



EB-2009-0315

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 Greenwich
Windfarm LP for an Order granting leave to construct
transmission facilities to connect the Greenwich Windfarm
to the Ontario Grid.

BEFORE: Cynthia Chaplin
Presiding Member

Paul Vlahos
Member

DECISION AND ORDER

Application and Proceeding

Greenwich Windfarm LP ("Applicant" or "Greenwich"), a wholly-owned subsidiary of Renewable Energy Systems, Canada Ltd. ("RES"), filed an application with the Ontario Energy Board ("Board") dated August 11, 2009, under section 92 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B ("Act") for leave to construct approximately 10.3 kilometres of 230 Kilovolt ("kV") double circuit overhead electricity transmission line and associated facilities. The line will extend from a Substation on the windfarm owned by Greenwich, approximately 60 km Northeast of Thunder Bay on Crown land, in a southeast direction to a Switching Station also owned by Greenwich, adjacent to two 230kV transmission lines (M23L and M24L) owned by Hydro One Networks Inc. ("HONI"). The purpose of the transmission line is to provide power to the Ontario Grid from the windfarm consisting of 43 2.3MW turbines, totaling 98.9MW. It is expected that the windfarm will become operational in the first quarter of 2011.

The Board assigned File No. EB-2009-0315 to the application and issued a Notice of Application dated September 17, 2009. Greenwich 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 parties participating in the proceeding to indicate their preference.

The Board issued Procedural Order No. 1 on October 14, 2009 noting that the Independent Electricity System Operator (“IESO”) requested and was granted intervenor status. There were no requests for observer status. The Procedural Order made provision for interrogatories to be submitted by October 16, 2009, responses to be provided by October 26, 2009, submissions to be filed by October 30, 2009, and reply submission to be filed by November 6, 2009. Interrogatories were filed by Board staff on October 16, 2009 and responses were received from Greenwich on October 29, 2009.

On October 16, 2009, the Canadian Environmental Assessment Agency (the “CEAA”) filed a letter with the Board and Greenwich responding to the Notice. The CEAA wished to inform the Board and the Applicant that if the Notice was sent to determine if the *Canadian Environmental Assessment Act* applies¹, the Applicant would be required to file a project description with the CEAA. The final Environmental Screening Report provided by Greenwich at section 1.9 recognizes that Federal permits could be required.

The Board expects that the Applicant will consult with the CEAA to determine if any relevant regulations apply. The Board requires that the project conform to all applicable environmental regulations as a condition of approval number 1.8.

Board staff filed a letter on October 29, 2009 requesting an extension to file submissions on account of late receipt of interrogatory responses. By letter dated October 30, 2009, Board staff advised that it no longer had concerns with the application, and would not be filing a submission.

On the basis of the full evidence and the reasons set out below, the Board approves the application, subject to certain conditions attached.

¹ The *Canadian Environmental Assessment Act* would apply in this instance if any of the lands upon which the windfarm will be located are federally owned Crown lands, if financial assistance is provided by a federal agency, or if federal permits are required.

Confidentiality Request

At the time the application was filed, Greenwich requested that certain parts² of the application 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"). Those parts deal with engineering information that in Greenwich's view is proprietary and, if publicly disclosed, would be detrimental to its competitive position. Greenwich noted that as the material contained engineering drawings and specifications that are proprietary, it was not possible to file unredacted versions or to provide summaries.

Also, at the time of filing responses to interrogatories on October 29, 2009, Greenwich requested that some of the documents filed as responses be kept confidential; one document in its entirety, a draft Customer Impact Assessment ("draft CIA"), and parts of other documents dealing with consultations with Aboriginal communities and the Ministry of Energy and Infrastructure. Greenwich 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. It is stated in Appendix B that "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, operating philosophy reports, and electrical diagrams all of which are provided to the 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.

² Exhibit E, Tab 2, Schedule 2; Exhibit E, Tab 3, Schedule 3; and Exhibit F, Tab 3, Schedule 2.

With regard to the engineering information, the IESO will post its final SIA on its website. Included in the final SIA is some or all of the technical information and data that Greenwich 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. The Board will grant the request for confidentiality with respect to engineering information only until the time that the final SIA is posted on the IESO website.

With regard to the single line diagram at Exhibit E, Tab 2, Schedule 2, and referred to in the application, the information that appears in the final SIA is data; the single-line diagram as a whole conveys engineering information that cannot all be reduced to data and does not appear in the final SIA and therefore will not 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 and elements of a consultation summary filed in response to Board staff interrogatory number 8. 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.

Board Findings

Section 96(2) of the *Act* provides that for an application under section 92 of the *Act*, when determining if a proposed work is in the public interest, the Board shall only consider the interests of consumers with respect to prices and reliability and quality of electricity service, and where applicable and in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewable energy sources.

In the context of this Application, the main issues for the Board are as follows:

1. Is the proposed project needed and is its routing the best alternative?

2. Is there a System Impact Assessment and what are its conclusions?
3. Is there a Customer Impact Assessment and what are its conclusions?
4. Will there be an impact on transmission rates?
5. Have the land-use matters been addressed?
6. If the project is approved, what should be the conditions of approval?

Project need and routing

Greenwich's evidence stated that its parent entered into a Renewable Energy Supply III Contract ("RES III contract") with the Ontario Power Authority for the sale of 98.9 MW of electricity generated by the Greenwich 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. The CIA and SIA reports, which are discussed in detail in the next section, identify and describe the effects of the connection on the transmission system. One of the Board's objectives is to facilitate the timely expansion of transmission and distribution systems to accommodate the connection of renewable energy generation facilities. The transmission line and related facilities are necessary to access the wind resource, and is consistent with government policy in respect of the promotion of renewable energy sources.

In so finding, the Board is satisfied that the proposed routing represents the best of the alternatives examined. The proposed route has been selected to minimize its length while taking into account the recommendations of the final Environmental Screening Report, which concluded that the project can be constructed, operated and decommissioned without any significant impacts to the environment. The Board's decision to grant this application is conditional on Greenwich fulfilling the requirements and recommendations of the ESR pertaining to the proposed routing of the transmission line.

System Impact Assessment (“SIA”)

The Applicant is required to file a SIA. The SIA is undertaken and completed by the IESO to examine potential adverse impacts of the windfarm on the bulk transmission grid.

A final SIA Report dated September 29, 2009 for this project was included in responses to interrogatories. The report examines differences from an earlier SIA report due to a change in the turbines and associated transformers.³ The final report concludes that “the proposed wind farm does not have a negative adverse impact to the reliability of the IESO-controlled grid”. The IESO identifies certain requirements and makes recommendations.

The Board’s decision to grant this application is conditional on Greenwich fulfilling the requirements and recommendations of the final SIA report.

Customer Impact Assessment (“CIA”)

The Applicant is required to file a Customer Impact Assessment (“CIA”). The CIA is meant to indicate if there are any negative effects to customers in the affected area as a result of the connection of the project. The CIA is not meant to evaluate the overall impact of the Greenwich windfarm on the bulk transmission system.

Greenwich filed a draft CIA, which was prepared by HONI. The Applicant requests that the draft CIA be held in confidence because the study agreement between HONI and the Applicant stipulates that the draft CIA cannot be made public. The draft CIA concludes that the Greenwich windfarm can be incorporated into the transmission system without any adverse impact on HONI customers in the area. Greenwich advised that it expects the final CIA to be issued shortly.

The Board’s decision to grant this application is conditional on Greenwich filing the final CIA report and fulfilling the requirements and recommendations contained therein.

In response to a Board staff interrogatory⁴, Greenwich indicates that there is some difference in opinion between HONI and the Electricity Safety Authority as to how

³ Exhibit I, Response to Staff Interrogatory No. 3

⁴ Exhibit I, Response to Staff Interrogatory No. 5

Ground Potential Rise⁵ is to be measured. Grounding systems refer to systems that are designed to prevent hazardous large voltages from any system element to earth ground.

The Board requires that Greenwich design its grounding systems to conform to all applicable safety codes and regulations. The Conditions of Approval will include the requirement that Greenwich provide confirmation, with appropriate documentation, that the matter has been resolved prior to the commencement of any site activity.

Land Rights and Form of Easement Agreement

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

The proposed transmission facilities will be located partially on Crown land. According to the evidence, the necessary Crown land rights from the MNR are pending. Greenwich requires easement rights over two parcels of private lands.

Greenwich submitted its proposed Form of Agreement to be offered to landowners. The Board finds the Form of Agreement acceptable. The Board finds that land issues have been satisfactorily dealt with.

Environmental Assessment

A Notice of Completion of an Environmental Screening Report was released on July 13, 2009 by the Ministry of the Environment. The 30 day review period expired on August 11, 2009. According to the evidence, there were no requests received to conduct an individual environmental assessment.

The Board notes that construction of the transmission line and related facilities cannot begin until the process stipulated in the *Environmental Assessment Act* is completed.

⁵ "Ground Potential Rise" is a measure of the voltage of a system element relative to an Earthed point at a measured distance from the system element.

Public Consultations

Greenwich 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 and community organizations, and holding public open houses and information sessions. Greenwich advised that it identified and contacted potentially affected Aboriginal communities, and filed evidence regarding its attempts to consult with all of them.

The evidence revealed that, by letter dated November 2, 2007 to Greenwich's parent company, the Union of Ontario Indians ("UOI") took the position that no consultation had occurred, UOI recommended direct consultations with all Anishinabek First Nation communities, and suggested that a meeting be arranged with the Northern Superior Regional Chief.⁶ The evidence reveals that UOI did not respond to Greenwich's telephone calls, emails and letters following the receipt of UOI's letter.⁷ The Board notes UOI did not apply for intervenor status.

Greenwich provided records of its discussions with Red Rock Band, Fort William First Nation, MNO⁸ and Red Sky Independent Métis Nation. Each community received capacity funding from Greenwich for reviewing of the Final Environmental Screening Report for the proposed transmission facilities. No Aboriginal community made a Request to Elevate the environmental screening process or requested status as an intervenor in this proceeding.

The Board notes that Red Rock Band and Fort William First Nation filed letters of support for the proposed transmission facilities⁹. Consultations are continuing.

The Board is satisfied that the Applicant has conducted its consultation with the affected Aboriginal communities appropriately.

⁶ Ibid., Schedule 8-3.

⁷ Ibid., Schedule 8-24.

⁸ Métis Nation of Ontario, Thunder Bay Métis Council and Geraldton and Area Métis Council were collectively titled "MNO" and were consulted as a group.

⁹ Interrogatory Response, Schedules 8-38, 8-39

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 Greenwich's proposed transmission line project to be in the public interest.

THE BOARD ORDERS THAT:

1. Pursuant to section 92 of *Act*, Greenwich Windfarm Limited Partnership is granted leave to construct electricity transmission facilities near Thunder Bay, partially in the Township of Dorion and partially on unincorporated Crown lands, as described in the first paragraph of this Decision and Order, subject to the Conditions of Approval attached as Appendix A to this Order.
2. Greenwich Windfarm Limited Partnership shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

ISSUED at Toronto on November 20, 2009

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

Conditions of Approval for Greenwich Windfarm LP Transmission Line and Associated Transmission Facilities (the "Project") EB-2009-0315

DATED: November 20, 2009

**Conditions of Approval for
Greenwich Windfarm LP
Transmission Line and Associated Transmission Facilities (the "Project")
EB-2009-0315**

1 General Requirements

1.1 Greenwich Windfarm LP ("Greenwich") 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 August 31, 2010, unless construction of the Project has commenced prior to that date.

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

1.4 Greenwich shall satisfy the Independent Electricity System Operator ("IESO") requirements and recommendations as reflected in the Final System Impact Assessment report of September 29, 2009.

1.5 Greenwich 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. Greenwich shall file a copy of the Final Customer Impact Assessment report with the Board immediately upon its receipt.

1.6 Greenwich shall satisfy the Board that there has been resolution of the Ground Potential Rise issue as described in this Order. No site activity shall commence until the relevant communications between Greenwich, the Electrical Safety Authority ("ESA"), and HONI, indicating that those parties are satisfied with the design of the Grounding Systems to be implemented at the windfarm site, have been filed with the Board.

1.7 Greenwich 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. Greenwich 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.

1.8 Greenwich 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 Greenwich 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. Greenwich 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 Greenwich 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. Greenwich 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. Greenwich shall give the Board's designated representative ten (10) days written notice in advance of the commencement of construction.

2.4 Greenwich 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 Greenwich shall, in conjunction with HONI and the IESO, develop an outage plan which shall detail how proposed outages will be managed. Greenwich 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. Greenwich shall give the Board's designated representative ten (10) days written notice in advance of the commencement of outages.

2.6 Greenwich 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, Greenwich 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. Greenwich 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 Greenwich'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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