

## **Recent wind and solar energy developments under Ontario's Green Energy Act February 15, 2011**

It's a challenge to keep up to date with wind and solar energy developments under Ontario's Green Energy Act (GEA), even for those involved on a day-to-day basis. In order to provide assistance in this regard, I have prepared a synopsis of recent developments, resulting from the actions of governments, organizations and individuals, that are relevant to residents of Ontario in general, and Prince Edward County (PEC) in particular. It covers the period from October, 2010 through February, 2011 and is in approximate chronological order. Every effort has been made to be objective, complete and accurate.

### **1. Society for Wind Vigilance holds international symposium on the health effects of wind turbines (Ontario-wide, October 2010)**

This organization, co-founded by PEC resident Dr. Robert McMurtry, is a worldwide group of researchers dedicated to "promoting research for authoritative wind turbine guidelines". The symposium produced a base of research material for evaluating the health effects of wind turbines. Members of the Society are being engaged as expert witnesses in government hearings and legal cases, including two legal challenges in Ontario (see below).

### **2. Ontario Divisional Court hears Ian Hanna legal challenge of wind turbine setbacks (Ontario-wide, January 2011)**

A hearing was held on January 24, 2011 before three judges of the Ontario Divisional Court. Hanna's lawyer, Eric Gillespie, argued that the Ministry of the Environment (MOE) failed to recognize and resolve uncertainty about effects on human health when establishing turbine setbacks. He presented evidence from three medical experts, including Dr. R. McMurtry from PEC and two other medical doctors from the U.S. and the U.K. respectively. The government's lawyer, Sara Blake, argued that the case should be diverted to an Environmental Review Tribunal (ERT) and that the appellant's experts are advocates and lacking in appropriate qualifications and should therefore be disqualified, which arguments were rejected by the Court. If Hanna is successful, the Court may require a moratorium on all new wind project approvals in the province pending health studies to determine safe setback distances and appropriate changes to the GEA. The Court's decision is expected by the end of March. Regardless of which side wins, it is likely that the decision will be appealed.

### **3. Ministry of Natural Resources (MNR) initiates a strategic policy review of renewable energy development on Crown land (Ontario-wide, January 2011)**

From the text on the MNR website, it appears that the Ontario government intends to allow both wind and solar projects on Crown land. However, it should be noted that Crown land includes 87% of the province – almost all of northern Ontario, and a minor portion of southern Ontario. It also includes all provincial parks and conservation reserves. The major question here is whether the province will redirect wind energy projects towards sparsely populated northern Ontario, which would require additional transmission lines and agreements with First Nations. The strategic review is scheduled for completion by spring 2011.

**4. Problems are identified with Renewable Energy Approval (REA) applications for wind projects (Ontario-wide, January 2011)**

The MOE has turned back 17 of 28 final REA applications submitted by wind energy developers because they were deemed to be incomplete. In most cases, rectification and resubmission of the applications will result in delays of several months in the respective projects.

**5. Gilead Power is required to hold another public meeting for its Ostrander Point project (PEC, February 2011)**

The MOE has required Gilead to hold another public meeting before accepting its application, presumably due to deficiencies related to one of two earlier public meetings. This makeup meeting is scheduled for April 12, 2011. Gilead plans to start construction of access roads soon, with construction of the nine turbines to begin in August, 2011 and commencement of commercial operation in December, 2011.

**6. Environmental Review Tribunal (ERT) hears appeal of MOE's approval of Suncor's 8-turbine Kent Breeze wind project (Chatham-Kent, February 2011)**

This is the first appeal of an REA under Ontario's GEA, brought by a local resident and a citizens' group. The ERT is hearing evidence regarding the contention of serious harm to human health, with the burden of proof being on the appellant. Eric Gillespie, lawyer for the appellant, is presenting evidence of experts from Canada, the U.S., the U.K., Australia and New Zealand, while the province and Suncor are presenting rebuttal evidence of experts from Canada, the U.S. and the U.K. The hearing will continue through March, with a decision expected in May. Meanwhile, Suncor is proceeding with construction of the turbines.

**7. PEC Council joins 70 other Ontario municipalities in asking for a moratorium on wind energy projects (PEC, February 2011)**

The new Council has taken early action following the municipal election to request the province to impose a moratorium on wind turbines, until:

- Proper studies on health, property values and the environment are completed, and
- Some control over wind turbine setbacks is restored to municipalities.

**8. PEC Council will ask the province for some control over ground-based solar projects (PEC, February 2011)**

Some Councillors are concerned about the setback distances of ground-based solar installations from property lines. Council plans to ask the province to restore some local control through a change in the provincial building code.

**9. Ontario defers connection of 1000 solar projects to the grid (Ontario-wide, February 2011)**

The province has taken this action due to technical issues -- described as system constraints by Hydro One -- in some areas of the province (possibly including the Quinte area). Although many homeowners and farmers have already purchased and installed equipment at costs ranging from \$10,000 to \$100,000, they may not get connected for many months.

#### **10. Ontario imposes a moratorium on offshore wind projects (Ontario-wide, February 2011)**

The Ontario government has ruled out offshore projects for the time being, citing a lack of scientific evidence regarding effects on the environment and human health (water quality). The Minister of Energy says that he expects that it will take two years to gather enough science to lift the moratorium. Note: Ontario also imposed a moratorium on offshore projects in 2006, which was lifted in 2008.

#### **11. Opposition to the Gilead Ostrander Point project is increasing (PEC, ongoing)**

Several environmental groups including Bird Studies Canada, Nature Canada, Ontario Nature and PEC Field Naturalists oppose the Gilead project, which is inside an Important Bird Area and which will affect bird and bat migration and habitat. Local citizens' groups APPEC and CCSAGE are addressing both health and environmental issues. Several of these groups are calling for Gilead to abandon the project. If the project is approved by the MOE, it is likely that there will be an ERT appeal, with particular emphasis on environmental concerns. Note: Similar to the situation in Chatham-Kent, Gilead may proceed with construction in parallel with any appeal.

#### **12. Ontario ratepayers push back on electricity costs (Ontario-wide, ongoing)**

Following major increases in 2010 and the announcement of a further 46% increase in the cost of electricity over the next 5 years, Ontario ratepayers are in a rebellious mood. Some of the increases are due to rates being paid for renewable energy -- wind at more than 3 times the market rate (13.5 cents per KWH vs 4 cents per KWH) and solar at 11 to 20 times the market rate (44.3 to 80.2 cents per KWH).

#### **What to watch for in the coming months**

Here are the most likely developments over the next few months:

- March, 2011: Decision on the Ian Hanna legal challenge regarding uncertainty about the health effects of wind turbines.
- May, 2011: Decision on the Chatham-Kent ERT appeal regarding the contention of serious harm to human health from wind turbines.
- Spring, 2011: Completion of MNR's strategic review of the use of Crown land for renewable energy projects.

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