

ONTARIO ENERGY BOARD

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 East Durham Wind, Inc. for an Order or Orders pursuant to section 41(9) of the *Electricity Act, 1998* (as amended) establishing the location of the Applicant's distribution facilities within certain road allowances owned by the Municipality of West Grey.

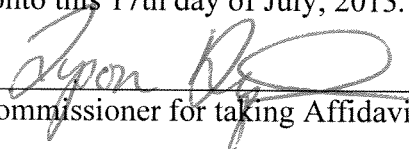
AFFIDAVIT OF SERVICE

I, Nicole Geneau, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND AFFIRM:**


1. I am a Director of Development with NextEra Energy Canada, ULC ("NextEra"). NextEra is the Canadian subsidiary of NextEra Energy Resources, LLC, a sustainable energy company headquartered in Juno Beach, Florida. The applicant, East Durham Wind, Inc. (the "Applicant"), is a wholly owned subsidiary of NextEra. As such, I have personal knowledge of the matters herein disposed.
2. In accordance with the Ontario Energy Board's Letter of Direction dated July 9, 2013, I arranged to have served by registered mail by July 16, 2013 a copy of the Notice of Application and Hearing (attached hereto as **Exhibit "A"**) and a copy of the Application (attached here to as **Exhibit "B"** and together with the Notice of Application and Hearing, the "**Notice**") on each of the parties that are described in section 1 of the Letter of Direction, all as more particularly described below. The registered mail receipts for this service are attached hereto at **Exhibit "C"**.
3. With respect to sections 1(a), (b) and (d) of the Letter of Direction, I arranged for service of the Notice to the Clerks of each of the Municipality of West Grey (the "**Municipality**") and the County of Grey, as well as to Hydro One Networks Inc.
4. With respect to section 1(c) of the Letter of Direction, the road allowances that are the subject of the Application are all owned by the Municipality, which is the only directly affected landowner in this proceeding. That said, I also arranged for the Notice to be served on the landowners with properties adjacent to the affected portions of the Municipality's road allowances, as well as to the encumbrancers and encumbrancees on the relevant portions of the road allowances and adjacent properties.

5. With respect to section 1(e) of the Letter of Direction, I arranged for service of the Notice to Bell Canada, Enbridge, Union Gas, Wightman Telecom and Hydro One, which are the only owner and/or operator of rail lines, telecommunications or other utilities along or crossing the routes for the proposed distribution facilities.
6. With respect to section 1(f) of the Letter of Direction, I arranged for service of the Notice to the following Aboriginal communities that were consulted or identified by the Ontario Ministry of Environment as part of the Renewable Energy Approval application process
 - (a) Chippewas of Nawash;
 - (b) Chippewas of Saugeen;
 - (c) Metis Nation of Ontario;
 - (d) Historic Saugeen Metis;
 - (e) Six Nations of the Grand River;
 - (f) Haudenosaunee Confederacy Chiefs Council;
 - (g) Oneida Council of Chiefs; and
 - (h) Six Nations Haudenosaunee Confederacy Council.

SWORN BEFORE ME at the City of
Toronto this 17th day of July, 2013.



A Commissioner for taking Affidavits



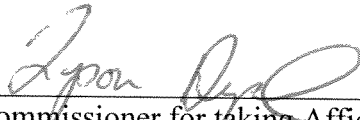
Nicole Geneau

Exhibit "A"

Notice of Application and Hearing

East Durham Wind, Inc.

This Exhibit "A" referred to in the affidavit of Nicole Geneau sworn before me this 17th day of July, 2013.



A Commissioner for taking Affidavits



EB-2013-0233

NOTICE OF APPLICATION AND HEARING

APPLICATION FOR DETERMINATION OF LOCATION OF DISTRIBUTION FACILITIES WITHIN ROAD ALLOWANCES OWNED BY THE MUNICIPALITY OF WEST GREY

The Application

East Durham Wind, Inc., ("East Durham") filed an application dated June 14, 2013 with the Board, under subsection 41(9) of the *Electricity Act*, 1998, S.O. 1998, c. 15, Schedule A, as amended (the "*Electricity Act*") for an order or orders of the Board establishing the location of East Durham's proposed distribution facilities within certain public streets, highways and right-of-ways owned by the Municipality of West Grey (the "Municipality").

East Durham is a wholly owned subsidiary of NextEra Energy Canada, ULC ("NextEra"). East Durham is the corporate entity that will own and operate the generation and distribution assets of the East Durham Wind Energy Centre, a windfarm located in the Municipality of West Grey in Grey County, Ontario.

The East Durham Wind Energy Centre is planned to include up to 16 wind turbines and generate up to 23 megawatts (MW) of electricity. The application states that this windfarm is being developed pursuant to a contract with the Ontario Power Authority under the feed-in-tariff program.

In order to convey the electricity generated from the East Durham Wind Energy Centre to the local distribution system and the IESO-controlled grid, the applicant requires the construction and operation of certain distribution facilities. Distribution facilities include: a transformer substation, approximately 28.3 km of underground 34.5 kV distribution

lines running from the wind turbines to the transformer substation, and an overhead 44 kV distribution line connecting to Hydro One Networks Inc.'s distribution system (collectively "the Distribution System").

The application states that East Durham proposes to locate a portion of its Distribution System, approximately 9.1 km within certain road allowances owned by the Municipality of West Grey.

East Durham has not been able to reach an agreement with the Municipality with respect to the location of a portion of the Distribution System within municipal right-of-ways, and has therefore requested, pursuant to section 41(9) of the *Electricity Act*, that the Board issue an order determining the location of the Distribution System within municipal road allowances.

This application is in reference to the public lands within the authority of the Municipality of West Grey only. A map of potentially affected road allowances is appended to this Notice.

The Board has assigned File No. EB-2013-0233 to this application.

Scope of this proceeding

The scope of this proceeding is strictly limited to determining the location of the Distribution System within the road allowances owned by the Municipality. The consideration of any aspect of the proposed wind generation facilities is not within the Board's jurisdiction.

The Board's power in this proceeding arises from section 41 of the *Electricity Act*. Subsections 41(1), 41(5) and 41(9) read as follows:

41. (1) A transmitter or distributor may, over, under or on any public street or highway, construct or install such structures, equipment and other facilities as it considers necessary for the purpose of its transmission or distribution system, including poles and lines.

41. (5) The exercise of powers under subsections (1), (2) and (3) does not require the consent of the owner of or any other person having an interest in the street or highway.

41. (9) The location of any structures, equipment or facilities constructed or installed under subsection (1) shall be agreed on by the transmitter or distributor and the owner of the street or highway, and in case of disagreement shall be determined by the Board.

How to See the Application

To see a copy of the application, go to the Consumer page of the Board's website and enter the case number EB-2013-0233 in the "Find an Application" box. A copy can also be seen at the Board's office and at the applicant's office at the addresses indicated below, or on the applicant's website www.nexteraenergycanada.ca.

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.

How to Participate

Comment

If you wish to give your opinion on the proceeding to the Board Members hearing the application, you are invited to send a written letter of comment to the Board no later than 30 days after the publication or service date of this notice. A complete copy of your letter of comment, including your name, contact information, and the content of the letter, will be provided to the applicant and the Hearing Panel.

Observe

If you do not wish to actively participate in the proceeding but you do wish to receive documents issued by the Board, you may request observer status. Your written request must be received by the Board no later than 10 days from the publication or service date of this notice.

Personal Information in Letters of Comment and Observer Requests

All letters of comment or letters requesting observer status will be placed on the public record, which means that the letters can be seen at the Board's offices and will be available on the Board's website. Before placing the letters on the public record, the Board will remove any personal (i.e. not business) contact information from the letters (i.e. the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the letter will become part of the

public record. Please address your letter to the Board Secretary at the address below, and reference file number EB-2013-0233 at the top of your letter.

Intervene

If you wish to actively participate in the proceeding (e.g., submit questions, file argument), you may request intervenor status from the Board no later than 10 days after the publication or service date of this notice. Instructions for requesting intervenor status are available on the Board's website at www.ontarioenergyboard.ca/participate. Everything an intervenor files with the Board, including the intervenor's name and contact information, will be placed on the public record, which can be seen at the Board's offices and will be available on the Board's website.

If you do not have internet access, please call 1-877-632-2727 to receive information about this proceeding and how to participate.

How to Contact Us

In responding to this notice, please reference Board file number EB-2013-0233 in the subject line of your e-mail or at the top of your letter. It is also important that you provide your name, postal address and telephone number and, if available, an e-mail address and fax number. 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.

IMPORTANT

IF YOU DO NOT PARTICIPATE IN THE HEARING BY FILING WRITTEN SUBMISSIONS IN ACCORDANCE WITH THIS NOTICE, THE BOARD MAY PROCEED WITHOUT YOUR PARTICIPATION AND YOU WILL NOT BE ENTITLED TO FURTHER NOTICE IN THIS PROCEEDING.

ADDRESSES

The Board

P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Attention: Board Secretary
E-mail:
boardsec@ontarioenergyboard.ca
E-filings:
www.pes.ontarioenergyboard.ca/eservice
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

The Applicant

Ms. Nicole Geneau
East Durham Wind Inc.
390 Bay Street, Suite 1720
Toronto ON M5H 2Y2

Tel: 647-789-5650
Fax: 416-364-2533
Email: Nicole.geneau@nee.com

Applicant's Counsel

Mr. Tyson Dyck
Torys LLP
Suite 3000
79 Wellington St. W.
Box 270, TD Centre
Toronto ON M5K 1N2

Tel: 416-865-8136
Fax: 416-865-7380
Email: tdyck@torys.com

DATED at Toronto, July 9, 2013

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

MAP OF PROPOSED DISTRIBUTION FACILITIES IN THE MUNICIPALITY OF WEST GREY

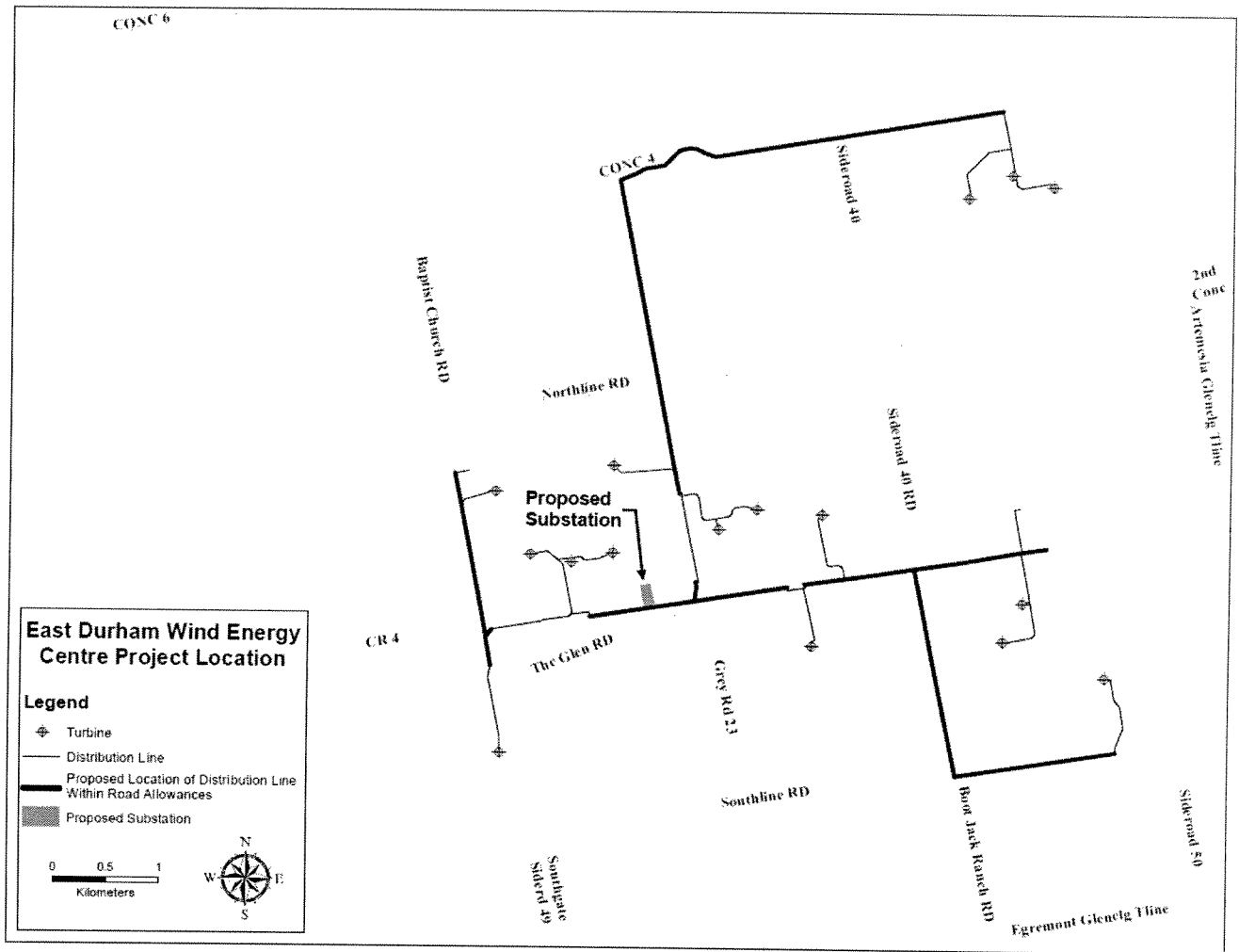
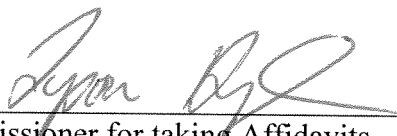


Exhibit "B"

Application

East Durham Wind, Inc.

This Exhibit "A" referred to in the affidavit of Nicole Geneau sworn before me this 17th day of July, 2013.



A Commissioner for taking Affidavits

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Sched. B);

AND IN THE MATTER OF an application by East Durham Wind, Inc. for an Order or Orders pursuant to Section 41(9) of the *Electricity Act, 1998* (as amended) establishing the location of the applicant's distribution facilities within certain road allowances owned by the Municipality of West Grey, all as set out in this application.

APPLICATION

1. East Durham Wind, Inc. ("**East Durham**" or the "**Applicant**") is a corporation, headquartered in Toronto, that was formed pursuant to the laws of the Province of New Brunswick, and is a wholly owned subsidiary of NextEra Energy Canada, ULC ("**NextEra**"). East Durham is the entity that is developing and that will own and operate the generation and distribution assets associated with the East Durham Wind Energy Centre (the "**Project**") in the Municipality of West Grey (the "**Municipality**") in Grey County, Ontario.
2. The Applicant hereby applies to the Ontario Energy Board (the "**Board**") pursuant to Section 41(9) of the *Electricity Act, 1998*, as amended (the "**Electricity Act**") for an order or orders establishing the location of the Applicant's distribution facilities within the public streets, highways and rights-of-way more particularly described in Exhibit B, Tab 6, Schedule 1, Appendix A owned by the Municipality (collectively, the "**Road Allowances**"), all as set out in Exhibit B, Tab 6, Schedule 1 (Proposed Location of Distribution System Within Road Allowances).
3. The Project is expected to be approved for up to 16 wind turbines, 14 of which will be built (with 2 approved turbines available as alternates) (collectively, the "**Generation**

Facilities”). The Generation Facilities will have a total nameplate capacity of up to 23 MW. To convey the electricity generated by the Generation Facilities to the local distribution system, which is in turn connected to the IESO-controlled grid, the Applicant plans to own and operate certain distribution facilities. These facilities will include approximately 28.3 km of 34.5 kV distribution lines located on private property and municipal and county right-of-ways, which will convey electricity from each of the wind turbines to a transformer substation, from which an overhead 44 kV line will convey the electricity to Hydro One Networks Inc.’s distribution system (collectively, the **“Distribution System”**).

4. As the owner and operator of the Distribution System, East Durham is a “distributor” within the meaning of the Electricity Act and the Board’s Decision and Order in EB-2010-0253. As a distributor, East Durham has chosen to locate a portion of its Distribution System (approximately 9.1 km) within the Road Allowances owned by the Municipality pursuant to the statutory right of distributors under subsections 41(1) and 41(5) of the Electricity Act. These subsections, among other things, give distributors the right to construct and install structures, equipment and other distribution facilities over, under or on any public street or highway without the consent of the owner of or any other person having an interest in such public street or highway.
5. In accordance with subsection 41(9) of the Electricity Act, East Durham, as the distributor, and the Municipality, as the owner of the Road Allowances, are required only to agree on the exact location of the Distribution System within the Road Allowances, which location shall be determined by the Board in the event of a disagreement.
6. Notwithstanding its statutory rights, East Durham has sought, as is commonplace in Ontario, to negotiate an agreement with the Municipality with respect to the location, construction, operation and maintenance of the Distribution System within the Road Allowances (the **“Proposed Agreement”**).

7. However, the Municipality has not responded constructively in respect of the Proposed Agreement. Rather, the Municipality has effectively refused to engage East Durham in discussions on where in the Road Allowances the Distribution System will be located, despite East Durham's good faith efforts to initiate those discussions. Instead, the Municipality has stated that it will only engage in these discussions if East Durham agrees to certain other demands. As a result, the parties have been unable to reach an agreement regarding the location of the Distribution System within the Road Allowances.
8. Because East Durham and the Municipality cannot reach an agreement with respect to the location of the Distribution System within the Road Allowances, the Applicant requests that the Board issue an order or orders, pursuant to section 41(9) of the Electricity Act, establishing the location of the Distribution System within the Road Allowances, all as set out in Exhibit B, Tab 6, Schedule 1.
9. East Durham requests that the Board expedite its hearing of this application in accordance with sections 2.01 and 7.01 of the Board's *Rules of Practice and Procedure* because the only person directly affected by this application is the Municipality as the sole owner of the Road Allowances.
10. East Durham also requests that the Board, in hearing this application, be guided by its mandate, under section 1(1)(5) of the *Ontario Energy Board Act, 1998*, 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".
11. The Applicant requests that copies of all documents filed with or issued by the Board in connection with this Application be served on the Applicant and the Applicant's counsel as follows:

(a) The Applicant:

East Durham Wind, Inc.
390 Bay Street, Suite 1720
Toronto, ON M5H 2Y2

Attention: Ms. Nicole Geneau
Tel: 647-789-5650
Fax: 416-364-2533
Email: nicole.geneau@nee.com

(b) The Applicant's Counsel:

Torys LLP
Suite 3000
79 Wellington St. W.
Box 270, TD Centre
Toronto, ON M5K 1N2

Attention: Mr. Tyson Dyck
Tel: 416-865-8136
Fax: 416-865-7380
Email: tdyck@torys.com

12. Additional written evidence, as required, may be filed in support of this Application and may be amended from time to time prior to the Board's final decision.

13. The Applicant requests that the Board proceed by way of written hearing, pursuant to Section 34.01 of the Board's *Rules of Practice and Procedure*.

Dated at Toronto, Ontario, this 14th day of June, 2013.

EAST DURHAM WIND, INC.

By its counsel

Torys LLP

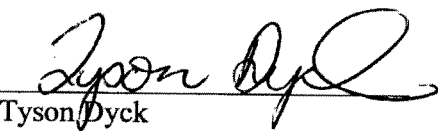
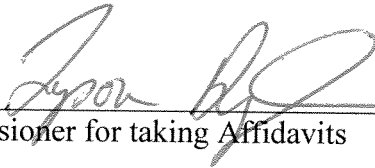

Tyson Dyck

Exhibit "C"

Registered Mail and Courier Receipts

East Durham Wind, Inc.

This Exhibit "A" referred to in the affidavit of Nicole Geneau sworn before me this 17th day of July, 2013.



A Commissioner for taking Affidavits