

**Ontario Energy
Board**

P.O. Box 2319
27th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

**Commission de l'énergie
de l'Ontario**

C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL

December 23, 2013

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

Dear Ms. Walli:

**Re: Dufferin Wind Power Inc. ("DWPI")
Application to Expropriate Certain Interests in Lands for the Purpose of
Constructing a New Transmission Line and Associated Facilities
Board File No. EB-2013-0268**

Pursuant to Procedural Order No. 2 issued on December 16, 2013, attached please find Board staff interrogatories to DWPI in the subject proceeding.

Yours truly,

Original Signed By

Leila Azaiez
Advisor, Electricity Facilities and Infrastructure



Board Staff Interrogatories

Dufferin Wind Power Inc.

**Application to Expropriate Certain Interests in Lands
for the Purpose of Constructing a New Transmission Line
and Associated Facilities**

EB-2013-0268

December 23, 2013

Note 1:

Dufferin Wind Power Inc. is referred to as “DWPI” or the “applicant” in this document.

Note 2:

The “Project” in this document designates the approximately 47 km of single circuit 230 kilovolt (“kV”) electricity transmission line and associated facilities as approved by the Board in EB-2012-0365.

Note 3:

“Affected Lands” designate all lands listed in Appendix C of the pre-filed evidence.

Board Staff Interrogatory No.1: General Clarification and Update**Reference:**

- a. DWPI's Submissions dated November 15, 2013 /§ 22
- b. Exhibit B/ Tab 1/ Schedule 1/ p.9/ Crossings and Roads
- c. DWPI's Letter dated August 1, 2013 Re: Withdrawal of Application EB-2013-0102 by DWPI

Preamble:

With respect to the appeals to the Environmental Review Tribunal regarding the Ministry of the Environment's granting of a Renewable Energy Approval ("REA") to DWPI, at reference (a), the applicant indicates that a decision on the REA appeals is expected by mid-December 2013.

At reference (b) DWPI states in part that:

The Board also acknowledged that DWPI will be relying upon its statutory rights in Section 41 of the *Electricity Act* in respect of a short 110 m segment of the Transmission Line route that runs along a municipal road right-of-way in the Township of Melancthon.

Question/Request:

- i. Please update the Board on the status of REA appeals. And if applicable, please indicate whether the appeals decision has any impact on the approved Leave to Construct or the relief sought in this proceeding.
- ii. If applicable, please submit the revisions that are made to this application.
- iii. Please confirm that the 110 m segment referenced at (b) was included in the EB-2013-0102 Section 41 application, and that this matter has been settled with the Township of Melancthon. Please submit appropriate evidence of settlement to the Board.

Board Staff Interrogatory No.2: Maps and Drawings**Reference:**

- a. Appendix 'A' OEB Decision and Order – Section 92

- b. James and Marian Blacks (the “Blacks”) Submissions dated November 22, 2013/ § 9, 10, 11 & 15
- c. Appendix ‘B’ Approved Route and Location of Transmission Facility
- d. Appendix ‘C’ Lands to be Expropriated
- e. Appendix ‘D’ Draft Reference Plan of Study

Preamble:

Condition 1(f) of Conditions of Approval at Reference (a) states that:

DWPI shall advise the Board's designated representative of any proposed material change in the Project, including but not limited to material changes in the proposed route, construction techniques, construction schedule, restoration procedures, or any other material impacts of construction. The Applicant shall not make a material change without prior approval of the Board or its designated representative. In the event of an emergency the Board shall be informed immediately after the fact.

With respect to site plans, the Blacks submitted that DWPI had two materially different site plans, one referred to as the Current Site Plans and the other denoted as the Alternative Site Plans. Reference (b) states in part that:

The statement in paragraph 4 of the Applicant's submissions: “The interests in land which the Applicant seeks to expropriate from the Blacks in the Application are in respect of these same two properties.” may not to be (sic) accurate if the Applicant chooses to pursue only its Alternative Site Plans.

Question/Request:

- i. In accordance with reference (a), please confirm that there have been no material changes to the Project. If not, please update the Board on any material change.
- ii. Please confirm that the map at reference (c) is the Project's route as approved through the Renewable Energy Approval (“REA”) process.
- iii. Please confirm that the route approved through the REA process relates to all facilities, in particular distribution and transmission infrastructure that will be placed on or involves the Affected Lands.
- iv. Please confirm that all land interests sought at reference (d) correspond to accurate site plans filed in this proceeding at reference (e). Otherwise, please submit the most recent up-to date drawings available. Please also indicate whether the filed maps are final or drafts at this stage.

- v. Please clarify whether the “Current” vs. “Alternative” Site Plans have any incidence on the nature of any land taking sought in this proceeding.

Board Staff Interrogatory No.3: Need and Appropriateness of the Takings

Reference:

- a. Exhibit B/ Tab 1/ Schedule 1/ § D. Project Land Requirements
- b. Appendix ‘C’ Lands to be Expropriated
- c. Appendix ‘D’ Draft Reference Plan of Study
- d. Appendix ‘E’ Ortho-Rectified Aerial Plans

Preamble:

With respect to the size of the easements, at reference (a), DWPI states in part that:

Generally, the required widths for the interests in lands needed by the Applicant are as follows:

- Distribution easements for Distribution Facilities on privately owned lands will be 16 meters in width. This will typically include all land rights required by the Applicant for purposes of construction, maintenance and access. However, in certain locations additional lands may be necessary on a temporary basis to support construction activities.
- Transmission easements for Transmission Facilities along privately owned lands between the Project Substation and the Rail Corridor will range from 25 to 30 meters in width. This will include all land rights required by the Applicant for purposes of construction, maintenance and access, so additional access and maintenance easements will not be required.
- Transmission easements for Transmission Facilities along the Rail Corridor will be 10 meters in width, except in three particular locations where overhead to underground transition facilities will be installed. At each of these locations, the width of the transmission easements will be 11.5 meters for a length of approximately 40 meters.
- Access and maintenance easements will be required along the Rail Corridor for purposes of construction, access and maintenance of the Transmission Facilities within the Rail Corridor. The width of the lands for which access and maintenance easements will be required along the Rail

Corridor will generally be 15 meters (and 13.5 meters in width in each of the three locations where the adjacent transmission easement will be 11.5 m wide).

Question/Request:

- i. With respect to all the lands as listed at reference (b), please complete the table below. Please indicate the type of infrastructure that will be placed on parcels subject to expropriation, the location and a general sense of location, expected functionality and state whether any of the facilities that will be placed on these lands, or the access required to these lands, are non-essential in building and/or operating the Dufferin Wind Farm.

Location (PIN) and Descriptor (eg. middle, edge of property)	Infrastructure Type, Description, and Dimension (eg. Transmission/ Tower/ Base Footprint and Height)	Functionality and Degree of Necessity (essential, non-essential)	Required Interest

- ii. Please provide a rationale and any supporting documentation, including technical constraints, for the proposed location of the transmission and distribution facilities on the Affected Lands.
- iii. Please indicate what principles and /or standards DWPI is relying on to support that the proposed location of the transmission and distribution facilities on the Affected Lands is the one that minimizes, within the given technical constraints of the project, disturbance to the landowners.
- iv. Please indicate what principles and/or standards DWPI is relying on to support that the size of the takings described at reference (a) are appropriate.
- v. For questions iii. and iv., where possible please qualify the above cited principles and standards as compared to best practices prevalent in Ontario.

Board Staff Interrogatory No.4: Scope of Easements**Reference:**

- a. Exhibit B/ Tab 1/ Schedule 1/ § D. Project Land Requirements
- b. Appendix 'A' OEB Decision and Order – Section 92

Preamble:

At reference (a), DWPI states in part that:

Generally, for the construction and ongoing operation and maintenance of the Transmission Facilities and Distribution Facilities, DWPI requires transmission or distribution easements of 45 years in duration, which is consistent with the Board's finding in the LTC Decision that the 45-year term proposed by DWPI in its land agreement is appropriate. The Applicant also requires access and maintenance easements of 45 years in duration, for access, maintenance and operational purposes along certain portions of the transmission line route. In some locations, the Applicant also requires temporary easements to support distribution line construction activities.

Staff notes that there were six types of land agreements that the Board approved pursuant to section 97 in the Leave to Construct proceeding. However it is not clear that the 45-year term was sought in all of the types of land agreements.

As respects the 45-year term for the transmission line and transmission facilities, the Board made the following finding as noted at reference (b):

... the Board believes that it is reasonable for the term for a land easement agreement to match the physical life of the asset, as its future economic potential cannot be accurately forecast at this point in time. In this regard, the 45-year term proposed by DWPI in the land agreement to be submitted to the County with respect to the rail corridor lands is acceptable.

Question/Request:

- i. Please confirm that the Board's finding in the Leave to Construct decision respecting the appropriateness of a 45-year term is applicable to the different land interests that DWPI seeks in this proceeding.
- ii. Otherwise please clarify which land interests are not covered by the Board approved land agreement and term.
- iii. Please file a copy of the Board approved land agreements of interest.

- iv. What is the term that DWPI is seeking for the temporary easements that are needed to support distribution line activities?

Board Staff Interrogatory No.5: Communication and Mitigation of Impact on Landowners

Reference: N/A

Preamble: N/A

Question/Request:

- i. Will DWPI provide landowners cited in this proceeding with advance written notification of access to their respective properties for the purposes of constructing, operating and maintaining the project's transmission and distribution facilities? Please provide detail of the communications protocol.
- ii. What is DWPI's policy with respect to security? In particular:
 - On what basis will owners of land be assured that persons accessing portions of their property are in fact employees or representatives of DWPI?
 - What security measures will be implemented by DWPI to ensure that unauthorized access to the subject properties is not made during construction, operation and/or maintenance?
- iii. With respect to the maintenance of the transmission and distribution facilities that are located on the Affected Lands, what is DWPI's policy with respect to the disclosure of material used, such as herbicides/pesticides?
- iv. If standard company policies or draft of guidelines to be used in the Dufferin Wind Farm project with respect to communication, security and maintenance protocols affecting landowners are available, please submit copies to the Board.
- v. If applicable please contrast DWPI's standard policies or draft guidelines cited at (iv) in comparison with those of other comparable Ontario utilities.

Board Staff Interrogatory No.6: Easement Transfer to Hydro One**Reference:**

- a. Exhibit B/ Tab 1/ Schedule 1/ p.7-8

Preamble:

In particular, the Applicant requires two transmission easements and two access and maintenance easements for the same strip of lands across the Rail Corridor from the Switching Station to Hydro One's Orangeville TS property. It is the Applicant's intention that one of these transmission easements and one of these access and maintenance easements will be assigned to Hydro One in fulfillment of the Applicant's obligations under its Generator Connection and Cost Recovery Agreement with Hydro One. This will enable Hydro One to construct, access and maintain certain facilities that it will own and be responsible for, which are necessary to connect DWPI's facilities to Hydro One's facilities. The other transmission easement and access and maintenance agreement will be retained by DWPI to enable DWPI to construct, access and maintain certain other facilities that it will own and be responsible for, which will also be constructed across these lands to for purposes of connecting to Hydro One's system.

Question/Request:

- i. Please submit the relevant section of the Connection and Cost Recovery Agreement.
- ii. If there are notable contractual implications related to the assumption of the easements by Hydro One for landowners involved, please highlight these implications.
- iii. Please submit a copy of these 2 land agreements if materially different than copies submitted in response to Board staff interrogatory 4 (iii).

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