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Robert Staley
Bennett Jones LLP
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Toronto, ON
M5X 1A4

Dear Mr. Staley:

RE: Amherst Island Wind Project – Operations Plan

Loyalist Township asked that we prepare a letter in response to your recent correspondence and Notice of Arbitration with respect to the Operations Plan. We have instructions to represent the Township at the arbitration and will provide our selection of arbitrator to you this week.

It is unfortunate that your client feels there is no alternative to arbitration in this matter. As you are aware, the Township has been requesting a number of key pieces of information throughout the process that, had Algonquin/Windlelectric (the "Firm") made available, could possibly have avoided the situation the Firm finds itself in with respect to timing.

The Township has consistently advised your client that its mandate is to protect the public interest, including minimizing impacts to Township residents, protecting and maintaining municipal infrastructure, preserving Amherst Island heritage, and ensuring effective emergency response is available, particularly in the construction phase of the project. It is through this lens that the Township has reviewed and evaluated Firm documentation throughout the process.

There is no dispute that the Firm submitted a number of draft versions of the Operations Plan. The number of iterations of the plan however speaks primarily to the inadequacy of those plans and the continued reluctance to address the issues identified by the Township. The Township has communicated on a number of occasions that in order to meaningfully evaluate the Operations Plan it must contain sufficient detail to permit an assessment to occur.

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The Firm has corrected a number of identified deficiencies, but the plan that it requested be submitted to Council still has significant deficiencies which should have been addressed in advance of submitting it for final approval, which was communicated to your client a number of times.

As an example, the Firm chose not to accept prior Township offers to meet in advance of submitting the first draft of the Operations Plan and instead submitted the first draft on October 14, 2016 without prior consultation. As a result, the Plan was grossly short of basic details and suffered from a fundamental lack of appreciation for, or comprehension of, the municipality's sphere of responsibility. Key details the Plan not addressed included school and bus operations, emergency response impacts and operational considerations such as winter control. We further note that prior to October of 2016 the Firm had not consulted with a number of key stakeholders such as the School Board. The Township communicated that this draft did not contain the basic level of information required to even be considered a first draft of the operations plan.

Following submission of the first draft, Township staff met with representatives of the Firm on November 21, 2016. At this meeting the Firm attended without an agenda and appeared unprepared to answer questions about the fundamental underpinnings needed to draft an operations plan.

The most recent draft of the Operations Plan still inadequately deals with the roads. Specifically, the Firm has not identified the extent of the road allowance available along all proposed construction routes. The Township identified the need for a legal survey to establish road widths as early as 2013. Most recently, the Township confirmed that a legal survey would be required on March 9, 2016 (AECOM memo). On August 24, 2016 Township staff again advised of the need for a legal survey at a meeting with Windlectric to discuss various aspects of the Project. Staff also mentioned the need for a legal survey in comments on the three versions of the Operations Plan and in comments on the Pre-construction Study.

Notwithstanding the repeatedly raised concern over the extent of the forced road widths, your client has never prepared a legal survey. Instead the Firm purports to rely on construction drawings that do not appear to properly establish the legal limits of the roads and in any event have a variance of plus or minus .3m.

It is not acceptable to the Township or private land owners to undertake a construction process with this level of uncertainty.

The extent of the forced roads is now a matter before the courts and both of our clients will need to argue the exact nature of the forced roads on the island, as well as the extent of the road allowance owned by/under the jurisdiction of the Township to defend the Application brought by Martin Hauschild. Had your client undertaken proper surveys, much if not all of this

issue would have been resolved and the Operations Plan could be properly evaluated by the Township. Without a complete understanding of the limit of the Township roads many aspects of the proposed Operations Plans and traffic management cannot be adequately evaluated.

The Operations Plan also importantly does not have the necessary details about the width and capacity of the roads to be used. This information is critical to assessing the merit of the proposed construction work and detours proposed in the Operations Plan.

We understand from correspondence submitted by Jeff Norman dated May 29, 2017 that, "Windlectric nevertheless remains prepared to have discussions with Staff in the next couple of days, or after arbitration is commenced, with a view to narrowing issues separating Windlectric and the Township." This comment was made in the context of expressing Mr. Norman's view that no amount of negotiation could avoid arbitration.

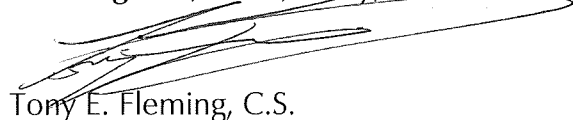
The Township has always been, and continues to be, willing to discuss and resolve all outstanding issues related to the Operations Plan. Township Staff are prepared to meet with your clients to establish what issues cannot be resolved without arbitration.

We also note that the Firm appears to be requesting that Council amend its noise by-law and grant a number of other requests that would require amendments to other township by-laws or decisions of Council. These matters are not subject to the road use Agreement and need to be addressed separately. Simply referring in the Operations Plan to the desire to have Council make certain decisions does not make the request part of the Operations Plan that can be subject to arbitration. This will need to be part of our discussions as to what matters are properly part of the arbitration.

I suggest that the Township provide a list of those elements of the Operations Plan that are NOT properly part of the Operations Plan as a means to begin the process of scoping the issues to be arbitrated. Based on this initial list we can identify which issues might be capable of resolution and establish a process to develop a final issues list.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



Tony E. Fleming, C.S.

TEF:kj

copy to: Robert Maddocks, CAO