

333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, Ontario, Canada M5H 2T6

416 366 8381 Telephone
416 364 7813 Facsimile
1 800 268 8424 Toll free



Peter S. Ascherl
Direct +1 416 868 3499
pascherl@fasken.com

October 22, 2015
File No.: 303328.00001

By Email and Courier

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
P.O. Box 2319
Toronto, ON M4P1E4

Dear Ms. Walli:

**Re: Leave to transfer leave to construct approval from FWRN LP to NR Capital
General Partnership**

We are writing on behalf of FWRN LP. In connection with a proposed reorganization which is described below, FWRN LP is requesting the Board's leave to transfer its leave to construct approval.

Procedural Background

On July 3, 2014, the Board granted Niagara Region Wind Corporation ("NRWC") leave to construct a transmission line and transmission facilities (the "**2014 Order**").¹ On June 26, 2015, the Board made an Order varying the Decision and Order issued on July 3, 2014.² On September 3, 2015, the Board granted an application to transfer the leave to construct approval from NRWC to FWRN LP.³

¹ OEB Decision and Order in EB-2013-0203 dated July 3, 2014.

² OEB Vary Order in EB-2013-0203, dated June 26, 2015. In particular, the Board extended the date upon which NRWC had to commence construction by six months, resulting in an order that leave to construct was conditional upon commencing construction within 18 months from the date of the Decision and Order of July 3, 2014.

³ OEB Decision and Order in EB-2015-0183, dated September 3, 2015.

Previous Reorganization

Pursuant to a reorganization, NRWC transferred the Niagara Region Wind Farm project (the “**Project**”), including the FIT contract for the Project, on April 29, 2015 to FWRN LP, a newly-formed limited partnership which, at the time of the transfer, was controlled by NRWC. Immediately following the transfer of the Project to FWRN LP, pursuant to a share and unit purchase agreement between NRWC and 1022340 B.C. Ltd. (“**Enercon Subco**”) dated March 16, 2015, NRWC transferred 74.99% of the issued and outstanding limited partner units of FWRN LP and 100% of the shares of the sole general partner of FWRN LP to Enercon Subco.

Enercon Subco is a wholly-owned subsidiary of ENERCON Canada Inc., a corporation incorporated under the laws of the Province of Nova Scotia.

As a result of the above-described reorganization and change of control, NRWC requested leave of the Board to transfer its leave to construct approval to FWRN LP. As described above, leave was granted by the Board on September 3, 2015.

Attached as Schedule A hereto is a diagram of the current ownership structure of the Project.

Proposed Reorganization

FWRN LP is proposing to restructure the Project in the following manner:

1. FWRN LP will enter into an Asset Purchase Agreement (the “Asset Purchase Agreement”) with NR Capital General Partnership (“**LeaseCo**”) pursuant to which FWRN LP will sell all of its right, title and interest in, among other things, the Transmission Facilities (as such term is defined in the 2014 Order) to LeaseCo.⁴
2. LeaseCo is a general partnership formed under the laws of Ontario. LeaseCo has two partners each of which are wholly-owned subsidiaries of ENERCON Canada Inc. As a result, FWRN LP and LeaseCo are both controlled by ENERCON Canada Inc.⁵
3. Contemporaneous with the execution of the Asset Purchase Agreement, FWRN LP and LeaseCo will enter into a lease agreement pursuant to which LeaseCo will lease,

⁴ FWRN LP will not transfer its interest in the FIT contract (as identified in the 2014 Order) to LeaseCo. FWRN LP will remain party to the FIT contract and sell electricity generated by the Project to IESO.

⁵ ENERCON Canada Inc. expects to transfer a 25% interest in LeaseCo to a third party when it obtains financing for the Project.

among other things, the Transmission Facilities, to FWRN LP (the "**Lease Agreement**").⁶

Following the above-noted transfer, LeaseCo will be responsible for meeting the conditions of approval set out in the 2014 Order.

As both FWRN LP and LeaseCo are controlled by ENERCON Canada Inc., the reorganization will have no impact on the construction or operation of the Transmission Facilities. Attached as Schedule B hereto is a diagram of the proposed ownership structure of the Project.

The leave to construct approval, as varied, required that construction of the Transmission Facilities be commenced within 18 months of the Board's decision to grant leave to construct. Construction of the Transmission Facilities began on September 14, 2015, which was within the timeline set by the Board.

As noted above, FWRN LP will remain party to the FIT contract in its capacity as the operator of the Project (whereas LeaseCo will simply own the Project assets and lease them to FWRN LP). The 2014 Order provided that the Board's approval of the application is conditional on, among other things, the existence of a FIT contract between the Applicant and the OPA (now IESO). FWRN LP respectfully requests that any order issued by the Board which transfers the Leave to Construct to LeaseCo be amended to provide that such order is conditional upon the existence of a FIT contract between FWRN LP and IESO.

The change is purely one of the legal ownership structure of the Project from FWRN LP to LeaseCo, which is controlled by the same entity (ENERCON Canada Inc.) as FWRN LP.

FWRN LP respectfully submits that given the fact that the Board has found the Project to be in the public interest and the fact that the Project will not change as a result of the transfer, the Board should find that the assignment of the Leave to Construct to LeaseCo is in the public interest and should be granted.

Therefore, and pursuant to section 18(1) of the *Ontario Energy Board Act, 1998*, FWRN LP hereby requests leave of the Board to transfer its leave to construct approval such that the approval be held by LeaseCo.

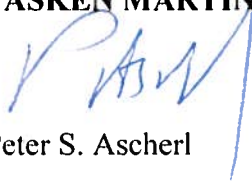
⁶ The Lease Agreement will provide that FWRN LP will be responsible for the operation and maintenance of the leased property (including the Transmission Facilities).

FWRN LP submits that no one will be adversely affected in a material way by the Board's decision regarding this application, and therefore requests that the Board exercise its authority under s. 21(4)(b) of the *Ontario Energy Board Act, 1998* to dispose of this application without a hearing.

Please contact the undersigned if you have any questions in regards to the foregoing.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

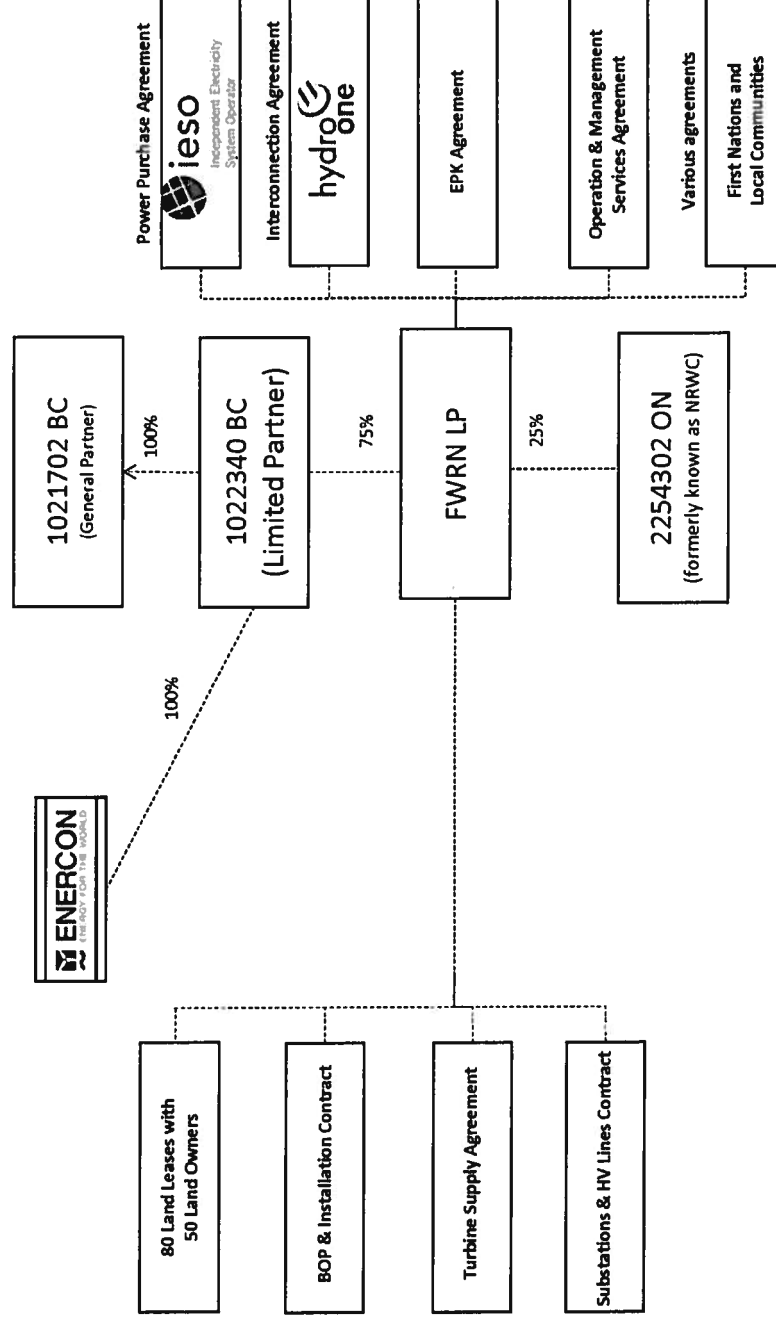


Peter S. Ascherl

PSA/ab
Enclosure

Schedule A

Current Structure



Schedule B

Structure post LeaseCo

