

April 15, 2013

VIA E-MAIL & COURIER

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

Dear Ms. Walli:

**Re: K2 Wind Ontario Limited Partnership;
Submissions on Motion for Further Answers to Interrogatories;
Board File Number: EB-2012-0458**

We are writing on behalf of K2 Wind Ontario Limited Partnership (“**K2 Wind**”) to file, with the Ontario Energy Board (the “**Board**”), our submissions on the Resident Group’s March 23, 2013 motion for further answers to interrogatories (the “**Motion**”). For the reasons described below, K2 Wind submits that the Motion should be dismissed.

The Residents Group has sought further responses to interrogatories 1, 2, 4-7, 11, 12, 15, 18, 24, 26, 28 and 35. The majority of these requests for additional information can be grouped into the following two categories:

1. requests for information that is not currently available, that would not be expected to be available for any project at this stage of development and that, in any event, is not required in order for the Board to discharge its statutory mandate under sections 92 and 96 of the *Ontario Energy Board Act, 1998* (“**OEB Act**”) (interrogatories 2, 5, 7, 11, 12, 18 and 26); and
2. requests for information that is not relevant to the leave-to-construct proceeding (interrogatories 1, 6, 24 and 35).

To the extent that the Residents Group has asked for clarification regarding K2 Wind’s responses to interrogatories (interrogatories 4, 15 and 28) or relevant additional information, K2 Wind has provided the information below.

Requests for Currently Unavailable Information

In asking for additional information regarding K2 Wind's responses to interrogatories 2, 5, 7, 11, 12, 18 and 26, the Residents Group has stated that final design information should be available at this stage of project development for all cross-section schematics, safety systems, municipal drain crossings, splice coordinates and grounding grids.

This level of detailed project design is not typically available at this stage of project development. K2 Wind, like any proponent, cannot finalize designs and construction procedures until it has selected a qualified engineering-procurement-construction ("**EPC**") contractor, who will prepare a final design and complete all permitting and regulatory processes, including those with the Electrical Safety Authority and Ashfield-Colborne-Wawanosh Township. Final design details will only be available once an EPC contractor has been retained and all permitting processes have been completed.

The "final design" referenced by K2 Wind in response to Board Staff Interrogatory 5 (page 18, line 6) referred only to the preliminary design of the transmission facilities (i.e. a 230 kV transmission line on the specified route that connects two transformer stations at the specified locations). It was not intended to mean that K2 Wind had finalized every aspect of each road crossing, grounding grid, etc. That will be the responsibility of the EPC contractor, as described above.

It's important to note that K2 Wind has not refused to provide any of the information requested by the Residents Group; the information is simply not available at this stage in the process. The Residents Group may make representations about the implications of the absence of this information, in its final submissions.

In any case, the information requested is not necessary for the Board to discharge its statutory mandate under sections 92 and 96 of the OEB Act. As described in detail in K2 Wind's submission on the motion to strike out the evidence filed by the Residents Group, dated April 8, 2013 (paragraphs 3, 4 and 9-12), the Board's jurisdiction in a leave-to-construct proceeding is limited to the "interests of consumers with respect to prices and the reliability and quality of electricity service" as well as the promotion of renewable energy sources.¹ It does not extend to the prescription of design and construction specifications and standards; that role is within the exclusive jurisdiction of the Electrical Safety Authority.

Requests for Non-Relevant Information

The Residents Group's requests for specific names of engineers and staff and particulars of discussions with other wind project developers are not relevant to the matters at issue in this proceeding. Simply put, information requested does not engage matters of price, reliability and quality of electricity service. Project engineering to date has been undertaken by AMEC

¹ Section 96 of the *Ontario Energy Board Act, 1998*.
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Americas Limited, as provided in the Project Description Report included at Exhibit H-1-1 of K2 Wind's Application. For the responses provided by K2 Wind to local residents in this proceeding, please see the response to Board Staff Interrogatory 9.

Clarifications Requested by the Residents Group

Residents Group Interrogatory 4

As stated in response to this interrogatory, a Table of Applicable Codes, Standards and Regulations was provided as Exhibit E-6-1 of K2 Wind's leave-to-construct application. These materials, listed in Exhibit E-6-1, have copyright protections and although they may be obtained on-line and, in some cases, purchased from various third-party vendors, copying and re-transmittal is prohibited. For example, the Ontario Electrical Safety Code, 25th Edition, 2012 contains the following copyright provision:

CSA reserves all rights in regard to the standards contained within the Code, including but not limited to copyright, trademarks and all inventions and trade secrets, whether or not such inventions or trade secrets are protected by patents or applications for patents. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the publisher. [emphasis added]

K2 Wind is bound by this provision and cannot reproduce the Ontario Electrical Safety Code for the Residents Group without prior written authorization. Similar provisions exist for other applicable codes and standards. If the Residents Group wishes to obtain these documents, it should purchase them.

Residents Group Interrogatory 15

Where the transmission line runs on private lands and parallel to the road allowance, it will be located one to five meters from the edge of the road allowance. Where the transmission line crosses a fence line on private land, the EPC contractor will determine the method of installation as part of the final design.

Residents Group Interrogatory 28

Section 6.5.1 of the *Transmission System Code* governs the capital, monitoring and testing costs incurred by a transmitter with respect to the meeting the needs of a generation customer. This section provides as follows:

Where a transmitter modifies a transmitter-owned connection facility to meet the needs of a generator customer, the transmitter shall require the generator customer to pay the fully allocated cost of the minimum design required to meet the customer's needs. The transmitter shall include the capital cost of equipment

installed on transmitter-owned connection facilities by the transmitter for monitoring the performance of the generation facility and for verification testing of fault protection equipment associated with the generation facility. If the generator customer elects to have verification testing costs included in the economic evaluation rather than paying such costs on an "as incurred" basis over time, the transmitter shall also include the present value of the estimated cost of doing periodic verification testing of its monitoring and testing equipment and, if necessary, of similar equipment owned by the generator customer. The transmitter shall not include costs associated with incremental operation and maintenance. [Emphasis added]

K2 Wind presumes that the capital cost of any future upgrades will be paid by the requesting party.

Yours truly,
Dentons Canada LLP

(signed) Helen T. Newland

Helen T. Newland
HTN/ko

cc: Maureen Helt
Leila Azaiez
Ontario Energy Board

Boris de Jonge
Capital Power Corporation

Paula Lukan
IESO

Paul F. Wendelgass
K2 Wind Ontario Inc.

Anita & Paul Frayne
ACW Residents Group