**From:** Wayne Fairbrother [mailto:wfairbrother@tmlegal.ca]
**Sent:** January-25-14 3:47 PM
**To:** BoardSec; Duffy, Patrick
**Cc:** McAuley, Rob; Orsborne, Pam
**Subject:** Re: EB-2013-0339

Dear Ms. Walli

We acknowledge receipt of Mr. Duffy’s letter dated January 17, 2014 addressed to the Board.

In Mr. Duffy’s letter he states that “wpd has met with County to discuss the transmission and intends to continue discussions while this application [sic] before the Board.”

In the wpd Application filed with the Board and dated September 18, 2013 it is stated at Page 2 of Exhibit F [lines 17-21] that “the Applicant is **currently** negotiating with the Municipality for a lease or license agreement charting the terms under which the Municipality will permit the construction and operation of the portions of the transmission line that will be located within the municipal road allowance. The discussions with the Municipality **have been ongoing** since April 2012 but to date no agreement has been reached.” [Emphasis added]

We wish to inform of the Board and stress in the strongest possible terms that the Applicant met **once** many months ago with the County and provided only very generalized sketches. The County identified its concerns but there has been no response from the Applicant. The County summarized its concerns in a letter dated November 21, 2013 addressed to the Board with a copy to the applicant.

We respectfully but strongly state that it is very misleading to suggest that “the Applicant is **currently negotiating** with the Municipality” or that there have been “**ongoing**” discussions since April 2012, when clearly this is not correct.

Section 97 of the Act provides that the Board shall only grant an application under Section 92 if the applicant satisfies the Board that it has offered or will offer to each landowner affected by the approved route an agreement in a form approved by the Board.

No agreement has been presented by the Applicant to the County. The Applicant has not engaged in any meaningful discussions with the County to address its concerns or the terms of an agreement. It is regretful that the wpd has chosen to proceed with its Application in this clearly premature matter.

We respectfully submit that, in accordance with the requirements of Section 97 of the Act, the Board must not grant the application under Section 92 by reason of the fact that there is, at present, no basis on which the Board could be satisfied that the applicant has offered or will offer to the County an agreement.

**PS Please note that I will be out of the country and likely unable to access my emails or correspondence until February 21, 2014. I respectfully request that no action be taken during my absence.**

**Thank you**

Wayne Fairbrother

Templeman Menninga LLP

