



EB-2011-0217

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 South Kent Wind LP for an Order or Orders pursuant to section 92 of the *Ontario Energy Board Act, 1998* (as amended) granting leave to construct transmission facilities in the Municipality of Chatham-Kent.

PROCEDURAL ORDER NO. 1

South Kent Wind LP ("SKW") has filed an application with the Ontario Energy Board (the "Board") dated June 14, 2011 under section 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B, for an order of the Board granting leave to construct the following transmission facilities, all within the Municipality of Chatham-Kent:

- (i) Two 34.5 kV/230 kV step-up substations;
- (ii) An approximately 27 km, 230 kV transmission line (the "Corridor Line") that will run between the two step-up substations;
- (iii) An approximately 5.7 km, 230 kV transmission line that will run from a tie-point on the Corridor Line to the Chatham Switching Station owned by Hydro One Networks Inc.; and
- (iv) A fenced-in metering station with two meters to be located adjacent to the Chatham Switching Station.

The Application has been assigned Board File No. EB-2011-0217.

SKW states that the proposed transmission facilities are needed to connect a 270 MW wind farm that is currently being developed in the Municipality of Chatham-Kent to the Independent Electricity System Operator controlled grid.

SKW further states that the proposed transmission facilities and the cost of connecting these facilities to the Chatham Switching Station will be paid for by SKW. SKW is also in the process of securing the necessary land rights for this project.

The Board issued a Notice of Application and Hearing ("Notice") on June 28, 2011. The Notice was served on affected and interested parties and was also published in the Chatham Daily News.

Intervenors and Cost Eligibility

The Board received requests for intervenor status from the Kent Federation of Agriculture ("KFA"), the Independent Electricity System Operator ("IESO"), and a joint intervention from landowners, William and Mary Ann Machacek and William Alan and Anne English ("Machacek-English"). Following the initial request for intervention that was filed on July 14, 2011, Machacek-English filed further letters on July 27, 2011 and August 2, 2011. In the July 27, 2011 letter, Machacek-English further elaborated on its concerns in relation to land use and requested an oral hearing.

The KFA and Machacek-English sought eligibility to apply for an award of costs. The IESO did not seek costs. Further, the KFA and the IESO took no position on the Board's decision to proceed by way of a written hearing in this matter.

SKW did not object to the IESO's or the KFA's request for intervention. With respect to the request for intervention from Machacek-English, SKW submitted that it did not oppose the request provided the intervention was restricted to matters that are within the Board's jurisdiction. With respect to the issues raised by Machacek-English, SKW submitted that the issues were "environmental" in nature and as such do not fall within the scope of this proceeding. SKW also noted that Machacek-English had decided to seek expert advice in relation to these issues and that SKW was concerned that Machacek-English may incur significant costs that may not be recoverable.

The Board has decided that it will grant intervenor status to the IESO, the KFA and Machacek-English. A list of approved intervenors is attached as Appendix A to this Order. The Board has also decided that it will grant the KFA and Machacek-English eligibility to apply for an award of costs under the Board's *Practice Directions on Cost Awards*. The Board however notes that cost eligibility shall be restricted to matters directly within the scope of this proceeding.

With respect to the scope of the proceeding and as noted in the Notice, the Board's jurisdiction in this proceeding is limited to the consideration of the price of electricity, the reliability of the electricity system and quality of electricity supply, as well as the promotion of the use of renewable energy sources consistent with the policies of the government of Ontario. The Board therefore has no authority under the law to review, consider or adjudicate upon what might broadly be described as "environmental" or "land use" issues. Such issues may be more suited to the Ministry of the Environment's Renewable Energy Approval Process.

The Board notes that many of the issues raised by Machacek-English in its letter of intervention dated July 14, 2011 and in subsequent letters, such as issues related to the liability for upkeep, drainage, pest and noxious weed control of affected lands, the appropriate use of agricultural land and the impact of possible future projects, are beyond the scope of this proceeding. **Any activities undertaken by intervenors with respect to issues outside the scope of the Board's jurisdiction will not be eligible for any cost recovery.**

It is not the Board's practice to award costs to individual intervenors. The Board reminds Machacek-English that as an individual intervenor, the following information should be used as guidance for what costs may or may not be recoverable in a cost award. Machacek-English:

- may be eligible to recover out-of-pocket costs for photocopying or for travel to attend Ontario Energy Board related events if required;
- are not eligible to receive any costs (out-of-pocket travel costs or otherwise) for events organized by persons other than the Ontario Energy Board;
- may not be eligible to receive any costs associated with their time (e.g., the time spent preparing interrogatories, submissions, etc.); and
- may not recover any costs in advance.

Further information on what activities are eligible for costs, as well as forms and related materials, can be found in the Board's *Practice Direction on Cost Awards*. The *Practice Direction on Cost Awards* should be referred to and adhered to in order to make sure all appropriate rules are followed and the correct forms are used when it is time to submit cost claims.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. Board staff and intervenors who wish information and material from SKW in relation to the application that is in addition to SKW's pre-filed evidence with the Board, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to SKW on or before **August 12, 2011**. Where possible, the questions should specifically reference the pre-filed evidence.
2. SKW shall, no later than **August 22, 2011**, file with the Board and deliver to all intervenors a complete response to each of the interrogatories.
3. Intervenors and Board staff shall, on or before **August 24, 2011** indicate if it is their intention to file evidence. If any party indicates an intention to file evidence, the Board may revise the dates for written submissions.
4. Board staff and intervenors shall file their written submission, if any, with the Board, and deliver it to SKW and other intervenors, by **September 6, 2011**.
5. If SKW wishes to respond to a submission, the response must be filed with the Board and delivered to intervenors by **September 16, 2011**.

All filings to the Board must quote the file number, EB-2011-0217, 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.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS

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

E-mail: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

DATED at Toronto, August 03, 2011

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

APPENDIX "A"

South Kent Wind LP

Leave to Construct Application

Board File No. EB-2011-0217

Date: August 3, 2011

LIST OF INTERVENORS

**South Kent Wind LP
EB-2011-0217**

APPLICANT & LIST OF INTERVENORS

August 3, 2011

APPLICANT

Rep. and Address for Service

South Kent Wind LP

Andrew Taylor

South Kent Wind LP
120 Adelaide Street West
Suite 2500
Toronto, ON M5H 1T1

Tel: 416-644-1568
Fax: 416-367-1954
ataylor@energyboutique.ca

INTERVENORS

Rep. and Address for Service

**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

**Independent Participants -
General Public**

William Machacek

Independent Participants - General Public
21536 Bloomfield Road
RR#1
Charing Cross ON N0P 1G0
Tel: 519-436-0634
Fax: Not Provided
marbil.mac@gmail.com

South Kent Wind LP

EB-2011-0217

APPLICANT & LIST OF INTERVENORS

- 2 -

August 3, 2011

**Independent Participants -
General Public**

Mary Ann Machacek

Independent Participants - General Public
21536 Bloomfield Road
RR#1
Charing Cross ON N0P 1G0
Tel: 519-436-0634
Fax: Not Provided
marbil.mac@gmail.com

William Alan English

Independent Participants - General Public
21466 Bloomfield Road
RR#1
Charing Cross ON N0P 1G0
Tel: 519-352-6615
Fax: Not Provided
a.english4@hotmail.com

Anne English

Independent Participants - General Public
21466 Bloomfield Road
RR#1
Charing Cross ON N0P 1G0
Tel: 519-352-6615
Fax: Not Provided
a.english4@hotmail.com

**Kent Federation of
Agriculture**

Alice Uher

Kent Federation of Agriculture
120 Main Street East
Ridgetown ON N0P 2C0
Tel: 519-674-1500 Ext: 63595
Fax: Not Provided
uherfeed@ciaccess.com