



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**
Prince Edward Island
Île-du-Prince-Édouard
CANADA

Docket UE20715
Order UE08-17

IN THE MATTER of an
application by Maritime Electric Company,
Limited for approval of a proposed amendment
to the 2008 Capital Budget.

**BEFORE THE
COMMISSION**

on Thursday, the 4th day of September, 2008.

Maurice Rodgerson, Chair
John Broderick, Commissioner
Anne Petley, Commissioner
Ernest Arsenault, Commissioner

Order

Compared and Certified a True Copy

(Sgd) *Mark Lanigan*

Technical and Regulatory
Services Division

IN THE MATTER of an
application by Maritime Electric Company,
Limited for approval of a proposed amendment
to the 2008 Capital Budget.

Order

WHEREAS, by application filed with the Commission on the 12th day of August, 2008, Maritime Electric Company, Limited (the “Company”), applied to the Commission for approval of an amendment to the 2008 Capital Budget;

AND WHEREAS, specifically, the amendment to the 2008 Capital Budget is a request for an increase of \$13,900,000 in expenditures for the construction of a new transmission line and power corridor in western Prince Edward Island. The proposal, however, will not result in any capital cost to the Company as the development will be funded 100% through contributions from the Government of Prince Edward Island and West Cape Energy Inc.;

AND WHEREAS, following receipt of the said application, the Commission published a Notice of Application in the local newspapers inviting comments on the Company’s application;

AND WHEREAS, in response to the public notice, the Commission received several written submissions regarding the proposed location of the transmission line along the Confederation Trail, including allegations that the location violates the *Trails Act*. As well, comments were made concerning the implications to transmission line customers associated with this transmission line;

AND WHEREAS, one complainant in particular, Ms. Margaret C. MacKay, raised several issues, including possible illegal activities that may be occurring on the Confederation Trail, and the more substantial issue of whether, under the *Trails Act*, it is appropriate to use 20km of the Confederation Trail for the placement of transmission infrastructure;

AND WHEREAS, the Commission has considered all written submissions received in this matter, including comments made by Ms. MacKay;

AND WHEREAS, the Commission, when considering the matter of violations under the *Trails Act*, particularly related to the use of the Confederation Trail as a transmission line corridor, and upon review of the *Island Regulatory and Appeals Commission Act*, the *Electric Power Act* and the *Trails Act*, has concluded, for the following reasons, that it has no jurisdiction relating to the alleged violations of the *Trails Act*.

- Section 5 of the *Island Regulatory and Appeals Commission Act* outlines the various functions of the Commission and does not include any authority over the administration of the *Trails Act*;
- The *Trails Act* does not convey any authority to the Commission over violations to the *Trails Act*; and
- When considering violations under the *Trails Act*, interested parties must look to this legislation for direction and/or remedies;

AND WHEREAS, the Commission acknowledges Ms. MacKay's comments regarding both alleged violations to the *Trails Act* and inappropriate activities on the Confederation Trail and while the Commission has no jurisdiction regarding alleged violations to the *Trails Act*, the Commission recommends that anyone having concerns over possible illegal activities occurring on the Trail notify the appropriate authorities;

AND WHEREAS, the Commission also acknowledges that some residents are concerned about possible health effects from Electromagnetic Fields associated with the transmission line, however; the Commission accepts the recommendations of Health Canada and the World Health Organization and does not consider this transmission line will present unreasonable health consequences based on the findings of Commission Order UE08-05;

AND WHEREAS, the Commission understands the capital cost of the transmission line will have no cost or rate implication to Island electricity customers and the operating and maintenance costs will be recovered from merchant generators based on the Company's Open Access Transmission Tariff ("OATT"). Currently, the OATT matter is before the Commission as a separate matter and any related questions and comments made during this application will be included as part of that process;

AND WHEREAS, based on the foregoing, the Commission has determined no public hearing is necessary;

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Electric Power Act*,

IT IS ORDERED THAT

1. Maritime Electric Company Limited's 2008 Capital Budget amendment is approved as filed.

DATED at Charlottetown, Prince Edward Island, this 4th day of September, 2008.

BY THE COMMISSION:

(Sgd) Maurice Rodgerson

Maurice Rodgerson, Chair

(Sgd) John Broderick

John Broderick, Commissioner

(Sgd) Anne Petley

Anne Petley, Commissioner

(Sgd) Ernest Arsenault

Ernest Arsenault, Commissioner

NOTICE

Section 12 of the *Island Regulatory and Appeals Commission Act* reads as follows:

12. The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it or rehear any application before deciding it.

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written Request for Review, which clearly states the reasons for the review and the nature of the relief sought.

Sections 13.(1) and 13(2) of the *Act* provide as follows:

13.(1) An appeal lies from a decision or order of the Commission to the Appeal Division of the Supreme Court upon a question of law or jurisdiction.

(2) The appeal shall be made by filing a notice of appeal in the Supreme Court within twenty days after the decision or order appealed from and the Civil Procedure Rules respecting appeals apply with the necessary changes.