

May 3, 2010

RESS & COURIER

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

**Re: Cost Eligibility Request
Board File No. EB-2010-0059
Consultation on Transmission Project Development Planning**

We are counsel to the Canadian Wind Energy Association ("CanWEA"). We are hereby giving notice of our client's intention to provide comments on Board Staff's discussion paper entitled *Transmission Project Development Planning* (EB-2010-0059), dated April 19, 2010.

Our client is a national, not-for-profit association that works on behalf of its members to promote the responsible and sustainable growth of wind energy in Canada. Its members include wind turbine manufacturers and component suppliers, wind energy project developers, owners and operators and a broad range of service providers. Our client is therefore interested in this consultation process because the development of transmission in Ontario will have a direct and material impact on its members.

We are also requesting cost eligibility on behalf of CanWEA. While CanWEA would normally not be eligible for an award of costs due to its inclusion in the list of ineligible parties under section 3.05 of the Board's *Practice Direction on Cost Awards*, in our submission special circumstances exist in this consultation that should allow for our client to be eligible. In particular, generators are customers of transmitters when it comes to the procurement of connections and related services and, in that sense, consistent with past Board practice in determining cost eligibility, they should be likened to consumers in the circumstances of this consultation.¹ Moreover, CanWEA and its members offer significant expertise and practical insight into matters that are relevant to the Discussion Paper and will offer comments that we expect will be of assistance to the Board in considering the issues raised through this process.

¹ See for example the Decision on Cost Eligibility in the consultation process to examine Board policies regarding cost responsibility for generation and load connections to transmission systems (EB-2008-0003), dated July 29, 2008, as well as EB-2009-0152.

Our client has participated in several Board consultation processes dealing with the regulation of the electricity sector, including the consultation process to examine Board policies regarding cost responsibility for generation and load connections to transmission systems (EB-2008-0003) and the consultation on the treatment of infrastructure investments for distributors and transmitters (EB-2009-0152) where it was found to be eligible for cost awards.

Our client will be represented and/or assisted in this process by the following individuals, to whom copies of all materials relating to the process should be sent:

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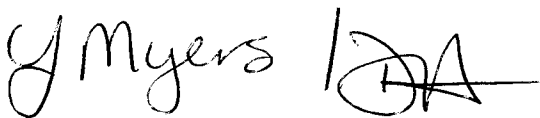
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Further to the Board's requirement that the credentials be provided for any lawyer, analyst or consultant to be retained, we have enclosed such information for Ms. Helbronner and myself.

Yours truly,



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Our Team

Valerie Helbronner

Partner



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Valerie has significant experience in energy project development and finance.

Practice

Valerie Helbronner is a partner in the firm's Infrastructure and Energy Practice. She has provided legal and strategic advice on energy projects in and outside Ontario. A focus of Valerie's practice has been on renewable energy projects, including wind, run-of-river hydro, solar and biomass projects. Valerie has also worked extensively with projects involving First Nations and Métis interests and issues and has represented various stakeholders, including First Nations, aboriginal-owned entities and private sector developers negotiating with First Nations.

Valerie has worked with the Ontario Waterpower Association (OWA) in the development and implementation of MNR's Site Release rules, and has participated in the Building Capacity Initiatives that the OWA is working on with MNR and First Nations.

Valerie has advised on numerous energy restructuring projects internationally, including in Ontario, Russia, Hungary, South Africa and the Balkans. She has also advised on project financings in various other industries in several Canadian provinces and territories, including healthcare, rail transportation and mining.

Recognitions

Real Time News' *LawDay 2009*—Leading lawyer in energy/corporate law

Transactions

Valerie has recently represented

- Starwood Energy Group Global and Starwood SSM1 Canada in their 2009 acquisition and financing of two 10 MW Standard Offer solar projects in Sault Ste. Marie, Ontario, which included the negotiation of the EPC contract, as well as the negotiation of the approximately C\$80 million project financing
- various clients on the development and financing of renewable energy projects (wind, solar (ground mount and rooftop) and biomass) under the Ontario Power Authority's Feed-in Tariff (FIT) Program, including domestic content requirements, aboriginal and community-price adders, and electricity regulatory requirements
- providing advice to various clients on the development of new transmission and distribution lines in Ontario, including cost responsibility and process issues
- the financial arranger and institutional lenders on a proposed C\$220 million project financing of a 100 MW wind generation project in Chatham, Ontario; the project was awarded a contract from the OPA earlier this

year and financial closing is expected in Q1 2010

- a major publicly traded owner, developer and operator of shopping centres across Canada on the FIT Program, and in the development and operation of rooftop solar projects
- AIM Harrow Wind Farm in its 2009 C\$82 million construction financing with Manulife Financial for 39.6 MW of wind energy projects in southwestern Ontario
- AIM SOP Phase I LP on the development and financing of four Standard Offer Projects in southern Ontario; Valerie's involvement included the negotiation of the balance of plant contract and the turbine supply agreement, and the negotiation of the C\$75 million project financing with Fortis Capital
- International Power Canada (formerly AIM PowerGen Corporation) on legal and strategic issues associated with the development, financing and operation of all projects in their pipeline. Work included all legal work associated with the development, financing, construction and operation of the 99 MW Erie Shores Wind Farm, the sale of AIM's interest to Clean Power Income Fund and various acquisition opportunities
- Renewable Energy Generation and AIM PowerGen in the 2009 C\$173 million sale of AIM PowerGen to International Power
- Investec North America in the project financing of two 18 MW and 17 MW biomass facilities
- Recurrent Energy in its acquisition of 35 solar energy projects in Ontario from UPC Solar, which involved various connection-related issues with Hydro One, including timing and queuing issues arising under the *Distribution System Code*
- Five Nations Energy, one of the four transmitters operating in Ontario, as lead counsel in all facets of the construction and operation of a transmission line to remote aboriginal communities in northern Ontario; throughout the project cycle, provided legal and strategic advice on the initial project financing, a subsequent refinancing, and on management, corporate structuring, documentation and regulatory issues
- Canadian Wind Energy Association as lead counsel on various interventions before the Ontario Energy Board, including the IPSP Hearing and the Transmission Connection Cost Recovery Review
- Nova Scotia Power on the negotiation of multiple power purchase agreements with selected bidders in response to its Renewable 2007 RFP for 130 MW of Renewable Power
- a steam host on all commercial (including negotiation of an energy supply agreement) and real estate matters related to cogeneration facility being developed in Ontario; the mandate includes advice on the CHP II RFP
- the lenders on the C\$200 million financing of its capital and supply chain fuel project in connection with the Bruce Power Nuclear Generating Station A Units; the financing was provided by The Manufacturers Life Insurance Company, Sun Life Assurance Company of Canada, The Great-West Life Assurance Company and Industrial Alliance Insurance and Financial Services
- the senior lender in the project financing of the 63 MW Kettles Hill Wind Project in Alberta
- Black & McDonald in the negotiation of the engineering, procurement and construction contract for a 191 MW wind farm in Ontario
- a potential equity investor in a 99 MW wind farm in Prince Edward Island
- the vendors on the sale of two hydroelectric facilities in British Columbia
- Independent Electricity Market Operator in the development and drafting of the wholesale electricity market rules and related documentation
- Russian Utility in its state-owned national electricity monopoly in restructuring the industry, including the design of the market model, and the drafting and negotiation of all the contractual documentation
- Canadian International Development Agency and National Governments in the Balkans; worked with SNC Lavalin in its restructuring of national electricity sectors, including advising on the establishment of a transmission company in Bosnia and Herzegovina (BiH); the development of market rules in BiH and Croatia; and the drafting of enabling legislation for BiH and Serbia
- Government of the Netherlands as senior counsel on one of the first Dutch public-private partnership projects in the drafting and negotiation of the 30-year agreement for the provision of a high-speed rail link
- Government of South Africa on the legal components involved in restructuring the South African electricity distribution industry; drafted and negotiated the enabling legislation for such a restructuring
- Hungarian Power Companies on the sale of shares in a power-generation company to a German consortium
- Hungarian State Holding Company on the privatization of Hungary's electric utilities, which involved the negotiation documentation with potential investors and liaison with financial advisers on the tender documentation
- European Bank for Reconstruction and Development in loan transactions to a Bulgarian bank and a Hungarian bank
- World Bank

- in its comparative study of first-instance commercial courts; which involved managing the project and co-ordinating consultants in Hungary, France, Ukraine, Germany and Quebec
- in its judicial reform project in Ecuador, which involved assisting in developing the project's parameters, preparing documentation and planning the project implementation

Professional Involvement

Before joining Torys, Valerie was a partner at another major Toronto firm.

Selected Publications and Presentations

Ontario Green Bill Must Address Capital Crunch

First published in *The Globe and Mail's ReportonBusiness.com* | February 24, 2009

Business to Business Relationships with Aboriginal Communities

Co-facilitator, Ontario Waterpower Association Annual Conference Workshop | October 29, 2008

Addressing Challenges to Electricity Infrastructure Development

Enercom | April 2, 2008

Consolidation and M&A: Opportunities, Challenges & Strategies for Buyers and Sellers

Co-presenter, CanWEA Finance and Investment Seminar | February 28, 2008

Energy Project Financing

Insight Aboriginal Energy Forum | December 10, 2007

Ontario Energy Projects and First Nations: Recent Developments

CanWEA Annual Conference | October 1, 2007

Renewable Energy Projects with First Nations, Industry and Government Partnerships

Chair | April 16-17, 2007

Other Publications and Presentations

Building Capacity

MNR and Ontario Waterpower Association to First Nations

Valerie has presented at various seminars and conferences on procurement contracts, including the standard offer program and the feed-in-tariff program.

Directorships

Ontario Waterpower Association, Vice-Chair

Selected Media Highlights

January 8, 2010: Valerie Helbronner is elected to Vice-Chair of the Ontario Waterpower Association

April 23, 2009: The Green Energy Act is a real opportunity for new renewable generation, says Valerie Helbronner in ReNew Canada

March 10, 2009: 37 of Torys' practitioners named as leading lawyers by LawDay

February 24, 2009: Green Energy Act signals that the McGuinty government is serious about green energy, comments Valerie Helbronner The Globe and Mail

January 28, 2009: Charles Keizer and Valerie Helbronner join Torys' Toronto office

Memberships

Canadian Wind Energy Association, Ontario Caucus, Steering Committee

American Bar Association

Practice Areas and Industry Groups

Climate Change and Emissions Trading

Gas and Power Markets

Infrastructure and Energy

Infrastructure and Energy Regulatory

Project Development and Finance

Public-Private Partnerships

Bar Admissions

Ontario, 1996

Education

LLB, 1994

University of British Columbia

BA (Honours), 1990

Queen's University



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Our Team

Jonathan Myers

Associate



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Jonathan is a member of Torys' Infrastructure and Energy, and Environmental, Health and Safety Practice Groups.

Practice

Jonathan Myers provides strategic advice in the areas of energy regulation, nuclear regulation, environmental approvals and compliance, and municipal approval processes.

Transactions

Jonathan has recently been involved in representing

- Great Lakes Power Transmission, an Ontario-based electricity transmitter, on its cost-of-service application to the Ontario Energy Board for 2010 rates (EB-2009-0408)
- Canadian Niagara Power, an Ontario-based electricity transmitter, on its application for leave to construct transmission facilities in the Fort Erie/Niagara Falls area (EB-2009-0283)
- Brookfield Renewable Power and related entities in the filing of a notice of proposed transaction under Section 80 of the *Ontario Energy Board Act* in connection with the transfer of various electricity generation assets to Great Lakes Hydro Income Fund (EB-2009-0175)
- Gosfield Wind in the filing of a notice of proposed construction under Section 80 of the *Ontario Energy Board Act*, as well as an application for an electricity generation licence, in connection with the planned construction of a wind generation facility (EB-2009-0175)
- Great Lakes Power and related entities in an omnibus application requesting leave to transfer GLPL's distribution system to Great Lakes Power Distribution Inc. under Section 86 of the *Ontario Energy Board Act*
- International Power Canada (formerly AIM PowerGen) in its application under the *Ontario Energy Board Act* for amendments to its generator licence concerning the Harrow Wind Farm
- Renewable Energy Generation/AIM PowerGen on regulatory matters in connection with the sale of AIM PowerGen to International Power
- Canadian Wind Energy Association (CanWEA) in its submissions to the Ontario Energy Board concerning the Board's proposed amendments to the Transmission System Code (EB-2008-0003) and Distribution System Code (EB-2009-0077, EB-2009-0088), and Board Staff's *Discussion Paper on Infrastructure Investment* (EB-2009-0152)
- an Ontario-based gas utility on its contested franchise renewal application to the Ontario Energy Board
- an industry association in connection with substances being reviewed under Canada's chemicals management program
- Ontario Power Generation

- on its application to the Ontario Energy Board to determine payment amounts for nuclear and baseload hydroelectric production for 2008 and 2009
- on environmental, planning and regulatory matters in the development of its 550 MW Portlands Energy Centre CCGT power project (in a joint venture with TransCanada Energy) in the City of Toronto
- on the demolition and site remediation of the Lakeview Generating Station
- on the first phase of a proposed deep geologic repository for low and intermediate level radioactive waste

Professional Involvement

Before joining Torys, Jonathan was an associate at another Toronto firm, where his practice focused on energy and environmental law. Jonathan was also in-house counsel at Ontario Power Generation, where his broad regulatory practice served all areas of the company, including its nuclear, fossil and hydroelectric business units.

Selected Publications and Presentations

The Prosecution and Defence of Environmental Offences

Co-author of Electronic Sentencing Database with Mr. S. Berger, Canada Law Book Inc. | 2004 - current

Two Can Play at this Game: Cross-Border Pollution Enforcement

Co-author, *Environews*, vol. 17, no. 3 | April 2008

Ensuring a Reliable Electricity Supply - An Overview of Electricity System Planning in Ontario

Environews, vol. 16, no. 3 | May 2007

Ontario's New Environmental Penalties

Co-author, prepared for OBA Continuing Legal Education Program: *Environmental Liability and Bill 133 – What You Need to Know* | September 2005

Ontario to Re-Introduce AMPs as Environmental Penalties

Environews, vol. 14, no. 1 | October 2004

Memberships

Law Society of Upper Canada

Ontario Bar Association, Environment Section (executive)

International Nuclear Law Association

Canadian Nuclear Law Organization

Practice Areas and Industry Groups

Climate Change and Emissions Trading

Environmental, Health and Safety

Gas and Power Markets

Infrastructure and Energy

Infrastructure and Energy Regulatory

Bar Admissions

Ontario, 2004

Education

LLB, 2003

Osgoode Hall Law School, York University

MES, 2003

York University

Graduate Diploma in Business and the Environment, 2003

Schulich School of Business, York University

BES, 1999
York University