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info@oxford-cec.ca

BY-LAW NO 2

Of

OXFORD COMMUNITY ENERGY CO-OPERATIVE INC.

Distribution of Gunn's Hill Terminal Value to Class A Preference Shareholders

June 15, 2019

BE IT ENACTED as a by-law of Oxford Community Energy Co-operative Inc. (hereinafter, the "Co-operative"), a renewable energy co-operative under the *Co-operative Corporations Act* (Ontario), as follows:

PREAMBLE

To protect the interests of the Class A Shareholders of the Oxford Community Energy Co-op (OCEC), it is our goal to create a process which ensures that any Terminal Value of the ownership of the Gunn's Hill wind project is to be dealt with in a manner that provides maximum value to the Class A shareholders, apportioned to the investment level each shareholder owns at the time the assets are disposed of.

The overriding principles of this by-law are:

1. To reaffirm that the value of the Gunn's Hill wind project belongs to the Class A Shareholders as a group, with individual amounts as determined by their share ownership levels, and
2. To ensure that any actions related to the Terminal Value maintain the financial stability of the OCEC as prescribed in the *Co-operative Corporations Act* section 58.4, and as such the OCEC will set aside a reasonable amount of operating, tax and other reserves prior to paying dividends to shareholders.

DEFINITIONS

Community Benefit Plan: A report prepared by the OCEC board and presented to the Class A Shareholders for review and approval by Special Resolution. The maximum amount to be set aside to fund a Community Benefit Plan shall not exceed \$ 25,000.



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Disposition of Assets: Disposition means the sale of the wind energy assets. This is a decision made by the General Partner with the approval of the Limited Partners by GHLP Special Resolution.

Financial Reserve Plan: A report prepared by the OCEC board for presentation, review and approval of the Class A Shareholders by Special Resolution. The Financial Reserve Plan will justify the requested reserves to ensure continued financial strength of the OCEC. In addition, the board may propose to set aside capital for the development of new projects or the expansion of the current project for the benefit of the Class A Preference Shareholders.

Gunn's Hill Project Plan: The Project Plan, prepared by the OCEC board, will outline the options the General Partner has prepared for the Limited Partners on how the Terminal Value of the projects can be maximized. The Limited Partners will have to approve such disposition decision by Special Resolution, which will require OCEC's consent. The Gunn's Hill Project Plan shall include:

- A) The disposition options and recommendation from the General Partner
- B) A financial analysis and proforma for the options considered
- C) A timing plan for the recommended option
- D) The details and rationale for any new investment required by the Limited Partners, if applicable
- E) A detailed explanation of the implication of the disposition for each Class A shareholder, the OCEC members and the Co-op

LP Special Resolution means: (i) a resolution passed by not less than seventy-five percent (75%) of the aggregate number of outstanding voting units at a duly constituted meeting of Limited Partners of which each holder of voting units is entitled to the prescribed number of votes for each such unit held; or (ii) a written resolution in one or more counterparts signed by Limited Partners holding in the aggregate not less than seventy-five percent (75%) of the aggregate number of outstanding units that could be cast at such a meeting.

Class A Shareholder Special Resolution means: a resolution passed by not less than seventy-five percent (75%) of the aggregate number of outstanding Class A Preference Shares represented at a duly constituted meeting of shareholders of which each holder of Class A Preference Shares is entitled to the prescribed number of votes for each such share held.



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Member Dividend Declaration: The OCEC board may suggest a dividend declaration on OCEC member shares. The maximum allowable dividend on OCEC member shares is prescribed in the Co-operative Corporations Act.

Net Cash Value: means (i) the money transferred to the OCEC from the Limited Partnership as a result of the disposition of the project assets minus withholding taxes by OCEC; or (ii) any continued distribution, net of taxes, from the project in case the decision is to continue to operate the project minus operating expenses and withholding taxes by OCEC.

Proceeds Utilization Plan: A report prepared by the OCEC board for presentation, review and approval of the Class A Shareholders by Special Resolution. The Proceeds Utilization Plan will detail the prioritization and utilization of the funds generated from the Terminal Value.

Terminal Value: is the value of a certain asset at the end of a Power Purchase Agreement (PPA) or at the time disposed of by the GHLP.

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RULES AND PROCESS

1. Asset Ownership level

- 1.1. The ownership level is defined as the percentage of shares held by an investor in a certain class of issued and outstanding shares
- 1.2. The ownership level of the outstanding Class A Preference Shares for each investor at the time of disposition, determines the percent of ownership of the Terminal Value of the Gunn's Hill windfarm, a portion of which is owned by OCEC as a Limited Partner

2. Disposition of Assets

- 2.1. It is possible that the assets of the Gunn's Hill wind energy project will have value at the end of the Power Purchase Agreement (PPA). This Terminal Value could be realized in different forms:
 - 2.1.1. Sale of the energy assets to a third party prior to the maturity of the original PPA,
 - 2.1.2. Sale of the energy assets to a third party at the maturity of the original PPA,
 - 2.1.3. Continued ownership and operation of the energy project after PPA expiry,
 - 2.1.4. Investment in the Gunn's Hill project to modify or upgrade the asset for continued operation post PPA,
 - 2.1.5. Sale of energy assets to a third party after the maturity of the original PPA,
 - 2.1.6. Enter into a partnership for someone else to operate the asset post PPA,

3. OCEC Surplus

The Class A Shareholders have economic ownership in the OCEC Gunn's Hill wind assets. Section 8.2 of the OCEC General By-laws specifies the rules for the distribution of Terminal Value Surplus generated by the Gunn's Hill project assets.

Interpretation of Article 8.2 ‘Terminal Value Surplus Apportioned’

Terminal Value is the value of a certain OCEC asset at the time when the asset is either sold or otherwise repurposed. The overriding principle is that the shareholders who funded the asset class benefit proportionately in the economic value that comes as a result of the disposition of that asset. The Terminal Value Surplus of the asset disposition will be distributed in any or all of the following ways:

- a) Reserves
 - i. as the project approaches the end of the PPA the board will present a Financial Reserve Plan to the shareholders for ratification by Special Resolution of the Class A Shareholders.
- b) Dividends
 - i. the proceeds from the disposition will be used in accordance with sections 4, 5 or 6 of this by-law. This shall provide the basis of a Project Plan and a Proceeds Utilization Plan to be presented to the Class A Shareholders for ratification by Special Resolution.
- c) Community Fund
 - i. the maximum amount, if any, to be set aside for this purpose is to be the lesser amount of 5% of the cash portion of the Terminal Value or \$ 25,000. This shall provide the basis of a Community Benefit Plan to be presented to the Class A Shareholders for ratification by Special Resolution.

4. Disposition prior to Maturity of the PPA

If the Gunn’s Hill wind project is disposed of prior to the termination of the PPA, the OCEC board will prepare a Proceeds Utilization Plan with the following prioritization of funds allocation.

- 4.1. Repayment of any debts directly related to Gunn’s Hill energy project,
- 4.2. Reserve for tax implications for OCEC on disposal,
- 4.3. Reserve for repurchase of remaining Class A shares after final dividend distribution,
- 4.4. Reserve for Community Benefit Plan, if any,
- 4.5. Reserve for member share dividends, if any,
- 4.6. Reserve for Financial Reserve Plan, if any,

- 4.7. Balance to be distributed to Class A shareholders in the form of a special dividend immediately prior to the final share redemption.

5. Disposition at the Maturity of the PPA

If the Gunn's Hill wind project is disposed at the termination of the PPA, the OCEC board will prepare a Proceeds Utilization Plan with the following prioritization of funds allocation:

- 5.1. Reserve for tax implications for OCEC on disposal,
- 5.2. Reserve for repurchase of remaining class A shares, after final dividend distribution,
- 5.3. Reserve for Community Benefit Plan, if any,
- 5.4. Reserve for member share dividends, if any,
- 5.5. Reserve for Financial Reserve Plan, if any,
- 5.6. Balance to be distributed to Class A Shareholders in the form of a special dividend immediately prior to the final share redemption.

6. Disposition after the Maturity of the PPA

If the Gunn's Hill wind project is disposed after the termination of the PPA, the OCEC board will prepare a Proceeds Utilization Plan with the following prioritization of funds allocation:

- 6.1. Net operating proceeds to be distributed to Class A Shareholders on a quarterly basis,
- 6.2. Reserve for tax implications for OCEC on disposal,
- 6.3. Reserve for repurchase of remaining class A shares, after final dividend distribution
- 6.4. Reserve for Community Benefit Plan, if any,
- 6.5. Reserve for member share dividends, if any,
- 6.6. Reserve for Financial Reserve Plan, if any,
- 6.7. Balance to be distributed to Class A Shareholders in the form of a special dividend immediately prior to the final share redemption.

7. Practical Application



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By June 30, 2031, being 5 years prior to the expiry of the relevant PPA, the OCEC board of directors will prepare drafts of the following reports for the Class A Shareholders. These reports will be reviewed by the board by September 30, 2031 and communicated to the Class A Shareholders at the next annual shareholder meeting.

- 7.1. Gunn's Hill Project Plan
- 7.2. Community Benefit Plan
- 7.3. Financial Reserve Plan
- 7.4. Proceeds Utilization Plan

Furthermore, thereafter, the OCEC board shall prepare updates to these draft reports on an annual basis.

Prior to the final disposition of the assets and the distribution of the Terminal Value, the OCEC will call a special Class A Preference Shareholder meeting to present the four plans mentioned in section 7.1-7.4 and to gain approvals from the Class A shareholders by Special Resolution. These plans determine the disposition of the assets and the final Class A dividend declaration.

If one or more of the plans do not receive approval by Special Resolution, the board will modify the plan/s to reflect the wishes of the Class A Shareholders and call a second Class A Shareholder meeting within 60 days to present the modified plans to the Class A shareholders for approval.

If the second shareholder meeting is not able to gain approval for the four plans then the board will form a working committee consisting of 3 board members and 4 Class A Shareholders who are not directors to draft the final plans that will govern the distribution of the Terminal Value of the Gunn's Hill assets. The 4 non-board members on the working committee will be selected by the Class A Shareholders and ratified by Special Shareholder Resolution at the shareholder meeting. Decision on the working committee are passed by simple majority of the members on the working committee and their proposal will be final.

8. Final Class A Shareholder dividend declaration if applicable:

Any Net Cash Value resulting from the Disposition decision that is received by OCEC from the Limited Partnership, after deducting the approved financial reserves and after deducting money set aside for the Community Benefit Plan and the member dividends shall be distributed to the Class A Shareholders pro-rata to their investment level at that time.



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9. Binding By-law

9.1. This By-law, once approved by the members, cannot be revoked or changed by this or any future board without a Special Resolution of the Class A Shareholders.

9.2. Force Majeure

The OCEC board will be free of liability to the Class A Preference Shareholders where the board is prevented from executing its obligations under this By-law in whole or in part due to force majeure where the board has communicated the circumstance of said event to any and all shareholders and taken any and all appropriate action to mitigate said event. Force majeure will include, but not be limited to, a change of any current or future provincial or federal laws and or any other event beyond the reasonable control of the board.

10. Joint Members or Shareholders

All notices with respect to any joint members or shareholders shall be given to whichever of the persons is named first in the books of the Co-operative and the notice so given shall constitute sufficient notice to all such joint members or shareholders.

11. Undelivered Notices

If any notice given to a shareholder is returned on three (3) consecutive occasions because he cannot be found, the Co-operative is not required to send any further notices to such shareholder until he informs the Co-operative in writing of his new address.

12. Omissions and Errors

The accidental omission to give any notice to any shareholder, or the non-receipt of any notice by any such person, or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice.

13. Waiver of Notice

Where a notice is required to be given by the Act, the regulations under the Act, the articles, the By-laws, or otherwise, the giving of the notice may be waived or the time for the notice may be waived or abridged with the consent in writing of such person, whether before or after the time prescribed.



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