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## BY-LAW NO 3

Of

# OXFORD COMMUNITY ENERGY CO-OPERATIVE INC.

## Class A Preference Share Redemptions

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 allows us to return capital to the Class A investors prior to the end of the Gunn’s Hill wind energy contract in November 2036 in a manner that is understandable, fair, equitable, and administratively manageable. Capital returns are made in the form of Class A Share Redemptions.

### DEFINITIONS

**Board:** the board of directors of the OCEC at any given time.

**Bondholders:** are collectively the owners of 705 wind bonds with a value of \$ 705,000. These are 10-year bonds, maturing in 2026 carrying an annual interest rate of 5.5%.

**Class A Shares:** are the Preference Shares held by investors reflecting their ownership in the OCEC portion of ownership of the Gunn’s Hill windfarm. Class A Preference Shares have a par value of \$ 1,000 each.

**Outstanding Class A Shares:** are the number of Class A Preference Shares that were issued to the Shareholders minus all Shares redeemed by OCEC. The number of Outstanding Class A Shares can be found in the Shareholder equity section of the balance sheet in the corporation’s financial statements.

**Senior Lender:** the holder of the 17-year credit agreement - holding the senior debt for the GHLP project.

**Share Redemption:** the process of buying back Class A Preference Shares from the investors at their par value, for the purpose of returning the original investment capital to the investors.



**Shareholders:** are collectively the holders of 8,257 Class A Preference Shares with a par value of \$ 8,257,000

## RULES AND PROCESS

### 1. Proportional Share Redemption

- 1.1. Share Redemptions will be made in proportion to each investor's ownership level
- 1.2. The ownership fraction of the Outstanding Class A Preference Shares for each investor will not change as a result of a pro rata Share Redemption.
- 1.3. The investor who holds 1% of the Outstanding Shares prior to a Redemption, will hold 1% of the Outstanding Shares immediately after the Share Redemption.
- 1.4. This By-law No 3 only applies in the case of a pro rata Class A Share Redemption where Class A Shares are redeemed proportionately from all Shareholders. Any Share Redemption requests from individual Shareholder are handled outside of By-law No 3 and may have a different impact on the proportionate Share holdings of individual Shareholders.

### 2. Shares Extinguished

- 2.1. All Class A Shares redeemed by the OCEC will be extinguished immediately.
- 2.2. This reduces the number of Outstanding Class A Shares by the number of Class A Shares bought back from the investors during that Class A Share Redemption.

### 3. Share Redemption Limitations

- 3.1. The maximum number of Class A Shares that can be redeemed from the investors by OCEC under this policy is 99% of the Outstanding Class A Shares at the time this policy is executed
  - 3.1.1. Outstanding Shares on May 30, 2019: 8,257
  - 3.1.2. Subject to section 3.1.4. the maximum Share Redemption under this By-law No 3 is 8,174.43 Class A Shares
  - 3.1.3. Subject to section 3.1.4. the minimum number of Outstanding Class A Shares on November 16, 2036 is 82.57
  - 3.1.4. The same principle of proportionate and maximum Class A Share Redemption applies if the board of directors propose a Share split in the future.



#### **4. Residual Value of the Gunn’s Hill Windfarm**

4.1 The calculation of the residual value of the Gunn’s Hill assets and the Class A Share Redemption of the remaining Outstanding Class A Shares will be governed by By-law No 2 “Distribution of Gunn’s Hill Terminal Value to Class A Preference Shareholders”

#### **5. Timing**

5.1. Share Redemptions will be determined on an annual basis by the then active Board and will be made in the 4<sup>th</sup> quarter of the calendar year.

#### **6. Capital Reserves**

6.1. The Board makes Share Redemptions based on the available cash balances from the operation of the Gunn’s Hill windfarm.

6.1.1. The available cash balances amount is dependent on the following factors

- 6.1.1.1. Income from the production of energy,
- 6.1.1.2. Cost to service the wind operations budget,
- 6.1.1.3. Minimum amount of operational reserves,
- 6.1.1.4. Interest paid on outstanding wind bonds,
- 6.1.1.5. Capital repayment on loans,
- 6.1.1.6. Dividend declared during the operations year,
- 6.1.1.7. Amount of reserves to be maintained for operations of the wind project and OCEC requirements.
- 6.1.1.8 Reserves for OCEC for income taxes and direct operating expenses.

#### **7. Financial Stability**

7.1. It is the Board’s obligation to preserve the financial health of OCEC. Class A Share Redemptions can only be contemplated if the accumulated capital reserves are not required to secure the stable financial operation of the OCEC.



Factors that can impact the financial operations are:

- 7.1.1. *The debt obligations to the LP Senior Lenders,*
- 7.1.2. *The debt obligations under the LP Shareholder Loan till 2022,*
- 7.1.3. *The debt obligations to our Bond Holders till 2026,*
- 7.1.4. *Operational defects on the wind farm not covered under warranty or by insurance,*
- 7.1.5. *Tax obligations,*
- 7.1.6. *Any unforeseen events.*

## **8. Class A Share Redemption Calculation**

8.1. Class A Share Redemptions will, when possible, be made as a percentage of the original Outstanding Class A Shares,

8.1.1. For instance, in 2019 we may announce a Class A Share Redemption of 5% which means OCEC is buying back 5% of the original 8,257 Class A Shares (412.85) reducing the number of Outstanding Class A Shares to 7,844.15. If in 2020 the Board makes another 5% Class A Share Redemption, that would be 5% of the original 8,257 Shares (412.85) reducing the total Outstanding Class A Shares to 7,431.30.

8.1.2. In completing Class A Share Redemptions, fractional Class A Shares will be issued and redeemed. In order to minimize future administrative burden and to maximize clarity, the Board may limit the number of digits for fractional Class A Shares and force a rounding of Redemptions to leave a Class A Share holding to at most 4 (four) decimal places.

## **9. Documentation**

9.1. The Board will issue annual Class A Share ownership statements indicating clearly the number of Outstanding Class A Shares and the percent ownership for the individual investor

9.2. Every 5 years or as requested by the investors, the Board will issue a replacement Class A Share certificate for the number of Class A Shares owned by each investor

## **10. Additional Guidelines**

10.1. The White Paper - OCEC Capital Returns - 03142019 distributed to the Class A Shareholders at the special Shareholder meeting on March 16, 2019



provides a more detailed guideline on this By-law No 3. The paper is available to all Class A Shareholders on our website.

## **11. Binding Policy**

11.1. This By-law No 3, once approved by the members, cannot be revoked or changed by the current or any future Board without a Special Resolution by the Class A Preference Shareholders

### 11.2. 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 Agreement in whole or in part due to force majeure where the Board has communicated the circumstance of said event to any and all Class A 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.

## **12. 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.

## **13. 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.

## **14. Omissions and Errors**

The accidental omission to give any notice to any Class A 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.

## **15. 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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