

October 29, 2012

Ms. Kristen Walli
Board Secretary
Ontario Energy Board
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Your reference
RRFE Proceedings

Our reference
285231



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On January 1, 2012, Macleod Dixon joined
Norton Rose OR to create Norton Rose Canada.

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Dear Ms. Walli:

**Renewed Regulatory Framework ("RRFE")
Board File Nos.: EB-2010-0377, EB-2010-0378, EB-2010-0379, EB-2011-0004 and EB-2011-0043**

We are counsel to the Canadian Wind Energy Association ("CanWEA") on the RRFE Proceedings.

Eligible Proceedings

Further to the Board's letter and report on the RRFE dated October 18, 2012 and the Board's *Practice Direction on Cost Awards*, we are writing to request cost eligibility in relation to each and all of the following (and above-mentioned) policy initiatives:

- (i) Performance Metrics
- (ii) Benchmarking and Rate Adjustments Indices
- (iii) Regional Infrastructure Planning
- (iv) Development of the Smart Grid
- (v) Integrated Approach to Network Investment Planning (Distribution Network Investment); and as applicable;
- (iv) Electricity Distribution Rate Setting

Representation and Experts

CanWEA will be represented by Elisabeth (Lisa) DeMarco, a senior energy lawyer at Norton Rose, whose credentials are attached as Appendix A to this letter. Together with other generator organizations (including, without limitation, CanSIA, APPRO, OWA and BA), CanWEA hopes to retain a technical expert (ICF Consulting or Navigant as per CanWEA's prior approved expert funding eligibility, which has yet to be drawn upon) to speak to common issues in relation to distribution network and regional infrastructure planning, smart grid, as well as applicable performance metrics. CanWEA may also, contingent on the terms of reference of the working

groups, retain a separate wind specific expert to speak to the unique issues associated with wind-powered and related variable generation issues that are an integral part of distribution network and regional planning as well as the smart grid and performance metric issues that are being determined in the RRFE working groups and consultations. CanWEA is therefore requesting: (i) combined funding for a general generation connection/performance expert; and (ii) depending on the terms of reference for the working groups announced in the Board's October 18, 2012 letter, individual funding for a potential wind/variable generation-specific expert.

Practice Direction and Other Funding

CanWEA currently does not have access to any other funding to enable its participation in these RRFE proceedings that are critical for the implementation of the public interests set out in the Green Energy Act and its related objectives.

In accordance with Section 3 of the Board's *Practice Direction on Cost Awards*, CanWEA believes that it is eligible for an award of costs as it represents a public interest relative to the Board's mandate (s.3.03(b)) and increasingly CanWEA members are persons with interests in land that will be affected by the outcome of the RRFE processes (s.3.03(c)). CanWEA is an association that represents generators and technology providers, who are often customers of distribution and/or applicants in this RRFE and other related proceedings. As a result, CanWEA submits that special circumstances exist to find that it is eligible for a cost award in this RRFE process despite the fact that certain of its members may fall within s.3.05(b) of the Practice Direction. This is supported by the CanWEA mandate and the following characteristics of the organization.

The Canadian Wind Energy Association (CanWEA) is a non-profit trade association that promotes the responsible and sustainable development of wind energy in Canada. CanWEA represents approximately 400 corporate members, including wind energy project developers, owners and operators, wind turbine manufacturers and component suppliers, and a broad range of service providers to the industry. Many of our members are customers of transmission and distribution utilities in Ontario, have current transmission or distribution connection applications in development or underway and regularly experience challenges associated with the uncertainties and implementation of current transmission and distribution related rules and policies.

The terms under which connection capacity is planned, developed and paid for can make the difference between a wind power project being viable or non-viable. In addition, any changes to the policies or rules which govern cost allocation and cost responsibility could have a significant impact on CanWEA members' generation companies and generation facilities, both those in operation and those under development. Intermittent generators will have a particular stake in the outcome of smart grid policy and the measures used to determine accountability and assess performance. CanWEA and its members therefore have a significant interest in each and all of the RRFE proceedings.

CanWEA expects to coordinate with other generator organizations and limit its participation to general generator connection and performance and issues of material and unique impact on wind power generators.

CanWEA submits that it should be eligible for costs on the following grounds:

(a) CanWEA Represents a Class of Consumers in this Proceeding: New policies, rules and procedures that may result from this proceeding could have material impact on the business conditions faced by wind generators and on the procedures followed by electricity distributors and transmitters in providing services to wind power generators. Therefore, notwithstanding s. 3.05 of the Practice Direction, special circumstances exist that would warrant and award costs pursuant to section 3.07 of the Practice Direction.

(b) It is in the Public Interest to Facilitate Generator Participation: CanWEA's members are building and planning new projects in response to OPA procurement programs and consequent contracts, and Ministerial Directives that incorporate provincial policy objectives.

Given that the issues in the present proceeding are likely to impact wind power generators both in their development and operation of assets, the Board should facilitate the participation of wind power generators in order to provide the best evidentiary basis for its determination. A significant portion of CanWEA's membership are too small to participate individually in a meaningful way in this proceeding. CanWEA's participation facilitates the involvement of such members, and ensures that the Board has before it a comprehensive representation in this proceeding from the wind power generation community.

(c) CanWEA's Participation Contributes to Hearing Efficiency: CanWEA's representation of its members in such a proceeding would be a much more effective and efficient regulatory approach than having each of its members speak on all issues, with attendant duplication and additional costs.

(d) Full and Informed CanWEA Participation Requires Intervenor Funding: CanWEA, like other trade associations such as the Association of Major Power Consumers in Ontario ("AMPCO"), does not have independent funding sufficient to support efficient and effective participation in the RRFE proceedings and it would not be able to do so absent same.

CanWEA anticipates that there may be a number of issues of concern for wind power generators that arise or develop during the proceeding. CanWEA seeks at all times to retain and reflect the perspective of the wind power generation industry as a whole, and to present a balanced view of policy issues affecting the electricity industry and the public at large in Ontario.

On the basis of the foregoing, CanWEA respectfully requests that the Board approve its request to participate in the RRFE proceedings and its related cost eligibility.

Sincerely,



Elisabeth L. DeMarco

Attachment

cc: Jean-Francois Nolet, CanWEA
Tom Levy, CanWEA
Patrick Kirby, CanWEA

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Lisa represents several leading energy clients in a wide variety of natural gas and electricity matters before regulatory agencies and the Ontario Energy Board. She is also recognized as a Canadian expert, and has over 15 years of experience in the law relating to clean energy, climate change and the evolving area of environmental finance. She also

She also assists leading Canadian and international mining and energy companies on domestic and overseas power project development, renewable power projects, alternative fuel projects, corporate social responsibility, environmental disclosure and business strategy.

Lisa is one of the leading carbon transaction lawyers in the international market, having worked for investment banks and energy companies on deals and projects in India, Brazil, Sri Lanka, Thailand, Argentina, Chile, Ireland, Africa, Mexico, China and Russia. Lisa plays an ongoing and active role in the development of energy and GHG emissions policy and law throughout Canada, and in various countries around the world.

Chambers Global have ranked Lisa as a "top climate change practitioner worldwide," and an "expert in carbon transactions." Clients have indicated that she is a top person in the market and "absolutely first-rate." Lisa is also ranked by Chamber Partners as a "leading environmental lawyer in Canada." She is an appointed member of the Premier's Clean Energy Task Force that provides advice on climate change strategies and policies, as well as scientific and economic research to the Premier of Ontario.

Lisa is also involved in legal education and training, as an adjunct professor at Osgoode Hall Law School in Toronto.