

Amendment to REA Regulations to Restore Municipal Authority

ERO Number: [013-4040](#)

Act: Environmental Protection Act, R.S.O. 1990

Posted by: Ministry of Environment, Conservation, and Parks

Comment Period: December 4, 2018 – January 18, 2019

Company Profile:

Headquartered in Chicago, Invenergy is North America's largest independent renewable power generation company. Led by a management team with decades of experience in the energy market, Invenergy's strategic vision focuses on relationships, execution, and sustainability in developing, owning, and operating large-scale energy facilities across the world, including previous developments in the province of Ontario. Invenergy invests in a diverse set of technologies, including wind, solar, natural gas, and storage facilities, and works closely with municipal and state/provincial governments to build utility-scale green energy projects at competitive rates. With an office in Toronto, Ontario, Invenergy is a committed long-term participant, developer, and investor in the Canadian energy market.

Overview:

The proposed amendment adds an additional requirement in order to obtain a Renewable Energy Approval (REA) under O.Reg. 359/09: project developers must submit written confirmation from municipal authorities indicating that the proposed use of land is not prohibited by a zoning by-law or zoning order under the Planning Act.

This applies to new applications, those under review, and applications that amend the REA and relocate the project on parcels not originally used for the application.

Comments:

Developing renewable energy projects under the Renewable Energy Approvals Regulation O.Reg. 359/09 is a multi-year process that requires long-term consultation, planning, and extensive studies on the built and natural environment. This includes consulting with the local municipality, county, and other associated local stakeholders that may be impacted by the project. As part of the REA process, a developer must compile a detailed application that considers potential project impacts.

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As with other utilities, pipelines, and roadways, energy generation is a crucial part of Ontario's infrastructure. Municipal consultation is important for responsible development, but the Ministry should also recognize that developing a robust, sustainable, and clean electricity system will require development across the province. In order to site clean generation responsibly and cost-effectively, project developers will require access to lands that are connected to the existing transmission system, have a viable renewable resource, and are closer to the communities they serve in order to prevent undue electrical losses over great distances.

As a global renewable energy developer with a commitment to responsible and sustainable development, Invenergy has worked with municipalities across North America (including in Canada and Ontario). We understand the importance of working with local planning authorities and continue to be proud of our reputation for doing so. How we work with each community depends on their needs and is a natural part of the siting process. This must also be balanced against Ontario's future development needs: as per the Independent Electricity System Operator's Supply Outlook (2016), the system operator identified a potential shortfall of 1-2 GW due to planned nuclear refurbishments. Furthermore, at the end of 2015, approximately 45% of Ontario's existing capacity was greater than 30 years old; in the next 5-10 years, Ontario's electricity system will need to invest in new generation to cover the retirement of some of these aging resources. In order to ensure that future energy generation development is competitive, reliable, and resilient, the Ministry should ensure that green energy developments are not subject to unreasonable or unfair municipal restrictions compared to other fuel types. Otherwise, Ontario runs the risk of failing to attract investment from new technology companies and paying more for new generation resources due to restrictions on renewable energy projects.

Recommendation:

In line with the provincial objective to reduce red tape and encourage investment, the Ontario government should maintain a streamlined process for energy projects by giving developers flexibility to provide proof of compliance with municipal by-laws. Aside from a letter from the municipality, MECP can also allow a third-party sign-off that verifies a project follows local zoning and municipal by-laws, or for the developer to submit a copy of the local laws as proof of compliance.

This flexibility can also be extended to municipalities, by allowing local governments to decide how they provide feedback on projects sited in their jurisdiction. This should include an option to provide a Form of Exemption, which could permit municipalities to authorize energy developments to move forward conditionally, while a town/county may be in the process of re-

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zoning or drafting a new by-law that may otherwise restrict energy development. This would give local authorities the ability to entice energy investments to their community by reducing the red-tape around the environmental assessment process.

Sincerely,

A handwritten signature in black ink, appearing to read "James J. Murphy". The signature is stylized with a large initial "J" and "M".

James J. Murphy
Vice President, Renewable Development