



EB-2013-0268

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

AND IN THE MATTER OF section 99 of the Act;

AND IN THE MATTER OF an application by Dufferin
Wind Power Inc. for authority to expropriate interests
in certain lands for the purpose of constructing a new
transmission line and associated facilities.

PROCEDURAL ORDER NO. 4
February 13, 2014

The Application

Dufferin Wind Power Inc. has applied to the Ontario Energy Board under section 99 of the *Ontario Energy Board Act* (the "Act") for authority to expropriate interests in certain lands. The purpose of the expropriation is to allow the Applicant to implement an authorization from the Board granting it leave to construct an electrical transmission line, and associated facilities, to connect its planned Dufferin Wind Farm to the provincial power grid. Dufferin Wind Power Inc. has negotiated easement agreements with many, but not all, of the landowners along the proposed route of its transmission line. In those instances where a negotiated agreement has been impossible to obtain Dufferin Wind Power Inc. has decided to seek authority from this Board to expropriate the interests in the affected lands that it requires to construct its transmission line. Dufferin Wind Power Inc. will be referred to by name, or as the Applicant, or DWPI.

Procedural Matters

Procedural Order No.3 and Decision on Issues issued on February 7, 2014 finalized the list of issues to be addressed in this proceeding and set dates for an oral hearing.

On February 11, 2014, the Board received a letter from DWPI advising that it is withdrawing its application for authority to expropriate insofar as it relates to Marian Arlene Black and James Daniel Black's (the "Blacks") properties. The Board accepts the withdrawal of the application to expropriate the lands owned by the Blacks and that expropriation process is terminated. However, the Blacks will remain parties to EB-2013-0268 for the purposes of cost claims, which will be dealt with at the conclusion of the entire proceeding.

The Board received, on February 11, 2014, a letter from Mr. Crocker, counsel for Atkinson and Coe, requesting an adjournment of the oral hearing from February 18, 2014 to mid-march 2014. Mr. Crocker argued that up until the Board's Decision on Issues, and the inclusion of the issues he brought forth, there was uncertainty as to whether he could argue those points. Mr. Crocker submitted that his clients need additional time in order to prepare evidence and also to provide expert evidence with respect to the feasibility of burying the transmission line.

On February 12, 2014, the Board received a letter from DWPI opposing the request for an adjournment of the oral hearing. DWPI submitted that prior to the letter of February 11, 2014, despite numerous opportunities to do so, and clear evidence at the outset of the proceeding as to the nature of their issues of concern, Atkinson and Coe did not signal any intention to file written evidence. DWPI also posed the question of procedural fairness that new evidence would bring and the financial and time implication of appropriately examining this new evidence, as well as the impact of added procedural steps on DWPI's overall project costs and schedule. In conclusion, DWPI advanced the view that an adjournment of the hearing would cause very significant delay to the proceeding and the project, and would cause prejudice to DWPI.

The Board has determined that some limited additional time to produce written evidence that is within the scope of the Final Issues List would be appropriate. The Board will therefore grant a brief adjournment of the hearing to March 10, 2014.

The Board understands that Atkinson and Coe have not yet determined if they will file expert evidence. All evidence, whether in the form of an expert report or a witness statement from any lay witnesses, must be filed on or before February 28, 2014. If Atkinson and Coe do intend to file expert evidence, they will advise the Board and DWPI of this as quickly as possible (and prior to February 21), so that the Board can make provision for any necessary pre-hearing discovery prior to the commencement of the oral hearing.

The Board considers it necessary to make provision for the following procedural matters.

THE BOARD ORDERS THAT:

1. Intervenor who wish to file evidence with the Board that relates to the Final Issues List and that is relevant to the hearing shall do so on or before **February 28, 2014**. If an intervenor wishes to file expert evidence the intervenor shall advise the Board and DWPI of that fact no later than February 21, 2014.
2. An Oral Hearing will be held on **March 10, 2014 at 9:30 a.m.**, and will continue as necessary, in the Board's North Hearing Room on the 25th floor at 2300 Yonge Street, Toronto, ON.

All filings to the Board must quote the file number, EB-2013-0268, be made through the Board's web portal at 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. If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

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
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

DATED at Toronto, February 13, 2014

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary