



## Finning Canada

Application for Approval to Install and Operate Monitor  
Temporary Generation System

October 22, 2009



**ALBERTA UTILITIES COMMISSION**

Decision 2009-177: Finning Canada

Application for Approval to Install and Operate  
Monitor Temporary Generation System

Application No. 1605325

Proceeding ID. 284

October 22, 2009

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## **1 INTRODUCTION**

1. On July 30, 2009, the Alberta Utilities Commission (Commission or AUC) received an application (Application) from Finning (Canada) (Finning), pursuant to section 11 of the *Hydro and Electric Energy Act*, for approval to install and operate a 10.8-MW Monitor Temporary Generating Station (Power Plant), consisting of six (6) 1.8 MW portable diesel temporary generators at the Monitor pumping station located at SW 23-34-5 W4M, while permanent transmission facilities are being constructed at the Monitor site by ATCO Electric (ATCO) to serve TransCanada Keystone Pipelines Limited Partnership's (Keystone) Crude Oil Pipeline project (Keystone Pipeline) in the event permanent electric services are not available by November 1, 2009.
2. Finning proposes to install the temporary generation system in October 2009 and would only operate until permanent electrical services are available from ATCO and would potentially be in use for a maximum of 60 days over a six month period. The temporary generators would not be interconnected with the Alberta Interconnected Electric System (AIES).
3. Finning conducted a Participant Involvement Program (PIP) for this Application with local landowners, including consultation with all residents and landowners within 800 metres of the proposed temporary generation system site. Additionally, Finning provided registered mail notification to all residents and landowners within 2,000 metres of the proposed temporary generation site.

## **2 BACKGROUND**

4. On August 21, 2009, the Commission issued a Notice of Application to directly affected landowners.
5. In response to the Notice, the Commission received a letter from counsel for Mr. Stanley Connell, Ms. Cheryl Connell, and Connell Ranches Ltd. (Connells) dated September 8, 2009, indicating that the Connells had received the Notice of Application and indicating the location of their residence and that they are owners of other lands in the areas. The Connells submitted that "*the level of noise which would be generated by the temporary generation system and the degree that such noise would impact their quality of life and the ability of the Connells to enjoy their residence*" and that "*the noise would have a deleterious effect on their cattle.*"
6. No other letters of objection or concern were received by the Commission.

7. On September 25, 2009, the Commission received an undated letter from Finning indicating that Finning had met with the Connells and their counsel on September 24, 2009, and that parties have not been able to agree on a solution to address the Connells' concerns.
8. Finning submitted that it remains open to discussions with the Connells but requested the Commission process the Application in an expedited manner and dismiss the Connells' objection on the basis that the noise levels are in compliance with *Commission Rule 012: Noise Control* (Rule 012) and that the proposed generation facilities are temporary in nature.
9. Finning noted that the Connells' residence was approximately 2.5 kilometres from the Monitor site, beyond the 1.5 kilometre radius set out in Rule 012. Finning also submitted that additional noise modeling performed indicates that the noise levels at the Connells' residence would be 30 dBA, and within the permissible sound level established in accordance with Rule 012.
10. Finning also noted that while the Connells raised a concern about noise impacts on their cattle in their September 8, 2009 submission to the Commission, Finning argued that Rule 012 is not applicable to livestock.
11. Finning noted that timely approval is required for the temporary generators to provide power in the event that permanent electric facilities are not available.
12. On October 7, 2009, the Commission issued a letter to counsel for the Connells, asking for additional information respecting the Connells' legal or other interests in lands, as well as any further comments that the Connells may have in response to the Finning's letter of September 25, 2009.
13. The Commission received a letter dated October 9, 2009 from counsel for the Connells. The Connells provided a list of legal land descriptions to which they have interests in the vicinity of the location of the proposed generators. The Connells also provided comments in response to the Finning letter.
14. In response to Finning's comments that the predicted noise levels created by the Monitor pumping station and temporary generation system falls within the permissible levels established in accordance to Rule 012, the Connells submitted that noise testing merely meets an objective test, and not a subjective test. The Connells submitted that the impact on those who are not used to it in a rural setting can be substantially different than that experienced by urban dwellers.
15. The Connells also submitted that the Connells used all of the lands listed and described for the purposes of grazing, and that grazing can occur at any particular time based on the health of a particular pasture. The Connells further stated that as the applied-for project impacts their property rights, the Commission should not approve the Application without suitable compensation.

### 3 DISCUSSION

16. The Commission has reviewed the location of the Connells' lands in relation to the proposed Project. The Connells' residence is located in the NE 9-34-5-W4M, and is

approximately 2,500 metres from the proposed temporary generators, approximately 1,000 metres beyond the distances set out in Rule 012.

17. The Commission notes that Rule 012 establishes a Permissible Sound Level (PSL) for the nearest dwelling within 1,500 metres. Rule 012 does include consideration for a difference between rural and certain urban settings in the determination of the PSL. The PSL for the applied-for project is 45 dBA, as a result of a Class B adjustment due to the proposed Project being temporary in nature (less than 60 days in duration), and being in a location having a limited population density based on occupied dwellings as defined in Rule 012.

18. The Commission considered that as indicated in Finning's additional noise modeling, the noise levels at the Connells' residence would be 30 dBA, and that Finning argued that this would be acceptable and within the permissible sound level established at 45 dBA, in accordance with Rule 012.

19. While the Connells were of the opinion that Rule 012 is an objective test and that the Commission should consider the impact of noise in a rural setting as substantially different, they did not advance any specific factors for consideration in this Application, in regards to the potential direct and adverse impacts of noise on them or their cattle.

20. In regards to cattle and grazing, while the Commission understands that the location of grazing may be dependent on various conditions, the Commission also understands that the nearest of those lands to the proposed location of the temporary generators is the W1/2 15-34-5-W4M, which is approximately 800 metres away from the proposed project.

21. In regards to matters of compensation raised by Counsel for the Connells, the Commission notes that the proposed project is not located on any of the Connells' lands and in any event the Commission does not deal with matters of compensation.

22. As a result of the above, the Commission determined that the Connells had not shown that the proposed project had the potential to directly and adversely affect their rights and dismissed their objection by letter dated October 20, 2009.

23. The Commission also finds that the Application is in compliance with the requirements of Commission Rule 012.

24. The Commission also finds that the technical, siting, emissions and environmental aspects of the Power Plant have been met.

#### **4 DECISION**

25. Pursuant to section 11 of the *Hydro and Electric Energy Act*, the Commission approves the Application and grants the approval set out in the Appendix – Temporary Power Plant – Approval No. U2009-303 – October 22, 2009 to the Owner to construct and operate the Power Plant (the Appendix will be distributed separately).

Dated in Calgary, Alberta on 22 October, 2009.

#### **ALBERTA UTILITIES COMMISSION**

(original signed by)

Thomas McGee  
Commissioner