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January 14, 2014

**sent by email to BoardSec@oeb.gov.on.ca**  
**and by fax to 416-440-7656**

Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, Ontario M4P 1E4

**Attention: Ms. Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**RE: Board File EB-2013-0233**  
**East Durham Wind Inc. Application Pursuant to s.41(9) of the *Electricity***  
***Act, 1998***  
**Municipality of West Grey**

We are the solicitors for the Municipality of West Grey.

We received a copy of your letter dated December 23, 2013 and the Revised Decision.

The Municipality appealed the OEB's decision specifically as it related to subsection 1c) of the Order. Although the Municipality agrees that the additional wording may address the jurisdictional issue raised in the appeal by the Municipality, it is concerned about the process through which this order was revised.

In the letter accompanying the Revised Decision, you have stated that it was issued under authority of Rule 43.03 of the Board's Rules. We have reviewed the most recent version (last revised January 17, 2013 as noted on the Board's website) of the Rules. There is no Rule 43.03.

Rule 43.02 authorizes the correction of a "typographical error, error of calculation or similar error". This Rule would clearly authorize the correction to the word "meter" to "metre". Such an error can be corrected without giving advance notice to the parties. However, based on a plain reading of that rule, it does not appear to authorize a substantive change to a decision as effected by the change to Paragraph 1c).

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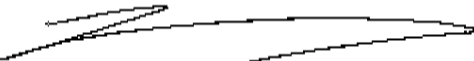
Rule 43.01 indicates that the Board may "at any time indicate its intention to review all or part of any order or decision and may confirm, vary, suspend or cancel the order or decision by serving a letter on all parties to the proceeding". Although this Rule would allow the Board to vary its decision (i.e. additional wording to make the decision more precise), that Rule implicitly provides that the Board must first determine that it will review its decision and give notice of an intention to review. Clearly any party to the proceeding can initiate a motion for review, but that did not occur. This revision appears to have been initiated internally by the Board, however, the Municipality received no notice of the Board's intention to review its decision.

Could you please advise when and why the Board determined that it would review the decision and why it issued a revised decision without advising the Municipality that it was in the process of reviewing the original decision.

Considering the language in Rule 43.02 (at any time without notice or a hearing of any kind) and the lack of such language in Rule 43.01, was a hearing of some type required once the Board determined it would review its decision?

We would appreciate your earliest response.

Yours very truly,



Edward B. Veldboom

EBV/dr

c.c. Mark Turner, Clerk, Municipality of West Grey