



Fraser Milner Casgrain LLP
77 King Street West, Suite 400
Toronto-Dominion Centre
Toronto, ON, Canada M5K 0A1

MAIN 416 863 4511
FAX 416 863 4592

Helen T. Newland
Direct Line: (416) 863-4471
helen.newland@fmc-law.com

VIA ELECTRONIC FILING & COURIER

February 15, 2013

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
PO Box 2319, 27th Floor
Toronto, ON
M4P 1E4

Dear Ms. Walli:

**Re: K2 Wind Ontario Limited Partnership;
Application for Leave to Construct (the "Application")
Board File Number: EB-2012-0458**

We are writing on behalf of K2 Wind Ontario Limited Partnership ("**K2 Wind**") and in response to a letter dated January 31, 2013 ("**Letter**") from eight residents and landowners of the Township of Ashfield-Colborne-Wawanosh (the "**ACW Group**") seeking to intervene in the above-noted proceeding and requesting eligibility for an award of their costs of participation ("**Cost Request**"). K2 Wind did not receive a copy of the Letter directly and only became aware of the Letter on February 11, 2013. K2 Wind submits that in these circumstances, the deadlines for letters of objection, stipulated in Rule 23.07 of the Board's *Rules of Practice and Procedures*, do not pertain.

1. Request for Intervenor Status

K2 Wind opposes the ACW Group's request for intervenor status on the ground that neither the ACW Group nor its members have demonstrated that they have a "substantial interest" in the proceeding, as required by Rule 23 of the Board's *Rules of Practice and Procedure*. The ACW Group articulates its opposition to K2 Wind's project but, with respect to the facilities that are the subject of this application ("**Facilities**"), simply states its opinion that there are "significant safety considerations that need to be addressed," without specifying what these might be.

Based on information that K2 Wind has received and on discussions that K2 Wind has had with the members of the ACW Group, there is no doubt that the ACW Group's real objective is stopping the construction wind project. Seeking intervenor status in this proceeding is simply another strategy in this regard. This is made clear by the "Guidelines for Letters of Comment to the OEB K2 Wind Power Project" ("**Guidelines**") that were distributed to some ratepayers in the Township of Ashfield-Colborne-Wawanosh by certain individuals (including Anita and Paul Frayne) who are opposed to the wind project. The Guidelines (attached hereto) state as follows:

"K2 Wind Ontario has now applied to the Ontario Energy Board for leave to construct a substation, transformer station and 230 KV transmission line in Ashfield Colborne Wawanosh. If approved by the OEB, this will be a major step towards the construction of the proposed K2 Wind Project of 138 turbines in Ashfield Colborne Wawanosh. However, this is also a further opportunity for concerned citizens to submit their comments and objections with respect to the proposed wind project." [emphasis added]

The Guidelines provide advice about the preparation of letters of comment and even provide a sample letter of comment. To-date, the Board has received at least 12 such letters.

The Board's public interest mandate in respect of applications under section 92 of the *Ontario Energy Board Act*, 1998 is limited to considering:

- (i) the interest of consumers with respect to prices and the reliability and quality of electricity services; and
- (ii) where applicable and in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewal energy sources.

Issues related to whether or not the wind project itself (as opposed to the Facilities that are the subject of K2 Wind's application) are beyond the scope of this proceeding. Such issues are more properly considered in the context of other proceedings and processes, including the Renewable Energy Approval or "REA" process. K2 Wind's REA process is currently underway.

There is a second reason that the Board should deny the ACW Group's request for intervenor status and that has to do with the proximity – or lack thereof – of the ACW Group members to the proposed Facilities. None of the ACW Group members reside in close proximity (i.e., less than 1 kilometre) to the Facilities. Only Jim and Sharon Nivins own property in close proximity to the Facilities, although that property is vacant (i.e., there is no residence on the property). The table below describes the residences and other properties owned by the members of the ACW Group vis á vis the Facilities.

ACW Group Member	Distance from Facilities
Nivins, Jim and Sharon	reside 1.1 km northeast of K2 Substation; own vacant property across from K2 Substation along Tower Line road.
Alton, George	resides 1.21 km northeast of K2 Substation; does not own any properties in close proximity to the Facilities.
Frayne, Anita and Paul	reside 6.3 km west-northwest of the K2 Transmission Line and K2 Transformer Station; do not own any property in close proximity to the Facilities.
Leitch, Michael	resides 15 km south of the K2 Substation; does not own any property in close proximity to the Facilities.
Bollinger, Marianne and Paul	reside 5 km east of the K2 Substation; do not own any property in close proximity to the Facilities.

In the result and for all of the reasons stated above, K2 Wind submits that the Board should deny the ACW Group's request for intervenor status in this proceeding.

2. Eligibility for Costs

K2 Wind opposes the Cost Request of the ACW Group on the grounds that the group, as a whole, does not meet any of the tests for cost eligibility set out in section 3.03 of the Board's *Practice Direction on Costs Award*. Further, none of the individuals comprising the ACW Group have an "interest in land that is affected by the process", as *per* section 3.03 of *The Practice Direction on Costs Awards*. The members of the ACW Group reside anywhere from 1.1 to 15 kilometres away from the applied-for Facilities. While Jim and Sharon Nivens do own vacant land across the road from the K2 Wind Substation, none of the Facilities will be installed on the Nivens' land or within the road allowance that abuts their vacant land. In fact, the Nivens' northern property boundary is approximately 120 metres from the fence that will surround and screen the K2 Substation.

Considering all of the above-described circumstances, it is K2 Wind's respectful submission that neither the ACW Group nor any of its constituent members meet the eligibility criteria for an award of costs in this proceeding.

Yours very truly,

(signed) Helen T. Newland

Helen T. Newland

HTN/ko
Encls.

cc: Maureen Helt
Leila Azaiez
Ontario Energy Board

Boris de Jonge
Paul Wendelgass
Capital Power Corporation

George Alton
Jim and Sharon Nivins
Anita and Paul Frayne
Michael Leitch
Marianne and Paul Bollinger

GUIDELINE FOR LETTERS OF COMMENT TO OEB
K2 WIND POWER PROJECT
ASHFIELD COLBORNE WAWANOSH

K2 Wind Ontario has now applied to the Ontario Energy Board for leave to construct a substation, transformer station and 230 KV transmission line in Ashfield Colborne Wawanosh. If approved by the OEB, this will be a major step towards the construction of the proposed K2 Wind Project of 138 turbines in Ashfield Colborne Wawanosh. However, this is also a further opportunity for concerned citizens to submit their comments and objections with respect to the proposed wind project.

This information has been put together to assist concerned citizens in commenting on the proposed K2 Wind Project. Please feel free to use the following guideline to help in drafting your Letter of Comment if you wish to submit one.

DEADLINE: All letters must be received by the OEB by 4:45 p.m. February 21, 2013. They are not obligated to consider anything received after this time. Please ensure that your letter is submitted well in advance of this time. Ideally it could be faxed or e-mailed to the Ontario Energy Board. Keep a copy for your records.

Contact Information: Letters should include the file number **EB-2012-0458** and should be addressed to:

*Secretary
Ontario Energy Board
Box 2319, 27th Floor
2300 Yonge Street
Toronto M4P 1E4*

RE: EB-2012-0458

Fax #: 416-440-7656

E-mail: boardsec@ontarioenergyboard.ca

Identification: Please state your name and, if applicable, identify yourself as a resident of ACW Township.

Issues/Concerns: There are many concerns with respect to wind turbine developments as they are being proposed for our province. Unfortunately, the scope of issues which the OEB will look at is very narrow. Only the following areas will be considered by the OEB when deciding if the proposed project is in the public interest:

1. The interests of consumers with respect to prices and the reliability and quality of electricity service; and
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.

Concluding Remarks: The following is an example of a concluding statement. Feel free to use it:

*I trust that my input will be given serious consideration by the OEB when considering the proposed K2 Wind Project. I strongly object to this project.
In light of my concerns, I therefore ask that Leave to Construct for this project not be granted at this time.*

Signature & Address: Your letter should be signed. Under your signature print your name, mailing address and e-mail address.

Remember letters must be received by the OEB by **4:45 p.m., February 21, 2013** to be considered.

Sample Letters: An example of a Letter of Comment is attached. Please feel free to use any of the wording if it works for you.

Thank you for your participation in this process. Every voice counts.

SAMPLE LETTER of COMMENT

Date

*Secretary
Ontario Energy Board
Box 2319, 27th Floor
2300 Yonge Street
Toronto M4P 1E4*

RE: EB-2012-0458 K2 Wind Power Project, Ashfield Colborne Wawanosh

My name is _____. I am a ratepayer of the township of Ashfield Colborne Wawanosh **and/or (please clarify for the Board)** a resident of the Province of Ontario and therefore a stakeholder with an interest and voice in all provincial matters. I strongly object to the K2 Wind Project of 138 turbines which is being proposed for Ashfield Colborne Wawansoh. The impact that this project would have on ACW would be immense. This issue has galvanized and unified communities throughout rural Ontario to fight this unjustifiable economic boondoggle. I am united with citizens of Ontario who object to the imposition of such a poorly conceived and implemented energy policy. This is not the way in which to move our province towards more renewable energy production.

ACW is one of the most productive agricultural areas of the province and should be used for agriculture. Our province is currently sitting in a surplus power situation. We simply don't need these turbines at this time. Increasingly, the province is dealing with situations where the energy demand is low but wind production is high. This results in surplus power which has to be exported at very low prices. All of this is paid for by the taxpayers of this province. Every turbine project approved makes this situation worse. Citizens are being asked to shoulder a huge economic burden for unnecessary energy production. This completely undermines the intent of producing green energy and is contrary to the public interest.

I also object to the inevitable devaluation of property, which will occur once the turbines become operational. Data being released from MPAC for Wolfe Island shows that 78 properties have been devalued by the turbine project there, some by up to 40%. In the Shelburne area residents have been denied financing on properties affected by nearby turbines. It is unacceptable for the residents of our province and ACW to have the value of one of their most important assets stolen without compensation and then be asked to pay exorbitant electricity rates to fund that theft.

I also object to the proposed 230 KV transmission line being buried on a public road allowance. There are enormous safety risks from such a high voltage line being located on public land and under municipal drains. This is a risk to which the public should not be exposed.

In light of all these concerns, I therefore respectfully ask that this project not be granted Leave to Construct. I also support the request for Intervenor Status made on February 1st by a group of ratepayers and landowners from Ashfield Colborne Wawanosh.

Name/Signature

Address

E-mail Address