



**EB-2008-0050**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B; and in particular section 99, thereof;

**AND IN THE MATTER OF** an application by Canadian Renewable Energy Corporation for authority to expropriate interest in certain lands for the purpose of constructing electricity transmission line to connect the wind plant on Wolfe Island in the Township of Frontenac Islands, County of Frontenac, Province of Ontario.

### **Procedural Order No. 1**

Canadian Renewable Energy Corporation ("CREC" or the "Applicant") has filed an application dated February 20, 2008 and amended on March 7, 2008, with the Ontario Energy Board (the "Board") under section 99 of the *Ontario Energy Board Act 1998*, S.O. 1998, c. 15 (Schedule B) (the "Act") for approval to expropriate lands for the purpose of constructing transmission facilities including an underground transmission line to connect the wind plant on Wolfe Island in the Township of Frontenac Islands, County of Frontenac, Province of Ontario ("Wolfe Island Wind Plant").

On October 12, 2007 CREC was granted an order of the Board (EB-2007-0034) under section 92 of the Act for leave to construct the transmission facilities to connect the Wolfe Island Wind Plant to the Ontario electricity transmission grid. CREC was planning to start construction of the transmission line in the Summer of 2008.

CREC has been unable to secure all of the necessary easement rights to construct the transmission line. In particular, the Applicant requests that the Board make an order granting the Applicant authority to expropriate:

- a permanent easement through land owned by Carylanne Martin in trust, having an approximate area of 101 square meters, designated as Part 10 on the draft reference Plan of Survey prepared by Leslie M. Higginson Surveying Limited bearing File No. KI'N2-10 LMH 27-1, being part of Lot 10, Concession 2, in the City of Kingston (formerly the Geographic Township of Kingston) in the County of Frontenac;
- a permanent easement through land owned by R. Paul Martin Construction Co. Ltd., having an approximate area of 104 square meters, designated as Part 11 on the draft reference Plan of Survey prepared by Leslie M. Higginson Surveying Limited bearing File No. KI'N2-10 LMH 27-1, being part of Lot 10, Concession 2, in the City of Kingston (formerly the Geographic Township of Kingston) in the County of Frontenac;
- a permanent easement through land owned by Globe Realty Holdings Ltd., having an approximate area of 945 square meters, designated as Part 13 on the draft reference Plan of Survey prepared by Leslie M. Higginson Surveying Limited bearing File No. KI'N2-10 LMH 27-1, being part of Lot 10, Concession 2, in the City of Kingston (formerly the Geographic Township of Kingston) in the County of Frontenac.

The Notice of Application was issued on April 2, 2008. The Applicants served the Notice of Application as directed by the Board. On April 18, 2008 the Board received an intervention request from R. Paul Martin Construction Group Co. Ltd. ("Martin Group"). The Martin Group in its intervention request letter explained that it owns two out of three properties subject to this application. The Board granted intervenor status to the Martin

Group. The third property affected by the application is owned by Globe Realty Holdings Ltd (“Globe Realty”). Globe Realty did not seek intervenor or observer status.

Because of the direct effect of the application on the properties subject to the application, the Board will consider both the Martin Group and the Globe Realty as the Parties in the proceeding (the “Parties”). A List of Parties is attached as Appendix A to this Procedural Order.

The Martin Group asked that the Board hold an oral hearing in Kingston.

The Board has decided to proceed with a written hearing, for the following reasons.

The Board notes that the route of the approved transmission line was previously approved in the EB-2007-0034 proceeding. That proceeding was conducted by way of an oral hearing held in Kingston on September 24, 2007. The Martin Group and Mr. Paul Martin, as an intervenor, participated actively at the oral hearing in Kingston. The Martin Group cross-examined the CREC witnesses and provided submissions on the issues of construction and routing impacts of the transmission line on the affected properties. Because the route has already been approved in a prior proceeding, routing is not within the scope of this expropriation proceeding.

In the request to intervene, dated April 18, 2008, the Martin Group indicated:

*Our developments evolve over time as new opportunities present themselves. The more easements and right-of-ways that cross a site, the more complex and encumbered the site becomes. This translates into very costly and time-consuming delays in development. Our organizations have experience with many different scenarios where a minor easement, right-of-way, or land agreement has been very detrimental to our evolving future developments.*

Furthermore, the Martin Group stated:

*I am not against the Wolfe Island Wind Plant. As a small business owner, I ask you to respect the financial hardships that this will put on me. This may be the most cost-effective route for the Applicant but very detrimental to me.*

The Board interprets these concerns as being related to compensation. As the Board stated in the Notice of Application (which was served on Mr. Martin and the Global Realty) the Board may make an order under subsection 99(5) of the *Act* authorizing CREC to expropriate the land if it is of the opinion that it is in the public interest to do so. However, the Board does not have the authority to determine the amount of compensation payable. If the authority to expropriate is granted and the parties do not agree upon compensation, section 100 of the *Act* requires the compensation to be determined under section 27 of the *Expropriations Act* or by the Ontario Municipal Board. The matters of compensation, which seem to be of concern to the Martin Group, will not be considered or decided in the expropriation proceeding before the Board.

The Board concludes that any matters of concern to the affected landowners, except routing and compensation, may be appropriately dealt by way of written process. The Parties will have an opportunity to ask written interrogatories and provide written submissions.

The Board considers it necessary to make provision for the following procedural matters. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. Written interrogatories on the Applicant's pre-filed evidence, shall be filed with the Board and copies delivered to the Applicant and the Parties on or before **Friday, May 30, 2008**. All interrogatories must include a reference to the section that identifies the specific evidence on which the interrogatory is based.

2. Responses to the interrogatories shall be filed with the Board and delivered to all the Parties on or before **Friday, June 6, 2008**.
3. The Applicant shall file its argument-in-chief with the Board and deliver it to all Parties on or before **Friday, June 13, 2008**.
4. The Parties and Board Staff shall file their final arguments with the Board and deliver them to the Applicant and all Parties on or before **Friday, June 27, 2008**.
5. The Applicant shall file its reply argument with the Board, and deliver it to all Parties on or before **Monday, July 7, 2008**.

All filings to the Board must quote file number EB-2008-0050, and consist of an electronic copy in searchable / unrestricted PDF format filed through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca), and three paper copies sent to the address below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). If the web portal is not available you may email your document to [BoardSec@oeb.gov.on.ca](mailto:BoardSec@oeb.gov.on.ca).

Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with three paper copies.

Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

Parties must also include the Case Manager, Ms. Zora Crnojacki  
[zora.crnojacki@oeb.gov.on.ca](mailto:zora.crnojacki@oeb.gov.on.ca) and Board Counsel, Mr. Michael Millar

Michael.millar@[oeb.gov.on.ca](mailto:oeb.gov.on.ca) on all electronic correspondence related to this case.

**DATED** at Toronto May 16, 2008.

ONTARIO ENERGY BOARD

*Original signed by*

Kirsten Walli  
Board Secretary

**Appendix A**  
**to**  
**Procedural Order No. 1**  
**May 16, 2008**

**EB-2008-0050**

**List of Parties**

**CANADIAN RENEWABLE ENERGY CORPORATION**  
**EB-2008-0050**  
**List of Parties**

**May 16, 2008**

<b>Applicant</b>	<b>Rep. And Address for Service</b>
<b>Canadian Renewable Energy Corporation</b>	Mr. Geoff Carnegie Manager, Ontario Projects Canadian Hydro Developers Inc. 34 Harvard Road Guelph, ON N1G 4V8  Tel: 519-826-4645 x 222 Fax: 519-826-4745 Email: <a href="mailto:geoff@canhydro.com">geoff@canhydro.com</a>
<b>Counsel</b>	Ms. Sharon Wong Blake, Cassels & Graydon LLP Box 25, Commerce Court West 199 Bay Street, Suite 2800 Toronto, ON M5L 1A9  Tel: 416-863-4178 Fax: 416-863-2563 Email: <a href="mailto:Sharon.wong@blakes.com">Sharon.wong@blakes.com</a>
<b>Parties</b>	<b>Rep. And Address for Service</b>
<b>R. Paul Martin Construction Co. (registered intervenor)</b>	Mr. Paul Martin R. Paul Martin Construction Co. Ltd. 1473 John Counter Blvd., Suite 400 Kingston, ON K7M 8Z6  Tel: 613-548-7136 Fax: 613-548-3182 Email: <a href="mailto:mg@martingroup.ca">mg@martingroup.ca</a>
<b>Globe Realty Holdings Ltd. (directly affected landowner)</b>	Mr. Gary Mark CB Richard Ellis Management Services 18 King Street East Suite 1100 Toronto ON M5C 1C4