



EB-2013-0339

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 wpd White
Pines Wind Incorporated for an order or orders pursuant
to section 92 of the *Ontario Energy Board Act*, 1998
granting leave to construct transmission facilities in
Prince Edward County.

PROCEDURAL ORDER NO. 1

March 6, 2014

wpd White Pines Wind Incorporated (the “Applicant”) has filed an application with the Ontario Energy Board (the “Board”), dated September 18, 2013, under section 92, 96 and 97 of the *Ontario Energy Board Act*, 1998 (“the Act”).

The Applicant has applied for an order of the Board granting leave to construct an electricity transmission line and associated facilities which will connect a 59.45 MW wind-powered electricity generation facility to the Ontario transmission system. The Board has assigned file number EB-2013-0339 to this application.

The Board issued a Notice of Application and Written Hearing on October 9, 2013. The Notice was published and served by the Applicant as directed by the Board.

Scope of the Board’s Jurisdiction

The Board will only approve this application if it finds the electricity transmission line to be in the public interest. In making this determination, subsection 96(2) of the Act limits the scope of what the Board shall consider, namely:

1. The interests of consumers with respect to prices and the reliability and quality of electricity service.

2. Where applicable and in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewable energy sources.

The Act does not provide the Board with the jurisdiction to address issues relating to the Applicant's wind generation facility itself, nor to environmental issues.

Further, the Act states that leave to construct shall not be granted until the applicant satisfies the Board that it has offered or will offer to each owner of land affected by the approved route or location an agreement in a form approved by the Board.

Participation in the Proceeding and Cost Eligibility

The following parties requested intervenor status in this proceeding:

- Victoria Rose
- County of Prince Edward
- Alliance to Protect Prince Edward County ("APPEC")
- Al S. Warunkiw
- Gordon Gibbons

Section 23 of the Board's Rules of Practice and Procedure deals with Intervenor Status. Paragraph 23.02 states as follows:

The person applying for intervenor status must satisfy the Board that he or she has a substantial interest and intends to participate actively and responsibly in the proceeding by submitting evidence, argument or interrogatories, or by crossexamining a witness

The Board's findings with respects to these requests for intervenor status are outlined below:

Victoria Rose

Ms. Rose submitted that she lives in close proximity to a proposed electrical substation associated with this project and has a number of concerns including:

- setback from her property to the substation
- dirty electricity
- electromagnetic frequencies
- emissions including noise

- impacts of the electrical substation on the quality of her life, her residence and her property values.

The Board finds that Ms. Rose's expressed concerns are not within the scope of the Board's jurisdiction as outlined above.

Ms. Rose's request for intervenor status is therefore denied.

County of Prince Edward

The County of Prince Edward (the "County") stated in its request for intervenor status that it is the road authority having jurisdiction related to the application. Given that the proposed transmission line would be within the municipal road allowance, the municipality owns land that will be directly affected by the application. The Board therefore grants the County intervenor status.

APPEC, Al S. Warunkiw and Gordon Gibbons

The interests indicated by these parties include the following:

- incomplete and/or inaccurate documentation regarding the route of the transmission line;
- incomplete and/or inaccurate documentation regarding the construction of the transmission line and whether or not the said line can/will be able to be constructed underground along its length;
- a lack of documentation regarding mitigation efforts to reduce and/or eliminate the effects of electric and magnetic fields from the proposed transmission line;
- incomplete documentation regarding the ongoing maintenance and deconstruction of the transmission line at the end of its expected utility;
- easements required from landowners along the proposed route of the transmission line;
- the land acquisition agreement that forms part of this Application;
- the lack of consultation with neighbouring property owners, including Mr. Gibbons, and the potentially serious impact on residences and other buildings, some of which have heritage designation, along the proposed route of the transmission line including those not subject to easements;

- the lack of consultation with neighbouring property owners, including Mr. Warunkiw, and the potentially serious impact on residences and other buildings, specifically the house and garage on Mr. Warunkiw's property, along the proposed route of the transmission line including those not subject to easements;
- concerns regarding the potential impacts on the well on Mr. Warunkiw's property, which is located 10 m from the proposed route;
- the proximity of the substation to residential dwellings; and
- the accuracy of the location of the 69 kV power line as depicted in the Application.
- incomplete documentation regarding the transmission route raises significant questions regarding, amongst others the exact easements that may be required, the answers to which will have a direct bearing on the quality and reliability of the electricity service provided

The Board considers that some of the above interests are likely to fall within the Board's jurisdiction as outlined above.

With respect to its jurisdiction under section 96 as outlined above, the Board notes that its mandate is to consider specifically the construction of the transmission facilities in that context. Its mandate does not encompass a consideration of prices, reliability, cost and provincial policies in relation to wind generation in general.

Based on the above considerations, the Board grants intervenor status to APPEC, Al S. Warunkiw and Gordon Gibbons.

List of Intervenors

A list of the intervenors, their representatives and contact information is attached as Appendix A to this procedural order.

Cost Award Eligibility

APPEC, Al S. Warunkiw and Gordon Gibbons have indicated that they will seek awards of costs for participation in this proceeding. The Board grants these parties cost award eligibility pursuant to the Board's Practice Direction on Cost Awards which can be found in the Board's website at www.ontarioenergyboard.ca.

These intervenors are advised to review the Practice Direction on Cost Awards for further information about which types of costs are eligible for recovery. For example, costs for counsel and consultants are generally recoverable, but costs for time spent directly by the intervenor are generally not recoverable.

Procedural Matters

In its Notice of Application and Written Hearing, the Board indicated that it intended to proceed by way of a written hearing unless any party satisfied the Board that there was a good reason for not proceeding by way of a written hearing. Several parties have requested an oral hearing. The Board will decide whether an oral hearing is required after the discovery phase of this proceeding.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. Board staff and intervenors who wish information and material from the Applicant that is in addition to the evidence already 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 **March 19, 2014**. Where possible, the questions should specifically reference the evidence already filed.
2. The Applicant shall file with the Board and deliver to all intervenors a complete response to each of the interrogatories by **April 2, 2014**.
3. Board staff and intervenors shall, on or before **April 9, 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.

All filings to the Board must quote the file number, EB-2013-0339, 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. 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, March 6, 2014

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

APPENDIX "A"

APPLICANT & LIST OF INTERVENORS

Wpd White Pines Wind Incorporated

Leave to Construct Application

Board File No. EB-2013-0339

March 6, 2014

**wpd White Pines Wind Incorporated
EB-2013-0339**

APPLICANT & LIST OF INTERVENORS

March 6, 2014

APPLICANT

Rep. and Address for Service

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**wpd White Pines Wind Incorporated
EB-2013-0339**

APPLICANT & LIST OF INTERVENORS

March 6, 2014

INTERVENORS

Rep. and Address for Service

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**Alliance to Protect Prince
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County of Prince Edward

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APPLICANT & LIST OF INTERVENORS

March 6, 2014

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