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March 14, 2016

**VIA RESS, EMAIL AND COURIER**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700  
P.O. Box 2319  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: EB-2013-0203 – Request to vary leave to construct approval re Highway 3 Bypass**

On July 3, 2014, the Ontario Energy Board (the “**Board**”) granted Niagara Region Wind Corporation (“**NRWC**”) leave to construct a transmission line and transmission facilities (the “**LTC Order**”).<sup>1</sup> On June 26, 2015, the Board varied the LTC Order to extend by six months the date by which the Applicant had to begin construction.<sup>2</sup> On September 3, 2015 the Board granted leave to transfer the LTC Order to FWRN LP<sup>3</sup> and on November 26, 2015, the Board granted leave to transfer<sup>4</sup> the LTC Order to NR Capital General Partnership (together with FWRN LP, the “**Applicants**”).<sup>5</sup>

In the LTC Order, the Board approved a specific route for the transmission line. As further described below, at the request of the Ontario Ministry of Transportation (the “**MTO**”), the Applicants are proposing to modify the route of the transmission line in the area of the Municipality of Wainfleet and Haldimand County border such that the transmission line not run along Highway 3. Therefore, the Applicants hereby bring a motion pursuant to Rule 40.01 of the Board’s *Rules of Practice and Procedure* for the Board to vary the LTC Order in the manner described herein.

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

<sup>2</sup> OEB Vary Order in EB-2013-0203 dated July 26, 2015.

<sup>3</sup> OEB Decision and Order in EB-2015-0183, dated September 3, 2015.

<sup>4</sup> OEB Decision and Order in EB-2015-0290, dated November 26, 2015.

<sup>5</sup> As the transfer of transmission assets described in FWRN LP’s application for leave to transfer in EB-2015-0290 has not yet occurred (i.e., FWRN LP will soon be transferring the transmission assets to NR Capital General Partnership, but has not yet done so), the leave to construct is still held by FWRN LP and therefore FWRN LP is filing this application jointly with NR Capital General Partnership, to whom it will soon be transferring the leave to construct.

*Preliminary matter – request for extension of time set out in Rule 40.03*

Rule 40.03 of the Board's *Rules of Practice and Procedure* states that the notice of motion for a motion under rule 40.01 is to be filed and served within 20 calendar days of the Board's order or decision.

As the Applicants are outside this timeframe, as a preliminary matter the Applicants request that the Board provide an extension to the timeframe set out under Rule 40.03 such that this motion may be considered by the Board. The reason for this request is that the Applicants could not bring this motion at an earlier date because the MTO's request that the transmission line not run along Highway 3 was made at the end of November of 2015. Since then, the Applicants have worked on the proposed modification below and are therefore only now in a position to file this request for the below described modification.

***Grounds for the Motion***

*Overview of the proposed LTC modification*

The proposed modification (the "**Highway 3 Bypass**") involves approximately 335 meters of the approved transmission line route that runs along Highway 3 in Wainfleet, Ontario and approximately 308 meters of the approved transmission line route that runs along Wainfleet Dunnville Townline Road. As shown in green on Schedule "A", the transmission line route currently runs west along Highway 3 and then turns south on Wainfleet Dunnville Townline Road.

The Highway 3 Bypass, shown in orange on Schedule "A", would have the transmission line running approximately 335 meters across a private property in order to completely avoid running along Highway 3, and reducing the length of the transmission line by approximately 308 meters, including reducing the poles needed from 7 poles (see pole locations marked in yellow) to 5 poles (see pole locations marked in pink).

*The reason for the requested modification*

The reason for the requested modification is that the MTO has requested that the Applicants not build the transmission line along Highway 3. More specifically, the MTO's position is that the transmission line poles must not be located within the Highway 3 right-of-way and must be set back 14 meters from the right-of-way. Please see correspondence to the Applicants from the MTO attached as Schedule "B".<sup>6</sup>

In addition to the above, the Applicants note that the Highway 3 Bypass route will result in fewer trees needing to be removed during construction of the transmission line.

*Support of landowner whose land is needed for the Highway 3 Bypass*

Land rights have been secured from the owner of the land on which the Highway 3 Bypass is proposed. Specifically, a land use agreement, in the form approved by the OEB in the LTC Order, has been entered into with the landowner.

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<sup>6</sup> The Applicants can provide additional correspondence with the MTO if it would be helpful to the Board. The Applicants note that their contact person at the MTO, Paul Nunes, has been copied on this filing.

No utility crossings along the Highway 3 Bypass route

There are no utility crossings along the Highway 3 Bypass route. Moreover, the Highway 3 Bypass will minimize the local distribution company relocations based on the currently-approved route. For example, if the Highway 3 Bypass is approved, there will not be a need to re-locate and bury several single-phase distribution lines.

**Request that the motion be disposed of without a hearing**

The Applicants submit that no one will be adversely affected in a material way by the Board's decision regarding this motion. As described above, the Highway 3 Bypass is being pursued due to the request of the MTO. The private land rights needed for the Highway 3 Bypass have been secured, and there are no utility crossings along the proposed bypass route.

Consequently, as no one will be adversely affected in a material way by the outcome of this motion, the Applicants request that the Board exercise its authority under s. 21(4)(b) of the *Ontario Energy Board Act, 1998* to dispose of this motion without a hearing.

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

Sincerely,

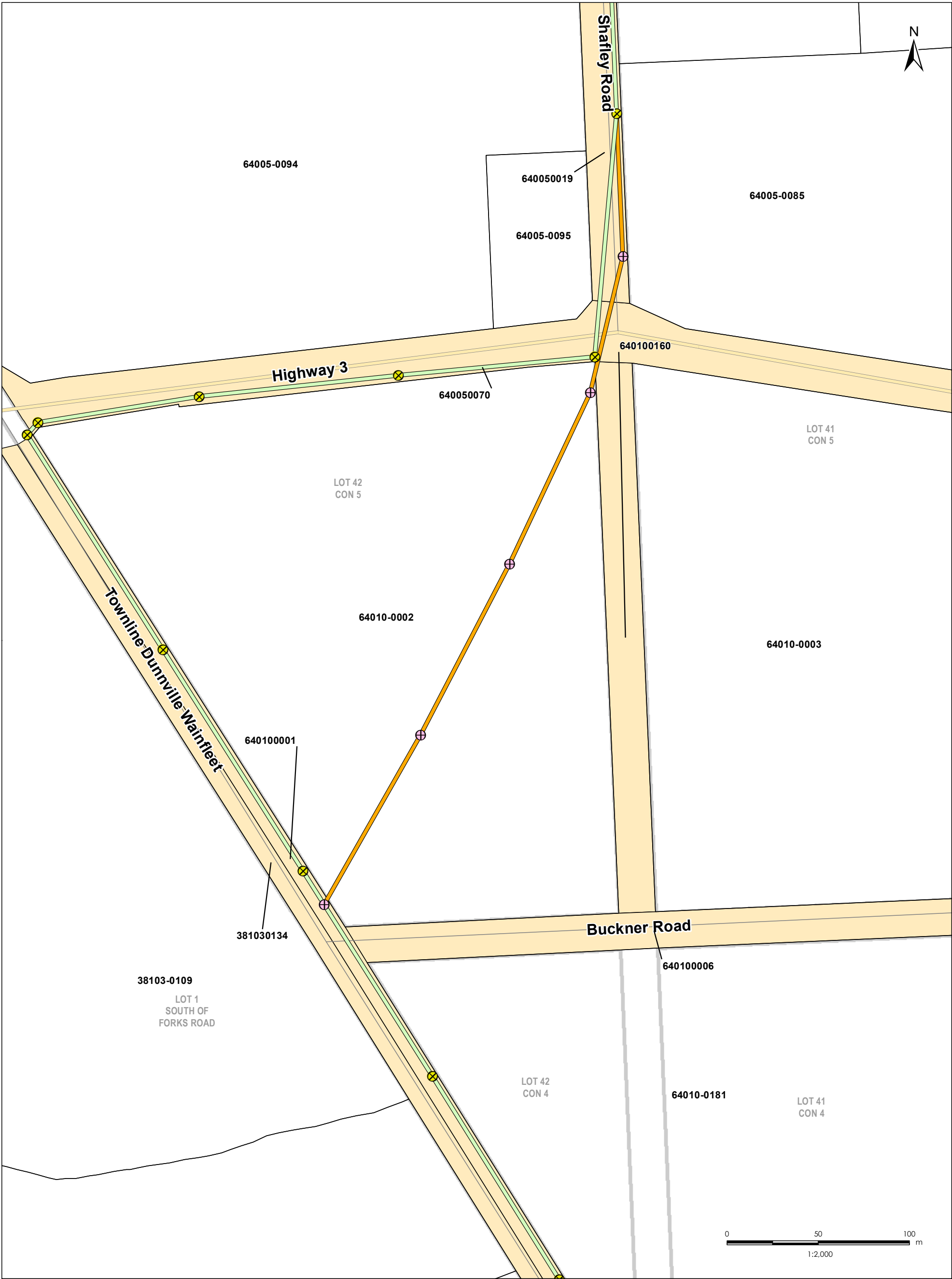
*Signed in the original*

George Vegh

Cc: Peter Ascherl, Counsel to FWRN LP and NR Capital General Partnership  
Gael Gravenor, Enercon  
Paul Nunes, Corridor Management Officer, Ontario Ministry of Transportation

**SCHEDULE "A"**

V:\01609\Active\160950269\planning\drawing\mxd\LTIC\_Modifications\20160310\_Tline\_Modifications\160950269\_Fig\_1\_LTIC\_Tline.mxd  
Revised: 2016-03-11 By: bcowper



March 2016  
160950269



**Notes**  
1. Coordinate System: NAD 1983 UTM Zone 17N.  
2. Base features produced under license with the Ontario Ministry  
3. of Natural Resources © Queen's Printer for Ontario, 2011.  
Smithville By-pass preliminary pole locations are provided by  
FWRN LP and are subject to change based on final detailed  
design.

**Legend**

- Public Road
- Public Expressway / Highway
- Property Boundary
- Pole Locations – FWRN LP detailed design
- Transmission Line Route (LTC as designed)
- Pole Locations (Highway 3 Bypass)
- Modified Alternate Transmission Route

Client/Project  
FWRN LP  
Niagara Region Wind Farm

Figure No.

**1**

Title

**Transmission Line  
Alternate Route –  
Highway 3 Bypass**

**SCHEDULE "B"**

## **Apesteguy-Reux, Heloise**

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**From:** Nunes, Paul (MTO) <Paul.Nunes@ontario.ca>  
**Sent:** Tuesday, December 15, 2015 9:03 AM  
**To:** Marc Weatherill  
**Subject:** RE: Installation of transmission line poles on HWY3

Hi Marc,

We met with the Manager of the MTO's Corridor Section yesterday, and he has not changed his position on the proposed transmission poles on Hwy 3. The ministry's position continues to be that the transmission poles must be located outside the Hwy 3 right-of-way and set back 14m from the right-of-way.

Should you choose to continue to explore the option of locating the transmission poles within the Hwy 3 right of way, please submit the following for review:

- 1:500 scale drawings
  - Indicating clear zone or protection of poles
- Cross section drawings at pole locations
- Grading Plan & Drainage study or Brief

And the Ministry will review and provide comments.

Please do not hesitate to contact me if you have any further questions.

Respectfully,

**Paul Nunes**

Corridor Management Officer

**Ministry of Transportation**

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Toronto, Ontario M3M 0B7

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