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Delivered via Courier and Email

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Dear Sirs and Mesdames:

Re: wpd White Pines Wind Incorporated Application for Leave to Construct Transmission Facilities, Ontario Energy Board File Number EB-2013-0339 and Environmental Registry Number 012-1279

We are the solicitors for the Alliance to Protect Prince Edward County (“APPEC”). This letter is to inform you of APPEC's position that wpd White Pines Wind Incorporated (“wpd White Pines”), in its application to the Ontario Energy Board for leave to construct transmission facilities, is in contravention of the requirements of *Ontario Regulation 328/09* under the *Electricity Act, 1998*. Furthermore, despite the fact that the Ministry of the Environment has recently decided that its application for a Renewable Energy Approval is complete, the

application documentation does not meet the REA guidelines provided by the Ministry of the Environment and should, therefore, not be considered complete at this stage.¹

A renewable energy generation facility is defined at subsection 4(1) of *O. Reg. 328/09*:

For the purposes of the definition of “renewable energy generation facility” in the Act, the following associated or ancillary equipment, systems and technologies are prescribed:

1. Transmission or distribution lines of less than 50 kilometres in length that are associated with or ancillary to a renewable energy generation facility.

Section 5 supplements section 4 as follows:

For the purposes of subsection (4), the following apply:

1. A distribution line is associated with or ancillary to a renewable energy generation facility if the line is used to distribute electricity within the facility or from the facility to the distribution system of the distributor in whose distribution service area the renewable energy generation facility is located.

2. A transmission line is associated with or ancillary to a renewable energy generation facility if the line is used to transmit electricity within the facility or from the facility to the IESO-controlled grid.

3. A transformer station or distribution station is associated with or ancillary to a renewable energy generation facility if the station is used to transform the voltage of electricity at the facility, on a transmission line or on a distributor’s distribution system which is associated with or ancillary to the facility.

In the definition of a renewable energy generation facility, *O. Reg. 328/09* stipulates that transmission or distribution lines “associated with or ancillary to” a renewable energy generation facility be less than 50 kilometres in length. It is worth noting that the numerical value of 50 kilometres not only underpins the definition of a renewable energy generation facility but also puts a cap on the size of renewable energy generation facilities.

As the result of technical analysis of project documentation for wpd White Pines, APPEC has found that transmission lines “associated with or ancillary to” the White Pines renewable

¹ Technical Guide to Renewable Energy Approvals, Ministry of the Environment, Queen's Printer for Ontario, 2013.

energy generation facility are well over 50 kilometres in length. This was not unexpected: the 29 wind turbines in the White Pines Wind Project (the “Project”) are randomly dispersed over 105 square kilometres of Prince Edward County's south shore. The distance between the two furthestmost wind turbines is 14 kilometres as the crow flies. A project modification in 2012 added another 28 kilometres of transmission lines. The Project would seem to be precisely the sort of project that the 50 kilometre condition was put in place to prevent. Yet, due to lack of due diligence by the Ministry of the Environment, this project has been permitted to proceed.

wpd White Pines submitted its application for a Renewable Energy Approval (the “REA”) for the White Pines Wind Project to the Ministry of the Environment on September 14, 2012. The original scope of its REA submission did not include the 28 kilometre Interconnection line needed in order to connect the renewable energy generation facility to the IESO-controlled grid. To the best of APPEC’s knowledge, at that point in time the issue of responsibility for this line had not as yet been resolved. As noted by wpd White Pines in its Project Description Report: “If HONI is responsible for construction and operation of the interconnection line to the County Road 5 substation, assessment of potential effects of the line will be outside the REA process and will be covered under HONI’s own Class Environmental Assessment for Minor Transmission Facilities.” Wpd White Pines’ anticipated arrangement with HONI did not materialize and wpd White Pines was consequently obliged to take full responsibility for the construction and operation of the 28 kilometre Interconnection line. wpd White Pines submitted project modification addenda to the Ministry of the Environment on August 6, 2013.²

This project modification changed the scope of the REA in a material way and effectively put wpd White Pines in contravention of *O. Reg. 328/09* and, by extension, *O. Reg. 359/09*. Relatedly, the REA application by wpd White Pines no longer met the requirements of *O. Reg. 359/09* for submitting a complete application as set out in the attached Technical Guide to Renewable Energy Approvals (2013). For all intents and purposes, the REA submission, which as noted above was recently deemed complete, does not meet requirements for a complete application. For your convenience we have attached this Guide and excerpts from the Guide that are relevant to this matter.

² Project Description Report for “White Pines Wind Project” and Project Modification Addenda for 28 kilometre Interconnection Line and other reports are on the wpd White Pines Wind Inc. website: <http://canada.wpd.de/projects/in-canada/white-pines/renewable-energy-approval-rea-documentation.html>

As a result of these findings APPEC requests that:

- (1) the REA application process for the White Pines Wind Project be halted until such time as an enquiry into this matter can be conducted;
- (2) the posting for wpd White Pines Wind Inc. on the Environmental Registry (EBR 012-1279) be removed as soon as possible. Clearly, members of the public should not be expected to comment on an invalid REA submission; and
- (3) the wpd White Pines Application for Leave to Construct to the Ontario Energy Board for the 28 kilometre Interconnection line, including any time frame windows related to this application, be halted.

We look forward to your response to these requests.

Yours very truly,

ERIC K. GILLESPIE
PROFESSIONAL CORPORATION



Eric K. Gillespie
EKG/ga

Encl.

cc I. Minott, Stikeman Elliott LLP, counsel for wpd White Pines Wind Inc.