

Tom Adams
12 Sidford Court
Toronto, Ontario
M6S 2J4
Email: tom.adams.energy@gmail.com
Phone: 416-834-7442

January 23, 2012

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Attention: Ms. Kirsten Walli
Board Secretary
E-mail: boardsec@ontarioenergyboard.ca

re. EB-2011-0394 Deficient Notice of Application and Hearing

Dear Ms. Walli,

Please bring this letter to the attention of the Board panel considering EB-2011-0394.

On behalf of McSEA, LSARC, BayNiche Conservancy, and Wikwemikong First Nation Elders and Youth, I wish to inform the Board and other parties to the proceeding of concerns the above-noted groups have with respect to the Notice of Application and Hearing, hereafter simply the Notice, as published by McLean's Mountain Wind LP and Northland Power.

As we note below in addressing appropriate relief, our concerns are in addition to a significant error in the Notice identified by Hydro One Networks Inc. in its letter of January 17, 2012.

Annotated versions of the Notice and an associated advertisement from Northland Power published in the same edition of the newspaper are attached. Annotations are superimposed on the original versions as published in the Manitoulin Expositor newspaper.

At the top of both pages of the newspaper printed with the Notice is the date of the newspaper edition - January 11, 2012. This date is printed in the same font and in the same position on the page header as the date on all the other pages of the newspaper.

At the bottom of the text portion of the Notice a second date is provided -- December 19, 2011. This date is directly associated with the Ontario Energy Board and printed in a different font than the date on the page header.

The Notice directs interested parties that they have a deadline for intervention and for submissions on

whether to proceed by way of oral hearing no later than 10 days from the publication or service date of the notice.

Nowhere does the Notice as published in the newspaper indicate which date -- December 19, 2011 or January 11, 2012 -- starts the clock. Neither does the Notice state the deadline date for intervention or submissions on proceeding by way of oral hearing, only the formula for the deadline with the ambiguous start date.

To a reader unfamiliar with the Board's notice procedures, the deadline could be interpreted as either December 29, 2011 or January 21, 2012. Since December 29 was a business day (Thursday) whereas January 21 was not a business day (Saturday), an ordinary member of the public might well be inclined to think that the deadline had already passed by the time the Notice appeared in the newspaper. The fact that the font of the description of the deadline for interventions matched the font of the December 19, 2011 date would further indicate to an ordinary reader that December 29, 2011 was the actual deadline.

The Board's Notice presented as it was in the Manitoulin Expositor on January 11, 2012 has the appearance of a Notice of Record of the kind routinely posted in newspapers for the purposes of the public record only.

In the same edition of the newspaper, Northland Power published a related advertisement. The advertisement is headlined "Importance of Public Notices". The advertisement is clearly purporting to provide information regarding the official notice. However, several elements of this advertisement make misleading claims about the Notice.

Northland Power draws attention to the December 19, 2011 date on the OEB's Notice as if this was the date the clock started ticking on the 10 day period for interventions and submissions on proceeding by way of oral hearing. The only reference that Northland Power makes in its advertisement to the clock starting to tick is with respect to the public comment period, not the deadline for submissions on whether the hearing is to proceed by way of written or oral hearing or the deadline for interventions. Since the public comment period is 30 days, the date of publication of the advertisement and Notice would appear to indicate that there was still an opportunity for comments, although not interventions, to be received by the Board relative to its December 19, 2011 Notice.

Northland Power's advertisement asserts that "The Notice is to give interested parties an opportunity to participate in a written hearing on the matter." This statement is directly misleading. Contrary to this statement, the Notice invites submissions on whether the Board ought to proceed by way of an oral hearing, but that submissions are required to be received within 10 days. By implying that there is only a written hearing, Northland Power implies that the consideration of an oral hearing option had passed as of January 11, 2012. Since the deadline for submissions on written vs. oral is the same as the deadline for interventions, Northland Power's advertisement would further confuse potential intervenors.

Northland Power's advertisement was placed at its discretion. Northland Power appears to have carefully crafted its statements. The omissions and misstatements in the advertisement play off the ambiguities in the presentation of the Board's Notice elsewhere in the newspaper. Northland Power's advertisement is obviously confusing, apparently deliberately so.

At this point the deadline date for interventions and comments on proceeding by way of written vs. oral

hearing have passed. Considering both the presentation of the Notice itself and Northland Power's related advertisement, the manner in which the official Notice was presented to the public was deficient.

Relief Sought

The concerns noted here are in addition to the significant, indeed fundamental, error in the Notice identified by Hydro One Networks Inc. in its letter of January 17, 2012.

The appropriate remedy for these manifold deficiencies is for a new and corrected Notice to be republished by the applicant in all appropriate media with an indication of the corrections and clarifications. The new publication ought to explicitly state the date for the deadline for interventions and submissions on whether to proceed by way of oral hearing.

Sincerely,

Tom Adams

Attachments:

Northand Power's advertisement Jan. 11/'12 with annotations

Public Notice with ambiguous dates annotated

Copies:

Gordon Potts, Northland Power: gpotts@northlandpower.ca

Art Jacko, Mnidoo Mnising Power Limited Partnership: ajacko@uccm.ca

James Sidlofsky, Borden Ladner Gervais: jsidlofsky@blg.com

Intervenors of Record

MANITOULIN WIND NEWS

IMPORTANCE OF PUBLIC NOTICES



By Rick Martin,
Senior Manager, Business Development Wind Energy
Project Manager, McLean's Mountain Wind Farm
Northland Power Inc.

Alert and informed is how we hope to keep residents of Manitoulin Island on all matters related to the McLean's Mountain Wind farm project development. Over the past few years, the project has posted a number of Public Notices in the newspaper advising of various stages of the development, each subjected to government review, regulations and permissions to proceed. At each stage, you, the public, have an opportunity to be informed and to have a say. Included in this issue of The Expositor, you'll see a double-paged spread of the official Public Notice with the Ontario Energy Board (OEB) related to transmission lines.

I say "official" because there are stages to the process. You will see at the end of the Public Notice, dated December 19, 2011, that the OEB gave permission to proceed with a Public Notice related to the project's application to construct transmission lines to connect the wind farm to the Goat Island transformer station. The required work, reviewed by the OEB application, involves constructing a new 115 kV single circuit transmission line, consisting of an overhead line of approximately 9 km and submarine/buried cable of approximately 1 km, and associated facilities to connect the Wind Farm to the existing Hydro One Networks Inc. transmission line S2B. The associated facilities include a Sub-station at the Wind Farm end, and a switchyard at the transmission grid end. The switchyard will be owned and operated by Hydro One Networks Inc.

Construction of the Wind Farm was not a part of the OEB application. A map showing the location of the proposed facilities is included with the Notice in today's newspaper.

The company chose to make an initial posting of the notice of leave to construct on its corporate website and its McLean's Mountain Wind Farm microsite. This was

done to extend the transparency of the process to those who regularly check our website. However, the regular next step in the permission process is to follow the OEB directive and post the Public Notice in the newspaper which we are now doing. The clock starts ticking on the public comment period with the publication date of the Public Notice, which is Wednesday, January 11, 2012.

The Notice is to give interested parties an opportunity to participate in a written hearing on the matter. All the details are included in the two-page Public Notice. The OEB has assigned File No. EB-2011-0394 to the application. That is the file reference number to use.

I'd also like to bring your attention to the matter of the project's current Environmental Bill of Rights (EBR) review. The EBR public review and comment period that is part of the McLean's Mountain Wind Farm project's Renewable Energy Approval (REA) has been extended four days, closing now on January 27, 2012 due to technical issues experienced by the Ministry of the Environment (MOE) during the holiday season.

Again, the Mclean's Mountain Wind Farm project office is open to meet with anyone who has issues or concerns. I remain a phone call or email away.

In Memoriam

Before signing off, I'd like to take this opportunity to also pay notice to the passing of one of our landowners in the past few days. I am referring to Donald Eadie, a well-respected and well-known member of the Little Current community. Sincerest condolences to Don's immediate and extended family and sympathies on the loss to all of us who knew him well.

Don Eadie will be missed.

Ontario Energy
Board

Commission de l'énergie
de l'Ontario



EB-2011-0394

NOTICE OF APPLICATION AND HEARING

APPLICATION FOR LEAVE TO CONSTRUCT TRANSMISSION FACILITIES FOR McLEAN’S MOUNTAIN WIND LP

McLean's Mountain Wind LP (the “Applicant” or “McLean”) has filed an application with the Ontario Energy Board, (the “Board”) dated November 22, 2011 under sections 92 of the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B (the “Act”). The Applicant has applied for an order of the Board granting leave to construct transmission facilities to connect the McLean’s Mountain Wind Farm (“MMWF” or “Wind Farm”), to be located south of Little Current on Manitoulin Island, to the IESO-controlled grid on Goat Island, and an order approving the form of easement agreement provided in the application. McLean's is a Limited Partnership, and is equally owned by Northland Power Inc. and Mnidoo Mnising Power Limited Partnership.

McLean’s Mountain Wind LP entered into two feed-in-tariff (“FIT”) contracts (10 MW plus 50 MW) with the Ontario Power Authority on April 12, 2010 in respect of the sale of 60 MW total of electricity from the Wind Farm. The work which is the subject of this application involves constructing a new 115 kV single circuit transmission line, consisting of an overhead line of approximately 9 km and submarine/buried cable of approximately 1 km, and associated facilities to connect the Wind Farm to the existing Hydro One Networks Inc. transmission line S2B. The associated facilities include a substation at the Wind Farm end, and a switchyard at the transmission grid end. The switchyard will be owned and operated by Hydro One Networks Inc. The construction of the Wind Farm is not a part of this application.

A map showing the location of the proposed facilities is included with this Notice.

If this application is approved, McLean’s will construct, own and operate the facilities, except for the Hydro One switching station. The scheduled in-service date is December 2012, and in any event no later than January 2013.

The Board has assigned File No. EB-2011-0394 to this application.

Board Jurisdiction

For any leave to construct application under section 92 of the Act, section 96(2) of the Act provides that when determining if a proposed work is in the public interest, the Board jurisdiction is limited to consideration of:

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

The Wind Farm itself is not part of this application, and does not fall within the scope of this proceeding. Environmental issues with respect to this project are considered through the separate Renewable Energy Approval (“REA”) process, which is not a part of this Board proceeding.

How to see McLean’s Mountain Wind LP’s Application

Copies of the application and the pre-filed evidence in support of the application will be available for public inspection at the Board’s offices and at the Applicant’s offices and website.

Written Hearing

The Board intends to proceed with this matter by way of a written hearing unless a party satisfies the Board that there is a good reason for not holding a written hearing. If you object to the Board holding a written hearing in this matter, you must provide written reasons why an oral hearing is necessary. Any submissions objecting to a written hearing must be received by the Board and copied to the applicant within 10 days of the publication or service date of this notice.

How to Participate

You may participate in this proceeding by requesting either intervenor or observer status, or by submitting a letter of comment:

1. **Intervenors** participate actively in the proceeding (i.e., submit written questions, evidence, and arguments, and cross-examine witnesses at an oral hearing). You may request intervenor status by sending a letter of intervention to the Board and copying McLean’s Mountain Wind LP no later than **10 days** from the publication or service date of this notice. The letter of intervention must include:
 - a. A description of how you are, or may be, affected by the outcome of this proceeding;
 - b. If you represent a group, a description of the group and its membership; and

- c. Whether you intend to seek an award of costs and the grounds for your cost award eligibility.

2. **Observers** do not participate actively in the proceeding but receive documents issued by the Board in the proceeding. (There is no fee for observers to receive documents issued by the Board.) You may request observer status by sending a request to the Board no later than **10 days** from the publication or service date of this notice.
3. **Letters of Comment** are to be sent to the Board no later than **30 days** from the publication or service date of this notice. All letters of comment will be placed on the public record, subject to the privacy terms for personal information stated below. This means that the letters will be available for viewing at the Board's offices and will be placed on the Board's website.

Your Personal Information Is Treated Differently Depending On How You Choose To Participate In The Hearing:

- **Intervenors** - everything you file with the Board, including your name and contact information, will be placed on the public record (i.e., the public file and the Board's website).
- **Letters of comment or observers** - the Board removes any personal (i.e., not business) contact information from the letter of comment or the request for observer status (i.e., address, fax number, phone number, and e-mail address of the individual), however, your name and the content of the letter of comment or of the request for observer status will become part of the public record.

Filing Information for Intervenors

If you already have a user ID, please submit your intervention request through the Board’s web portal at <https://www.errr.ontarioenergyboard.ca>. Additionally, two paper copies must be submitted to the address set out below.

If you do not have a user ID, visit the Board’s website under e-Filing Services and complete a user ID/password request form. For instructions on how to submit documents and naming conventions please refer to the RESS Document Guidelines found at <http://www.ontarioenergyboard.ca/OEB/Industry>, e-Filing Services.

The Board also accepts interventions by e-mail, at the address below. Additionally, two paper copies must be submitted to the address set out below. Those who do not have internet access are required to submit their intervention request on a CD in PDF format, along with two paper copies.

How to Contact Us

In responding to this Notice, please reference Board file number EB-2011-0394 in the subject line of your e-mail or at the top of your letter. It is also important that you provide your name, postal address and telephone number and, if available, an e-mail address and fax number. 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.

Need more information?

For more information on how to participate please click on “Get Involved” under the “OEB and You” menu on the Consumer page of the Board’s website, or call the Board at 1-888-632-6273 (toll free).

IMPORTANT

IF YOU DO NOT FILE A WRITTEN SUBMISSION OBJECTING TO A WRITTEN HEARING OR DO NOT PARTICIPATE IN THE HEARING BY FILING WRITTEN SUBMISSIONS IN ACCORDANCE WITH THIS NOTICE, THE BOARD MAY PROCEED WITHOUT YOUR PARTICIPATION AND YOU WILL NOT BE ENTITLED TO FURTHER NOTICE IN THIS PROCEEDING.

ADDRESSES

The Board:

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Attention: Kirsten Walli
Board Secretary
Filings:
<https://www.errr.ontarioenergyboard.ca/>
E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

The Applicant:

McLean's Mountain Wind LP
30 St. Clair Ave West, Suite 1700
Toronto, Ontario M4V 3A1

Attention: Gordon Potts
Director, Business Development
E-mail: gpotts@northlandpower.ca
Tel: 647-288-1223
Fax: 416-962-6266

Mnidoo Mnising Power Limited
Partnership
c/o United Chiefs & Councils of Mnidoo
Mnising
P.O. Box 275
M'Chigeeng, ON P0P 1G0

Attention: Art Jacko
Email: ajacko@uccm.ca
Tel: 705-377-5307
Fax: 705-377-5309

Counsel of the Applicant:

Borden Ladner Gervais LLP
Scotia Plaza
40 King Street West
Toronto ON M5H 3Y4
Attention : James Sidlofsky
Email: jsidlofsky@blg.com
Tel: 416-367-6277
Fax: 416-361-2751

DATED at Toronto, December 19, 2011
ONTARIO ENERGY BOARD
Original Signed By

Kirsten Walli
Board Secretary

