

November 8, 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;
Residents Group Cost Claim;
Board File Number: EB-2012-0458**

We are writing on behalf of K2 Wind Ontario Limited Partnership ("**K2 Wind**") to provide our response to the cost claim ("**Claim**") of the Residents Group in respect of its participation in the above-noted Ontario Energy Board ("**Board**") proceeding.

The Claim comprises legal/consultants fees of \$3,767.50 and case management fees of \$6,409.00, plus disbursements and taxes, for a total of \$11,190.76. K2 Wind does not object to the Residents Group's claim for legal fees. K2 Wind has the following submissions on Residents Group's claim for case management fees.

The Residents Group's claim of case management fees is in respect of services provided by Ms. Frayne who was responsible for the conduct of the Residents Group's intervention. The amount of fees claimed – \$6,409 – is the product of the number of hours recorded by Ms. Frayne and an hourly rate of \$170. This rate is the Board-approved rate that may be charged by a "consultant" who provides case management services as opposed to expert evidence advice, as stipulated in the Cost Award Tariff ("**Tariff**") attached as Appendix "A" to the Board's March 19, 2012 Practice Direction on Cost Awards ("**Practice Direction**").

K2 Wind is of the view that if the Board decides that Ms. Frayne should be compensated for her services, it should not be at the consultant rate of \$170/hour. The Practice Direction defines "consultants" as "experts in aspects of business or science such as finance, economics, accounting, engineering or the natural sciences..." Ms. Frayne does not qualify as a consultant under this definition, and, accordingly, does not qualify for the consultant's rate of \$170/hour. Rather, Ms. Frayne is a member of the intervenor Residents Group and assumed case management duties on behalf of the other members of the group.

In K2 Wind's view, if the Board decides that Ms. Frayne's efforts should be compensated in some fashion, it has two options. The first option is to compensate Ms. Frayne in accordance with the Tariff rate of \$100/hour for paralegals. The Board could choose to do this on the basis of Ms. Frayne's letter of October 25, 2013 that accompanied the Claim, to the effect that she has a "legal secretary/law clerk" background. The Board could decide that the services provided by Ms. Frayne are those "normally or traditionally performed by legal counsel, thereby reducing the counsel's time spend on client affairs," as per s. 6.06 of the Practice Direction. If the Board chooses this option and if it accepts Ms. Frayne's hours of service (37.7) as reasonable, then the case management fee portion of the Claim would be reduced from \$6,409 to \$3,770.

Alternatively, the Board could decide to award an honorarium in accordance with section 3.08 of the Practice Direction in order to recognize Ms. Frayne's efforts in preparing and presenting the Residents Group's case. K2 Wind is of the view that this option is the most appropriate way in which to recognize Ms. Frayne's contribution to the responsible and efficient participation of the Residents Group in this proceeding. K2 Wind suggests that an honorarium in the amount of \$3,000 would be appropriate in the circumstances.

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