

March 17, 2017

**RESS, EMAIL & COURIER**

Ontario Energy Board  
P.O. Box 2319  
27th Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

**Re: Henvey Inlet – Application for Leave to Construct Transmission Facilities  
(EB-2016-0310) – Hull Motion**

We are counsel to Henvey Inlet Wind GP Inc. and Henvey Inlet Wind LP (together, “Henvey”) in respect of the above-referenced proceeding. On behalf of Henvey, this letter is filed in response to the Notice of Motion filed by Mr. Jeffrey Todd Hull on March 8, 2017 (the “Motion”).

In the Motion, Mr. Hull requests that the Board review and vary its Procedural Order No. 1 dated February 16, 2017 by granting him intervenor status in this proceeding on the basis that the route of Henvey’s proposed transmission facilities crosses over, under or through Mr. Hull’s property. Prior to receiving the Motion, counsel for the Applicant and Mr. Hull exchanged information in an effort to understand each party’s views regarding the relevant properties. Since receiving the Motion, Henvey has undertaken further investigations in respect of the land matters at issue.

Based on recently obtained information and the analysis thereof, Henvey has determined that Mr. Hull is an affected landowner in relation to the proposed transmission facilities, as further discussed below. This determination is contrary to Henvey’s previous assertion that Mr. Hull was not a directly affected landowner. Consequently, Mr. Hull will be offered a land agreement in the standard form that Henvey has used for other affected landowners.

Though Mr. Hull seeks to assert through the Motion that on account of being a directly affected landowner he should be granted intervenor status, the Applicant disagrees. In Procedural Order No. 1, the Board denied Mr. Hull’s request for intervenor status not only on the basis of its understanding that he was not a directly affected landowner, but also on the basis that Mr. Hull did not indicate that he intended to raise any issues that would fall within the scope of the Board’s jurisdiction in this proceeding. The finding that Mr. Hull is a directly affected landowner does not affect the second basis of the Board’s decision. Henvey therefore submits that the Board’s decision to deny Mr. Hull intervenor status, as set out in Procedural Order No. 1, should not be varied. This is discussed below.

In Henvey’s February 7, 2017 letter to the Board, the following was stated with respect to the property in question:

“While the property referenced in Mr. Hull’s letter (which corresponds to PIN 52119-0021) is owned by him and is near the proposed transmission line, no transmission facilities are proposed to be located on or across any portion of this property...”

While the above conclusion was supported by the PIN map for PIN 52119-0021, further investigations have revealed that the PIN map contains certain inaccuracies, which affected the proper assessment of the transmission route’s impact on Mr. Hull’s property. More specifically, the PIN map incorrectly excludes certain portions of land associated with an existing hydro right of way from the parcel owned by Mr. Hull. Based on detailed examinations of reference plans and land title records (including for conveyances dating back to the 1940s), it was discovered that the land associated with the right of way does in fact form part of Mr. Hull’s property, which is therefore directly affected by the route of the proposed transmission facilities. In light of this revised conclusion, Mr. Hull will be offered a land agreement in the standard form that Henvey has used for other affected landowners.

Notwithstanding the foregoing, Mr. Hull has not identified any issues relevant to the scope of the Board’s jurisdiction in this proceeding. As stated in the Notice of Application, the Board will only consider three issues (i.e., price, reliability and quality of electricity service) as required by the *Ontario Energy Board Act*, and other factors, such as environmental, health, aesthetics or property value impacts, will not be addressed. To this end, the Board found in Procedural Order No. 1 that the concerns raised in Mr. Hull’s intervenor request<sup>1</sup> do not relate to the issues before the Board. This aspect of the Board’s determination is not affected by the revised findings relating to land matters. Therefore, the Board’s decision in Procedural Order No. 1 to deny Mr. Hull’s intervenor request should not be varied. In the Applicant’s view, the Board does not require a full hearing of the Motion to reach this conclusion.

If the Board determines that Mr. Hull should be granted intervenor status, Henvey submits that there should be no resulting impact on the current process and timeline for the leave to construct proceeding. In addition, Henvey would ask the Board to remind Mr. Hull that the Board will only consider issues relevant to its jurisdiction, and that other factors, such as environmental, health, aesthetics or property value impacts, may not be raised.

Yours truly,

  
for Jonathan Myers

Tel 416.865.7532  
jmyers@torys.com

cc: Mr. J. Law, Henvey  
Mr. C. Keizer, Torys LLP

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<sup>1</sup> Mr. Hull’s intervention request sets out the nature of his concerns as being in relation to (1) construction impacts on wildlife, (2) impacts of maintenance and tree/brush clearing on fish and aquatic organisms, (3) landowner permission to apply certain herbicides for maintaining rights-of-way, (4) health issues arising from proximity to transmission lines, and (5) impacts on property value due to a reduction in useable space.