



March 12, 2012

Our File: 5000-510-5120

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

Sent via E-Mail: victor.choy@auc.ab.ca

Attention: Victor Choy

**RE: Notice of Discontinuance of the Taylor Wind Farm Facility
Application No. 1608076 Proceeding ID No. 1675**

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 submitted written comments as a follow-up to the two day consultation. In our comments, we raised concerns with several regulatory gaps including the need for procedures to ensure that necessary reclamation is performed and that it is performed at the expense of the wind-power project owner/operator.

It is the ELC's view that this particular regulatory gap is highlighted by Transalta's recent notice to discontinue its Taylor Wind Farm Facility. On January 19, 2012, Transalta submitted notice to discontinue this particular facility along with a decommissioning plan.

A Regulatory Gap: Decommissioning of Wind-power Projects

A person who holds an approval for a power plant is required to provide notice of discontinuance of operations in accordance with s. 22 of the *Hydro and Electric Energy Act*, R.S.A. 2000, c.H-16 (the "HEAA"). However, the HEAA does not require anything beyond mere notice to discontinue.

It also appears that the AUC has not set additional requirements for discontinuance of a wind-power project. For example, *Rule 007: Applications for Power Plants, Substations, Transmission Lines and Industrial Systems Designations* does not discuss the procedures for discontinuance of a wind-power project. No other AUC Rules discuss procedures for discontinuance of a wind-power project. There appears to be no generally applicable process for the submission and review of a decommissioning plan for wind-power projects.

Given that wind-power facilities typically fall outside the jurisdiction of Alberta Environment (no approval issued or reclamation certificate required pursuant to the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12), the lack of AUC requirements in this regard is concerning. Essentially, there is no regulatory review of a decommissioning plan proposed by wind-power project owners/ operators.

It is the ELC's view that this is a regulatory gap that needs to be filled. Discontinuance and decommissioning of a wind-power project may raise numerous environmental concerns such as, soil contamination, erosion/drainage problems with abandoned access roads, habitat fragmentation associated with abandoned access roads, potential problems with electrical cables being left *in situ* and loss of native prairie and other habitat.

The ELC recommends, at the very least, approvals issued by the AUC should require the submission, review and approval of decommissioning plans for wind-power projects. In cases where particular environmental issues (such as, loss of native prairie, impacts on wildlife) have been raised in the application process, the approval issued the AUC ought to address these issues for the life of the wind-power project including its discontinuance and decommissioning.

It is the ELC's view that procedures need to be put into place to ensure that wind-power projects are properly decommissioned and that appropriate reclamation is performed at the expense of the wind-power project owner/operator. This includes implementing procedures to deal with the future possibility of "abandoned facilities" that require reclamation (such as, requirements for security to cover potential costs of reclamation).

Conclusion

The ELC thanks the AUC for its consideration of our comments in this matter. Please note that the ELC would be happy to engage with the AUC on any further initiatives regarding the decommissioning of wind-power projects that may arise.



Please feel free to contact the undersigned with any questions or comments.

Yours truly,

A handwritten signature in black ink, appearing to read "BHP", is positioned above the typed name.

Brenda Heelan Powell
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