

IN THE MATTER OF AN ARBITRATION
PURSUANT TO THE ROAD USE AGREEMENT
DATED JANUARY 26, 2016

B E T W E E N:

WINDLECTRIC INC.

Claimant

– and –

THE CORPORATION OF LOYALIST TOWNSHIP

Respondent

NOTICE TO ARBITRATE

BACKGROUND

1. On February 25, 2011, Windlectric Inc. ("Windlectric") entered into a supply contract with the Ontario Power Authority (now the Independent Electricity System Operator) for the supply of electricity from the renewable energy generating facility to be constructed by Windlectric on Amherst Island (the "Project").
2. On January 26, 2016, the Corporation of Loyalist Township ("Loyalist" or the "Township") entered into a Road Use Agreement with Windlectric respecting, among other things, Windlectric's right to access and modify certain road allowances and other infrastructure within the Township.
3. The Road Use Agreement requires Windlectric to prepare an operations plan that demonstrates how prudent and reasonable practices will be used during construction of the Project to minimize the level of disruption, disturbance and inconvenience to the

Township's residents (the "Operations Plan").

4. Windlectric submitted a first draft of the Operations Plan to the Township in October 2016.
5. Pursuant to section 36 of the Road Use Agreement, Windlectric has since submitted four additional iterative versions of the Operations Plan to the Township, received written feedback on those submittals, attended numerous meetings with the Township's staff, hosted a town hall meeting with local residents, and worked to address the concerns that were raised, all with a view to preparing a final Operations Plan satisfactory to the Township.
6. Throughout the process described in the preceding paragraph and through to the present date, Windlectric has conducted good faith negotiations with Loyalist with a view to resolve outstanding issues in relation to the Operations Plan.
7. Pursuant to section 37 of the Road Use Agreement, Windlectric delivered a final Operations Plan to the Township on May 2, 2017.
8. Pursuant to section 38 of the Road Use Agreement, Windlectric requested on May 2, 2017 that the final Operations Plan be put before Loyalist's Council ("Council") at its next scheduled meeting.
9. Pursuant to section 38 of the Road Use Agreement, and subject to certain non-applicable conditions, Council was required to consider the final Operations Plan at its next scheduled meeting.
10. Council received verbal comments from interested parties regarding the final Operations

Plan at its meeting held on May 23, 2017.

11. Section 38 of the Road Use Agreement provides that if Council does not approve the Operations Plan, or approves the Operations Plan with amendments that are not acceptable to Windlectric, either party shall have the right to submit the matter to arbitration pursuant to Part X of the Road Use Agreement.
12. At a Council meeting held on May 29, 2017, where the final Operations Plan was considered by Council, Council did not approve the Operations Plans submitted to it by Windlectric.

SUBMISSION TO ARBITRATION

13. Pursuant to section 59 of the Road Use Agreement, Windlectric hereby submits the final Operations Plan to arbitration.
14. Windlectric requests that:
 - (a) The final Operations Plan submitted by Windlectric to the Township on May 2, 2017, and any ancillary plans and ancillary documents required by the Road Use Agreement, be approved:
 - (i) in the form submitted by Windlectric;
 - (ii) with such changes as may be proposed by Windlectric as may be acceptable to the Township or to the arbitration panel;
 - (iii) with such changes as may be proposed by the Township that are acceptable to Windlectric;

- (iv) with such changes as the arbitration panel may find appropriate;
- (b) The arbitration panel make such further or other interim, interlocutory or final procedural or substantive orders as is necessary or appropriate in the circumstances.

APPOINTMENT OF ARBITRATORS

- 15. Windlectric hereby appoints Stephen Morrison as its nominee to the arbitration panel pursuant to section 60 of the Road Use Agreement.
- 16. Windlectric hereby requests that the Township forthwith (and in any event within seven days of receipt of this notice, as required by s. 10(1)(b) of the *Arbitration Act, 1991* (Ontario)) appoint its nominee to the arbitration panel, and that the nominees so appointed appoint the Chair of the panel in accordance with section 60 of the Road Use Agreement.
- 17. Windlectric hereby requests that the arbitration panel, once appointed, convene a meeting with the parties to set:
 - (a) the procedures for the arbitration; and
 - (b) a timetable for the arbitration.

Date: May 31, 2017

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