



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.

**DECISION ON MOTION AND
PROCEDURAL ORDER NO. 4**

May 2, 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 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, 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.

On March 13, 2013, the Board issued Procedural Order No. 2 which, among other things, set out the date for the filing of intervenor evidence.

The following five intervenors submitted evidence: Hydro One Networks Inc. (“Hydro One”); Brian Oldfield; The Ritzemas; the Centennial-Hensall Road Group (the “Group”); and the Municipality of Bluewater (“Bluewater”).

On April 10, 2013, the Applicant filed a motion to: (a) strike the evidence filed by Hydro One, Bluewater, and the Group on the basis that in its view this evidence is irrelevant; (b) allow for the Applicant to file reply evidence; and (c) such further orders as counsel may advise and the Board considers appropriate.

On April 12, 2013, the Board issued Procedural Order No. 3 which set out the schedule for filing written submissions on the motion and deferred the date for filing responses to interrogatories on intervenor evidence to May 3, 2013.

Motion to Strike Evidence

With respect to the evidence of Bluewater and the Group, the Applicant submitted:

“[the evidence] consists of generic information about health impacts of wind turbines, the risks of fallen power lines, and a critique of wind powered generation. While one of the topics addressed in this evidence (i.e., stray voltage) has been addressed in leave to construct proceedings, none of this information is relevant to the issues in this proceeding, which the Board has reaffirmed on several occasions, most notably in Procedural Order No. 1....”

The Applicant submitted that the evidence of Hydro One deals primarily with two issues: the state of negotiations between Hydro One and the Applicant respecting the impact of the proposed facilities on Hydro One’s distribution network and the future use of Hydro One’s distribution facilities.

On the matter of negotiations, the Applicant submitted that negotiations are on-going. On the matter of future impact on Hydro One’s facilities, the Applicant submitted that the issues seek relief that is beyond the authority of the Board to grant in this proceeding.

Bluewater, the Group and Hydro One filed submissions on the motion.

Bluewater submitted that its evidence pertaining to stray voltage is relevant as it is a concern for local residents and dairy farmers, is directly related to the quality of electricity supply, discusses effects of high-frequency transient spikes on power quality and makes recommendations on how power quality can be improved.

The Group submitted that its evidence deals with issues that are within both elements of the Board's jurisdiction under section 96(2) of the Act and submitted a study by the Fraser Institute.

Hydro One argued that its evidence deals with issues that are within the Board's jurisdiction under section 96(2) of the Act.

In order to ensure a fair proceeding, the Board will generally not exclude evidence at this stage unless it is absolutely clear that the evidence is not relevant. The Board finds that the Applicant has not demonstrated that the evidence of Hydro One, Bluewater and the Group is clearly not relevant and therefore the motion is dismissed. In making its decision in this proceeding, the Board will of course give all evidence the appropriate weight, and will not take into account any evidence that proves not to be relevant.

Motion to File Reply Evidence

The Applicant requested that the Board allow the Applicant to file reply evidence by May 8, 2013 and for Board staff and intervenors to file interrogatories on that evidence soon after.

That request is granted, as outlined below.

The Board has decided to proceed with a written hearing and considers it necessary to make provision for the following procedural matters. Please be aware that further procedural orders may be issued from time to time.

The Board also reminds parties that have not yet filed their responses to interrogatories on intervenor evidence that these responses are due by May 3, 2013, as set out in Procedural Order No. 3.

THE BOARD ORDERS THAT:

1. The Applicant shall file its reply evidence with the Board and deliver it to all intervenors by **May 8, 2013**.
2. Board staff and any intervenor with interrogatories on the reply evidence submitted shall file their interrogatories with the Board and copy them to the Applicant by **May 17, 2013**.

3. The Applicant shall file its responses to the interrogatories with the Board and deliver them to all intervenors by **May 27, 2013**.
4. The Applicant shall file augment-in-chief, if any, with the Board and deliver it to all intervenors by **June 3, 2013**.
5. Board staff and intervenors shall file their submission, if any, with the Board, and deliver it to the Applicant and all other intervenors by **June 14, 2013**.
6. If the Applicant wishes to respond to any of the submissions, the response must be filed with the Board and delivered to all intervenors by **June 24, 2013**.

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. 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
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

DATED at Toronto, May 2, 2013

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary