

July 15, 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-Reply;
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-Reply.

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-REPLY

July 15, 2013

Introduction

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 “**OEB**” or “**Board**”) under sections 92 and 96(2) of the *Ontario Energy Board Act, 1998* (“**OEB Act**”). The Application was for leave to construct electricity transmission facilities (“**Proposed 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
2. This Argument-in-Reply addresses the submissions of the Residents Group made in response to K2 Wind’s Argument-in-Chief. It is divided into four parts. Part I deals with the issue of new evidence introduced and relied upon by the Residents Group in its submissions. Part II addresses the out-of-scope issues that the Residents Group raises in its submissions. Part III provides K2 Wind’s responses to the few arguments of the Residents Group that are, in fact, relevant to the Board’s decision on the Application, having regard to its jurisdiction under sections 92 and 96 of the OEB Act.² Finally, Part IV sets out K2 Wind’s position on conditions that the Residents Group proposes be attached to any leave to construct order issued by the Board in this proceeding.

Part I: New Evidence

3. The submissions of the Residents Group introduce and rely upon new and untested materials, including the following three reports:

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

² See Appendix A for key sections of the OEB Act.

- (i) a report by Ross McKittrick on the environmental and economic consequences of Ontario's *Green Energy Act*;³
 - (ii) a report by Paul Acchione on the impact of wind power on Ontario's electricity grid;⁴ and
 - (iii) a report by the Ontario Society of Professional Engineers regarding changes in electricity rates and greenhouse gas emissions from incorporating wind power in Ontario's electricity grid⁵ (collectively, the "**New Evidence**").
4. K2 Wind objects to the New Evidence on two grounds, namely lack of relevance and lack of timeliness.
5. The New Evidence deals with wind power and not transmission facilities. The Residents Group takes the view that the public interest of the Proposed Facilities cannot be assessed without, at the same time, considering the public interest of the wind farm to which such facilities connect. The New Evidence is offered in support of this position.
6. The Board's jurisdiction in applications for leave to construct is limited to consideration of the applied-for transmission or distribution facilities and, specifically, the effect that those facilities may have on electricity prices and service. The OEB Act is quite clear in this regard. Subsection 96(2) provides that in determining whether transmission or distribution facilities are in the public interest, the Board may only consider two factors, namely: (i) the interests of consumers with respect to prices and the reliability and quality of electricity service; and (ii) the promotion of renewable energy sources. These factors mirror two of the Board's five overall statutory objectives pertaining to electricity.⁶ The articulation of what factors the Board may have regard to, in

³ Submissions of the Residents Group at pp. 11, Appendix A.

⁴ Submissions of the Residents Group at pp. 11-12.

⁵ Submissions of the Residents Group at pp. 11, 18, 19 and 50.

⁶ OEB Act, ss. 1(1)1 and 1(1)5, reproduced in Appendix A.

mandatory terms (“shall only consider”), means that the Board may not have regard to any other matters, including those that are dealt with in the other three electricity objectives: (i) economic efficiency and cost effectiveness of generation, transmission and distribution; (ii) conservation and demand management; and (iii) implementation of a smart grid.⁷

7. Whether or not the facilities that generate the electricity to be conveyed by the facilities that are the subject of a leave to construct application are, themselves, in the overall public interest, is not an issue for the Board. The Board confirmed the limits of its jurisdiction in this regard in its recent decision on a leave to construct application by Dufferin Wind Power Inc., where it stated that “[t]he Board also has no jurisdiction regarding the need for, or location of, the generation facilities associated with any transmission application.”⁸
8. As for the issue of timeliness, Procedural Order No. 2 required that any evidence on which the Residents Group planned to rely be filed no later than March 25, 2013. The Residents Group did file evidence in the form of three affidavits by the stipulated deadline but such evidence did not include the New Evidence. Accepting the New Evidence at this late stage of the proceeding, some three months after the Board’s deadline, would be unfair and prejudicial to K2 Wind. The New Evidence comprises opinion on controversial issues of public policy. It has not been tested by the interrogatory process. The Board should disregard the New Evidence and those submissions of the Residents Group that rely on such evidence.

Part II: Out of Scope Issues

9. In its procedural orders, the Board went to some length to clearly delineate the limits of its jurisdiction in applications for leave to construct under sections 92 and 96 of the OEB

⁷ OEB Act, ss. 1(1)2, 1(1)3 and 1(1)4, reproduced in Appendix A.

⁸ Dufferin Wind Power Inc., Ontario Energy Board Decision and Order, July 5, 2013 at p. 4.

Act. The Residents Group has chosen to ignore the Board in this regard. The Residents Group has made submissions on the following out-of-scope issues:

- (i) the prudence of the Government of Ontario's renewable energy policies;⁹
- (ii) the cost of renewable electricity generation (particularly wind power) to Ontario consumers;¹⁰
- (iii) the net economic benefit (cost) of renewable electricity generation;¹¹
- (iv) the availability of wind energy generation, relative to the demand for electricity;¹² and
- (v) the nexus between contracted wind energy generation and the issue of surplus baseload generation in Ontario.¹³

10. Given the limited statutory jurisdiction of the Board in a leave to construct application, the Residents Group has attempted to shoehorn the above-listed issues into this proceeding by broadening the scope of the "interests of consumers with respect to prices and the reliability and quality of electricity service" in section 96 of the OEB Act to include consideration of the effect of the K2 Wind Project on electricity prices and services. The Residents Group does this in two different ways.

11. First, the Residents Group takes the position that the concept of the reliability of electricity service includes the generation characteristics of the electricity source that is to be connected by the applied-for facilities. The Residents Group argues that wind farms produce electricity on a variable basis and that the reliability of the electricity system is impaired when other electricity generation sources must adjust accordingly.

⁹ Submissions of the Residents Group at Sections 2.2, 3.2 and 4.2.

¹⁰ Submissions of the Residents Group at Sections 2.2, 2.3 and 4.3.

¹¹ Submissions of the Residents Group at Sections 3.0, 3.2, 3.3, 4.2 and 4.3.

¹² Submissions of the Residents Group at Sections 3.1, 3.3, 3.4, 4.1 and 4.1.

¹³ Submissions of the Residents Group at Sections 3.1, 3.2, and 3.3.

Second, the Residents Group takes the position that the “interests of consumers with respect to prices” in section 96 of the OEB Act requires the Board to consider all inputs to the consumer price of electricity, including the cost of renewable generation versus the cost of other types of generation.

12. The Board’s jurisdiction in this proceeding is limited to the consideration of the impact of the Proposed Facilities – and only the Proposed Facilities – on the price of electricity and reliability of electric service. As described in Exhibit G of the Application (as amended), both the IESO and Hydro One Networks Inc. (“**Hydro One**”) have indicated that the Proposed Facilities can be incorporated without adverse impact on the reliability of the IESO-controlled electricity grid or on the customers served by the Hydro One transmission line to which the Proposed Facilities will interconnect. As for impact on electricity prices, the cost of the Proposed Facilities will be borne entirely by K2 Wind. Any associated and ongoing operation and maintenance (“**O&M**”) costs that are borne by Hydro One, will be *de minimus*, relative to its annual O&M budget.
13. The Residents Group’s attempt to broaden the Board’s section 96 jurisdiction would result in the Board second guessing the policy decisions of the Ontario Government and the contracting decisions of the Ontario Power Authority. Indeed, this appears to be precisely what the Residents Group is hoping to achieve in this proceeding because, in its view, “[t]he province has reached a point where implementation of its renewable energy policy, as it was originally conceived, is causing problems for consumers with respect to prices and the reliability and quality of electricity service.”¹⁴
14. The issues that the Residents Group seeks to insert into this proceeding are policy issues and political issues, within the purview of the Ontario Legislature and the Ontario Government. They have nothing to do with the effect, if any, of the Proposed Facilities on electricity prices and service. Such issues are, accordingly, outside of the Board’s

¹⁴ Submissions of the Residents Group at p. 10.

statutory jurisdiction under sections 92 and 96 of the OEB Act. In the result, these issues may not be considered in this proceeding and the Board should disregard the submissions of the Residents Group in this regard. The Board should resist the Resident Group's efforts to expand the scope of this proceeding.

Part III: Relevant Issues Raised by the Residents Group

15. Notwithstanding the out of scope submissions discussed above, the Residents Group has also raised a number of issues that are properly within the Board's section 96 jurisdiction, namely:

- (i) the cost to ratepayers of the Proposed Facilities;
- (ii) the scope of the IESO's System Impact Assessment report ("**SIA**") and Hydro One's Customer Impact Assessment report ("**CIA**");
- (iii) various technical design and safety issues;
- (iv) the adequacy of form of the transmission line easement agreement;
- (v) whether K2 Wind has the necessary experience to construct the Proposed Facilities; and
- (vi) the adequacy of consultation.

Each of these issues is dealt with in turn, below.

The Cost to Ratepayers of the Proposed Facilities

16. The Residents Group argues that K2 Wind will not be responsible for all costs associated with the Proposed Facilities.¹⁵ In particular, the Residents Group submits that ratepayers will assume:
- (i) Hydro One's cost of purchasing the land for the Ashfield Switching Station that will connect the Proposed Facilities to Hydro One's 500 kV transmission line (the "**Switching Station**");
 - (ii) Hydro One's ongoing costs to operate and maintain the Switching Station;
 - (iii) Hydro One's ongoing costs to operate and maintain the three-phase, 7 km, 27.6 kV distribution line (the "**Distribution Line**") to be constructed by Hydro One (and paid for by K2 Wind) that will provide emergency power for the Switching Station; and
 - (iv) potential costs associated with routing distribution lines around the Proposed Facilities, should Hydro One expand its distribution system in the future.
17. The Residents Group states that the above-noted costs will increase the price of electricity for residential customers, as evidenced by the pamphlets distributed to Hydro One customers that state, *inter alia*, that distribution rates are increasing "to maintain a reliable distribution system and also to accommodate more renewable energy."¹⁶
18. The Residents Group is correct that items (i) through (iii) above will be paid for by ratepayers. This is consistent with how connection costs are to be allocated as between the transmitter and the generation customer, as *per* subsection 6.5.1 of the Transmission System Code. These O&M costs will be *de minimus* relative to Hydro One's

¹⁵ Submissions of the Residents Group at Sections 4.2 and 4.4.

¹⁶ Submissions of the Residents Group at pp. 30 and 31.

overall capital and O&M cost pools. Moreover, K2 Wind will pay the costs to construct the Distribution Line but the line, itself, will be available to Hydro One for distribution purposes (i.e., to connect new customers).

19. Similarly, the land for the Switching Station will be conveyed to Hydro One at a nominal cost. At the end of the K2 Wind Project, Hydro One will retain ownership of the land and the Switching Station (which, K2 Wind has paid for) and be free to use these assets for other transmission and distribution purposes or, alternatively, sell at profit.
20. Finally, regarding potential increases in future distribution costs, unlike in the Varna Wind matter cited by the Residents Group (EB-2013-0442), Hydro One has not intervened in this proceeding to express concerns regarding the construction of the Proposed Facilities, with respect to their impact on Hydro One's existing and future operations in the area or otherwise.

The SIA and CIA

21. The Residents Group submits that the IESO's SIA and Hydro One's CIA are incomplete because they do not address the difficulties associated with incorporating variable wind power into the electricity grid.¹⁷ The Residents Group submits that the IESO testified, in an earlier OEB proceeding (EB-2013-0029), about the difficulty of integrating variable generation sources (such as wind power), managing surplus baseload generation and the cost of addressing these issues.¹⁸
22. The impacts of variability in the production of wind power are beyond the scope of this proceeding (see discussion at paragraphs 9-14, above). Moreover, the IESO has recently amended the Market Rules to require wind power to be dispatched on an economic

¹⁷ Submissions of the Residents Group n at Section 4.3.

¹⁸ Submissions of the Residents Group at p. 30.

basis (i.e., powered down), as necessary. These amendments are intended to address the surplus baseload power issue raised by the Residents Group.

23. More importantly, however, is the fact that the IESO and Hydro One are the parties in the best position to identify any reliability concerns associated with the Proposed Facilities. They have not raised any issue with respect to the incorporation of the Proposed Facilities into Ontario's electricity grid. As described in Exhibit G of the Application (as amended), both the IESO's SIA and Hydro One's CIA have concluded that the Proposed Facilities can be incorporated into the IESO-controlled electricity grid without adverse impact, provided the prescribed conditions are met. K2 Wind will construct the Proposed Facilities in accordance with the recommendations and conditions in the SIA, the CIA and their addenda.

Technical Design and Safety Issues

24. The Residents Group alleges that the Proposed Facilities may be unsafe or unreliable because K2 Wind has failed to:¹⁹
- (i) provide adequate design information in respect of various aspects of the Proposed Facilities;
 - (ii) include mechanical protection for the transmission line in its design; and
 - (iii) ensure that the transmission line is buried at sufficient depth to avoid risk of accidental contact.
25. The Residents Group submits that the line, as designed, does not meet the standard of construction used for other buried transmission lines in Ontario and that ACW Township is a small municipality that does not have the technical expertise to review the design of

¹⁹ Submissions of the Residents Group at Section 5.2.

the proposed transmission line.²⁰ According to the Residents Group, “the OEB cannot leave an issue of public safety to unqualified Township staff to determine what are the best designs to meet the installation requirements on road allowances.” In sum, the Residents Group argues that if the Board does not step in to address these issues, public safety will be at risk.

26. As K2 Wind explained in its submission on the motion for further answers to interrogatories, the level of detailed design information requested by the Residents Group is not typically available at this stage of Project Development.²¹ K2 Wind, like any proponent, cannot finalize designs and construction procedures until it has selected a qualified engineering-procurement-construction (“EPC”) contractor, who will prepare a final design and complete all permitting and regulatory processes, including those with the Electrical Safety Authority and ACW Township. Final design details will only be available once an EPC contractor has been retained and all permitting processes have been completed.
27. In any event, the design information requested by the Residents Group is not necessary for the Board to discharge its statutory mandate under sections 92 and 96 of the OEB Act. As described in detail in K2 Wind’s submission on the motion to strike out the evidence filed by the Residents Group²² (and at paragraphs 9-14, above), the Board’s jurisdiction in a leave-to-construct proceeding is limited to the “interests of consumers with respect to prices and the reliability and quality of electricity service” as well as the promotion of renewable energy sources. It does not extend to the prescription of design and construction specifications and standards; that role is within the exclusive jurisdiction of the Electrical Safety Authority.

²⁰ Submissions of the Residents Group at pp. 36 to 39.

²¹ K2 Wind, Submissions on the Motion for Further Answers to Interrogatories, April 15, 2013, at pp. 1 and 2.

²² K2 Wind, Submission on the Motion to Strike Out Evidence Filed by the Residents Group, April 8, 2013, at paras. 3,4 and 9-12.

28. In its decision on the motion to strike the Leitch Affidavit, the Board stated that electrical safety issues within its jurisdiction are addressed through conditions imposed as part of the leave to construct order:

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.

29. K2 Wind agrees with the Board's assessment. As stated in the Argument-in-Chief, K2 Wind submits that the Board can address the Residents Group's electrical safety concerns by conditioning approval on compliance with all applicable existing codes and standards that relate to the safe construction, operation and maintenance of the Proposed Facilities. This would be consistent with the Board's approach in previous leave to construct applications.
30. As for the Residents Group's submission that the Board needs to prescribe detailed design and safety requirements because ACW Township lacks the technical expertise to do so,²³ the Residents Group has completely ignored the role of the Electrical Safety Authority in this regard. Given that many of the Residents Group's submissions relate to the electrical safety of the transmission line, it is surprising that the Residents Group's submissions do not contain any reference, whatsoever, to the role of the Electrical Safety Authority.
31. It is the Electrical Safety Authority, not the Board or ACW Township, that possess both the technical experience and the statutory jurisdiction under section 113 of the *Electricity Act, 1998*, to address electrical safety issues. By conditioning the leave to construct approval on compliance with all Electrical Safety Authority requirements, the

²³ Submissions of the Residents Group at p. 39.

Board will not be leaving important issues of public safety to an ill-prepared township but, rather, to the body with the experience and mandate to meaningfully address such issues.

32. Finally, as stated by the Residents Group, K2 Wind's Power Purchase Agreement with the Ontario Power Authority requires the Applicant to adhere to high standards for "Good Engineering and Operating Practices."²⁴ Apart from this regulatory proceeding and any requirements of the Electrical Safety Authority, K2 Wind is contractually obligated to ensure that the Proposed Facilities meet high standards for engineering and operation.

The Form of Easement Agreement

33. The Residents Group criticizes sections 6(b) and 6(e) of the form of easement agreement for the transmission line (included at Exhibit F-3-2 of the Application) since it allows the property owner to farm or construct fences on the land above the buried transmission line.²⁵ In the Residents Group's view, cultivation and fence construction should be prohibited above the transmission line right-of-way in order to protect public safety. In support of its position, the Residents Group relies on portions of an Xcel Energy of Texas factsheet included in its submissions as Appendix B.
34. As previously discussed at paragraphs 25-31, above, the prescription of design and construction standards is beyond the scope of this proceeding. Moreover, a single page of a factsheet (the full fact sheet was not provided) for another jurisdiction with a different regulatory regime and without any supporting documentation does not provide an appropriate basis to determine construction, operation or maintenance standards for the Proposed Facilities.

²⁴ Submissions of the Residents Group at p. 33.

²⁵ Submissions of the Residents Group at p. 40.

35. K2 Wind will comply with all applicable regulations, codes and standards related to safe construction, operation and maintenance, including any restrictions on land use above the transmission line. Should any legal requirement be identified that would prevent cultivation or fence construction above the transmission line, K2 Wind will renegotiate the easement agreements to ensure that its provisions are consistent with all applicable regulations, codes and standards.

The Applicant's Experience

36. The Residents Group argues that K2 Wind lacks the necessary experience to successfully construct, operate and maintain the Proposed Facilities. In particular, the Residents Group states that:
- (i) Byron Nicholson's C.V. does not indicate that he is involved in the design of the proposed transmission line;²⁶ and
 - (ii) Capital Power's experience with the K1 wind project indicates that it does not have the expertise to implement an adequate emergency management plan.²⁷
37. Regarding the design of the transmission line, K2 Wind reaffirms that Byron Nicholson, Senior Electrical Engineering Specialist, has overall responsibility for the preliminary design on behalf of AMEC. Although the cross-sectional diagram of the transmission line (included at Exhibit E-5-1 of the Application) was prepared by another AMEC engineer, the notations on the diagram indicate that Byron Nicholson checked and signed-off on the preliminary design.
38. Regarding the emergency management plan, Capital Power's experience with the K1 wind project is not relevant to the construction of the Proposed Facilities. The turbine fire and stray voltage issues mentioned by the Residents Group relate to different

²⁶ Submissions of the Residents Group at pp. 41-42.

²⁷ Submissions of the Residents Group at pp. 39, 40 and 42-45.

equipment with different electrical configurations. The K2 Wind project will have its own emergency management plan that addresses the requirements of its facilities. K2 Wind will develop the emergency response protocols in compliance with all applicable regulations, standards and codes; in accordance with industry standards and in consultation with appropriate local authorities and emergency response agencies.

Consultation

39. The Residents Group submits that K2 Wind's consultation program has not addressed the safety concerns of local stakeholders. To the contrary, K2 Wind has engaged local stakeholder, governments and Aboriginal communities at every step of the way, since the inception of the Project, including in relation to safety issues that have been raised. K2 Wind has repeatedly stated that the Proposed Facilities will be constructed, operated and maintained in accordance with all applicable standards, including in relation to safety. Though K2 Wind has and will continue to do its best to address the concerns of local residents, consultation does not mean that local residents who object to the development of wind generation in their area should have a veto over the Project.

Part IV: Leave to Construct Order Conditions

40. If the Board issues an order granting leave to construct, the Residents Group requests that the Board condition its approval on a series of requirements related to safety, stray voltage and cost.²⁸ K2 Wind submits that each of these proposed conditions be dealt with as described in Table 1, on the following page.

²⁸ Submissions of the Residents Group at pp. 48 to 50.

Table 1

Conditions Proposed by the Residents Group	K2 Wind's Response
Safety Conditions 1-8	The Board should disregard these conditions because they relate to design and construction standards that are outside the scope of this proceeding. These issues are properly within the jurisdiction of the Electrical Safety Authority. Moreover, K2 Wind is required to adhere to high standards of engineering and operation by the terms of its Power Purchase Agreement with the Ontario Power Authority.
Safety Conditions 9-11	K2 Wind will develop emergency response protocols: in compliance with all applicable regulations, standards and codes; in accordance with industry standards and in consultation with appropriate local authorities and emergency response agencies.
Stray Voltage Conditions 1 and 2	Unlike in the Summerhaven Wind LP leave to construct proceeding (EB-2011-0027), the local distribution company has not intervened with respect to concerns of stray voltage, nor has any evidence been filed to suggest that the Proposed Facilities will cause stray voltage. Should any instances of stray voltage occur, they should be reported to Hydro One. As <i>per</i> section 4.7 of the Distribution System Code, Hydro One will be responsible for testing for stray voltage and taking appropriate measures to resolve the issue. K2 Wind will coordinate with Hydro One to resolve any occurrences of stray voltage attributable to the Proposed Facilities in a timely manner. K2 Wind will comply with all applicable design and construction regulations, standards and codes, including those of the Electrical Safety Authority.
Stray Voltage Conditions 3-5	There is no evidence on the record in this proceeding to suggest that the Proposed Facilities will cause stray voltage. It is premature to discuss liability and mitigation measures for hypothetical future occurrences.

Cost Condition 1	Hydro One will be responsible for the ongoing cost to operate and maintain the Switching Station. This is consistent with how connection costs are to be allocated as between the transmitter and the generation customer, as <i>per</i> subsection 6.5.1 of the Transmission System Code. Moreover, these O&M costs will be <i>de minimus</i> relative to Hydro One's overall capital and O&M costs.
Cost Condition 2	The Board should disregard this condition since it relates to Government of Ontario renewable energy policies outside the scope of this proceeding.

Conclusion

41. K2 Wind has demonstrated in its Application (as amended), responses to interrogatories, submissions on motions, and final arguments that it has met the criteria specified in section 96(2) of the OEB Act for leave to construct applications. 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.
42. The concerns of the Residents Group that are within the scope of this proceeding can be met by conditioning the leave to construct approval (as described in paragraphs 24-31, 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 the *Electricity Act, 1998*.
43. Accordingly, K2 Wind requests that the Board approve the Application as proposed.

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

Appendix A: Selected Sections of the Ontario Energy Board Act, 1998

Section 1(1):

1. (1) *The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:*

1. *To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.*
2. *To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.*
3. *To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.*
4. *To facilitate the implementation of a smart grid in Ontario.*
5. *To promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities. 2004, c. 23, Sched. B, s. 1; 2009, c. 12, Sched. D, s. 1.*

Section 92:

Leave to construct, etc., electricity transmission or distribution line

92. (1) *No person shall construct, expand or reinforce an electricity transmission line or an electricity distribution line or make an interconnection without first obtaining from the Board an order granting leave to construct, expand or reinforce such line or interconnection. 1998, c. 15, Sched. B, s. 92 (1).*

Exception

(2) *Subsection (1) does not apply to the relocation or reconstruction of an existing electricity transmission line or electricity distribution line or interconnection where no expansion or reinforcement is involved unless the acquisition of additional land or authority to use additional land is necessary. 1998, c. 15, Sched. B, s. 92 (2).*

Section 96:

Order allowing work to be carried out

96. (1) *If, after considering an application under section 90, 91 or 92 the Board is of the opinion that the construction, expansion or reinforcement of the proposed work is in the public interest, it shall make an order granting leave to carry out the work. 1998, c. 15, Sched. B, s. 96.*

Applications under s. 92

(2) *In an application under section 92, the Board **shall only consider** the following when, under subsection (1), it considers whether the construction, expansion or reinforcement of the electricity transmission line or electricity distribution line, or the making of the interconnection, is in the public interest:*

- 1. The interests of consumers with respect to prices and the reliability and quality of electricity service.*

- 2. Where applicable and in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewable energy sources. 2009, c. 12, Sched. D, s. 16. [Emphasis added]*