



December 19, 2011

Our File: 5000-510-5120

Alberta Utilities Commission
Fifth Avenue Place
Fourth Floor, 425 First Street S.W.
Calgary, AB T2P 3L8

Attention: Brian Shand, brian.shand@auc.ab.ca

RE: Consultation on wind-power generation regulatory permitting

Dear Sirs,

The Environmental Law Centre (ELC) is an Edmonton-based charitable organization established in 1982 to provide Albertans with an objective source of information about environmental and natural resources law and policy. The ELC's vision is an Alberta where the environment is a priority, guiding society's choices. It is the ELC's mission to ensure that Alberta's laws, policies and legal processes sustain a healthy environment for future generations.

Introduction

The ELC participated in the wind-power generation regulatory permitting consultation held by the Alberta Utilities Commission (AUC) on December 12 and 13, 2011. The ELC has prepared these written comments as a follow-up to comments made during the course of the two day consultation.

As a general proposition, the ELC supports the development of wind energy because it is a source of renewable energy which does not require the use of water and which does not create emissions. However, there are some negative environmental impacts created by the development of wind-power projects which need to be addressed by AUC and other regulators of the wind energy industry.

It is well recognized that wind-power developments may have negative impacts on bats, birds and other animals. As well, wind-power projects may have negative impacts on environmentally sensitive areas, such as, native prairie grasslands and wetlands.

Regulatory Requirements and Process Recommendations

The ELC encourages the AUC to take the lead on developing regional planning for the wind-power industry. The ELC recommends that the AUC develop a multi-stakeholder approach to regional planning that includes industry, community groups, environmental groups and

appropriate government departments (such as Alberta Environment and Water, and Alberta Sustainable Resource Development).

It is the ELC's view that regional planning could assist in determining which geographical areas are and are not appropriate for wind-power development considering factors such as bat/bird migratory paths and environmentally sensitive areas. Regional planning could also assist with the minimization of habitat destruction and disruption by requiring greater cooperation, coordination and planning amongst operators. The ELC also considers regional planning a useful tool for clarifying the roles and responsibilities of various regulatory bodies and for coordinating their efforts.

The ELC recommends that the AUC issue facility approvals subject to conditions designed to eliminate or mitigate negative environmental impacts caused by wind-power projects (rather than relying upon voluntary commitments to undertake such steps). It is the ELC's view that such conditions are especially necessary when Alberta Sustainable Resource Development has reviewed a proposed wind-power project and has recognized there are negative environmental impacts associated with the project. By issuing approvals subject to conditions, the AUC would create enforceable and transparent regulation of the wind-power industry. Further, the ELC recommends that, where monitoring of bat/bird activities forms part of the operating conditions for a wind-power facility, the information generated by such monitoring be made publically available by posting to the AUC website.

The ELC recommends that the AUC expand public participation in the regulatory process to include those with a "genuine public interest" in wind-power facilities. Even if wind-power projects occur on private lands, there are broader public interests at stake including the protection of bat/bird populations, species at risk and environmentally sensitive areas. By expanding its standing rules to include those parties with "genuine public interest", AUC would be able to incorporate the knowledge and expertise of individuals and groups that can make significant, meaningful contributions to the regulatory process (even though they may not be directly and adversely affected).

The ELC recommends that procedures be implemented to deal with the future possibility of "abandoned facilities" that require reclamation. It is the ELC's view that private, contractual arrangements between a landowner and a wind-power project owner/operator are not sufficient to address this concern. The practical reality is that contractual arrangements are meaningless and unenforceable if the wind-power owner/operator is bankrupt or otherwise defunct. It is the ELC's view that procedures need to be put into place to ensure that necessary reclamation is performed and that it is performed at the expense of the wind-power project owner/operator.



Conclusion

The ELC thanks the AUC for the opportunity to participate in the wind-power generation regulatory permitting consultation and to provide written comments. Please feel free to contact the undersigned with any questions or comments.

Yours truly,

original signed by Brenda Heelan Powell

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