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April 1, 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 Smithville Modification

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**”).¹ 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.² On September 3, 2015 the Board granted leave to transfer the LTC Order to FWRN LP³ and on November 26, 2015, the Board granted leave to transfer⁴ the LTC Order to NR Capital General Partnership (together with FWRN LP, the “**Applicants**”).⁵

In the LTC Order issued on July 3, 2014, the Board approved a specific route for the transmission line. As further described below, the Municipality of West Lincoln has requested, and the Applicants are agreeable to, a modification in the route of the transmission line as set out at Schedule “A” hereto. 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.

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.

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

⁴ OEB Decision and Order in EB-2015-0290, dated November 26, 2015.

⁵ 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 that the Applicants did not bring this motion at an earlier date is that a significant amount of study was required in order to determine the feasibility of the proposed modification (the "**Smithville Modification**").

Overview of the LTC modification

The Smithville Modification involves approximately 2.4 km of the approved transmission line route that runs northwest of Smithville, Ontario.

As shown on Schedule "A", the original transmission line route (shown in green) currently runs northwest along Young Street and then turns south onto South Grimsby Road 5 for 1.9 km, prior to veering north on Regional Road 20 for approximately 696 meters prior to turning back southwest on South Grimsby Road 6.

The Smithville Modification, shown in orange on Schedule "A", would have the transmission line running approximately 838 meters further northwest along Young Street, then turning onto a private property for 476 metres⁶, then turning slightly to run along an unopened road allowance for approximately 770 metres and finally turning to run approximately 326 meters southeast along Regional Road 20 prior to joining the original transmission line route as shown.

The Smithville Modification route would consist primarily of an overhead transmission line, with one section of the transmission line being installed underground beneath existing Hydro One Networks Inc. ("**Hydro One**") transmission lines (see "Utility Crossings", below) and beneath a provincially significant wetland within the unopened road allowance just north of Hydro One's transmission lines.

Grounds for the Motion

The reasons for the requested modification

The Municipality of West Lincoln ("**West Lincoln**") has requested that the Applicants pursue the Smithville Modification in order to avoid the transmission line being located in proximity to an area proposed for future urban expansion.⁷ The Applicants therefore undertook to study the possibility of changing the route of the transmission line in order to avoid the urban expansion area. The proposed Smithville Modification is the result.

⁶ The Applicants have opted to have part of the route on private property in order to avoid a significant woodlot and a provincially significant wetland. An access trail will also be constructed on the private land to provide access to the transmission line.

⁷ The Applicants can provide more information on West Lincoln's request that the area proposed for future urban expansion be avoided by the transmission line route if it would be helpful to the Board. The Applicants note that West Lincoln is copied on this filing.

Land rights

Land rights have been secured from the private landowner of the land on which a portion of the Smithville Modification route is proposed. Specifically, an option to enter into a land use agreement, in the form approved by the OEB in the LTC Order, has been entered into with the landowner.

The remainder of the Smithville Modification will not require any further land rights, as the remainder of the transmission line route will simply run along West Lincoln road allowance or a West Lincoln unopened road allowance. As West Lincoln has itself requested the Smithville Modification, it is entirely in agreement and supportive of this change in the use of its road allowances and the use of its unopened road allowance.

Minimal impact on residents and users of the unopened road allowance

Moreover, those currently using the unopened road allowance will be able to continue using it. More specifically, the unopened road allowance is currently used as a property access road by three landowners. It is also used as a recreational trail by persons with snowmobiles and ATV/ "all-terrain vehicle" users. These users of the unopened road allowance will be able to continue using the unopened road allowance. Although there may be a small impact on those currently using the unopened road allowance during the construction of the transmission line, this impact will not, in the submission of the Applicants, amount to a material adverse effect on those using the unopened road allowance.

Utility Crossings

The portion of the approved route which the Applicants propose to change includes a Hydro One crossing and a Canadian Pacific ("CP") railway crossing. Both crossings also occur along the modified route. The only change to each of the Hydro One and CP crossings is that along the route of the Smithville Modification, the crossings are located approximately 500 metres west of where these crossings occur along the approved route.

The technical details applicable to both the Hydro One and CP crossings do not change when these crossings are moved approximately 500 meters west.⁸ The Applicants have received approvals from Hydro One and CP in relation to the original crossings. CP has been advised of the change pursuant to which the crossing is proposed to be moved 500 meters west and has not raised any objections; it has provided the Applicants with the required materials for the Applicants to obtain CP's approval in relation to the modified crossing. Hydro One's process is to review drawings in relation to crossings once these drawings are available. Therefore, the Applicants will submit modified drawings to Hydro One as soon as these are available in order to obtain Hydro One's approval of the modified crossing.

As mentioned above, because the technical details of the crossings will not change, the Applicants are confident that both CP and Hydro One's approval of the modified crossings will be obtained. For the same reason, the Applicants submit that neither CP nor Hydro One will be adversely affected in a material way due to the change in location of the crossings.

⁸ The Hydro One crossing is an underground crossing; this will remain the same when the crossing is moved approximately 500 meters west. The CP crossing is above ground; this too will not change.

Request that the motion be heard 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 Smithville Modification is being pursued at the request and with the full support of West Lincoln. Moreover, the required land rights have been secured and as described above, the Applicants submit that current users of the unopened road allowance upon which a portion of the Smithville Modification is proposed will not be adversely affected in a material way by the construction of the transmission line. Finally, the relocation of the Hydro One and CP crossings approximately 500 meters west will also not have a material adverse effect.

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.

Request that the Board not combine this request to vary with the Applicants' request to vary regarding the "Highway 3 Bypass"

The Applicants filed on March 14, 2016 another motion with the Board requesting that the Board vary the LTC Order to allow for another proposed modification, the "Highway 3 Bypass". However, the Applicants request that the Board consider these requests separately as the Applicants may need to move forward with one modification but not the other if, for example, the Ministry of the Environment and Climate Change approves a Renewable Energy Approval amendment in relation to only one of the two proposed modifications.

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

Sincerely,

Signed in the original

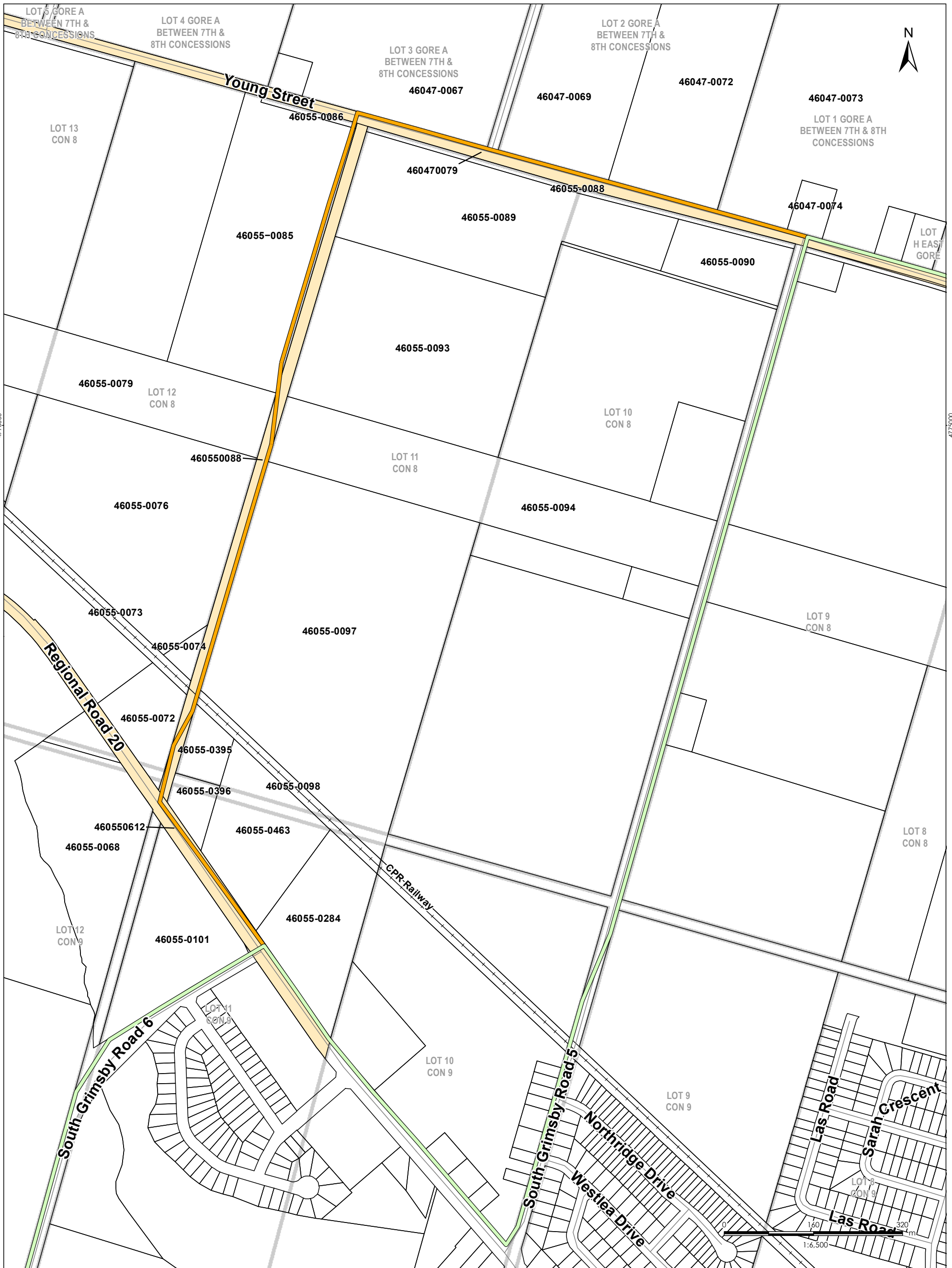
George Vegh

Cc: Peter Ascherl
Gael Gravenor

Schedule "A"

(Please see attached)

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 Revised: 2016-04-01 By: bcowper
 0005277



April 2016
 160950269



Legend

- Public Road
- +— Active Railway
- Property Boundary
- Transmission Line Route (LTC as designed)
- Modified Alternate Transmission Route

Notes

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

Client/Project

FWRN LP
 Niagara Region Wind Farm

Figure No.

1

Title

**Transmission Line
 Alternate Route –
 Smithville By-pass**

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