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Ontario Court Dismisses Appeal on Wind Farm Health Concerns

By Gary Norris - Mar 3, 2011

An Ontario court quashed a health-related objection to wind power generation, eliminating a potential obstacle to wind-farm development in Canada's most populous province.

"We are satisfied that the minister complied with the process," a three-judge panel of the Ontario Divisional Court said today in dismissing an attempt to strike down four sections of the province's Environmental Protection Act.

Eric Gillespie, a lawyer for applicant Ian Hanna, argued that the Ontario Environment Ministry, in setting a minimum distance of 550 meters (1,800 feet) between industrial wind turbines and dwellings, had failed to adequately consider possible health impacts.

"The science is uncertain," said Gillespie, representing Hanna, 56, who runs a wine importing business on Big Island in the Bay of Quinte, in an Ontario region where a half-dozen wind farms have been proposed.

Gillespie told the panel headed by Associate Chief Justice Douglas Cunningham that the ministry relied on "traditional acoustical engineering" in determining the setback. He contended that officials gave insufficient regard to annoyance, stress, sleep disturbance and other possible effects on residents.

Sara Blake, a government lawyer, said that the ministry embraces a "precautionary science-based approach," and it considered all available studies and public comments in formulating the 2009 regulations.

Public Consultation

The ruling by the divisional court stated that there was a full public consultation and review of science-based evidence, such as reports by the World Health Organization and acoustical engineering experts.

"We have stated from the outset that this application had no merit and should not have been brought before the court," Robert Hornung, president of the Canadian Wind Energy Association, said in a statement.

“Ontario’s setback regulations are among the most stringent in the world and are designed to protect the health and safety of the public,” Hornung said.

Hornung said last month that if Hanna’s motion succeeded, wind projects would be stalled until the legislation was rewritten.

Companies with existing or proposed wind projects in Ontario include [Enbridge Inc. \(ENB\)](#), Schneider Power, International Power Plc, [TransAlta Corp. \(TA\)](#) and [Suncor Energy Inc. \(SU\)](#), using equipment from suppliers including [General Electric Co. \(GE\)](#), Vestas Wind Systems A/S and Siemens AG.

Ontario has about 1,500 megawatts of maximum wind generating capacity. This is expected to increase to 2,600 MW by the end of 2011, according to the province’s Independent Electricity System Operator.

The case is Ontario Superior Court of Justice Divisional Court File No. 491/09.

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