

**Ontario Energy
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Reference #: EB-2016-0310

BY EMAIL

February 2, 2018

Jonathan Myers
Torys, LLP
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, ON M5K-1N2
jmyers@torys.com

Dear Mr. Myers:

**Re: Decision and Order Granting Leave to Construct (LTC) to
Henvey Inlet Wind LP – EB-2016-0310**

I have reviewed your e-mail dated October 25, 2017 and letters dated December 22, 2017 and January 4, 2018 concerning changes to the Henvey Inlet Wind LP (Henvey) transmission line route, approved by the Ontario Energy Board (OEB) in its Decision and Order on May 18, 2017. The correspondence requests that the OEB confirm that the changes described in Henvey's correspondence are not material, and that no further OEB steps are required. The correspondence further indicates that in the past, OEB Staff have confirmed similar changes are not material and that no further OEB involvement was required to implement the changes.

In this request, three types of planned changes have been described:

- Modifications to access roads affecting parcels/landowners already affected by the project,
- Modification to transmission line routing affecting parcels/landowners already affected by the project, and
- Modification to transmission line routing affecting new parcels/landowners.

The changes in the first two categories involve no new landowners. Five of the changes occur on First Nation Reserve lands. Henvey has advised that all of the landowners have agreed in writing to the changes. I understand Henvey's confirmation that all landowners have agreed in writing to the changes to include, without limitation, the First Nations on whose reserve lands the changes are being made. In one of the locations in the second category, the line is being shifted from the lands of an affected landowner (whose property is currently the subject of an application to the OEB for authority to expropriate) onto two adjacent properties that were already affected by the project. In the letter dated January 4, 2018, Henvey clarified that the shifts in routing in the first two categories were less than 200m, with the majority being less than 40m. Henvey has also advised that should the OEB concur that the shift of the line from the lands that are the subject of the application for leave to expropriate is not material and requires no further review or approval, then the expropriation application will be withdrawn.

In respect of the third type of planned change – a modification involving new parcels/landowners - Henvey indicates that these new landowners were not affected by the current approved route and were denied intervenor status on the basis that they were not directly affected landowners and did not raise any issues relevant to the scope of the Board's authority. However, Henvey states that these landowners expressed a desire to enter into an agreement with Henvey subsequent to the LTC proceeding. Henvey states that:

“The use of their property is in response to their request and they have entered into an agreement with Henvey using the Board-approved form of easement”.

As the Manager, Applications Supply and Infrastructure, I have been delegated the authority of the OEB under section 6 of the *Ontario Energy Board Act, 1998* to determine whether Henvey's proposed routing changes will result in material changes to the leave to construct granted by the OEB in the EB-2016-0310 proceeding. I have been further granted the authority to approve any changes that I have concluded are not material.

Based on my review of the information provided, the routing changes in categories 1 and 2 are not material and thus require no further OEB actions. In the case of the category 3 change involving the new landowners, my view is that this proposed change is not material and no further process is required at the OEB because these landowners have requested that the line be shifted onto their property. I hereby approve the proposed routing changes.

For clarity, this determination is made by relying solely on the information provided by Henvey through your correspondence on this matter. This includes, but is not limited to, Henvey's representation as to the agreement of all affected landowners, including First Nations, to Henvey's proposed changes.

This letter, together with your December 22, 2017 correspondence on Henvey's behalf, and the supplementary information sent to the OEB by email on January 4, 2018, will become part of the official record in the leave to construct file. I ask that Henvey provide versions of its letter and supplementary information, with any personal and/or confidential information redacted, for placement on the public record in EB-2016-0310.

With respect to the new landowners, who were not granted intervenor status in the proceeding, I require that Henvey provide to the new landowners redacted copies of its December 22, 2017 letter to the OEB, the supplementary information provided on January 4, 2018 and a copy of this letter. Henvey is further directed to provide confirmation to the OEB that this has been completed.

Any questions relating to this letter should be directed to Michael Lesychyn at Michael.Lesychyn@oeb.ca or at 416-440-7632. The Board's toll-free number is 1-888-632-6273.

Yours truly,

Original signed by

Nancy Marconi
Manager, Supply & Infrastructure Applications