

June 27, 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;
Argument-in-Chief;
Board File Number: EB-2012-0458**

We are writing on behalf of K2 Wind Ontario Limited Partnership (“**K2 Wind**”) and in response to Procedural order No. 5 to file our Argument-in-Chief.

Yours very 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

Tam Wagner
IESO

Paul F. Wendelgass
K2 Wind Ontario Inc.

Anita & Paul Frayne
ACW Residents Group

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sch. B, as amended;

AND IN THE MATTER OF an Application by K2 Wind Ontario Limited Partnership for an order under section 92 and subsection 96(2) of the *Ontario Energy Board Act, 1998*, granting leave to construct an electricity transmission line and related transmission facilities.

K2 WIND ONTARIO LIMITED PARTNERSHIP

ARGUMENT-IN-CHIEF

June 27, 2013

The Application

1. On December 5, 2012, K2 Wind Ontario Limited Partnership ("**K2 Wind** or the "**Applicant**") filed an application (the "**Application**") with the Ontario Energy Board (the "**Board**") under sections 92 and 96(2) of the *Ontario Energy Board Act, 1998* ("**OEB Act**") for leave to construct electricity transmission facilities in the Township of Ashfield-Colborne-Wawanosh ("**ACW Township**") for the connection of the 270 megawatt ("**MW**") K2 Wind Power Project (the "**Project**") to the Independent Electricity System Operator ("**IESO**") – controlled transmission grid.¹ The Applicant signed a Power Purchase Agreement with the Ontario Power Authority dated August 3, 2011 in respect of the Project.
2. The applied-for transmission facilities (the "**Proposed Facilities**") consist of:
 - (i) the K2 Wind Transformer Station (the "**K2 Transformer Station**") that will step up, to 230 kilovolts ("**kV**"), electricity conveyed by five of the ten 34.5 kV distribution lines ("**Collectors**") extending from the Project's wind turbines;
 - (ii) the K2 Wind Transmission Line (the "**K2 Transmission Line**"), comprising an underground 230 kV transmission line, extending from a point of interconnection with the K2 Transformer Station, approximately 5.1 kilometres ("**km**"), to a point of interconnection with the K2 Wind Substation (the "**K2 Substation**"); and
 - (iii) the K2 Substation that will step up to 500 kV the electricity conveyed by five of the ten 34.5 kV Collectors and by the 230 kV K2 Transmission Line. The K2 Substation will be constructed adjacent to the Ashfield Switching Station ("**Switching Station**") that will be constructed by Hydro-One Networks Inc. ("**Hydro One**"). The interconnection between the K2 Substation and the Switching Station will facilitate the transfer of electricity from the Project to an

¹ Note: additional documents were filed as part of the Application on December 21, 2012 and February 28, 2013.

existing Hydro One 500 kV transmission line and, thus, into the IESO-controlled grid.

3. The location of each component of the Proposed Facilities is more particularly described in Exhibit D of the Application. A map of the Proposed Facilities is provided at Exhibit D-2-2 of the Application.
4. Construction of the Proposed Facilities is scheduled to commence in late 2013, with an in-service date scheduled for late 2014. An updated project schedule, including a Gantt chart, was provided in response to Board Staff Interrogatory 3(iii). K2 Wind requests that the Board take this schedule update into consideration and grant an 18 month period in which to commence construction from the date that the Board issues any leave to construct order.
5. K2 Wind will submit a Notice of Proposal to own transmission facilities pursuant to section 81 of the OEB Act when it applies for a generating licence from the Board.

The Board's Jurisdiction

6. The Board described its statutory jurisdiction in Procedural Order No. 1, issued on February 19, 2013, as follows:

Section 96(2) of the [OEB] Act provides that in considering the public interest concerning the Proposal the Board can only consider "the interests of consumers with respect to prices and the reliability and quality of electricity service" and, "where applicable and in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewable energy sources." The Board also has the jurisdiction to approve the form of agreements with affected landowners pursuant to section 97 of the Act.

Environmental issues are not within the scope of the Board's review, but are considered within the Ministry of the Environment ("MOE") Renewable Energy Approval ("REA") process. Although the Board has no role in the REA process, any approval of this application would ordinarily be conditional on all necessary permits and authorizations being received, including an approved REA.

Issues relating to land-use, land valuation, construction activities, and health and aesthetics are also not within the scope of the Board's jurisdiction.

7. Accordingly, the Board's decision whether or not to grant a leave to construct order in this proceeding is limited to the interests of consumers with respect to prices and the reliability and quality of electricity service, consistency with the Ontario Government's policies on the promotion of renewable energy and the form of agreements with affected landowners.
8. K2 Wind submits that it has demonstrated in its Application (as amended), responses to interrogatories and submissions on motions that it has met the criteria specified in section 96(2) of the OEB Act for leave to construct applications.

Interests of Consumers With Respect to Prices

9. The cost of the Proposed Facilities will be borne entirely by the applicant and, accordingly, will not have any adverse impact on transmission rates in Ontario.

Interests of Consumers with Respect to the Reliability and Quality of Electric Service

10. On February 24, 2012, the IESO issued its final System Impact Assessment ("SIA") Report and Hydro One issued its final Customer Impact Assessment ("CIA") Report. The IESO issued a SIA Addendum on June 15, 2012. As a result of subsequent Project configuration changes, K2 Wind applied to the IESO and to Hydro One on August 24, 2012 for amendments to the SIA and CIA.
11. Hydro One issued the CIA 2nd Addendum on December 4, 2012 and the CIA 3rd Addendum on March 19, 2013. Hydro One's assessments confirmed that the Project can be connected without adverse impact on customers provided the prescribed conditions are met. K2 Wind will construct the Proposed Facilities in accordance with the recommendations and conditions in the CIA and its addenda.

12. The IESO issued the SIA 2nd Addendum on December 7, 2012. The IESO's assessment concluded that the proposed changes are expected to have no material adverse impact on the reliability of the integrated power system provided the prescribed conditions are met. On December 7, 2012 the IESO issued a Notification of Addendum of Conditional Approval to Connection Proposal for the Project, subject to implementation of the conditions outlined in the original SIA, the SIA Addendum and the SIA 2nd Addendum. K2 Wind will construct the Proposed Facilities in accordance with the recommendations and conditions in the SIA and its addenda.

Ontario Government's Policies on the Promotion of Renewable Energy

13. This 140 wind turbine Project will contribute 270 MW of clean, renewable energy to Ontario's electricity grid and will further the Ontario Government's objective of significantly increasing the amount of renewable electricity generated in the province.

Land Requirements

14. The K2 Transmission Line will be located both within easements on private land in ACW Township and in municipal road allowances belonging to ACW Township. Maps indicating the route of the K2 Transmission Line and the locations of the K2 Transformer Station and K2 Substation are included in the Application at Exhibit D.
15. K2 Wind evaluated alternate locations for the K2 Transformer Station, the K2 Transmission Line and the K2 Substation. The preferred location for the K2 Transformer Station was selected because it facilitated the bringing together of five Collectors and the land was owned by a landowner willing to enter into an agreement for the site. The preferred route for the K2 Transmission Line was selected because it was located in proximity to properties owned by landowners already participating in the Project, simplifying the process of acquiring land rights for the transmission line. The location of

the K2 Substation was selected due to its proximity to Hydro One's 500 kV transmission line and central location relative to the Project's wind turbines.

16. The Applicant has entered into Easement Option Agreements with relevant landowners with respect to the segments of the K2 Transmission Line that will be located on private land. Pursuant to section 97 of the OEB Act, K2 Wind requests Board approval of the form of Easement Option Agreement and form of Grant of Easement Agreement included at Exhibit F-3-1 and F-3-2, respectively, of the Application.
17. The Applicant has negotiated a Road Use Agreement with ACW Township with respect to the segments of the K2 Transmission Line that will be located within municipal road allowances. On March 5, 2013, ACW Township Council authorized the execution of a final Road Use Agreement in the form included in response to Board Staff Interrogatory 8. The agreement with ACW Township was executed on March 19, 2013.
18. The K2 Transformer Station will be located on leased private land. K2 Wind has entered into an Option to Lease Agreement in respect of the subject property. K2 Wind requests Board approval of the Option to Lease Agreement included at Exhibit F-2-1 of the Application.
19. Both the K2 Substation and the Hydro One Switching Station will be situated on land owned by the Applicant. K2 Wind has entered into an Option to Purchase Agreement in respect of the subject property. K2 Wind requests Board approval of the Option to Purchase Agreement included at Exhibit F-2-2 of the Application. K2 Wind intends to sever and sell a portion of this property to Hydro One for the purpose of constructing and operating the Switching Station. K2 Wind will continue to own the property where the K2 Substation will be situated.

Consultation

20. Informed consultation and disclosure are integral components of the Project's planning process. K2 Wind has developed and continues to implement a comprehensive and inclusive stakeholder consultation program ("**Consultation Program**") in respect of the Project as a whole, including the transmission components of the Project. The Consultation Program is designed to meet or exceed the consultation and notice requirements of Ontario Regulation 359/09 in respect of the Renewable Energy Approval process as well as the procedural aspects of Aboriginal consultation delegated from the Crown.
21. The Consultation Program has engaged local stakeholders, governments and Aboriginal communities at every step of the way, since the inception of the Project. Detailed information on the consultation program conducted by K2 Wind can be found at Exhibit I of the Application, as well as on the K2 Wind website at www.k2wind.ca.

The Leitch Affidavit

22. On March 24, 2013, the Residents Group filed evidence with the Board consisting of affidavits by Michael Leitch (the "**Leitch Affidavit**"), Ross and Darlene Brindley and Paul Bollinger. On April 1, 2013, K2 Wind filed a Notice of Motion seeking an order of the Board to strike the three affidavits on the grounds that the affidavits raised issues outside the scope of the Board's jurisdiction in the proceeding and that Mr. Leitch had not demonstrated that he was an expert (the "**Motion to Strike**"). Following written submissions by both K2 Wind and the Residents Group, the Board struck the affidavits of Ross and Darlene Brindley and Paul Bollinger.
23. The Board accepted the Leitch Affidavit as an expression of concern from the Residents Group's regarding whether the proposed transmission line was adequately designed and met applicable safety standards. The Board did not rule on Mr. Leitch's acceptability

as an expert but stated that, without being qualified as an expert, Mr. Leitch cannot provide expert opinion evidence.

24. The Leitch Affidavit raises concerns that the K2 Transmission Line has not been adequately designed to meet present safety standards, does not meet the safety standards adhered to by similar projects and poses a higher level of danger because of the high voltage of the K2 Transmission Line. The Leitch Affidavit asserts that safe operation of the underground transmission cables requires mechanical protection (i.e., a concrete barrier) to ensure that persons working in the vicinity (e.g. rebuilding roads, installing drainage tiles, etc.) do not inadvertently cut the cable and cause an explosion. In Mr. Leitch's opinion, the K2 Transmission Line, as designed, does not meet applicable safety standards, including those of the Canadian Standards Association.

25. In its decision on the Motion to Strike the Leitch Affidavit, the Board described the scope of safety issues within the Board's jurisdiction on the reliability and quality of electric service:

with respect to its interest in safety as it may relate to reliability and quality of service, the Board has historically imposed, as a condition of the granting of the Board's approval, the requirement to comply with all Electrical Safety Authority requirements. This condition imposed by the Board complements the ESA's mandate on electrical safety and is included by the Board when the Board approval is granted in recognition of the importance of the types of issues raised in the Leitch Affidavit.

26. K2 Wind agrees with this assessment and reiterates its submissions on the Motion to Strike that the Board's mandate to deal with safety issues in a leave to construct proceeding is limited to requiring compliance with applicable electrical safety standards by way of conditions in a leave to construct order, not prescribing or adjudicating what the standards are or should be.
27. K2 Wind reiterates the commitments made in its Application to construct, operate and maintain the Proposed Facilities in accordance with all applicable codes, standards and

regulations.² The list of these codes, standards and regulations is included at Exhibit E-6-1 of the Application. K2 Wind has also retained experts including, Mr. Byron Nicholson, Senior Electrical Engineering Specialist at AMEC, to ensure the safe design of the Proposed Facilities, in accordance with all applicable codes, standards and regulations.

28. K2 Wind submits that the Board can address the Residents Group's concerns that the K2 Transmission Line has not been adequately designed to meet safety standards by conditioning approval on compliance with all applicable codes and standards that relate to the safe construction, operation and maintenance of the Proposed Facilities, including compliance with any requirements of the Electrical Safety Authority.

Conclusion

29. Based on the foregoing, K2 Wind submits that the approval of the Proposed Facilities is in the public interest, will not adversely impact interests of consumers with respect to prices and the reliability and quality of electricity service, and furthers the Government of Ontario's policies with respect to the promotion of renewable energy.
30. The concerns of the Residents Group would be met by conditioning the leave to construct approval (as described in paragraphs 22 to 28, above) on compliance with applicable codes, standards and regulations, as well as any other requirements of the Electrical Safety Authority, in its role pursuant to Ontario Regulation 22/04.
31. Accordingly, K2 Wind requests that the Board approve the Application as proposed.

² Exhibit E-1-1, p. 3 of the Application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

(signed) Helen T. Newland

Helen T. Newland

(signed) Nalin Sahni

Nalin Sahni

Counsel to K2 Wind Ontario Limited Partnership