

January 30, 2020

To: Parties currently registered on Proceeding 25074

**Alberta Electric System Operator
Needs Identification Document Application
Application 25074-A001**

**Windrise Wind Energy Inc.
Transmission Facility Application
Application 25074-A002**

**AltaLink Management Ltd.
Substation and Interconnection Facility Applications
Applications 25074-A003 and 25074-A004**

**Windrise Connection Project
Proceeding 25074**

Ruling on standing

1. In this ruling, the Alberta Utilities Commission decides whether to hold a public hearing to consider applications by the Alberta Electric System Operator, Windrise Wind Energy Inc. and AltaLink Management Ltd. related to the Windrise Connection Project, a transmission line and interconnection development located near Fort MacLeod, Alberta.

2. The Commission must hold a hearing if persons who have filed a statement of intent to participate (SIP) in Proceeding 25074 have demonstrated that they have rights that may be “directly and adversely affected” by the Commission’s decision. Such a person may participate fully in the hearing, including giving evidence, questioning of witnesses, and providing argument. This permission to participate is referred to as standing.

3. The Commission issued a notice of application for Proceeding 25074 on December 18, 2019. The Commission received SIPs from the following individuals:

- Bob DeCecco
- Wendy and John McKinnon
- John and Linda Vallieres
- Robert Rippin and Niesje Vanden Dool
- Tim Donahue

4. The Commission also received a SIP filed on behalf of the Municipal District of Willow Creek No. 26 (MD of Willow Creek).

5. The Commission has authorized me to communicate its decision on standing. The Commission grants standing to the following persons: Bob DeCecco, Wendy and John McKinnon, John and Linda Vallieres, Robert Rippin, Niesje Vanden Dool, and Tim Donahue. The Commission denies standing to the MD of Willow Creek, but is prepared to grant it participation rights as outlined below.

How the Commission determines standing

6. Subsection 9(2) of the *Alberta Utilities Commission Act* sets out how the Commission must determine standing:

(2) If it appears to the Commission that its decision or order on an application **may directly and adversely affect the rights of a person**, the Commission shall

- (a) give notice of the application in accordance with the Commission rules,
- (b) give the person a reasonable opportunity of learning the facts bearing on the application as presented to the Commission by the applicant and other parties to the application, and
- (c) hold a hearing. [emphasis added]

6. The meaning of the key phrase, “directly and adversely affect,” has been considered by the Court of Appeal of Alberta on multiple occasions, and the legal principles set out by the court guide the Commission when it determines standing. Standing is determined by application of a two-part test. The first test is legal: a person must demonstrate that the right being asserted is recognized by law. This could include property rights, constitutional rights or other legally recognized rights, claims or interests. The second test is factual: a person must provide enough information to show that the Commission’s decision on the application may “directly and adversely affect” the person’s right, claim or interest.¹

Ruling on standing

7. The Commission is satisfied that Mr. DeCecco, Mr. and Ms. McKinnon, Mr. and Ms. Vallieres, Mr. Rippin, Ms. Vanden Dool and Mr. Donahue have demonstrated that they have legal rights that may be directly and adversely affected by the Commission’s decision on the applications. These individuals all own land in close proximity to the proposed project and have demonstrated that the Commission’s decision on the application has the potential to result in a direct and adverse effect on them. The potential effects described by these persons include proximity of the project and project routing, decreased property values, visual effects, increased noise, interference with agricultural operations, negative health effects, and effects on the environment.

¹ *Cheyne v Alberta (Utilities Commission)*, 2009 ABCA 94; *Dene Tha’ First Nation v Alberta (Energy and Utilities Board)*, 2005 ABCA 68.

8. The persons who have been granted standing are eligible to potentially recover the costs of their participation in this proceeding, as they fall within the definition of “local intervener” in Section 22 of the *Alberta Utilities Commission Act*. Rule 009: *Rules on Local Intervener Costs* applies to costs claims for this proceeding.

9. The Commission emphasizes that eligibility to claim costs does not guarantee full recovery of those costs. Any claims for costs must be filed after this proceeding is concluded, in accordance with Rule 009, and cost recovery is subject to the Commission assessing the value of parties’ contribution to the proceeding. The Commission encourages parties with similar interests and positions to work together to ensure that any expenditures are minimized and costs are not duplicated.

10. The MD of Willow Creek filed a statement of intent to participate expressing concerns regarding the number of existing powerlines located along the proposed routes of the Windrise Connection Project. The MD of Willow Creek referred to the requirements for utility corridors as outlined in the South Saskatchewan Regional Plan, and requested that the Commission consider coordinating transmission line development. The MD of Willow Creek did not indicate that it has property rights near the proposed project, nor did it identify any other legal rights which may be directly and adversely affected by the Commission’s decision. As such, the Commission considers that the MD of Willow Creek has not met the first part of the standing test in this proceeding.

11. The Commission has the authority to control its own process and has discretion to allow parties without standing to participate in its proceedings and to determine the level of participation. The Commission is prepared to grant the MD of Willow Creek limited participation rights in this proceeding. Accordingly, the MD of Willow Creek may file a brief written submission further outlining the matters that it wishes the Commission to consider. The Commission will provide the applicants an opportunity to respond to any submission filed. Should the MD of Willow Creek choose to file a written submission, it must do so by no later than February 18, 2020. Any response by the applicants must be filed by February 25, 2020.

12. Alternatively, instead of filing a written submission, the MD of Willow Creek may make a brief oral submission at the hearing. Should the MD of Willow Creek choose to make an oral submission at the hearing, it must notify the Commission of its intention to do so by no later than February 18, 2020. However, the Commission notes that if all parties with standing withdraw their objections to the Windrise Connection Project, the Commission may cancel the hearing and issue a decision without further submissions from the parties.

Schedule

13. The Commission shall issue a schedule for an oral hearing process in a notice of hearing in due course. In the interim, the Commission has scheduled the following submission deadlines:

| Process step | Date |
|---|----------------|
| Intervenors' written information request to the applicant | March 2, 2020 |
| Applicant's written information responses | March 16, 2020 |

14. Should you have any questions, please contact the undersigned at 403-592-4394 or by email at meghan.anderson@auc.ab.ca or the lead application officer at 403-592-4371 or by email at steven.yang@auc.ab.ca.

Yours truly,

Meghan Anderson
Commission Counsel