

AND IN THE MATTER of an Application by wpd White Pines Wind Incorporated for an Order or Orders granting Leave to Construct a new 69 kV transmission line and associated facilities in Prince Edward County, Ontario.

INTRODUCTION

The Transmission Project will be used to connect the Applicant's renewable wind energy development project proposed to be developed in Prince Edward County, Ontario (the "**White Pines Wind Project**") to the transmission grid controlled by the Independent Electricity System Operator ("**IESO**"). The White Pines Wind Project was awarded a contract under the Ontario Power Authority's ("**OPA**") Feed-in-Tariff program (the "**FIT Program**") in May 2010 and will contribute 59.45 MW of electricity to Ontario's electricity grid.

1 These written submissions are prepared in accordance with Procedural Order No. 3 and
2 Procedural Order No. 4 dated July 15 and July 18, 2014, respectively, wherein the Board
3 established a timeline for the filing of submissions in respect of the Application.¹

4 **STATUTORY FRAMEWORK**

5 Sections 92 and 96 of the OEB Act require the Board to consider whether it is the public
6 interest to approve the construction of a transmission line. Section 96(2) provides that in
7 determining whether the approval of the construction of a transmission line is in the public
8 interest, the Board should only consider the following:

- 9 1. The interests of consumers with respect to prices and the reliability and quality of
10 electricity service;
- 11 2. Where applicable and in a manner consistent with the policies of the Government of
12 Ontario, the promotion of the use of renewable energy sources.

13 As stated by the Board in Procedural Order No. 1 dated March 6, 2014, the OEB Act “does
14 not provide the Board with jurisdiction to address issues relating to the Applicant’s wind
15 generation facility itself, nor to environmental issues.”²

16 In considering whether to grant an applicant leave to construction a transmission line, the
17 Board must also consider Section 97 of the OEB Act. Section 97 provides that the Board shall
18 only grant an application under section 92 if “the applicant satisfies the Board that it has
19 offered or will offer to each owner of land affected by the approved route or location an
20 agreement in a form approved by the Board.” In *Conserve Our Rural Environment (Core) Inc.*
21 *v. Dufferin Wind Power Inc.*, the Divisional Court confirmed that when considering the
22 agreements to be offered to affected landowners, the Board does not become involved in the
23 detailed negotiations between a landowner and the applicant. Instead, the Board merely

¹ The White Pines Wind Project is further described in Exhibit B, Tab 2, Schedule 3 of the Application.

² Procedural Order No. 1 dated March 6, 2014, p. 2

1 “approves a standard form of agreement in the context of the application in which it has
2 been filed.”³

3 Further, the Board’s *Filing Requirements for Electricity Transmission and Distribution*
4 *Applications* (the “**Filing Requirements**”) require an Applicant to show that it has
5 communicated, and consulted, with affected stakeholders.

6 The Applicant has demonstrated, in its pre-filed evidence and responses to interrogatories,
7 and as further set out below, that the Applicant has satisfied the criteria for obtaining leave
8 to construct, including the requirements of 96(2) and the Board’s Filing Requirements.

9 **wpd WHITE PINES HAS SATISFIED THE CRITERIA UNDER SECTION 96(2)**

10 **Interests of Consumers With Respect to Prices**

11 The Applicant will finance the development and construction of the Transmission Project.
12 As such, the Transmission Project will not have any adverse impact on the price of
13 electricity in the wholesale market or on transmission rates in Ontario.

14 **Interests of Consumers with Respect to the Reliability and Quality of Electricity Service**

15 The IESO issued a System Impact Assessment Report (“SIA”) dated October 26, 2011, which
16 evaluated the impact of connecting the power generated by the White Pines Wind Project to
17 the IESO-controlled grid on the reliability of the IESO-controlled grid. The SIA found that
18 the connection of the White Pines Wind Project to the system will not result in any material
19 adverse effects and the IESO conditionally approved the White Pines Wind Project for
20 connection. Due to the modification of the Transmission Line from an overhead line to an
21 underground line, the Applicant applied to the IESO for an amended SIA. The Applicant
22 anticipates that it will received an amend SIA in September 2014, and that the amended SIA
23 will also conclude that the connection of the White Pines Wind Project will have no material
24 adverse impact on the reliability of electricity service. The Applicant will construct the

³ *Conserve Our Rural Environment (Core) Inc. v. Dufferin Wind Power Inc.*, 2013 CarswellOnt 16412 at para. 12 (Div. Ct.)

1 Transmission Project in accordance with the reasonable connection requirements contained
2 in the amended SIA.⁴

3 HONI completed a Customer Impact Assessment Report (“CIA”) dated October 21, 2011,
4 which concluded that no adverse impacts to transmission customers were expected from the
5 White Pines Wind Project. The IESO advised the Applicant that it will notify HONI in the
6 event that an amended CIA is required following completion of the amended SIA. The
7 Applicant will construct the Transmission Project in accordance with the reasonable
8 connection requirements contained in the CIA, or the amended CIA should one be required.

9 **Promotion of the Use of Renewable Energy Sources in a Manner Consistent with the**
10 **Policies of the Government of Ontario**

11 The FIT Program is the centerpiece of the Government of Ontario’s strategy for promoting
12 the use of renewable energy sources in the province. The Applicant was awarded a contract
13 under the FIT Program in respect of the White Pines Wind Project in May 2010. Once
14 operational, the White Pines Wind Project will contribute 59.45 MW of renewable energy to
15 Ontario’s electricity grid and further the Ontario Government’s objective of increasing
16 Ontario’s renewable energy supply mix. The Transmission Project is required to connect the
17 White Pines Wind Project to the IESO-controlled grid. The Transmission Project is therefore
18 consistent with the Government of Ontario’s policy concerning the promotion of the use of
19 renewable energy sources.

20 **wpd WHITE PINES HAS SATISFIED THE BOARD’S FILING REQUIREMENTS**

21 **The Transmission Project is the Most Viable**

22 The proposed Transmission Project was selected from a number of transmission alternatives
23 and project routes considered by the Applicant. The proposed Transmission Project was
24 preferred because it minimizes the impact of construction and operation on residents of the

⁴ For further information regarding the SIA, see Exhibit H, Tab 1, Schedule 1; Exhibit H, Tab 2, Schedule 1; and Exhibit H, Tab 2, Schedule 2 of the Application. See also the Applicant’s Response to Interrogatories filed April 2, 2014

For further information regarding the SIA, see Exhibit H, Tab 1, Schedule 1; and Exhibit H, Tab 2, Schedule 3 of the Application. See also the Applicant’s Response to Interrogatories filed April 2, 2014

1 affected communities and on existing infrastructure. In addition, the Transmission Project
2 reduced the possibility of line losses as compared to other lower voltage alternatives
3 considered by the Applicant.⁵

4 **Land Rights**

5 Private Land

6 The Applicant has acquired rights to the private lands that are required for the
7 Transmission Project as detailed in its Application and responses to interrogatories.⁶

8 Public Land

9 The Applicant attempted to engage in discussions with Prince Edward County to negotiate
10 an agreement with respect to location of the Transmission Line underground within the
11 Municipal Road Allowance. There have been no further discussions with Prince Edward
12 County since March 15, 2013 and the Applicant's last attempt to initiate further discussions
13 occurred in December 2013.⁷ The Applicant is open to continuing discussions with the
14 County. In the event of an impasse, the rights and remedies provided to a transmitter under
15 in Section 41 of the *Electricity Act, 1998* and Section 101 of the OEB Act ensure that the
16 Applicant will have access to the Municipal Road Allowance.

17 The Applicant will consult with the Quinte Conservation Authority with respect to any
18 permits or agreements that it will require to attach the Transmission Line aboveground to
19 the sides of existing bridges as described in the Application, and as further explained in the
20 responses to interrogatories.⁸

⁵ See Exhibit B, Tab 4, Schedule 1 of the Application

⁶ See Exhibit F, Tab 1, Schedule 1; and Exhibit F, Tab 1, Schedule 2 of the Application. See also the Applicant's Response to Interrogatories filed April 2, 2014 and April 16, 2014, respectively

⁷ See Exhibit F, Tab 1, Schedule 1 of the Application. See also the Applicant's Response to Interrogatories filed April 2, 2014 and April 16, 2014, respectively

⁸ See the Applicant's Response to Interrogatories filed April 2, 2014

1 **Community and Stakeholder Consultation**

2 The Applicant has engaged in extensive consultation with all stakeholders and affected
3 parties regarding the White Pines Wind Project generally, and the Transmission Project in
4 particular.

5 As part of the Renewable Energy Approval process prescribed by Ontario Regulation
6 359/09, made under the Part V.0.1 of the *Environmental Protection Act*, the Applicant held a
7 public meeting on April 29, 2013 to provide the general public and interested stakeholders
8 with information regarding the Transmission Project and to obtain the public's feedback.⁹

9 **CONCLUSION**

The Applicant requests that the Board, pursuant to section 92 and 96 of the OEB Act, approve this Application for leave to construct the Transmission Project. The approval of the Transmission Project is in the public interest and will not adversely affect the reliability and quality of electricity service in the province. Furthermore, approval of the Transmission Project is consistent with the Ontario Government's promotion of the use of renewable energy sources and will assist Ontario with achieving its renewable energy objectives.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

DATED at Toronto, Ontario, this 6th day of August, 2014

wpd White Pines Wind Inc.

by its counsel

Stikeman Elliott LLP



Patrick Duffy

⁹ An overview of the Applicant's public consultation efforts are described at Exhibit G, Tab 1, Schedule 1 of the Application