



EB -2011-0027

IN THE MATTER OF the *Ontario Energy Board Act*
1998, S.O.1998, c.15, (Schedule B);

AND IN THE MATTER OF an Application by
Summerhaven Wind LP for an Order granting leave
to construct a new transmission line and associated
facilities for the Summerhaven Wind Energy Centre.

PROCEDURAL ORDER NO. 2

An application dated January 27, 2011 (the "Application") has been filed by Summerhaven Wind, LP (the "Applicant" or "Summerhaven") with the Ontario Energy Board (the "Board"), under sections 92 and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, (Schedule B), seeking an Order of the Board granting leave to construct transmission facilities and approval of a form of easement agreement. The Application has been assigned Board File No. EB-2011-0027.

The applicant is seeking leave to construct transmission facilities to connect the Summerhaven Wind Energy Centre (SWEC) in Nanticoke, County of Haldimand to the IESO-controlled grid. The work involves constructing a 9 km, 230 kilovolt (kV) single circuit overhead transmission line and associated facilities to connect the windfarm to the existing Hydro One (HONI) corridor at N1M. The transmission line would extend from a new substation located at the wind farm end to a new HONI switchyard.

The Board issued a Notice of Application dated February 24, 2011, and directed Summerhaven to commence service and publication of the Notice. Summerhaven has served and published the Notice as directed by the Board.

The Board issued Procedural Order No.1 on March 17, where it granted intervention status to the IESO and granted Glenfred Gaswells Ltd intervention status and cost eligibility, all subject to the Applicant's right to object to this in accordance with Rule 23.07 of the Board's Rules of Practice and Procedure.

The Board also granted observer status to Ms. Becky Haywood, Rob and Diana Smuck, and indicated that a letter of comment had also been filed.

On March 17 Haldimand County Hydro filed intervention and cost award requests. On March 18, the Corporation of Haldimand County filed two letters. The first was an intervention and cost award request, and the second, a letter explaining that it became aware of the proceeding from the newspaper publication on March 9, as service had not been effected on the Clerk's Office as it should have been. This would indicate that the deadline for intervention by the Corporation of Haldimand County should be March 19. The Board accepts this view. The Board grants the Corporation of Haldimand County and Haldimand County Hydro intervenor status in this proceeding, subject to the Applicant's right to object in accordance with Rule 23.07 of the Board's *Rules of Practice and Procedure*.

The Corporation of Haldimand County and Haldimand County Hydro also requested eligibility for awards of costs. In assessing a party's eligibility for costs, the Board is guided by the *Practice Direction on Cost Awards* (the "Practice Direction"). The Board finds that both the Corporation of Haldimand County and Haldimand County Hydro are not eligible for cost awards. The Corporation of Haldimand County being a public body is not eligible for cost awards, and in the case of Haldimand County Hydro it is explicitly excluded from eligibility by the noted *Practice Direction on Cost Awards*. Many of the issues raised by Haldimand County Hydro, and the Corporation of Haldimand County relate either to municipal issues, such as road allowances, or issues outside the scope of the hearing. The Board finds that there are no special circumstances warranting eligibility for either of them.

An updated list containing addresses of Applicant and Intervenors is attached as Appendix A to this Order.

The *Practice Direction on Cost Awards* should be referred to and adhered to in order to ensure all appropriate rules are followed and the correct forms are used when it is time to submit cost claims at the end of the proceeding.

Scope of the Board's Jurisdiction in a Leave to Construct Application

The Board wishes to emphasize for all parties that are granted cost eligibility that it is to the extent that costs relate to matters directly within the scope of this proceeding.

The Board's jurisdiction to consider issues in a section 92 leave to construct case is limited by sub section 96(2) of the OEB Act which states:

(2) In an application under section 92, the Board shall only consider the following when, under subsection (1), it considers whether the construction, expansion or reinforcement of the electricity transmission line or electricity distribution line, or the making of the interconnection, is in the public interest:

1. The interests of consumers with respect to prices and the reliability and quality of electricity service.
2. Where applicable and in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewable energy sources.

As a result, issues related to the Renewable Energy Approval (REA) process of the Project are beyond the scope of this proceeding. The Board will not award costs in this proceeding for matters which are related to the REA process.

The Board also reminds parties that issues related to any environmental approvals required for the facilities for which the Applicant seeks leave to construct or for the SWEC are also beyond the scope of this proceeding.

Procedural Steps

In the Notice of Application and Hearing, the Board indicated that it intended to proceed by way of a written hearing unless any party satisfies the Board that there is a good reason for not proceeding by way of a written hearing. Glenfred Gaswells Ltd requested an oral proceeding. The Board will determine if an oral hearing is required after the completion of the interrogatory phase.

The Board considers it necessary to make provision for the following matters related to this proceeding which updates the scheduled dates in Procedure Order No.1. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. Intervenors and Board staff who wish information and material from the Applicant that is in addition to the evidence pre-filed with the Board, and that is relevant to the proceeding, shall request it by written interrogatories filed with the Board and delivered to all parties no later than **Friday, April 8, 2011**. All interrogatories and

responses must include a reference to the section of the application which identifies the specific evidence on which the interrogatory is based.

2. The Applicant shall, no later than **Wednesday, April 20, 2011** file with the Board and deliver to all intervenors, a complete response to each of the interrogatories.

All filings to the Board must quote file number EB-2011-0027, be made through the Board's web portal at www.errr.ontarioenergyboard.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

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

Attention: Board Secretary

Filings: www.errr.ontarioenergyboard.ca
E-mail: boardsec@ontarioenergyboard.ca

Tel : 1-888-632-6273
Fax : 416-440-7656

DATED at Toronto on March 28, 2011

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Appendix A

To

Procedural Order No.2

Addresses of Applicant and Intervenors

Board File No.: EB-2011-0027

DATED: March 28, 2011

**Summerhaven Wind, LP
EB-2011-0027**

APPLICANT & LIST OF INTERVENORS

March 28, 2011

APPLICANT

Rep. and Address for Service

Summerhaven Wind, LP

Ben Greenhouse

Summerhaven Wind, LP
5500 North Service Road
Suite 205
Burlington, ON L7L 6W6

Tel: 905-335-4904

Fax: 905-335-5731

ben.greenhouse@nexteraenergy.com

APPLICANT COUNSEL

Kristyn Annis

McCarthy Tetrault LLP

Toronto Dominion Centre

Suite 5300, TD Bank Tower

Toronto ON M5K 1E6

Tel: 416-601-7624

Fax: 416-868-0673

kannis@mccarthy.ca

INTERVENORS

Rep. and Address for Service

**Corporation of Haldimand
County**

Don Boyle

CAO

Corporation of Haldimand County

P.O. Box 400

45 Munsee Street North

Cayuga ON N0A 1E0

Tel: 905-318.5932 Ext: 220

Fax: 905-772-2085

dboyle@haldimandcounty.on.ca

**Summerhaven Wind, LP
EB-2011-0027**

APPLICANT & LIST OF INTERVENORS

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March 28, 2011

**Corporation of Haldimand
County**

Woodward McKaig

Barristers & Solicitors
Sullivan, Mahoney LLP
40 Queen Street
P.O. Box 1360
St. Catharines ON L2R 6Z2
Tel: 905-688-8470
Fax: 905-688-5814
wbmckaig@sullivan-mahoney.com

Glenfred GasWells Ltd.

Fred Reicheld

Glenfred GasWells Ltd.
R.R. #3
1016 Concession 6
Jarvis ON NOA 1JO
Tel: 519-587-2190
Fax: 519-587-2190
Not Provided

Haldimand County Hydro Inc.

Lloyd Payne

President & CEO
Haldimand County Hydro Inc.
1 Greendale Drive
Caledonia ON N3W 2J3
Tel: 905-765-5344
Fax: 905-765-5316
lpayne@hchydro.ca

APPLICANT & LIST OF INTERVENORS

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March 28, 2011

**Independent Electricity
System Operator**

Carl Burrell

Senior Analyst, Regulatory Affairs
Independent Electricity System Operator
655 Bay Street, Suite 410
P.O. Box 1
Toronto ON M5G 2K4
Tel: 416-506-2858
Fax: 905-506-2847
carl.burrell@ieso.ca

Richard Lanni

Legal Counsel
Independent Electricity System Operator
655 Bay Street, Suite 410
P.O. Box 1
Toronto ON M5G 2K4
Tel: 416-506-2857
Fax: 416-506-1466
richard.lanni@ieso.ca