect to mapping on page 61

of the original application, the Applicant acknowledges this map does not accurately reflect the proposed routing and land rights needed for this portion of the transmission line. In this submission the Applicant states:

...that its planned alignment of the transmission line within the proposed corridor in this location, as shown, will meet all applicable technical standards, including for clearances and setbacks and having regard for sag or swing.

In its April 3, 2017 submission, the Applicant advised that it narrowed the proposed line to accommodate the desire of the Kastars that the transmission line avoid their property. The Applicant further stated:

...the Applicant confirms that its planned alignment within the proposed corridor at this location, despite being less than 150 feet in width, will meet all applicable technical standards.

On April 6, 2017, the Kastars responded to the Applicant's March 23, 2017 submission in accordance with paragraph No. 5 of PO No. 2. The Kastars provided photographs and Universal Transverse Mercator (UTM) coordinates for the proposed location of the poles within the MTO corridor in proximity to their property. The Kastars state:

...the Ministry of Transportation of Ontario (MTO) will not permit these poles to be located at the coordinates specified by the Applicant, due to their proximity to highway [redacted]. If the MTO in fact deny the Applicant this pole location, the Applicant's transmission line and corridor locations will need to be revised in the area adjacent to [the Kastars' property]

Findings

The submissions filed by the Applicant and Mr. Hull confirm that Mr. Hull's property is impacted and therefore the OEB confirms his status as an intervenor and his eligibility for a cost award in this proceeding.

The evidence filed by the Applicant and the Kastars in respect to the proposed transmission line crossing the Kastars' property, clearly indicates that the proposed routing of the transmission line is located within the MTO corridor and not on the Kastars' property. Therefore, the Kastars are not affected landowners for the proposed transmission routing that is the subject of this proceeding. As such, there is no legal basis upon which to grant intervenor status to the Kastars in this proceeding

In the event that the OEB grants leave to construct the proposed Transmission Facilities, the OEB's leave will be conditional on the Applicant obtaining all necessary approvals, permits, licences, certificates, land agreements, municipal road use agreements, connection agreements and easement rights required to construct, operate and maintain the proposed Transmission Facilities. In addition the Applicant will be required to provide copies of all such written approvals, permits, licences and certificates upon the OEB's request.

Accordingly, the OEB confirms its decision in PO No. 1 and denies the request of the Kastars for intervenor status in this proceeding.

Form of Hearing

As noted previously, the Applicant has requested that the OEB proceed by way of a written hearing. Mr. Hull has not requested an oral hearing. Having considered the evidence that has been filed in this case, the OEB has determined that it will consider and determine this application by way of a written hearing.

All parties are reminded that the OEB's jurisdiction in this proceeding is limited to the consideration of the interests of consumers with respect to prices and the reliability and quality of electricity service, as well as the promotion of the use of renewable energy sources consistent with the policies of the government of Ontario, and the form of agreement that the Applicant has offered or will offer to landowners affected by the approved route or location of the transmission line.

It is necessary to make provision for the following matters related to this proceeding. The OEB may issue further procedural orders from time to time.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. OEB staff and Mr. Hull shall file with the OEB and serve on the Applicant any final submissions that are relevant to the proceeding on or before April 27, 2017.
2. The Applicant shall file any reply to the final submissions of OEB staff and Mr. Hull and any final submission related to the Application by May 4, 2017.

All filings to the OEB must quote the file number, EB-2016-0310 and be made electronically in searchable / unrestricted PDF format through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name,

postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at

<http://www.oeb.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Michael Lesychyn at Michael.Lesychyn@oeb.ca.

ADDRESS

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DATED at Toronto, April 20, 2017

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary