



EB-2011-0394

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 McLean's
Mountain Wind LP for an Order granting leave to construct
a new transmission line and associated facilities.

DECISION ON FORM OF HEARING

AND

PROCEDURAL ORDER NO. 7

May 11, 2012

McLean's Mountain Wind LP ("McLean's") filed an application with the Ontario Energy Board (the "Board") dated November 22, 2011 under section 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B ("the Act"). McLean is seeking an order of the Board granting leave to construct a transmission line and associated facilities (the "Project") to connect the McLean's Mountain Wind Farm to the IESO-controlled Grid. McLean's also seeks an order approving the form of easement agreement provided in the application. The Board assigned File No. EB-2011-0394 to the application.

The Board issued a Notice of Application and Hearing on December 9, 2011. McLean's served and published the Notice. The Board issued Procedural Order No. 1 in which it accepted intervenors who had applied at that point, and established dates for dealing with an issue of confidentiality, and for interrogatories and evidence. The Board also dealt with corrections and observations in regard to the Notice which had been issued. Subsequently, further requests, including late requests for intervenor status were received. The Board granted these requests in Procedural Order No. 2, and issued revised dates for submissions and replies on the issue of confidentiality and interrogatories.

The Board then issued several procedural orders dealing with various procedural matters.

On April 12, 2012 the Board issued Procedural Order No. 5 in which it ordered that McLean's respond to the second round of interrogatories by April 18, 2012. It also ordered that parties should make submissions regarding the appropriateness of an oral hearing by April 20, 2012. Submissions were received from MCSEA, which argued in favour of an oral hearing on Manitoulin Island, and the applicant, which argued that no oral hearing is necessary.

The Board issued Procedural Order No.6 on April 24, 2012 with a finding that no oral hearing was required on the applicant's evidence. The Procedural Order also required that intervenors and Board staff wishing to submit evidence do so by May 4, 2012. MCSEA accordingly submitted evidence in an email with attachments. MCSEA's evidence purports to show that the partnership agreement between Northland Power Inc. ("NPI") and its partner MMP (Mnidoo Mnising Power) is not based on a legitimate foundation and that one of the partners in United Chiefs and Councils of Mnidoo Mnising (UCCMM), Aundeck Omni Kaning First Nation (AOKFN), opposes the project.

On May 9, 2012 McLean's submitted a letter in which it argues that the material filed by MCSEA is beyond the scope of the proceeding and that there is no reason for an oral hearing, and requests that the Board establish a timeline for submissions.

Board Findings

The Board has determined that it will not admit into evidence the material put forward by MCSEA. The Board has reached this conclusion for two reasons.

First, one of the main purposes of a leave to construct application is to determine whether the proponent is capable of building and operating the facilities in a manner that will ensure reliable service. The evidence in this case is that Northland Power will fulfil that role. Therefore, matters concerning the other partner are of limited relevance in this proceeding in any event. The Board finds there would be limited probative value from enquiry into these matters. In short, the issue appears to have little if any relevance to the Board's statutory mandate in a leave to construct application.

Second, the allegations made by MCSEA are potentially relevant to the contractual arrangements between McLean's and the Ontario Power Authority for the wind farm project. If the wind farm project does not proceed, either because of questions regarding the legitimacy of the contractual relationships governing the partnership or for any other reason, then the transmission line would not be built. Therefore, the *bona fides* of MMP and its authority to enter into the partnership need not be determined in this proceeding.

Because the MCSEA materials will not be entered into evidence in the proceeding, there is no need for an oral hearing. The Board will proceed to invite written submissions to complete the record of the proceeding.

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. McLean's shall no later than **May 17, 2012** file in writing with the Board and deliver to all intervenors, its argument in chief.
2. Intervenors and Board staff may file their argument in writing with the Board and deliver same to the Applicant and all other intervenors no later than **May 25, 2012**.
3. McLean's shall file with the Board its reply submission in writing and deliver copies to all intervenors no later than **May 30, 2012**.

All filings to the Board must quote file number EB-2011-0394, 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 filings should be directed to the attention of the Board Secretary, and be received no later than 4:45 p.m. on the required date. Parties must also include the Case Manager, Edik Zwarenstein at edik.zwarenstein@ontarioenergyboard.ca and Board Counsel, Michael Millar at michael.millar@ontarioenergyboard.ca in all electronic correspondence related to this case.

DATED at Toronto, May 11, 2012

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary