



ONTARIO ENERGY BOARD

STAFF SUBMISSION

Leave to Construct - McLean's Mountain Wind LP

EB-2011-0394

May 25, 2012

Board staff makes the following submission in relation to the application for leave to construct by McLean's Mountain Wind LP ("McLean's" or the "Applicant").

Background

On November 22, 2011 McLean's made application for leave to construct a 115kV transmission line on Manitoulin Island and associated facilities (the "Project"), to connect a wind farm project (the "Wind Farm") to the Hydro One transmission line on Goat Island, a distance of approximately 10 km.

Submission

Board's mandate

The Board's mandate with respect to electricity leave to construct applications is described in the *Ontario Energy Board Act, 1998*.

For any leave to construct application under section 92 of the Act, section 96(2) of the Act provides that when determining if a proposed work is in the public interest, the Board jurisdiction is limited to consideration of:

- the interests of consumers with respect to prices and the 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.

Need

The applicant advises that the Project is required for the purpose of connecting the Wind Farm to the IESO controlled grid. The applicant has secured two contracts under

the OPA's FIT program¹ for the Wind Farm. Board staff submits that the need for the transmission project has been demonstrated.

Land Matters

The route followed by the proposed transmission line on Manitoulin Island is mostly on public roads, and where it is not on public roads agreements have been concluded with private owners.

The section of the line which is on Goat Island is on land owned by CP Rail, and the parties are continuing to negotiate and appear to be close to a resolution, with the applicants submission indicating that a lease agreement is expected to be signed before the end of June, 2012.

During the course of the proceeding the route was altered from that in the application related to the crossing of the water channel and the precise location of the switchyard. The argument-in-chief includes a further change, described as immaterial by the applicant, which moves the route on Goat Island 30m to the west. Board staff is of the opinion that the change does not warrant any further examination because it affects only one party, Canadian Pacific Rail, is relatively minimal, and there is evidence that the parties are reaching accommodation.

Board staff notes that there were no criticisms of the forms of Agreement proposed by the Applicant. In staff's view, the forms of Agreement are acceptable. The applicant also provided a copy of the road use agreement.

Board staff submits that approval be subject to the applicant and CP reaching agreement.

¹ Exhibit B Tab 1 Schedule 1 p1 paragraph 4

Alternatives

The routing of the proposed transmission line uses public rights of way where it is possible and McLean's has or will have agreements with private property owners where required. There is evidence in the material submitted that consideration was given to other routes, for example the responses to interrogatories #2, 3 and 4 from CP Rail. Although no major alternatives were assessed in the application Board staff submits that the route in this application is an appropriate option.

Ratepayer costs

All costs for the Project will be borne by the applicant in the proceeding, including that of the switching station and modifications required for purposes of satisfying the assessments by the IESO and Hydro One, considered below. There are no direct costs to the ratepayer as a result of this application.

System Impact Assessment

The applicant submitted with the application a System Impact Assessment Report dated October 27, 2010 and an addendum report dated March 15, 2011 from the IESO. The IESO concludes that "the proposed windfarm does not have a material adverse impact on the reliability of the IESO-controlled grid." The report includes numerous specific and general requirements which will have to be met by the applicant prior to allowing operation of the windfarm on the grid. In response to Board staff interrogatory #12 McLean's confirms that it will comply with each of the requirements listed in the report. Board staff submits that this should be a condition of approval.

Customer Impact Assessment

Hydro One submitted a Customer Impact Assessment Report dated October 22, 2010 and a confirming addendum dated March 16, 2011. The reports indicate that the addition of the windfarm increases the short circuit level at Martindale and that it impacts connected customers, and that McLean's will be required to share the cost of upgrade of circuit breakers, and that this would occur at the time of completion of a Customer Connection Requirements ("CCRA") if the project proceeds. McLean's, in response to Board staff interrogatory #13, indicated that it will install mitigating measures which will remove the impact on customers on the Martindale 44kV bus. With this change it is understood that the requirements of Hydro One will have been fulfilled. Board staff submits that fulfilling the transmitter's requirements should be a condition of approval.

Environmental Approvals

The Board does not play a role in the environmental assessment for a leave to construct, but is concerned that the requirements do get fulfilled. McLean's furnished information in response to Board staff interrogatory #4 that the REA (Renewables Environment Assessment) application was posted and in Board staff Interrogatory #5 that MNR sign off was obtained. In the application and in response to interrogatories it is apparent that the approval is in process.

Environmental approval also includes matters of consultation with public and First Nations groups. There is evidence of extensive consultation, but intervenor MCSEA asserts that there is controversy as to the constitution and legitimacy of the applicant partnership. Board staff notes that the Board decided in Procedural Order No. 7 that this is a matter which may be relevant at application for a licence, but is not relevant to the current proceeding. However, there is normally a requirement to obtain licences as a condition of approval of the leave to construct, and Board staff submits that should be

included in this instance. Board staff also submits that the REA approval should be a condition of approval for the leave to construct.

Permits

McLean's has identified the permits and licences to be obtained. Board staff submits that the requirement to obtain all necessary permits, licences and approvals be a condition of approval.

Conditions of Approval

Board staff proposes that conditions of approval be attached to the leave to construct, and a draft proposal is attached for consideration. Where permits, licences and agreements etc. are required these should be secured before the commencement of construction.

Conclusion

In conclusion, Board staff submits that McLean's application for leave to construct should be granted, subject to the proposed conditions of approval, which are attached.

All of which is respectfully submitted.

APPENDIX A

DRAFT

CONDITIONS OF APPROVAL

McLean's Mountain Wind LP

Transmission Line and Associated Transmission Facilities (the "Project")

Decision and Order

Board File No. EB - 2011- 0394

Dated May 25, 2012

Definitions:

- (1) "Project" means the Transmission Line and associated Transmission Facilities as defined in the Decision and Order.**
- (2) "Applicants" means McLean's Mountain Wind LP**

1 General Requirements

- 1.1 The Applicants shall construct the Project and restore the Project land in accordance with the 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 June 30, 2013 unless construction of the Project has commenced prior to that date.
- 1.3 The Applicants shall comply with the requirements of the Renewables Environmental Assessment Approval and any amendment thereto.
- 1.4 The Applicants shall satisfy the Independent Electricity System Operator ("IESO") requirements as reflected in the System Impact Assessment Report dated March 15, 2011, and such further and other conditions which may be imposed by the IESO.
- 1.5 The Applicants shall satisfy the Hydro One Networks Inc. requirements as reflected in the Customer Impact Assessment Report dated March 16, 2011 and such further and other conditions which may be imposed by Hydro One.
- 1.6 The Applicants 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. The Applicants 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 The Applicants shall obtain and comply with 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 and Infrastructure Applications.
- 2.2 The Applicants shall designate a person as Project Manager and shall provide the name of the individual to the Board's designated representative. The Project Manager will be responsible for the fulfillment of the Conditions of Approval on the construction site. The Applicants shall provide a copy of the Order and Conditions of Approval to the Project Manager, within ten (10) days of the Board's Order being issued.
- 2.3 The Applicants 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. The Applicants shall submit two (2) copies of the construction plan to the Board's designated representative at least ten (10) days prior to the commencement of construction. The Applicants shall give the Board's designated representative ten (10) days written notice in advance of the commencement of construction.
- 2.4 The Applicants 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 The Applicants shall, in conjunction with Hydro One and the IESO, and other parties as required, develop an outage plan for the construction period which shall detail how proposed outages will be managed.
- 2.6 The Applicants shall furnish the Board's designated representative with two (2) 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 Construction Impacts - Reporting Requirements

- 3.1 Both during and for a period of twelve (12) months after the completion of construction of the Project, the Applicants shall maintain a log of all comments and complaints related to construction of the Project. 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. The Applicants shall file two (2) copies of the log with the Board within fifteen (15) months of the completion of construction of the Project.

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