



**EB-2014-0175**

**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 East  
Durham Wind Inc. under section 18(1) of the *Ontario  
Energy Board Act*, 1998 seeking leave to transfer the  
approval granted by the Board's Decision in EB-2013-  
0233 to East Durham Wind GP, ULC on behalf of  
East Durham Wind, LP;

By delegation, before: Jennifer Lea

**DECISION AND ORDER  
MAY 30, 2014**

**Summary of the Application**

On April 21, 2014, East Durham Wind Inc. filed an application with the Board under section 18(1) of the *Ontario Energy Board Act*, 1998 (the "Act") seeking leave of the Board to transfer to East Durham Wind GP, ULC on behalf of East Durham Wind, LP the approval granted by the Board in EB-2013-0233. That decision dealt with an application under subsection 41(9) of the *Electricity Act*, 1998, S.O. 1998, c. 15, *Schedule A*, to establish the location of the applicant's distribution system on road allowances owned by the Municipality of West Grey.

As part of a corporate restructuring among entities associated with the NextEra businesses, the applicant is proposing to transfer its assets related to the East Durham Wind Energy Centre to East Durham Wind LP. This application seeks leave of the Board to transfer to the limited partnership the authority given by the Board's approval

regarding the location of distribution system assets on road allowances owned by the Municipality of West Grey.

The applicant has provided the following information in support of its application:

- The corporate reorganization will have no impact on the construction or location of the distribution system on the road allowances owned by the Municipality of West Grey, nor on the construction or operation of the East Durham Wind Energy Centre.
- The change is purely one of legal structure.
- East Durham Wind LP will be responsible for meeting the conditions of approval set out in the Board's decision in EB-2013-0233.
- There will be no change to any of the information submitted by the applicant in support of its EB-2013-0233 application, except the legal name of the applicant and type of business entity.

### **Request for determination without a hearing**

The applicant asked that the Board dispose of the application without a hearing under section 21(4)(b) of the Act. That section states that the Board may dispose of an application without a hearing where it determines that no person other than the applicant will be adversely affected in a material way by the outcome of the proceeding. I find that the test in section 21(4)(b) is met.

The request for a transfer of the authority to locate the distribution system determined by the Board under section 41(9) of the *Electricity Act* is the result of a corporate reorganization. The evidence in the application indicates that the reorganization will have no impact on the construction or location of the distribution system, nor on the construction and operation of the East Durham Wind Energy Centre. I recognize that two parties intervened to oppose the original application for location of the distribution facilities within the road allowance. However, in this application the Board will not be reconsidering the substantive issues raised in the original application. I find that no person will be adversely affected in a material way by the outcome of this application, which merely transfers the authority already granted.

**Board findings on the application**

I find that the application should be granted. The applicant acknowledges that once the reorganization is complete, East Durham Wind LP will be responsible for meeting the conditions of approval set out in the Board's Order. The change in legal structure does not remove any of the obligations to act in accordance with the Board's Order, or to comply with legislative and regulatory requirements. The Board can maintain its regulatory oversight of the transmission construction under the new legal structure.

**IT IS THEREFORE ORDERED THAT:**

1. East Durham Wind Inc. is granted leave to transfer the approval granted by the Board in EB-2013-0233 to East Durham Wind GP, ULC on behalf of East Durham Wind, LP.
2. East Durham Wind, LP shall be responsible for meeting the conditions of approval set out in the Board's Decision and Order in EB-2013-0233.

**DATED** at Toronto, May 30, 2014

**ONTARIO ENERGY BOARD**

*Original signed by*

Jennifer Lea  
Counsel, Special Projects