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BY EMAIL & RESS

December 23, 2013

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

Dear Ms. Walli:

Re: wpd White Pines Wind Incorporated
Application for Leave to Construct Transmission Facilities
EB-2013-0339

We are the solicitors for wpd White Pines Wind Incorporated ("**wpd**") with respect to the above-noted application. On behalf of wpd, we write to reiterate our preference for a written hearing and to outline our concerns with respect to the various requests to participate in this proceeding.

1. Concerns with Intervenor Requests

wpd has been notified of requests to intervene from Victoria Rose, the County of Prince Edward (the "**County**"), Al S. Warunski, the Alliance to Protect Prince Edward County ("**APPEC**"), and Gordon Gibbins.

As the Board has stated in prior proceedings, the scope of this application is defined by subsection 96(2) of the *Ontario Energy Board Act, 1998* which provides the only two criteria that the Board can consider in determining whether the proposed Transmission Facilities are in the public interest, namely:

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.

The intervention requests are all premised upon numerous issues that do not fall within the ambit of the two criteria enumerated in subsection 96(2), such as

concerns about the transmission line's potential impact on human health, the environment, potential heritage properties, and property value. These issues are properly considered as part of the Renewable Energy Approval process administrated by the Ministry of the Environment and should play no role in an application under section 92. Accordingly, the Board should deny the requests for intervention, or alternatively, explicitly limit the participation of the intervenors to issues that fall within the Board's jurisdiction as it has done in past proceedings under section 92.

wpd has additional concerns with the proposed participation of APPEC. APPEC has not complied with Rule 23.03 of the Board's *Rules of Practice and Procedure*, which requires every letter of intervention to contain a description of the intervenor and its membership. APPEC's letter does not identify the number or geographic location of its members, nor does it identify its members' interest in the proceeding beyond a bald assertion that many will be directly impacted. The letter articulates no interests that fall within the scope of subsection 96(2). Given the deficiency of APPEC's request, the Board should deny its request for intervenor status, or alternatively require the provision of further information to satisfy the requirements of Rule 23.03.

Further, wpd is concerned there may be a duplication of interests as it is unclear if any of the individuals seeking intervenor status are also members of APPEC (notably, Mr. Warunkiwi and Mr. Gibbins are represented by the same counsel as APPEC and used near-identical request letters). The Board may wish to consider imposing conditions, pursuant to Rule 23.09 of the *Rules of Practice and Procedure*, requiring the intervenors to coordinate their participation and to file interrogatories, submissions and any other materials on a joint basis.

2. Eligibility for Costs

wpd opposes APPEC's request for a costs award. For the reasons described above, the information contained in APPEC's request is insufficient to determine if it is eligible for costs under section 3.03 of the Board's *Practice Direction on Cost Awards*.

Should the Board determine that any intervenors are eligible for a cost award, it should explicitly remind the parties that costs incurred pursuing issues outside of the scope of subsection 96(2) are not recoverable.

3. Requests for an Oral Hearing

wpd reiterates its preference for a written hearing, consistent with the Board's standard practice for electricity facility applications. None of the intervention requests have provided a satisfactory reason for the Board not to proceed by way of a written hearing. The requests of APPEC, Mr. Warunkiwi and Mr. Gibbins baldly assert that the proceeding will raise issues of credibility, but provide no support for that claim beyond pure speculation about incomplete and/or inaccurate documentation. The Board has a robust and well-developed interrogatory process that intervenors can utilize to obtain further information about the proposed

transmission line that is within the scope of subsection 96(2). An oral hearing is not needed for this purpose.

Therefore, the Board should determine that an oral hearing is unwarranted in this case; alternatively, the Board's determination on whether to hold a written or oral hearing should be made after the interrogatory process has been completed.

Yours truly,

A handwritten signature in black ink, appearing to read "PDuffy".

Patrick G. Duffy

/il

c.c.: Ingrid Minott
Jesse Long