



**EB-2009-0290**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S. O. 1998, c.15, Schedule B;

**AND IN THE MATTER OF** an application by Talbot  
Windfarm LP for an Order granting leave to construct  
transmission facilities to connect the Talbot Windfarm, to be  
located in the Municipality of Chatham-Kent, to the Ontario  
Grid.

**BEFORE:** Cynthia Chaplin  
Presiding Member

Paul Vlahos  
Member

## **DECISION AND ORDER**

### **Application and Proceeding**

Talbot Windfarm LP (the “Applicant” or “Talbot”) filed an application with the Ontario Energy Board (the “Board”) dated July 20, 2009, under section 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the “Act”). The Applicant applied for an order of the Board for leave to construct approximately 10.3 kilometres of 230 Kilovolt (“kV”) single circuit overhead electricity transmission line extending from the Talbot Substation, east of Ridgetown, in a northwest direction to a new Switching Station (“JS”) adjacent to the Hydro One 230kV line WL44C, just north of Highway 401 and north of Ridgetown (the “application”). At Talbot JS the proposed transmission line will connect with existing Hydro One Networks Inc. (“HONI”) 230kV transmission line WL44C and potentially in the future to line WL45C. The construction of the associated facilities, Talbot substation and Talbot switching station is part of the application.

The Board assigned File No. EB-2009-0290 to this application and issued a Notice of Application dated August 6, 2009 (the "Notice"). Talbot served and published the Notice as directed by the Board. In the Notice the Board indicated that it would hold either a written or an oral hearing and asked that each party to the application indicate its preference.

The Board issued Procedural Order No. 1 on September 10, 2009 (the "Procedural Order"), noting that no party had requested intervenor status, and only London Hydro had requested observer status. The Procedural Order made provision for interrogatories to be submitted by September 18, 2009, responses to be provided by September 28, 2009, submissions to be made by October 2, 2009, and reply submissions to be made by October 9, 2009. Interrogatories were filed by Board staff and responses were received by the specified date.

On September 9, 2009, a letter was received from Mr. Melvin McLean who asserted that Melvin McLean Farms Limited was the sole owner of lands affected by the Application, title having been granted by Crown Patent in 1848. The Board treated this letter as a request for intervenor status. After receiving and considering written submissions from Mr. McLean and Talbot on the issue of the ownership of the lands affected by the Application, the Board determined that Mr. McLean was not a landowner who would be directly affected by the Application and on September 25, 2009, issued Procedural Order No. 2 denying Mr. McLean intervenor status.

### **Confidentiality Request**

At the time the application was filed, Talbot requested that certain parts of the application<sup>1</sup> be held in confidence by the Board pursuant to Rule 10.01 of the Board's *Rules of Practice and Procedure* and *Practice Direction on Confidentiality* ("Practice Direction"). In support of its request, Talbot stated that the exhibits comprised proprietary engineering information that, if publicly disclosed, would be detrimental to the Applicant's competitive position. Talbot explained that as the exhibits were engineering drawings, it was not possible to file unredacted versions or to provide summaries of them.

At the time of filing responses to interrogatories on September 28, 2009, Talbot requested that some of the documents filed as responses - one document in its entirety,

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<sup>1</sup> Ex. E, Tab 2, Schedule 2; Exhibit 3, Tab 3, Schedule 3; and Exhibit F, Tab 3, Schedule 2.

a single line engineering diagram, and parts of other documents, dealing with consultations with Aboriginal communities and the Ministry of Energy and Infrastructure - be kept confidential. Talbot filed redacted and unredacted copies of the documents for which confidentiality was requested.

The Practice Direction states that the onus is on the person requesting confidential treatment to demonstrate to the satisfaction of the Board that confidential treatment is warranted in any given case. Parties are directed to make every effort to limit the scope of their requests for confidentiality to an extent commensurate with the commercial sensitivity of the information at issue and to prepare meaningful redacted documents or summaries so as to maximize the information that is available on the public record. Appendix B of the Practice Direction lists some of the factors that the Board may consider when considering whether to grant a request for confidentiality, and states "Information that is in the public domain will not be considered confidential".

The Board has reviewed the material and determined that there are two main categories of information requested to be held confidential: engineering information including turbine generator data, protection and operating philosophy reports, and electrical diagrams all of which are provided to the Independent Electricity System Operator ("IESO") for its System Impact Assessment report, ("SIA") (on forms provided by the IESO) and information relating to consultations on Aboriginal issues and with Aboriginal communities.

With regard to the engineering information, the IESO will post its final SIA on its website; included in the final SIA will be some or all of the technical information and data that Talbot has supplied and for which it seeks confidentiality. A review of the IESO website shows that much of this type of data is in fact published.

As noted above, the Practice Direction specifically states that information in the public domain will not be considered confidential; as the final SIA has not been completed, the information has yet to enter the public domain but will do so shortly. Given the imminent release of the information to the public through the posting of the SIA on IESO's website, the Board will grant the request for confidentiality only until the time that the SIA is posted on the IESO website.

With regard to the single line diagram found in Schedule 5-1 and referred to in the letter accompanying the interrogatory responses, the information that will appear in the final

SIA will be data; the line diagram as a whole conveys engineering information that cannot all be reduced to data and may not appear in the final SIA and enter the public domain. The Board accepts that the single line diagram contains proprietary engineering information the public disclosure of which could be detrimental to the applicant, and grants the request that it be kept confidential.

With regard to the redactions that relate to Aboriginal consultations, the Board notes that the redactions, which are minimal, relate to individual conversations. The Board accepts that the redactions relate to sensitive commercial information which could cause harm to the applicant's competitive position, and its ongoing negotiations with affected Aboriginal communities. The Board grants the applicant's request that the redacted information be kept confidential and that only the redacted copies of the documents be made public.

### **Evidence and Board Findings**

#### **Project Need**

Talbot's evidence stated that its parent, Renewable Energy Systems Limited ("RES Canada"), entered into a Renewable Energy Supply III Contract ("RES III contract") with the Ontario Power Authority for the sale of 99 MW of electricity generated by the Talbot Windfarm. The transmission line and related facilities which are the subject of this application are needed to connect the generation facilities with the HONI transmission grid.

The Board is satisfied that the need for the transmission line and related facilities is established.

#### **System Impact Assessment and Customer Impact Assessment**

A SIA (Part One) Report dated October 1, 2008 ("preliminary SIA") for this project was included in the pre-filed evidence (at Tab F2-2). The report concludes that "the proposed connection arrangement of the facility is acceptable" and that "under the studied conditions the connection of the proposed facility does not cause any thermal loading impacts on the local transmission facilities". There are also numerous technical requirements specified. The preliminary SIA study does not constitute a complete SIA study in that it does not include the dynamic studies that are normally part of the final SIA.

The Applicant explained that “an updated and joint SIA and Customer Impact Assessment application was submitted to the IESO and to Hydro One in June 2009, to reflect a decision to change the type of turbines that will be used at the Talbot Windfarm” [Exhibit B/Tab 1/Schedule 1/ p3 ].

Talbot also provided a document which is the proposal for a Customer Impact Assessment (“CIA”) study normally completed by the Transmitter, in this case Hydro One.

Talbot advised that the final SIA and CIA studies were originally expected to be released in September 2009; Talbot has recently advised that they will be issued in October 2009.

Without the final SIA and CIA reports, the Board does not have evidence to conclude that the proposed project will not have a negative impact on the reliability of the grid or on service to other customers. While the decision by IESO and HONI not to intervene in this application may indicate that the pending SIA and CIA reports confirm the facility will not affect the grid or its customers negatively, the Board is not prepared to allow any site activity to commence until the final SIA and CIA reports are filed with the Board. The Board’s decision to grant this application is conditional on the filing of the final SIA and CIA reports with the Board, and a commitment from Talbot that it will fulfill the requirements and recommendations of the final SIA and CIA reports.

The Conditions of Approval will include the requirement that the final SIA and CIA reports be filed with the Board prior to the commencement of any site activity, and that Talbot will fulfill the requirements and recommendations of the final SIA and CIA reports.

### **Land Rights and Form of Easement Agreement**

The evidence shows that Notice was properly served on the affected landowners. There were no valid landowner requests for intervenor status.

Talbot reported that all lease agreements have been executed for all the lands necessary for the building of the transmission line, and that it is in the process of negotiating easements and rights of entry with Hydro One and CSX Transportation.

Talbot submitted its proposed Form of Agreement to be offered to landowners. The Board finds the Form of Agreement acceptable.

### **Environmental Assessments and Public Consultations**

The Talbot Windfarm project was commenced on July 6, 2007. To ensure that environmental issues were fully considered, Talbot stated that it voluntarily self-elevated the project to a more detailed Environmental Review. A Notice of Completion of an Environmental Review Report was released on May 1<sup>st</sup>, 2009. The 30 day review period expired on June 1, 2009.

According to Talbot, 37 requests to conduct an individual environmental assessment were received. Although the Ministry of Energy denied all the Requests to Elevate on July 28, 2009, two parties appealed that decision and, according to Talbot, the appeal relates to the impact of the windfarm itself. The Board notes that construction of the transmission line and related facilities cannot begin until this Environmental Assessment Act process is complete.

Talbot has consulted with the local community and other stakeholders directly and in the course of conducting the environmental assessment. Evidence was filed documenting contacts and meetings with officials, community organizations and public open houses and information sessions. In particular, Talbot advised that it identified and contacted potentially affected Aboriginal communities, and consulted with them. Talbot provided evidence of its consultations and indicated that the Aboriginal communities have expressed no objection to the project. While consultations are continuing, the Board is satisfied that the Applicant has conducted its consultation with the Aboriginal communities appropriately.

### **Project Costs and Impact upon Ratepayers**

It is the Applicant's evidence that the proposed facilities will be paid for and owned by the Applicant and the project will therefore have no impact on transmission rates in Ontario. The Board accepts this evidence.

### **Conclusion**

Having considered all of the evidence related to the application, the Board finds the proposed project to be in the public interest.

**THE BOARD ORDERS THAT:**

Pursuant to section 92 of *Act*, Talbot Windfarm Limited Partnership is granted leave to construct electricity transmission facilities near Ridgetown in the Township of Chatham-Kent, as described in the first paragraph of this Order and Decision, subject to the Conditions of Approval attached as Appendix A to this Order.

**ISSUED** at Toronto on October 28, 2009

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

## **APPENDIX A**

**Conditions of Approval for  
Talbot Windfarm LP  
Transmission Line and Associated Transmission Facilities (the “Project”)  
EB-2009-0290**

**DATED: October 28, 2009**



**Conditions of Approval for  
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**1 General Requirements**

1.1 Talbot Windfarm LP ("TALBOT") shall construct the Project and restore the Project land in accordance with its Leave to Construct application, evidence and undertakings, except as modified by this Order and these Conditions of Approval.

1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate July 30, 2010, unless construction of the Project has commenced prior to that date.

1.3 TALBOT shall implement all the recommendations of the Environmental Screening Reports filed in the pre-filed evidence.

1.4 TALBOT shall satisfy the Independent Electricity System Operator ("IESO") requirements and recommendations as reflected in the Final System Impact Assessment report. No site activity shall commence until the Final System Impact Assessment report has been issued by IESO. Talbot shall file a copy of the Final System Impact Assessment report with the Board immediately upon its receipt.

1.5 TALBOT shall satisfy the Hydro One Networks Inc. ("HONI") requirements as reflected in the Final Customer Impact Assessment report. No site activity shall commence until the Final Customer Impact Assessment report has been issued by HONI. Talbot shall file a copy of the Final Customer Impact Assessment report with the Board immediately upon its receipt.

1.6 TALBOT shall advise the Board's designated representative of any proposed material change in the Project, including but not limited to material changes in the proposed route, construction techniques, construction schedule, restoration procedures, or any other material impacts of construction. TALBOT shall not make a material change without prior approval of the Board or its designated representative. In the event of an emergency the Board shall be informed immediately after the fact.

1.7 TALBOT shall obtain all necessary approvals, permits, licences, certificates and easement rights required to construct, operate and maintain the Project, and shall provide copies of all such written approvals, permits, licences and certificates upon the Board's request.

## **2 Project and Communications Requirements**

2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Electricity Facilities & Infrastructure.

2.2 TALBOT shall designate a person as Project engineer and shall provide the name of the individual to the Board's designated representative. The Project engineer will be responsible for the fulfillment of the Conditions of Approval on the construction site. TALBOT shall provide a copy of the Order and Conditions of Approval to the Project engineer, within ten (10) days of the Board's Order being issued.

2.3 TALBOT shall develop, as soon as possible and prior to the start of construction, a detailed construction plan. The detailed construction plan shall cover all material construction activities. TALBOT shall submit five (5) copies of the construction plan to the Board's designated representative at least ten (10) days prior to the commencement of construction. TALBOT shall give the Board's designated representative ten (10) days written notice in advance of the commencement of construction.

2.4 TALBOT shall furnish the Board's designated representative with all reasonable assistance needed to ascertain whether the work is being or has been performed in accordance with the Board's Order.

2.5 TALBOT shall, in conjunction with HONI and the IESO, develop an outage plan which shall detail how proposed outages will be managed. TALBOT shall provide five (5) copies of the outage plan to the Board's designated representative at least ten (10) days prior to the first outage. TALBOT shall give the Board's designated representative ten (10) days written notice in advance of the commencement of outages.

2.6 TALBOT shall furnish the Board's designated representative with five (5) copies of written confirmation of the completion of Project construction. This written confirmation shall be provided within one month of the completion of construction.

## **3 Monitoring and Reporting Requirements**

3.1 Both during and for a period of twelve (12) months after the completion of construction of the Project, TALBOT shall monitor the impacts of construction, and shall file five (5) copies of a monitoring report with the Board within fifteen (15) months of the completion of construction of the Project. TALBOT shall attach to the monitoring report a log of all comments and complaints related to construction of the Project that have been received. The log shall record the person making the comment or complaint, the time the comment or complaint was received, the

substance of each comment or complaint, the actions taken in response to each if any, and the reasons underlying such actions.

3.2 The monitoring report shall confirm TALBOT's adherence to Condition 1.1 and shall include a description of the impacts noted during construction of the Project and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction of the Project. This report shall describe any outstanding concerns identified during construction of the Project and the condition of the rehabilitated Project land and the effectiveness of the mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained.

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