

IN THE MATTER OF A COMPLAINT filed with the Municipal District of Greenview No. 16 Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act*, being Chapter M-26 of the Revised Statutes of Alberta 2000

BETWEEN:

Milner Power Inc. c/o AEC International Inc. (AEC) represented by Wilson Laycraft LLP –
Complainant

-and-

Municipal District of Greenview No. 16 (Greenview) represented by Reynolds Mirth Richards &
Farmer LLP - Respondent

BEFORE:

Paul Petry, Presiding Officer

Board Counsel:
G. Stewart-Palmer, Barrister & Solicitor

Staff:

L. Cloutier, Composite Assessment Review Board Clerk

The preliminary hearing was held September 17, 2012 via teleconference, in the Province of Alberta to consider a complaint about the assessment of the following property tax roll number:

156510	Assessment	\$7,948,360
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PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] This appeal relates to a property assessment for buildings and structures. The Complaint has filed its complaint alleging 7 grounds of complaint.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

[2] The CARB derives its authority to make decisions under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c.M-26 (“MGA”). The Complainant has filed its complaint and the CARB convened a hearing to schedule the merit hearing and disclosure dates.

Position of the Parties

[3] The Respondent indicated that the parties have reached an agreement in relation to the hearing dates and resultant disclosure dates:

Complainant's Disclosure	Wednesday February 13, 2013
Respondent's Disclosure	Thursday March 28, 2012
Complainant's Rebuttal	Thursday April 8, 2013
Hearing	Monday – Friday, April 15-19, 2013

[4] The Respondent advised the CARB of the following matters which require the scheduling of the hearing after the end of the calendar year:

- a) The counsel for all parties, including the CARB counsel, will be in a six week hearing starting October 15, 2012. This hearing is scheduled to conclude November 23, 2012.
- b) Counsel for the Complainant and the Respondent are scheduled to be in a linear assessment hearing the week of December 3, 2012;
- c) Counsel for the Complainant and the Respondent are scheduled to be in another composite assessment review board hearing the week of December 10, 2012; and
- d) Counsel for the Complainant and the Respondent are scheduled to be in another composite assessment review board hearing the week of December 17, 2012;
- e) The counsel for all parties, including the CARB counsel, will be in a composite assessment review board hearing scheduled from March 11-20, 2013.

[5] The Respondent advised that its view is that the requirement for a hearing prior that end of the calendar year is directory and not mandatory.

[6] The Complainant agreed with the submissions made by the Respondent, both for timing as well as the submissions in relation to the jurisdiction of this CARB to conduct a hearing after the end of the calendar year of 2012.

[7] Both parties indicated that they did not anticipate the need for another preliminary issue, In this regard, the Complainant indicated that it was going to abandon its argument in relation to institutional independence, and would send in written confirmation of its abandonment of that ground of appeal.

DECISION AND REASONS

[8] The disclosure and hearing dates are as follows:

Complainant's Disclosure	Wednesday February 13, 2013
Respondent's Disclosure	Thursday March 28, 2012
Complainant's Rebuttal	Thursday April 8, 2013
Hearing	Monday – Friday, April 15-19, 2013

[9] The merit hearing will take place in Valleyview, Alberta. The hearing will commence on April 15, 2013 at 9 am.

[10] Each party must provide its submissions electronically to the other parties and to the CARB by no later than 4:30 pm of the required date. Hard copies may follow on the following

day. The parties are requested to send 4 hard copies to the CARB in Valleyview, and one hard copy directly to CARB counsel in Edmonton.

[11] The CARB directs that the parties page number each page of the submission, including any materials contained as exhibits or tabs.

Reasons

[12] The CARB is pleased to note that the parties have been able to reach an agreement in relation to the disclosure and hearing dates of this matter.

[13] The CARB notes that both parties agree that the CARB does not lose jurisdiction to hear this complaint if the hearing is heard beyond the end of the calendar year, notwithstanding the provisions of s. 468 of the *Municipal Government Act*, R.S.A. 2000, c.M-26.

[14] The CARB is aware of the obligation to provide a fair hearing for the parties, which includes the consideration of both witnesses and counsel for the parties. In light of the other commitments of counsel for the parties, including the CARB's counsel, the CARB finds the disclosure and hearing schedule reasonable.

It is so ordered.

Dated at the City of Lethbridge, in the Province of Alberta, this 21st day of September, 2012.



P. Petry, Presiding Officer

APPENDIX "A"
ORAL REPRESENTATIONS

<u>PERSON APPEARING</u>	<u>CAPACITY</u>
1. B. Dell,	Counsel for the Complainant
2. C. Hall	Representative of the Complainant
3. R. Ford	Representative of the Complainant
5. C. M. Zukiwski	Counsel for the Respondent
6. R. Fortin	Assessor for the Respondent
7. H. Schmidt	Assessor for the Respondent

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Subject	Type	Sub-type	Issue	Sub-issue
CARB	electric power plant	generating system	Prelim. Scheduling	468 (1) (b)