



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. 4
May 29, 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.

Interrogatory Responses

On May 23, 2013, the Co-owners and Kerwood (the “Applicants”) filed responses to the interrogatories of Board staff and the intervenors. The Applicants requested confidential treatment in accordance with the Board’s *Practice Direction on Confidential Filings* (the “Practice Direction”) for certain information that was requested in two Board staff interrogatories. The Applicants have filed paper copies of these interrogatory responses.

Specifically the request for confidential treatment relates to the following:

- (i) The appendix to the response to Board staff interrogatory #19(b) which consists of a copy of the Applicants’ Connection and Cost Recovery Agreement with Hydro One Networks Inc., the terms of which specify that the agreement itself comprises confidential information; and,
- (ii) The response to Board staff interrogatory #21 which includes confidential and commercially sensitive information relating to the arrangements between the Applicants and Suncor Energy Products Inc.

As an interim measure, the Board will allow any counsel or consultant for the intervenors who wish to review the confidential material, to do so after signing the Board’s Declaration and Undertaking (which can be found at Appendix C of the Practice Direction), and filing it with the Board and serving it on the Applicants.

Parties who wish to make submissions on whether or not the Board should treat the material as confidential may make submissions on the matter in accordance with the steps below. If the Board ultimately decides that the document(s) should not be afforded confidential treatment, the document(s) will be placed on the public record unless, within a period of five business days from the issuance of the Board Decision on Confidentiality, and in accordance with section 5.1.12 of the Practice Direction, the Applicants request that the information be withdrawn.

Filing of Evidence

In Procedural Order No. 1, issued on April 15, 2013, the Board made provision for Board staff and intervenors to file evidence on May 28, 2013. The filing date for evidence was subsequently amended to May 30, 2013 in Procedural Order No. 3, issued on May 22, 2013.

In correspondence filed on May 27, 2013, the Corporation of the County of Middlesex (the “County”) requested an extension to June 3, 2013 to file evidence. The County stated that the interrogatory responses contained information which the County was not previously aware of and that there was insufficient time to consider the information and obtain legal advice. To assist the Board, the County requested consent of other parties to the proceeding. The Applicants and three of the six intervenors – the Municipality of North Middlesex, the Independent Electricity System Operator and the Middlesex-Lambton Wind Action Group Inc. – consented to the request.

The Board grants the extension requested by the County and hereby cancels the May 30, 2013 filing date established in Procedural Order No. 3. The Board has also amended the filing dates for the subsequent procedural steps.

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 Applicants shall provide a copy of the documents referenced above to each counsel or consultant who has executed and filed the Board’s Declaration and Undertaking.
2. Board staff and intervenors who wish to file a submission on the Applicant’s request for confidential treatment of the two interrogatory responses shall file their submissions with the Board and serve the submission to all parties on or before **June 14, 2013**.
3. The Applicants shall file their response, if any, to submissions of Board staff and the intervenors on the Applicant’s request for confidential treatment of the two interrogatory responses with the Board and serve it to all parties by **June 24, 2013**.
4. Board staff and intervenors shall file any evidence on which they plan to rely on or before **June 3, 2013**.

5. Parties seeking information in relation to the evidence filed by Board staff and/or intervenors shall request it by written interrogatories filed with the Board and delivered to the Applicants, and all intervenors on or before **June 17, 2013**.
6. Parties shall file with the Board and deliver to all intervenors a complete response to each of the interrogatories relating to evidence filed on or before **July 2, 2013**.

All filings to the Board must quote the file numbers, EB-2013-0040 and EB-2013-0041, 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. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD 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 29, 2013**

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary