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BY E-MAIL ONLY

June 24, 2014

Kirsten Walli
Board Secretary

**Re: Jericho Wind, Inc. ("Jericho") Application to Determine the
Location of Distribution Facilities within Road Allowances,
Board File No. EB-2014-0139**

Please find attached Board staff's submission in the above proceeding.

Yours truly,

Nabih Mikhail
Project Advisor
Electricity Facilities and Infrastructure

Attachment

cc: Parties to EB-2014-0139 proceeding



BOARD STAFF SUBMISSION

**Application by Jericho Wind, Inc. ("Jericho") to Determine the
Location of Distribution Facilities within Road Allowances**

EB-2014-0139

June 24, 2014

THE APPLICATION

Jericho Wind, Inc. (“Jericho”) filed an application dated March 18, 2014 with the Ontario Energy Board (the “Board”), under subsection 41(9) of the *Electricity Act*, 1998, S.O. 1998, c. 15, Schedule A, as amended for an order or orders of the Board establishing the location of approximately 26 kilometers of Jericho’s proposed distribution system (“Distribution System”) within certain public streets, highways and right-of-ways (collectively referred to as “Road Allowances”) owned by the Corporation of the County of Lambton (“Lambton County”).

Jericho’s application indicates that it is in the process of developing a 150 megawatt wind farm called Jericho Wind Energy Centre (the “Project”), in the Municipality of Lambton Shores and the Township of Warwick in Lambton County, and in the Municipality of North Middlesex in Middlesex County, Ontario.

BOARD STAFF SUBMISSION

Board staff supports Jericho’s application for an Order of the Board establishing the location of approximately 26 kilometers of Jericho’s proposed Distribution System within certain Road Allowances owned by the Corporation of the County of Lambton. In reaching this position Board staff examined the relevant statutory provisions.

The *Electricity Act* defines a distributor as “a person that owns or operates a distribution system”. Section 2 (1) of the *Electricity Act* provides the following definitions for “distribute”, “distribution system” and “distributor”

“distribute”, with respect to electricity, means to convey electricity at voltages of 50 kilovolts or less;

“distribution system” means a system for distributing electricity, and includes any structures, equipment or other things used for that purpose;

“distributor” means a person who owns or operates a distribution system;

Board staff agrees with Jericho’s position outlined in its application¹ that as the owner and operator of the Distribution System, Jericho is a “distributor” within the meaning of the *Electricity Act*. As a distributor, Jericho has chosen to locate a portion of its Distribution System within approximately 26 km of Road Allowances

¹ Exhibit A/Tab 2/Sch. 1/paragraph 4

owned by Lambton County pursuant to the statutory right of distributors under subsections 41(1) and 41(5) of the *Electricity Act*.

Board staff submits that the Board's legislative authority under section 41 (9) was set out in the Board's decision in the *Plateau Wind Inc.* proceeding, EB-2010-0253, ("Plateau"). The Board noted that the legislation limits the Board's role in a section 41(9) proceeding to a determination of the location of the proposed distribution facilities within the road allowances. Further, the Board stated that its role is not to approve or deny the proposed project or the distribution facilities, to consider the merits, prudence or any environmental, health or economic impacts associated with it or to consider alternatives to the project.

Board staff submits that the scope of a proceeding under section 41(9) is very specific. In this case the Board is being asked to determine the location of Jericho's Distribution System within the Road Allowances owned by Lambton County. Board staff submits that it supports the request made by Jericho.

All of which is respectfully submitted