

June 25, 2013

**VIA E-MAIL & COURIER**

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

Dear Ms. Walli:

**Re: K2 Wind Ontario Limited Partnership;  
Response to Letter from Residents Group  
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 June 24, 2013 from Ms. Frayne on behalf of the Residents Group. Although not styled as a motion as required by the Ontario Energy Board’s (“**Board**”) Rules of Practice and Procedure (“**Rules**”), the Residents Group’s letter is, in effect, a motion that seeks: (i) to amend the Brindley Affidavit by deleting certain portions thereof that the Residents Group admit are outside the scope of this proceeding; and (ii) a review and variance of the Board’s June 14<sup>th</sup> Decision on Motions to strike the Brindley Affidavit.

K2 Wind requests that the Board exercise its discretion under Rule 45.01 and determine, as a threshold question and without a hearing, that the Residents Group’s request for a review and variance should be denied. The basis of K2 Wind’s request in this regard is as follows:

- (i) The Residents Group “motion” does not set out any grounds that raise a question as to the correctness of the Board’s Decision on Motions, including the grounds stipulated in Rule 44.01(a), namely: error of fact; change in circumstances; new facts that have arisen; and facts that were not previously placed in evidence in the proceeding and could not have discovered by reasonable diligence at the time. The Residents Group is simply seeking, after the fact, to amend the Brindley Affidavit in an attempt to fit it into the defined scope of proceeding.
- (ii) The Residents Group submits that an unsubstantiated allegation of an unresolved stray voltage issue, on an entirely different project, with an entirely different electrical configuration, owned and operated by a different entity, somehow speaks to K2 Wind’s capability and capacity to properly maintain and manage its project. K2 Wind disagrees. The Brindley Affidavit does not allege incompetence or incapacity on the

part of Capital Power, the owner and operator of the K1 project referred to in the affidavit. Rather, it speaks to efforts of the local distribution company, Hydro One Networks Inc., to resolve complaints by Mr. and Mrs. Brindley regarding stray voltage. In fact, the Affidavit does not speak to Capital Power's conduct at all. For the Residents Group to assert now, that the Brindley Affidavit is somehow relevant to K2 Wind's capability to manage its own project and respond to the concerns of affected parties, is simply not credible.

The Residents Group's arguments in support of its request are contrived, unsound and a transparent attempt to have the Board change its mind about the admissibility of the Brindley Affidavit. In the result, K2 Wind submits that the Board should reject the Residents Group's request.

Yours very truly

**Dentons Canada LLP**

***(signed) Helen T. Newland***

Helen T. Newland  
HTN/ko

cc: Maureen Helt  
Leila Azaiez  
Ontario Energy Board

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