

December 5, 2013

RESS, EMAIL & COURIER

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

Re: Jericho Wind, Inc. - Application for Leave to Construct Transmission Facilities (EB-2013-0361) - Applicant Response to Intervention Requests

We are counsel to Jericho Wind, Inc. (the “Jericho”), applicant in the above-referenced proceeding. The following are Jericho’s responses to correspondence filed on December 2, 2013 by Muriel Allingham, Robert Lewis and Marcelle Brooks.

1. Background

On November 21, 2013 Jericho filed a letter in response to various matters raised in intervenor requests and letters of comment filed as of November 18, 2013. On November 25, 2013 the Board issued Procedural Order No. 1, which extended the date for submitting requests for intervenor status to December 2, 2013 and required Muriel Allingham and Robert Lewis (on behalf of the “Lewis Group”) to file additional information to enable the Board to determine whether to grant them intervenor status. The additional information was filed by Ms. Allingham and the Lewis Group on December 2, 2013 and one new request for intervenor status was filed by Marcelle Brooks (on behalf of the “Brooks Group”) on the same date.

In addition to filing the additional information, Ms. Allingham and the Lewis Group have requested a further extension to the period for interventions. This request was echoed in a separate letter of comment from Ms. Brooks. Moreover, Ms. Allingham and Ms. Brooks have requested that the Board require further publication and notice on account of Jericho having filed minor amendments to its pre-filed evidence on November 29, 2013.

2. Additional Information to Support Intervenor Status Requests

In Procedural Order No. 1, the Board reiterated the scope of its jurisdiction in this proceeding and ordered Ms. Allingham and the Lewis Group to file further information to enable the Board to determine whether to grant them intervenor status. In particular, the Board required these parties to describe how their interests in the proceeding relate to (1) price, (2) reliability, (3) quality of electricity service, and (4) Ontario Government policy, each as they relate specifically

to the proposed transmission facilities. The Board noted that in order to be granted intervenor status, parties must demonstrate that their interests are relevant to the issues that are to be considered in this proceeding.

(a) **Muriel Allingham**

Ms. Allingham's letter fails to demonstrate that her interests in the proceeding relate to any of the four areas identified by the Board. Rather, her concerns are primarily in relation to alleged health and safety impacts arising from stray voltage and electromagnetic fields, the intermittent nature of wind generation and the quality of consultation with the community. This proceeding is not the appropriate forum to address these concerns as they relate to matters that are not within the scope of the Board's jurisdiction on a leave to construct application. Rather, matters relating to electrical safety are within the jurisdiction of the Electrical Safety Authority and matters relating to consultations, health and environmental impacts are considered through the Renewable Energy Approval process.

With respect to Ms. Allingham's concerns about stray voltage, at p. 5 of the Board's June 14, 2013 Decision on Motions and Procedural Order No. 5 in EB-2012-0458 the Board explains that issues relating to health effects from potential stray voltage are not within the Board's jurisdiction, but that approval of a leave to construct application is normally conditional on approval of relevant regulatory requirements. Similarly, at p. 3 of its September 26, 2013 Decision and Order in EB-2013-0053, the Board explains that environmental impacts and the general health risks relating to electromagnetic fields are outside the Board's jurisdiction.

With respect to Ms. Allingham's concerns with the intermittent nature of wind generation, at p. 6 of its October 8, 2013 Decision and Order in EB-2012-0458, the Board explained as follows:

. . . the Board's assessment of the impact on reliability and quality of electricity service in an application under section 92 is conducted in relation to the project that is the subject of the application. Accordingly, the Residents Group's argument that wind generation in general causes reliability and quality problems for consumers in Ontario is a general issue that is not the subject of the Board's consideration in this proceeding.

With respect to Ms. Allingham's concerns with the quality of consultations, at p. 3 of its March 19, 2013 Decision and Procedural Order No. 4 in EB-2012-0365, the Board indicated that the adequacy of public consultation is largely an issue for the Renewable Energy Approval process.

Ms. Allingham's concerns do not relate to the price of electricity transmission, the reliability of electricity transmission service, the quality of electricity transmission service, or the policies of the Ontario Government with respect to the promotion of the use of renewable energy sources. As such, the Applicant suggests that it may be more appropriate for the Board to consider Ms. Allingham's correspondence filed to date as letters of comment and to grant observer status to enable her to receive documents during the course of the proceeding.

(b) **Lewis Group**

The Lewis Group's letter also fails to demonstrate that its interests in the proceeding relate to the four areas identified by the Board. The Lewis Group raises no concerns relating to reliability or quality of electricity service. Its submissions relating to government policy are ambiguous

and not relevant to the Board's mandate under section 96(2) of the OEB Act. Although the Lewis Group does raise concerns relating to prices, their concerns are directed at electricity commodity prices rather than transmission rates and are therefore not within the scope of the Board's jurisdiction. In its October 8, 2013 Decision and Order in EB-2012-0458, the Board explained as follows:

Subsection 96(2) provides that the Board's consideration of price in an application under section 92 is a consideration of any impact on price caused by the project that is the subject of the application, i.e. in this proceeding the connection of the K2 Wind Generation Facility, via the Transmission Facilities, to the provincial transmission system. Accordingly, the price impact of wind generation generally, as referred to in the Residents Group arguments, is not the subject of the Board's consideration in this proceeding.

The Lewis Group also raises concerns about electromagnetic fields and stray voltage, but as described above these are outside the scope of the Board's jurisdiction. Finally, the Lewis Group notes that it has a concern with the agreements/leases offered to landowners. While the forms of agreement offered or to be offered to landowners is an area within the scope of the Board's jurisdiction, the description of the group's concerns with the agreements is ambiguous and unconvincing. Moreover, none of the members of the Lewis Group are directly affected landowners with whom the Applicant has or requires an agreement for the acquisition of land rights to support the proposed transmission facilities.

In summary, the Lewis Group's concerns do not relate to the price of electricity transmission, the reliability of electricity transmission service, the quality of electricity transmission service, or the policies of the Ontario Government with respect to the promotion of the use of renewable energy sources. As such, the Applicant suggests that it may be more appropriate for the Board to consider the Lewis Group's correspondence filed to date as letters of comment and to grant observer status to enable the group to receive documents during the course of the proceeding.

3. New Request for Intervenor Status

As a result of the two-week extension to the period for intervention requests, as granted by the Board in Procedural Order No. 1, one additional request for intervenor status was filed with the Board. The request is from a group of ten individuals from five different properties (the "Brooks Group"). The concerns of the Brooks Group are described as relating to the impacts of lighting, sound, lightning strikes, stray voltage and electromagnetic fields emanating from the proposed Jericho Collection Substation and the proposed transmission line, particularly in the vicinity of the Bornish Customer Switching Station where the proposed transmission line terminates.

As described above, stray voltage and electromagnetic fields are not matters that are within the Board's jurisdiction in a leave to construct proceeding. Moreover, concerns regarding impacts of lighting and sound are environmental matters that are also beyond the scope of the Board's jurisdiction. Protection from the potential impacts of lightning strikes is a matter of electrical safety, which is regulated by the Electrical Safety Authority. We further note that the Bornish Customer Switching Station, the Bornish Collection Substation and the transmission line that will connect the Bornish Customer Switching Station to the Parkhill Customer Transformer Station, all of which are referenced in the letter from the Brooks Group, are outside the scope of the present application. The Board has already granted leave to construct those facilities to the proponents thereof in EB-2013-0040.

The only subject matter identified by the Brooks Group that is within the Board's jurisdiction is the reference to the group having questions regarding the various lease agreements with landowners. However, as none of the members of the Brooks Group are directly affected landowners with whom the Applicant has or requires an agreement for the acquisition of land rights to support the proposed transmission facilities, this should not provide a sufficient basis to support the granting of intervenor status. As such, the Applicant suggests that it may be more appropriate for the Board to consider the Brooks Group's correspondence filed to date as letters of comment and to grant observer status to enable the group to receive documents during the course of the proceeding.

4. Requests for Further Notice and Extension of Intervention Period

In their letters, Ms. Allingham, the Lewis Group and Ms. Brooks reference the filing by Jericho on November 29, 2013 of minor amendments to its pre-filed evidence and argue that the Board should require notice of these amendments be given through publication in local newspapers, direct notices delivered to landowners directly affected by the changes and that a further two week extension be granted for intervention requests and to allow parties sufficient time to review and study the amendments. In the Applicant's view, for the following reasons, these requests are unreasonable and should not be granted.

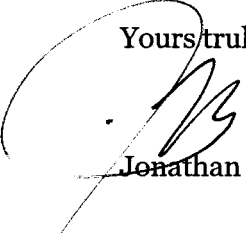
First, the amendments filed by Jericho are not material and the proposed route has not changed. Although Ms. Allingham argues that the amendments will impact all residents on the proposed transmission route and Ms. Brooks suggests that the changes affect over 90% of the proposed transmission line, these statements are grossly inaccurate. In fact, the amendments only affect 7 of the 118 poles along the proposed transmission line. Of these 7 affected poles, one was eliminated entirely, four were shifted by 6 meters or less (while remaining either on the ROW or on a private property for which an agreement is in place with the affected landowner), and the remaining two poles shifted by 22 and 30 meters off of the ROW and onto adjacent private properties for which agreements with the affected landowners were already in place. Only one new landowner is affected by the changes and an overhang easement agreement is in place with that landowner. These changes were made as a result of consultations with Lambton County and landowners, and will minimize the impact of the project on the County's ROW. The other aspects of the amendments include a correction to a map of existing utilities and updating the record to reflect that a road use agreement has been reached with Middlesex County.

Second, it is not necessary for substantive concerns relating to the amendments to be filed as part of an intervention request or in advance of the deadline for intervention requests. A two-week extension to allow these parties to study the amendments is therefore not necessary or appropriate as part of the Board's hearing process.

Third, the Board has already granted a two-week extension to the intervention request period. As a result of this extension, only one additional intervention request was filed with the Board and it was from a person, Ms. Brooks, that had already been aware of the proceeding and that had already filed a letter of comment prior to the initial deadline of November 18, 2013. It is unreasonable to suggest that the minor amendments filed by Jericho will attract additional intervention requests from persons that were not interested in participating in the proceeding on the basis of the pre-filed evidence as initially filed.

For the foregoing reasons, the Board should not grant the requests to further extend the intervention request period and the Board should not impose requirements for publication or notice of the minor amendments to the Applicant's pre-filed evidence.

Yours truly,



Jonathan Myers

Enclosure

cc: Mr. R. Groffman, Jericho Wind
Mr. C. Keizer, Torgs LLP