



ENMAX Generation Portfolio Inc.

Zephyr Wind Farm Project – Phase 1 Buildable Area

September 5, 2017

Alberta Utilities Commission

Decision 22192-D01-2017

ENMAX Generation Portfolio Inc.

Zephyr Wind Farm Project – Phase 1 Buildable Area

Proceeding 22192

Application 22192-A002

September 5, 2017

Published by the:

Alberta Utilities Commission

Fifth Avenue Place, Fourth Floor, 425 First Street S.W.

Calgary, Alberta

T2P 3L8

Telephone: 403-592-8845

Fax: 403-592-4406

Website: www.auc.ab.ca

1 Decision summary

1. In this decision, the Alberta Utilities Commission must decide whether to approve an application made by ENMAX Generation Portfolio Inc. for approval of a Phase 1 buildable area for its proposed Zephyr Wind Farm.

2. As stated in Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations and Hydro Development*, in a Phase 1 buildable area application the applicant identifies portions of the project study area that meet all potential constraints while identifying maximum thresholds for other project components such as turbine size and noise levels. The buildable area concept allows developers to have the flexibility to change the turbine type within a specific physical dimension; e.g., maximum turbine height, maximum rotor length, maximum number of turbines, maximum noise level, without requiring an amendment application. Individual buildable areas may vary in size but most areas are expected to be several acres.

3. If a Phase 1 buildable area application is approved, an applicant may file a Phase 2 application for an approval to construct and operate a wind power plant on the approved buildable area. The turbine selection and layout, as well as a final sign-off or approval of the specific wind turbine is required from other agencies and stakeholders at that time.

4. After consideration of the record of the proceeding, and for the reasons outlined in this decision, the Commission finds that approval of the buildable area is in the public interest having regard to the social, economic, and other effects of the project, including its effect on the environment.

5. The buildable area wind power plant application process was first included in a version of Rule 007 that was amended on August 19, 2013 and became effective on September 1, 2013. This is the first Phase 1 buildable area application to be approved by the Commission.

2 Introduction

6. ENMAX Generation Portfolio Inc. (EGPI) filed an application with the Commission for approval of a Phase 1 buildable area for a wind project, with a capability of up to 200-megawatts (MW), to be designated as the Zephyr Wind Farm Project (or the proposed project). The proposed project, if approved, would be located near Taber, Alberta. The application, filed pursuant to Section 11 of the *Hydro and Electric Energy Act*, was registered on December 5, 2016, as Application 22192-A002.

7. The Commission issued a notice of application for the Zephyr Wind Farm Project on February 1, 2017. The notice was sent directly to potentially affected stakeholders within 2,000 metres of the project. It was also published on the AUC website and notification was automatically emailed to AUC eFiling System users who had chosen to be notified of notices of application issued by the Commission. The notice was published in the Taber Times on February 8, 2017.

8. In response to the notice, the Commission received a letter from the Municipal District of Taber (MD of Taber) stating that the proposed project would require a development permit from the MD of Taber's Subdivision and Development Authority.

9. On February 1, 2017 and March 9, 2017, the Commission issued information requests to EGPI. In the information requests, the Commission required EGPI to provide stakeholders with the buildable area details after identifying setbacks and constraints. EGPI responded to the requests on February 15, 2017 and March 29, 2017, respectively.

10. On August 4, 2017, EGPI provided information to the AUC showing that it had provided a newsletter to interested parties and stakeholders located within 2,000 metres of the proposed project boundary. The newsletter contained the buildable area map.

3 Discussion

11. EGPI has applied for a Phase 1 buildable area application for the Zephyr Wind Farm Project in the Taber area. EGPI stated it had selected the proposed project boundary taking into account wind speed, land availability, environmental suitability and current setbacks and other potential constraints. The proposed project location is approximately 30 kilometres southeast of Taber and encompasses privately owned agricultural lands with oil and gas developments. There are no oil and gas facilities located within the buildable area.

12. EGPI provided detailed maps identifying potential constraints that formed the buildable area within the proposed project boundary.¹ The legal land descriptions for the buildable area are as follows:

Sections	Township	Range	Meridian
31, 32, 33	7	14	West of the Fourth Meridian
N21, N22, N23, N/SW 26, 27, 28, 29, 32, 33, 34, 35, 36	7	15	West of the Fourth Meridian
W4, 5, 6, 7, 8, W9, 16, 17, 18, W/NE19, 20, S/NW21	8	14	West of the Fourth Meridian
1, 2, 11, 12, 13, 24	8	15	West of the Fourth Meridian

13. EGPI stated that the proposed project would consist of between 50 to 70 turbines with either 3.2-MW or 4.2-MW capability. The turbines would have a maximum height of 229.5 metres from the ground to the blade tip. The proposed project would also require a

¹ Exhibit 22192-X0014, Responses to AUC IRs, EGPI-AUC-2017FEB01-002, PDF pages 3-8, February 7, 2017.

substation and a collector line system. The collector line system would likely utilize underground routing where possible, or aboveground when required. The substation application would be completed in conjunction with the Alberta Electric System Operator's needs identification document application and the interconnection applications.

14. EGPI identified up to 70 potential turbine locations within the buildable area that met all setback and environmental requirements. EGPI stated that once the technology has been selected, it would identify which specific turbine locations would be used. EGPI provided the Commission with two proposed turbine layouts dependent on the capability of the turbines used.²

15. EGPI stated that the proposed project would be located within the South Saskatchewan planning region and would be developed in accordance with the *South Saskatchewan Regional Plan*. The proposed project is not located within a conservation area or provincial recreation area.

16. EGPI stated that all-season access roads would be required to access the turbines, substation and operation and maintenance facilities. Routing would be determined in consultation with landowners and in consideration of environmental constraints. Temporary access roads used for construction would be closed to vehicle traffic within one year of cessation of use. Details on the temporary access roads decommissioning will be provided in the Phase 2 buildable area application.

17. EGPI stated that an Alberta Environment and Parks (AEP) wildlife biologist had been assigned to the proposed project. A wildlife review was completed based on desktop information and in consultation with an AEP wildlife biologist. EGPI stated that all field studies had been completed except for wintering birds and bat acoustic studies. Bat acoustic studies were completed from July 28, 2016 to October 15, 2016; however, an error in equipment programming occurred from July 28, 2016 to September 13, 2016. AEP directed EGPI to conduct an additional year of acoustic bat monitoring in the spring and fall of 2017. The results of the 2017 field surveys will be included in the Phase 2 buildable area application.

18. EGPI provided a renewable energy referral report from³ the AEP that concluded that the proposed project has a low risk to wildlife and wildlife habitat. AEP stated that a subsequent assessment of any environmental impacts would be completed prior to filing the Phase 2 buildable area application.

19. EGPI retained Stantec to conduct a Noise Impact Assessment (NIA). Stantec will complete the NIA once selection of the wind turbine technology and their locations has been completed. The NIA will be submitted as part of the Phase 2 buildable area application.

20. EGPI contacted Transport Canada, NAV Canada, Alberta Culture and Tourism, Environment and Climate Change Canada and Alberta Transportation. Because EGPI had not selected the turbine technology to be used, the agencies reserved providing final assessments or approvals until the turbine vendor and locations are selected. EGPI stated that all necessary assessments and approvals would be included in the Phase 2 buildable area application.

² Exhibit 22192-X0022, EGPI letter to AUC - Zephyr Consultation, PDF pages 3-4, August 4, 2017.

³ Exhibit 22192-X0005, Appendix D, PDF pages 123-130, December 5, 2016.

21. EGPI stated that it would submit a formal application to the MD of Taber for approval of the proposed project and include it in the Phase 2 buildable area application. As stated above, in response to the notice of application, the MD of Taber submitted a letter of comment⁴ stating that the proposed project would require a development permit from the MD of Taber's Subdivision and Development Authority.
22. EGPI notified occupants, residents and landowners within 2,000 metres from the proposed project boundaries and consulted with occupants, residents and landowners within 800 metres in accordance with Rule 007. A public open house was held on October 19, 2016 in Taber to provide a further opportunity for stakeholders to discuss the proposed project.
23. EGPI provided a list of stakeholder issues and concerns.⁵ These concerns included compensation, noise, and potential turbine locations.
24. In response to an information request, EGPI distributed a second project newsletter to stakeholders on July 14, 2017 that included the potential lay-outs for both the 3.2-MW turbine locations and the 4.2-MW turbine locations as well as the buildable area map. EGPI stated that stakeholders were given an opportunity to respond with any questions or concerns by July 31, 2017 and that it had not received any feedback from stakeholders.
25. EGPI acknowledged that for a municipality or a subsidiary of a municipality to hold interest in a generating unit, approval under Section 95 of the *Electric Utilities Act* is required. EGPI stated its intention to apply for this approval before a Phase 2 buildable area application is submitted to the Commission.
26. EGPI stated that the planned in-service-date of the proposed project is December 2019 and construction is expected to commence in early to mid-2018.

4 Findings

27. The Commission reviewed the application and has determined that the technical, siting, emissions, environmental and noise aspects of the power plant, as required for a Phase 1 buildable area application, have been met. The Commission finds that all applicable setbacks have been applied to determine the buildable area of the proposed project. EGPI's participant involvement program has been conducted and final sign-off or approval from other agencies and stakeholders (e.g., NAV Canada, Transport Canada, Alberta Culture and Tourism, and AEP) will be submitted as part of a future Phase 2 buildable area application.
28. The Commission notes that EGPI has committed to filing a formal application with the MD of Taber once turbine selection, layout and locations are finalized. A development permit from the MD of Taber's Subdivision and Development Authority is expected to be provided as part of the Phase 2 buildable area application. The Commission considers that Section 619 of the *Municipal Government Act*, states as follows:

619(1) A licence, permit, approval or other authorization granted by the NRCB, ERCB, AEUB or AUC prevails, in accordance with this section, over any statutory plan, land use

⁴ Exhibit 22192-X0016, Letter of Comment, February 22, 2017.

⁵ Exhibit 22192-X0004, Appendix C, PDF page 25, December 5, 2016.

bylaw, subdivision decision or development decision by a subdivision authority, development authority, subdivision and development appeal board, or the Municipal Government Board or any other authorization under this Part.

(2) When an application is received by a municipality for a statutory plan amendment, land use bylaw amendment, subdivision approval, development permit or other authorization under this Part and the application is consistent with a licence, permit, approval or other authorization granted by the NRCB, ERCB, AEUB or AUC, the municipality must approve the application to the extent that it complies with the licence, permit, approval or other authorization granted under subsection (1).

....

29. Under Section 619 of the *Municipal Government Act*, an approval or permit from the Commission prevails over a development permit from the MD of Taber. In the Commission's view, municipal approvals can be issued either before or after the Phase 2 buildable area application. The Commission has, in the past, approved power plant projects that had not yet received the relevant municipal approvals.⁶ While the Commission encourages EGPI to continue to work with the MD of Taber to facilitate the execution of the proposed project, it will not require that one be filed with the Phase 2 application.

30. Other than the letter filed from the MD of Taber, the Commission considers that no other submissions were received in response to the notice of application.

31. The Commission finds that the proposed project's known environmental impacts to be minimal. The Commission considers that sign-off from AEP is strong evidence that the proposed project's environmental effects can be mitigated to an acceptable degree. The Commission notes that additional acoustic bat monitoring will be conducted and will be included in the Phase 2 buildable area application.

32. The Commission finds that a NIA under Rule 012: *Noise Control* is not required for a Phase 1 buildable area application for the reasons that follow. Firstly, an NIA requires the sound power level of the proposed wind turbines. The sound power level is the decibel equivalent of the rate of energy (or power) emitted in the form of noise. Secondly, noise modelling is dependent on the exact location of every noise source so that the noise level can be predicted at a dwelling. Accordingly, at this stage, an NIA cannot be completed. As stipulated in Rule 012, the Commission will require an NIA to be filed in the future Phase 2 buildable area application.

33. Where the applicant for a power plant is a municipality or a subsidiary of a municipality (as EGPI is in this application) it must also obtain an approval from the Minister of Energy to hold an interest in a power plant pursuant to Section 95 of the *Electric Utilities Act*. To issue an approval, the Minister must be satisfied, based on a report prepared by an independent assessor, that the "arrangement under which the interest is held is structured in a manner that prevents any tax advantage, subsidy or financing advantage or any other direct or indirect benefit as a result of association with the municipality or subsidiary." The Commission considers that EGPI's approach of addressing this matter in the Phase 2 buildable area application to be reasonable.

⁶ Decision 2014-040:1646658 Alberta Ltd., Bull Creek Wind Project, Proceeding 1955, Application 1608556, February 20, 2014 and Decision 2010-493: ENMAX Shepard Inc., Construct and Operate 800-MW Shepard Energy Centre, Proceeding 241, Application 1605340, (October 21, 2010).

34. Based on the foregoing, the Commission considers the proposed project to be in the public interest in accordance with Section 17 of the *Alberta Utilities Commission Act*.

5 Decision

35. Pursuant to Section 11 of the *Hydro and Electric Energy Act*, the Commission approves the application and grants EGPI the approval set out in Appendix 1 – Power Plant Approval 22192-D02-2017– September 5, 2017 (Appendix 1 will be distributed separately).

Dated on September 5, 2017.

Alberta Utilities Commission

(original signed by)

Henry van Egteren
Commission Member