

CANADA

RÉGIE DE L'ÉNERGIE

PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

NO. R-3595-2006

ASSEMBLÉE DES PREMIÈRES NATIONS DU
QUÉBEC ET DU LABRADOR
(APNQL)

Requérante

HYDRO-QUÉBEC

Intimé

CORPORATION METISSE DU QUEBEC ET
DE L'EST DU CANADA

PROCUREUR GENERAL DU QUEBEC

Intervenants

DEMANDE EN RÉVISION/RÉVOCATION

de la décision D-2005-201 approuvant les modifications aux exigences minimales et à la grille de sélection applicable à l'appel d'offres pour le second bloc d'énergie éolienne de 2000 MW

AFFIDAVIT OF RAYMOND MORRISON

I, the undersigned, Raymond Morrison, engineer, exercising my functions for the Listuguj Mi'gmaq Government, Natural Resources at 44 Dundee Road, Listuguj, Quebec, G0C 2R0, solemnly declare as follows:

1. I assist the Listuguj Mi'gmaq Government (LMG) with respect to engineering and technical services.
2. Beginning in July 2004, I advised the LMG and represented its interests with respect to energy matters and particularly wind power development.
3. Prior to July 2004, the role I have played with regard to these matters was filled by Listuguj Councilor and Chief Negotiator Richard Gray.
4. At the time of the first call for tenders for 1000 MW of wind-generated electricity (A/O 2003-02), the LMG was already engaged in preliminary work with a view to wind power development on and adjacent to the Listuguj Indian Reserve N°1 on the Restigouche River near its confluence with the Matapedia River.
5. The LMG was then seeking to conclude a power purchase agreement with the production arm of Hydro-Québec.
6. The LMG raised grave concerns regarding the process and substance of the first call for tenders by Hydro-Québec for 1000 MW of wind-generated electricity (A/O 2003-02), but nonetheless submitted what was in the end an unsuccessful bid in that call for tenders, as appears from the correspondence addressed to the Quebec Minister of National Resources and Wildlife, Hydro-Québec and the Régie de l'énergie filed herewith as exhibit **RM-1 in a bundle**.
7. We had been informed by the Minister and MRNF officials that no PPA or other arrangement with Listuguj could be entertained until the conclusion of the work of the Commission permanente de l'économie et du travail of the National Assembly in its hearings on the document titled *Le secteur énergétique au Québec – Contexte, enjeux et questionnements*.
8. We thus redoubled our efforts after April 7, 2005, but without success in moving towards a PPA.
9. Instead, the MRNF shifted the discussion to the next province-wide "decree" for a call for tenders for a further (then) 1000 MW of wind power as an opportunity to allow Listuguj access to this new development.
10. On March 17, 2005, I met in Quebec City with Richard Boucher, MRNF Director—Energy and Moncef Bouaziz, MRNF—Native Affairs Directorate as well as LMG legal counsel and our wind power business partners.

11. As part of that meeting, a bilateral meeting was held between the representatives of the MRNF and the LMG.
12. The MRNF called this a "consultation" on the next decree, but the LMG said it did not qualify as such.
13. Mr. Boucher declined to provide the draft decree to the LMG or guarantee any advantages to the LMG in the new call for tenders, but indicated the current intention of the MRNF was to integrate into the draft decree an element favorable to "economic benefits for local and aboriginal communities".
14. In May and June, I participated on behalf of the LMG in the BAPE hearings on Cartier's Baie-des-Sables Project and 3Ci's Murdochville Project.
15. Questions posed by the BAPE for the LMG revealed the knowledge of the Government of Quebec of claims of Aboriginal rights and Title and Treaty rights of the Mi'gmaq throughout the Gaspé Peninsula, as appears from excerpts of the transcripts of the proceedings at the Baie-des-Sables and Murdochville attached hereto respectively as exhibits **RM-2** and **RM-3**.
16. At the hearings, the LMG filed briefs and provided testimony, as appears from the copy of our Baie-des-Sables brief and the excerpt of our testimony there and the copy of our Murdochville brief and the excerpt of our testimony there, attached hereto respectively as exhibits **RM-4**, **RM-5**, **RM-6** and **RM-7**.
17. Reports 216 and 217 of the BAPE, dated September 16, 2005, dealing with these 3Ci and Cartier Projects are attached respectively hereto as exhibits **RM-8** and **RM-9**.
18. By letter dated June 29, 2005 to Chief Scott Martin of the LMG, Minister of Natural Resources and Wildlife Pierre Corbeil informed us of the announcement of the 2000 MW call for tenders as appears from the copy attached hereto as exhibit **RM-10**.
19. On August 11, 2005, I met, together with our wind power partners, with Minister Corbeil to discuss the Listuguj wind project and opportunities flowing from the 2000 MW call for tenders.
20. On September 12, 2005, I received an e-mail from Hydro-Québec regarding the draft regulation published on August 10, 2005 in the

Quebec Official Gazette as appears from the copy attached hereto as exhibit **RM-11**.

21. On September 16, 2005, LMG Chief Scott Martin wrote to Associate Deputy Minister Mario Bouchard regarding the draft regulation for a second block of wind energy as appears from the copy attached hereto as exhibit **RM-12**.
22. We did not receive notice of and were not aware in a timely fashion of the application filed on October 18, 2005 by Hydro-Québec with the Régie de l'énergie regarding to the approval of the bid criteria applicable for the second block of wind energy of 2000 MW.
23. The same circumstances prevail with respect to:
 - a) the administrative decision of the Régie to treat Hydro-Québec's application by way of paper hearing and without a public hearing;
 - b) the receipt and consideration of the submissions of interested municipal and regional parties between October 19 and 28, 2005;
 - c) the exchange of correspondence with respect to these matters between Hydro-Québec and the Régie de l'énergie on this subject between the 27th and 28th of October, 2005;
 - d) the decision of the Régie D-2005-201 rendered on October 28, 2005.
24. In fact, I only learned through the AFNQL on January 27, 2006, when I was in Montreal for the pre-bid conference in A/0 2005-003, of the existence and implications the Régie's decision D-2005-201, and the criteria fixed for the second call for tenders.
25. The erection of wind measurement towers and turbines in the context of the call for tenders for the second block of 2000 MW of wind energy will almost inevitably be on lands subject to asserted Mi'gmaq Aboriginal rights and Title and to Treaty rights and therefore involves a potential for effects on these rights.
26. This situation appears from the expert report of Tim Weis in the present case and my review of the maps therein concerning the location of wind energy potential.
27. The possibility of wind power development on our territory is confirmed by the fieldwork and wind measurement underway on our territory since April 2006 and the presence of technicians and promoters in our area, including for the Carleton-sur-Mer Project from the first call for tenders.

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28. I solemnly affirm that all of the facts said out in my affidavit are true.

AND I HAVE SIGNED in the City of Lestuguy this 10th day of November, 2006,

Ray Morrison
Raymond Morrison

SOLEMNLY AFFIRMED BEFORE ME IN

The City of Lestuguy, this 10th day of November, 2006,

Norma Morrison
Commissioner for Oaths
for the District of Bonaventure

NORMA MORRISON
Commissioner of Oaths 140 952
All Judicial Districts of Province of Que.
Commission expires October 27, 2009