



**EB-2012-0442**

**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 Varna Wind Inc. for an order or orders pursuant to section 92 of the *Ontario Energy Board Act, 1998* granting leave to construct transmission facilities in the Municipalities of Bluewater and Huron East.

**PROCEDURAL ORDER NO. 1**

February 4, 2013

Varna Wind Inc. (the “Applicant”) filed an application with the Ontario Energy Board (the “Board”), dated November 23, 2012, under sections 92 and 97 of the *Ontario Energy Board Act, 1998* (the “Act”). The Applicant has applied for an order of the Board granting leave to construct an electricity transmission line and related facilities for the Bluewater Wind Energy Centre (“BWEC”), a wind farm generation facility, and for Board approval of the form of agreements that have been or will be offered to landowners affected by the approved route. The Board has assigned file number EB-2012-0442 to this application.

The Board issued a Notice of Application and Written Hearing on December 12, 2012.

**Interventions and Cost Eligibility Requests**

Both the Independent Electricity System Operator (“IESO”) and Hydro One Networks Inc. (“Hydro One”) requested intervenor status. The IESO and Hydro One did not request eligibility to apply for cost awards. The intervention requests for the IESO and Hydro One are granted.

The Board received a late intervention request from the Municipality of South Huron. The Board will grant the late intervention request.

The Corporation of the Municipality of Bluewater ("Bluewater") requested intervenor status and eligibility to apply for cost awards for participating in this proceeding. The Applicant objected to Bluewater's request for cost eligibility on the basis that section 3.05(i) of the Board's *Practice Direction on Cost Awards* provides that municipalities are excluded from eligibility for cost awards. While the Board will grant Bluewater's request for intervenor status, the Board agrees with the Applicant that Bluewater is not eligible for a cost award pursuant to section 3.05(i) of the Board's *Practice Direction on Cost Awards*.

A group of landowners (the "Group") has requested intervenor status and eligibility to apply for a cost award. The Board also received individual requests for intervenor status from the following persons J.R. McLachlan, Brian and Helen Oldfield, Gerhard and Heather Ritzema and Jeff Allan.

The Board grants intervenor status to the Group and also to those who have applied as intervenors individually. The Board also grants the Group eligibility to apply for a cost award for counsel or a consultant that may be retained, noting that cost awards are restricted to matters directly within the scope of the Board's proceeding.

The Board requires the Group to appoint a representative (a member of the Group or counsel) to act as a single point of contact for the purposes of this proceeding. The Board requires the Group to file the name and contact information of its representative with the Board, and deliver a copy to the Applicant and other intervenors, within **10 days** from the date of this Procedural Order. While not mandatory, it will be of assistance to the Board if the appointed representative has internet and e-mail access.

A list of intervenors is attached as Appendix A to this Order.

### **Request for Oral Hearing**

Bluewater, Gerhard and Heather Ritzema, and J.R. McLachlan have requested that the Board proceed by way of oral hearing. The Applicant has objected to the request for an

oral hearing. The Board will consider this issue after the interrogatory phase of the proceeding is completed.

### **Scope of the Board's Jurisdiction**

The Applicant has submitted that some of the intervention requests raised matters that were outside of the Board's jurisdiction and requested that the Board clarify the scope of the proceeding.

In this proceeding, the Board is required to consider only the public interest, which is defined as follows by subsection 96(2) of the Act:

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.

Board approval of the form of easement agreements is within the scope of the Board's jurisdiction pursuant to section 97 of the Act.

The Board does not have the power to consider any other issues.

Parties requesting intervenor status have indicated a broad range of interests in this proceeding. However, the Board notes that the following types of issues are **not** within its jurisdiction: environmental issues; issues related to matters of health; land-use issues; issues relating to the BWEC wind farm; policy and other issues concerning the Ontario Power Authority's feed in tariff program; and the Ontario government's renewable energy policy. It is important to note that, in addition to the Board's proceeding, the BWEC project is subject to a separate Renewable Energy Approval ("REA") process, which is conducted by the Ministry of the Environment. Generally speaking, environmental issues are considered in the REA process.

### **Timing of REA Approval**

The Board disagrees with the submission of Bluewater that this application is premature on grounds that the REA process has not concluded and that it is not known if any

conditions will be attached to that approval. The Board notes that although it has no role in the REA process, any approval of the leave to construct application would ordinarily be conditional on the Applicant receiving all necessary permits and authorizations, including a completed REA.

**Parties need to be aware that time spent on issues that are outside the scope of the Board's jurisdiction will not be eligible for any cost award.**

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 the Applicant in relation to the application that is in addition to the Applicant'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 the Applicant on or before **February 18, 2013**. Where possible, the questions should specifically reference the pre-filed evidence.
2. The Applicant shall, on or before **March 04, 2013**, file with the Board and deliver to all intervenors a complete response to each of the interrogatories.
3. Board staff and intervenors shall, on or before **March 08, 2013**, indicate if it is their intention to file evidence. The Board will issue further procedural orders setting out the schedule for testing of intervenor evidence, if any party indicates an intention to file such evidence.

All filings to the Board must quote the file number, EB-2012-0442, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, 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](http://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 or diskette 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](mailto:Boardsec@ontarioenergyboard.ca)  
Tel: 1-888-632-6273 (toll free)  
Fax: 416-440-7656

**DATED at Toronto, February 4, 2013**  
**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX “A”**

**Varna Wind Inc.**

**Leave to Construct Application**

**Board File No. EB-2012-0442**

**Dated: February 4, 2013**

**LIST OF INTERVENORS**

**Varna Wind, Inc.**  
**EB-2012-0442**

**APPLICANT & LIST OF INTERVENORS**

February 4, 2013

**APPLICANT**

**Rep. and Address for Service**

**Varna Wind, Inc.**

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Varna Wind, Inc.  
EB-2012-0442

## APPLICANT & LIST OF INTERVENORS

February 4, 2013

### INTERVENORS

#### Rep. and Address for Service

#### GROUP OF INTERVENORS - EB-2012-0442

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Varna Wind, Inc.  
EB-2012-0442

## APPLICANT & LIST OF INTERVENORS

February 4, 2013

**GROUP OF INTERVENORS - Tony Van Miltenburg**  
**EB-2012-0442**

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Varna Wind, Inc.  
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## APPLICANT & LIST OF INTERVENORS

February 4, 2013

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**EB-2012-0442**

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**Varna Wind, Inc.**  
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**APPLICANT & LIST OF INTERVENORS**

February 4, 2013

**GROUP OF INTERVENORS - Ed and Sue Anne Van Miltenburg**  
**EB-2012-0442**

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**APPLICANT & LIST OF INTERVENORS**

February 4, 2013

**Independent Participants**

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## APPLICANT & LIST OF INTERVENORS

February 4, 2013

### **Municipality of Bluewater**

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