



EB-2013-0040
EB-2013-0041

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 Bornish Wind, LP, Kerwood Wind, Inc. and Jericho Wind, Inc. for an order or orders granting leave to construct a transmission line and transmission facilities;

AND IN THE MATTER OF an application by Kerwood Wind, Inc. for an order or orders granting leave to construct a transmission line and transmission facilities.

PROCEDURAL ORDER NO. 2

April 23, 2013

Bornish Wind, LP, Kerwood Wind, Inc. and Jericho Wind, Inc. (the “Co-owners”) filed an application with the Ontario Energy Board (the “Board”), dated February 8, 2013, under sections 92, 97 and 101 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, (Schedule B) (the “Act”). The Co-owners have applied for an order of the Board granting leave to construct an electricity transmission line and related facilities. The Board assigned file number EB-2013-0040 to this application. A separate application under sections 92, 97 and 101 of the Act was filed by Kerwood Wind, Inc. (“Kerwood”) on February 8, 2013. Kerwood has applied for an order of the Board granting leave to construct an electricity transmission line and related facilities. The Board assigned file number EB-2013-0041 to this application.

In the interest of efficiency, the Board combined the EB-2013-0040 and EB-2013-0041 applications pursuant to the Board’s power under section 21(5) of the Act. The Board issued a Notice of Application and Written Hearing for the combined applications on March 11, 2013.

In Procedural Order No. 1, issued on April 15, 2013, the Board provided certain parties with the opportunity to file supporting information by April 22, 2013, relating to requests for intervenor status and cost eligibility.

The Board invited Stephen Gillespie to provide further information before making a determination on his request for intervenor status which would illustrate that he had a substantial interest in the proceeding and indicate if he intends to participate actively. Stephen Gillespie failed to provide any further documentation and as such the Board denies his request for intervenor status. Stephen Gillespie will be granted observer status if he advises the Board of his intention to be an observer on or before April 30, 2013.

Also in Procedural Order No. 1, the Board approved intervenor status for 15 individuals as a “Group” and asked that the “Group” identify a representative to act as a single point of contact for the proceeding. In correspondence filed on April 22, 2013, the Board was informed that the “Group” of intervenors has retained Eric K. Gillespie, Eric K. Gillespie Professional Corporation, Barristers & Solicitors as its representative.

The Board also approved Middlesex-Lambton Wind Action Group, Inc. (“MLWAG, Inc.”) as an intervenor in Procedural Order No. 1. However, the Board determined that further information was required to make a determination on eligibility for costs. In correspondence filed on April 22, 2013, counsel for MLWAG, Inc., Eric K. Gillespie, stated that MLWAG, Inc. is eligible for costs under section 3.03(b) of the Board’s *Practice Direction on Cost Awards* (the “Practice Direction”). Specifically, he stated that “MLWAG represents the public interest, namely that of consumers living in proximity to the proposed projects but whose properties are not directly impacted by the proposed projects.”

Rule 3.02 of the Practice Direction makes it clear that the burden of establishing eligibility for a cost award is on the party applying for a cost award. In this case the Board is not satisfied that MLWAG, Inc. primarily represents the direct interests of ratepayers in relation to the services that are regulated by the Board or represents a public interest relevant to the Board’s mandate. The Board will not grant cost eligibility to MLWAG, Inc.

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

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. The list of intervenors attached as Appendix A to this Order is the approved list of intervenors for this proceeding.

DATED at Toronto, **April 23, 2013**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX "A"

Bornish Wind, LP, Kerwood Wind, Inc. and Jericho Wind, Inc.

and

Kerwood Wind, Inc.

Leave to Construct Applications

Board File No. EB-2013-0040 and EB-2013-0041

LIST OF APPROVED INTERVENORS

**Bornish Wind, LP, Kerwood Wind, Inc., and Jericho Wind, Inc.
EB-2013-0040 and EB-2013-0041**

APPLICANT & LIST OF PARTICIPANTS

April-23-13

APPLICANT

Rep. and Address for Service

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Kerwood Wind, Inc.
Jericho Wind, Inc.**

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Bornish Wind, LP, Kerwood Wind, Inc., and Jericho Wind, Inc.
EB-2013-0040 and EB-2013-0041

APPLICANT & LIST OF INTERVENORS

April-23-13

INTERVENORS

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Middlesex**

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Bornish Wind, LP, Kerwood Wind, Inc., and Jericho Wind, Inc.
EB-2013-0040 and EB-2013-0041

APPLICANT & LIST OF INTERVENORS

April-23-13

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Wind Action Group, Inc.**

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**Bornish Wind, LP, Kerwood Wind, Inc., and Jericho Wind, Inc.
EB-2013-0040 and EB-2013-0041**

APPLICANT & LIST OF INTERVENORS

April-23-13

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The “Group” of Intervenors

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