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BY COURIER

June 14, 2013

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2700,
2300 Yonge Street
Toronto, ON
M4P 1E4

Dear Ms. Walli:

EB-2012-0442 – Varna Wind Inc., S92 Leave to Construct - Hydro One Networks Inc. Submission

I am attaching two (2) paper copies of the Hydro One Networks Inc.'s Submission regarding the above-noted proceeding.

An electronic copy of the complete Submission has been filed using the Board's Regulatory Electronic Submission System.

Sincerely,

ORIGINAL SIGNED BY SUSAN FRANK

Susan Frank

Attach

c. Intervenors

HYDRO ONE NETWORKS INC.'S SUBMISSION

BACKGROUND

Varna Wind Inc. ("Varna") has applied to the Board for leave to construct a 115kV transmission line and related facilities to connect the Bluewater Wind Energy Centre ("BWEC") to Hydro One's transmission system. This line, proposed for installation on 24 km of municipal rights of way through the East Huron and Bluewater communities, will be located on the opposite side of the road and parallel to Hydro One's distribution wires for 14 km of that route.

Hydro One serves about 17 customers who will lie behind Varna's transmission line, on the opposite side of the road from Hydro One's existing distribution line. In order for Hydro One to serve these or future customers requesting a new electrical service connection along this route, Hydro One distribution lines will have to cross the proposed transmission lines at several locations. The cost of a customer's service upgrade or new connection will therefore rise due to the added cost of either pole changes or underground road crossings.

The existence of two licensed entities with electricity infrastructure on adjacent rights of way introduces new considerations to ensure safe, reliable and economic provision of customer service and supply. These include:

- response times for trouble calls,
- protocols for emergency service coordination,
- asset placement and clearance standards
- access to infrastructure and to customers
- general coordination of operations; and
- information provision and exchange between the parties.

Technical and operational measures to address these issues in an economic manner must be developed. The appropriate cost sharing for these measures needs to be settled.

Legislative Context and the Board's Jurisdiction

The Application has been made under s. 92(1) of *the Ontario Energy Board Act, 1998* (“*the Act*”) for an order of the Board for leave to construct the proposed transmission facilities.

The Board's jurisdiction to consider issues in a section 92 leave to construct case is limited by subsection 96(2) of *the Act* which states:

(2) In an application under section 92, the Board shall only consider the following when, under subsection (1), it considers whether the construction, expansion or reinforcement of the electricity transmission line or electricity distribution line, or the making of the interconnection, is in the public interest:

- 1. The interests of consumers with respect to prices and the reliability and quality of electricity service.*
- 2. Where applicable and in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewable energy sources.*

As stipulated in section 96(2) of *the Act* above, the Board's jurisdiction under section 92 extends to not only transmission, but also distribution with respect to prices, and the reliability and quality of electricity service. Also, the Board notes , in its previous Decision respecting the Grand Renewable Wind LP (“GRWLP”) Application for Leave to Construct (EB-2011-0063), that *the Act* does not specifically limit the section 96(2) considerations to the transmission system or the customers thereof; as such, the consideration of prices, reliability and quality of electricity service can include consideration of impacts on neighbouring transmission and distribution electricity systems and the customers connected to them, (EB-2011-0063, GWRLP Decision, page 7).

SUBMISSION

While Hydro One Distribution and Varna Wind Inc. (“Varna”) have an ongoing dialogue to finalize an agreement between the parties, Hydro One submits that there are two outstanding items remain relevant to Hydro One’s interest in this proceeding at this time:

- responsibility for the incremental cost of future new or upgraded electrical services that will need to be placed underground, to avoid overhead crossing of the transmission lines and
- the duration of the cost responsibility provisions between the generator-transmitter and the distributor.

In response to Varna’s Argument-In-Chief dated June 3, 2013 (the “AIC”), Hydro One submits the following:

1. Section 11 of the AIC states that the facility will not have any adverse impact on the price of electricity in the wholesale market or on transmission rates. Hydro One submits that interest of consumers with respect to prices includes the interest of distribution ratepayers as well. In the Board’s Decision respecting the Summerhaven Application (EB-2011-0027, page 4), the Board notes that it is within the Board’s jurisdiction to review any potential negative impacts of the proposed transmission facilities on a distributor and, by extension, on its respective ratepayers. Furthermore, section 96(2) of *the Act* does not exclude from the scope of the Board review, the impact on distribution ratepayers which may arise from the proposed transmission facilities when reviewing a Leave to Construct application.
2. Sections 15 and 16 of Varna’s AIC state that Varna will be responsible for the direct impact that its project causes to the quality or reliability of Hydro One’s electricity service, but that it will not be responsible for future impacts on the grounds that it is out of scope in a Leave to Construct proceeding. Hydro One, in response, submits that direct impact includes not only immediate costs but also future costs, since future costs are *direct* to ratepayers as a whole, or to a new customer who otherwise would not incur the incremental costs. The fact that costs are not immediately current does not mean that they are not direct impacts. Also, the criteria under section 96 of *the Act* are silent with respect to whether they apply only to

current impacts or also to future impacts. Absent legislative intent or the Board's explicit guideline otherwise, section 96 would be interpreted and applied in a way consistent with other regulatory provisions such as those in the Distribution System Code ("DSC") or the Transmission System Code ("TSC"), which are generally applied in a way that addresses both current and future direct impacts on interests of parties or ratepayers, at least until determined otherwise, for the purpose of fairness and consistency. This regulatory principle is stipulated in the Board's Report of Renewed Regulatory Framework for Electricity Distributors ("the RRFE Board Report") issued on October 18, 2012, which notes that the Board needs to regulate the industry in a way that serves present and future customers, and that better aligns the interests of customers and distributors while continuing to support the achievement of public policy objectives, and that places a greater focus on delivering value for money (page 1 of the RRFE Board Report). Therefore, Hydro One submits that it is within the Board's scope to deal with future direct impacts in this proceeding. Furthermore, as noted in Hydro One's Response to Varna's Motion to Strike Hydro One's evidence, the Board in the Summerhaven proceeding did decide that Summerhaven should bear HCHI's incremental costs for underground road crossings if required which implies a future perspective. Also, under a beneficiary-pays principle and for the purpose of fairness and balancing interests of parties who are currently and will be directly impacted by the proposed facilities, the costs would be borne by the triggering party.

3. Further to the above, as noted earlier in Hydro One's Evidence filed March 27, 2013 and Response to Varna's Motion to Strike Hydro One's Evidence filed April 19, 2013, Hydro One acknowledges the fact that certain issues were raised by Haldimand County Hydro ("HCHI") in the Summerhaven Application and the similar GRWLP proceeding. In both cases, the Board decided that the relevant generator-transmitter would be responsible for the distributor's immediate incremental costs to accommodate the transmission presence. With respect to future distribution costs, the Board, in the Summerhaven case, decided that Summerhaven should also bear HCHI's incremental costs for underground road crossings, if required, due to Summerhaven's potential configuration needs arising from environmental permitting requirements. In the GRWLP case, the Board decided that GRWLP should not be

held responsible for changes required to HCHI's future plans, as this was beyond the scope of the proceeding. Here, in the present case, the facts and implications associated with the proposed facilities are similar to those from the Summerhaven rather than from the GRWLP, because future costs resulting from the proposed facilities are direct due to the extra configuration needs for safety and reliability purpose. Furthermore, as the Board uses the phrase, 'any potential negative impacts', in the Summerhaven case, it implies, by its own use of the word 'potential', the consideration of both current and future direct impacts of the proposed transmission facilities on a distributor and its ratepayers, as quoted below:

The Board finds that it is within the Board's jurisdiction to review any potential negative impacts of the Applicant's proposed Transmission Facilities on HCHI's distribution system and on HCHI's customers
(page 4 of the Summerhaven Decision).

CONCLUSION

It is Hydro One's view that that satisfactory resolution of these issues is not only within the Board's scope in a Leave to Construct proceeding, but also a necessary prerequisite to the Board granting a Leave to Construct for the transmission lines, as these issues impact price, as well as the reliability and quality of electricity service to Hydro One's customers.

In this case, Hydro One is optimistic that a mutual agreement will be reached between the parties. However, Hydro One respectfully requests that the Board include in its Conditions of Approval, the filing in confidence, of a signed agreement between the two parties no later than before the construction commencement of the proposed facilities.