



**EB-2013-0361**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B;

**AND IN THE MATTER OF** an application by Jericho Wind, Inc. for an order or orders pursuant to section 92 of the *Ontario Energy Board Act, 1998* (as amended) granting leave to construct transmission facilities in the Municipality of Lambton Shores, Lambton County and the Municipality of North Middlesex, Middlesex County, Ontario .

## **PROCEDURAL ORDER NO. 2**

**January 27, 2014**

Jericho Wind, Inc. (the "Applicant") filed an application on October 11, 2013 with the Ontario Energy Board (the "Board") under section 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the "Act"). The Applicant has applied for an order of the Board granting leave to construct a collection substation and an approximately 15.7 kilometer 115 kV transmission line (the "Transmission Facilities"). The Transmission Facilities will be used to transmit power generated by the Jericho Wind Energy Centre to the Bornish Customer Switching station, for delivery to the Independent Electricity System Operator-controlled grid. The Board has assigned file number EB-2013-0361 to this application.

The Board issued a Notice of Application and Hearing ("Notice") on October 25, 2013. The Notice was published and served in accordance with the Board's letter of direction.

The Board received requests for intervenor status from Hydro One Networks Inc. ("Hydro One"), the Independent Electricity System Operator ("IESO"), Middlesex County, Lambton County, Muriel Allingham and Robert Lewis, on behalf of a group of landowners (the "Lewis Group").

On November 25, 2013 the Board issued Procedural Order No. 1 in which the Board granted intervenor status to Hydro One, IESO, Middlesex County and Lambton County, and extended the deadline for requesting intervenor status. With respect to the intervention requests of Muriel Allingham and the Lewis Group, the Board noted that it required further information from these parties describing how their interests relate to price, reliability and quality of electricity service and Ontario Government policy as they relate specifically to the Transmission Facilities.

Pursuant to Procedural Order No. 1, the Board received the requested information from Muriel Allingham and others ("Allingham Group") and the Lewis Group. The Board also received a new request for group-intervenor status filed by Marcelle Brooks (the "Brooks Group"). The Board received the Applicant's objection on Dec 5, 2013.

The Board has reviewed the submissions of the Allingham Group, the Lewis Group and the Brooks Group and has decided that it will not grant these parties intervenor status on the grounds that their issues do not fall within the scope of the Board's jurisdiction as set out in section 96(2) of the *Act*.

In the Board's view the issues raised by each of these parties, relating to matters such as, health, aesthetics, safety impacts such as those arising from electromagnetic fields, intermittent nature of wind generation, quality of consultations under the Renewable Energy Approval process, and impacts on electricity prices in general, are outside the scope of the Board's jurisdiction as set out in section 96(2).

These parties have also stated that they have concerns with the land use agreements that are being offered by the Applicant. The Applicant submitted that these concerns were unfounded and confirmed that none of the members in these three groups are directly affected landowners and that the Applicant is not seeking to enter into an agreement with any one of them. Accordingly, the Board has determined that the Allingham Group, the Lewis Group and the Brooks Group do not qualify as intervenors. If however any of the members of any of these three groups is required to enter into a land use agreement with the Applicant and they still wish to intervene when that becomes known, they should notify the Board and the Board will reconsider their participation.

**Update to Application**

On November 29, 2013 the Applicant filed an update to its application. The reasons provided for the update were the following:

- a. to correct certain minor inaccuracies that were identified in the course of preparing to serve the Notice of Application,
- b. to reflect minor changes that have been made to the proposed locations for certain components of the proposed transmission facilities, and
- c. to reflect the Applicant's progress in negotiating road use agreements with municipal authorities.

The Allingham Group, the Lewis Group and the Brooks Group submitted that in light of the update, the Applicant should be required to re-publish the Board's Notice and that the intervention period be extended by an additional two weeks. The Applicant submitted that the updates are minor and that the proposed route is unaffected by the updates and therefore it is not necessary to require re-publication of Notice. Specifically, the Applicant stated:

"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".

The Board agrees that the updates are minor and therefore the request to re-publish the Board's Notice is denied as is the request for extension.

**Form of Hearing**

In its Notice the Board indicated its intention to proceed with a written hearing unless parties satisfy the Board that there is a good reason why an oral hearing is necessary. The Brooks Group, Allingham Group and the Lewis Group requested an oral hearing.

The Board also received requests for an oral hearing as part of some of the letters of comment. The Applicant objected to these requests on the grounds that none of these requests raise compelling reasons for proceeding by way of an oral hearing. The Board is not convinced that an oral hearing is necessary, noting that it has now denied the requests of the Brooks Group, the Allingham Group and the Lewis Group to be intervenors and will therefore proceed with a written hearing in this matter.

### THE BOARD ORDERS THAT:

1. Board staff and intervenors who wish information and material from the Applicant that is in addition to the pre-filed evidence filed with the Board, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to the Applicant on or before **February 4, 2014**. Where possible, the questions should specifically reference the pre-filed evidence.
2. The Applicant shall file with the Board and deliver to all intervenors a complete response to each of the interrogatories by **February 18, 2014**.
3. Board staff and intervenors shall, on or before **February 21, 2014**, indicate if it is their intention to file evidence. If any party indicates an intention to file evidence, the Board will issue further procedural orders revising the schedule that is set out below.
4. The Applicant shall file argument-in-chief, if any, with the Board and deliver it to all intervenors by **February 27, 2014**.
5. Board staff and intervenors shall file their submissions, if any, with the Board, and deliver it to the Applicant and all intervenors by **March 6, 2014**.
6. If the Applicant wishes to respond to any of the submissions, the response must be filed with the Board and delivered to all intervenors by **March 14, 2014**.

All filings to the Board must quote the file number, EB-2013-0361, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax

number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available you may email your document to the address below.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

**ADDRESS**

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

E-mail: [Boardsec@ontarioenergyboard.ca](mailto:Boardsec@ontarioenergyboard.ca)  
Tel: 1-888-632-6273 (toll free)  
Fax: 416-440-7656

**DATED at Toronto, January 27, 2014**

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX “A”**

**JERICO WIND, INC.**

**Leave to Construct Application**

**Board File No. EB-2013-0361**

**APPLICANT & LIST OF INTERVENORS**

**Dated: January 27, 2014**

**Jericho Wind, Inc.**

**EB-2013-0361**

**APPLICANT & LIST OF INTERVENORS**

**January 27, 2014**

**APPLICANT**

**Rep. and Address for Service**

**Jericho Wind, Inc.**

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**INTERVENORS**

**Rep. and Address for Service**

**Jericho Wind, Inc.**

**EB-2013-0361**

**APPLICANT & LIST OF INTERVENORS**

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**January 27, 2014**

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**Jericho Wind, Inc.**

**EB-2013-0361**

**APPLICANT & LIST OF INTERVENORS**

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**January 27, 2014**

**The Corporation of the  
County of Lambton**

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