



EB-2013-0185

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 Grand Bend
Wind Limited Partnership for an order or orders pursuant to
section 92 of the *Ontario Energy Board Act, 1998* granting
leave to construct transmission facilities in an area northwest
of Grand Bend.

BEFORE: Emad Elsayed
Presiding Member

Paula Conboy
Member

DECISION AND ORDER

August 22, 2013

DECISION

The Board approves the application by Grand Bend Wind Limited Partnership for an Order granting leave to construct the transmission line and associated facilities as described in the April 19, 2013 application. This approval is subject to the Conditions of Approval attached to this Decision and Order.

APPLICATION AND PROCEEDING

Grand Bend Wind Limited Partnership (the “Applicant”) filed an application with the Ontario Energy Board (the “Board”), dated April 19, 2013, under section 92 of the Ontario Energy Board Act, 1998 (the “Act”).

The Applicant has applied for an order or orders of the Board granting leave to construct an electricity transmission line and related facilities (the “Project”) which will connect a 100 MW wind-powered electricity generation facility (the “Generation Project”) to the Ontario transmission system. The Applicant submitted that the Generation Project is subject to an Ontario Power Authority Feed-in Tariff contract.

The Project, which is the subject of this application, consists of the following facilities:

- a substation which will step up the voltage of the Generation Project collector system from 34.5 kV to 230 kV;
- a 230 kV single-circuit underground transmission line, approximately 30 km in length, to connect the Generation Project to the existing Hydro One Networks Inc. (“Hydro One”) transmission system circuit B23D located approximately 3 km southeast of Hydro One's Seaforth TS; and
- a switching station at the point of connection with the Hydro One transmission system near Seaforth TS.

The Board has assigned file number EB-2013-0185 to this application.

The Board issued its Notice of Application and Written Hearing on May 10, 2013.

Procedural Order #1 issued on June 20, 2013 granted intervenor status to the following parties:

- The Independent Electricity System Operator;
- Goderich-Exeter Railway Company Ltd;
- The Corporation of the Municipality of Bluewater; and
- Van Miltenburg Farms

The Board granted cost award eligibility to Van Miltenburg Farms for costs that relate to matters directly within the scope of this proceeding.

In accordance with Procedural Order No. 1

- Board staff filed written interrogatories on July 4, 2014.
- The Applicant filed responses to Board staff's interrogatories on July 17, 2013.
- Board staff filed a submission on July 24, 2013
- The Applicant filed a reply submission on July 31, 2013

THE BOARD'S JURISDICTION

The application has been brought under section 92 of the Act. That provision forms part of a series of provisions that both empower and limit the Board in its consideration of this type of application. The Board's power to grant an applicant a leave to construct transmission facilities arises from subsection 92(1) of the Act which states:

92. (1) No person shall construct, expand or reinforce an electricity transmission line or an electricity distribution line or make an interconnection without first obtaining from the Board an order granting leave to construct, expand or reinforce such line or interconnection.

In discharging its duties in this proceeding, the Board is also bound by the provisions of section 96 of the Act which states:

96. (1) If, after considering an application under section 90, 91 or 92 the Board is of the opinion that the construction expansion or reinforcement of the proposed work is in the public interest, it shall make an order granting leave to carry out the work.

(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 resources.

As a result of these provisions, many aspects of any transmission application, including the environmental impacts and the health risks of the transmission project, are outside the Board's jurisdiction. Those matters are determined by the Government of Ontario

through the Renewable Energy Approval (“REA”) process administered by the Ministry of the Environment (“MOE”) and are not matters upon which the Board can express any findings or opinions. The Board also has no jurisdiction regarding the need for, or location of, the generation facilities associated with any transmission application.

The Act also gives the Board responsibilities for certain other matters, such as approval of the forms of land agreements to be offered to landowners whose lands are affected by the approved route or location of a proposed transmission project. Section 97 of the Act states that:

97. In an application under section 90, 91 or 92, leave to construct shall not be granted until the applicant satisfies the Board that it has offered or will offer to each owner of land affected by the approved route or location an agreement in a form approved by the Board.

PUBLIC INTEREST TEST

As described above, the Board’s consideration of the public interest in this case is limited to the interest 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 resources.

Transmission Rates

The Applicant submitted that: the Project is to be used solely to connect the Generation Project into the Independent Electricity System Operator (“IESO”)-controlled grid; the Applicant will not be a licensed or rate regulated transmitter; the financial risk of constructing, owning, and operating the Project lies solely with the Applicant; and, accordingly, the construction, ownership and operation of the Project will not adversely affect the interests of consumers with respect to prices.

The Board agrees with the Applicant that the Project will not impact transmission rates in Ontario and hence the interests of consumers with respect to prices are not adversely affected by the Project.

The Applicant also confirmed, and the Board accepts, the Applicant’s responsibility for removing the transmission and related facilities if construction of these transmission facilities does not proceed or is interrupted due to unforeseen events such as the inability to acquire or secure the various permits or due to a force majeure event.

Reliability and Quality of Electrical Service

System Impact Assessment

The Applicant filed a System Impact Assessment (“SIA”) Report issued by the IESO on December 21, 2011 based on General Electric wind turbines and an overhead transmission line. Subsequently the turbine type was changed to Siemens and a decision was made to place the transmission line underground. These changes are captured in a SIA Report Addendum dated July 8, 2013 which was filed with the Applicant’s responses to the Board staff interrogatories.

The IESO concluded that the proposed changes were expected to have no material adverse impact on the reliability of the integrated power system and issued a Notification of Conditional Approval for Connection, dated July 8, 2013, for the Grand Bend Wind Farm project, subject to implementation of the requirements outlined in the SIA Report Addendum.

The Applicant confirmed that it plans to implement all of the IESO's connection requirements contained in the final SIA Report, Addendum and any further updates to these documents.

The Applicant also confirmed that Hydro One intends to carry out the transmitter requirements outlined in the SIA Report, Addendum and any further updates to these documents.

Customer Impact Assessment

The Applicant filed a Customer Impact Assessment (“CIA”) Report issued by Hydro One on January 4, 2012 followed by a CIA Report Addendum dated June 25, 2013 to reflect the change to the turbine type and the location of the transmission line. The Addendum was filed with the Applicant’s responses to the Board staff interrogatories.

The Applicant confirmed that it plans to implement all of the connection requirements contained in the final CIA Report, Addendum and any further updates to these documents.

The Applicant also confirmed that Hydro One intends to carry out the transmitter requirements outlined in the CIA Report, Addendum and any further updates to these documents.

Government Policy and Promotion of Renewable Energy Resources

The Applicant submitted that it has a Feed-in Tariff contract with the Ontario Power Authority to supply renewable wind energy from the Generation Project to the electricity grid. The Project connects the renewable Generation Project to the IESO-controlled grid and thus promotes the use of renewable energy resources.

The Board accepts the Applicant's evidence that the Project promotes renewable energy resources in accordance with government policy.

LAND-RELATED MATTERS

The Applicant submitted that:

- the proposed transmission line is primarily located in the shoulder of existing municipal and county roads within public rights of way; and
- some private property is required for the substation and switching station and for the segments of the transmission line that run from the substation and switching station to the right of way.

The Applicant filed three forms of agreement in relation to the property rights that it proposes to acquire. The first agreement is the first draft Road User's Agreement from the Municipality of Bluewater, the second agreement is the redacted lease agreement for the substation and the third agreement is the redacted lease agreement for the switching station.

The Applicant submitted that each of the affected landowners has been presented with the form(s) of agreement.

In accordance with Section 97 of the Act, the Board must be satisfied that the Applicant either has or will offer each owner affected by the proposed route or location an agreement in a form approved by the Board.

The Board finds that the forms of agreement that the Applicant presented to the affected landowners are acceptable.

RENEWABLE ENERGY APPROVAL ("REA")

The Applicant advised in its interrogatory responses that it now anticipates receiving MOE approval of the REA in October, 2013 instead of the previously expected end of

August 2013 date. The Applicant also advised that there have not been any objections to the granting of the REA.

CONCLUSION

Having considered all of the relevant evidence related to the application, the Board finds that the Project is in the public interest and approves the application subject to the conditions identified in Appendix A to this Decision and Order.

THE BOARD ORDERS THAT:

1. Pursuant to section 92 of the *Ontario Energy Board Act, 1998*, Grand Bend Wind Limited Partnership is granted leave to construct an electricity transmission line and related facilities to connect a wind-powered electricity generation facility to the Ontario transmission system, subject to the Conditions of Approval attached as Appendix A to this Order.
2. Van Miltenburg Farms shall file with the Board no later than September 3, 2013 its cost claim in accordance with the Board's Practice Direction on Costs Awards.
3. Grand Bend Wind Limited Partnership may object to the cost claim no later than September 10, 2013 by filing its submission with the Board and delivering a copy to Van Miltenburg Farms.
4. If an objection to the cost claim is filed by Grand Bend Wind Limited Partnership, Van Miltenburg Farms will have until September 17, 2013 to make a reply submission to the Board, with a copy to Grand Bend Wind Limited Partnership.

All filings to the Board must quote the file number, EB-2013-0185, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary
E-mail: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

ISSUED at Toronto, August 22, 2013

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

APPENDIX A
TO DECISION AND ORDER
BOARD FILE NO. EB-2013-0185
DATED AUGUST 22, 2013

CONDITIONS OF APPROVAL

**Conditions of Approval for
Grand Bend Wind Limited Partnership
Leave to Construct a Transmission Line
and Associated Facilities
EB-2013-0185**

Note:

The Conditions of Approval attached to the Board's Decision and Order include references to permits and approvals by other organizations, Crown corporations, or Government Ministries that are prerequisites for the successful completion of the facilities that are the subject of this application. Notwithstanding any such references in these Conditions of Approval, the Board is not responsible for ensuring the implementation or operationalization of any of the requirements enumerated in such permits or approvals or the reports associated therewith even where such permits, approvals or associated reports are required, for any reason, to be filed with the Board.

1. General Requirements

- 1.1** The Applicant shall construct the transmission line and associated transmission facilities as defined in the Decision and Order (the "Project") in accordance with its the Leave to Construct application, evidence and undertakings, except as modified by the Board's Decision and Order and by these Conditions of Approval and in accordance with applicable laws, codes and standards.
- 1.2** Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate on August 22, 2014 unless construction of the Project has commenced prior to that date.
- 1.3** The Applicant shall comply with the requirements of the Renewable Energy Approval and any amendment thereto.
- 1.4** The Applicant shall satisfy the requirements of the Independent Electricity System Operator requirements as reflected in the final System Impact Assessment, Addendum and any further updates to these requirements.

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- 1.5** The Applicant shall satisfy the requirements of Hydro One Networks Inc. as reflected in the Final Customer Impact Assessment Report, Addendum and any further updates to these requirements.
- 1.6** The Applicant 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 Applicant 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 Applicant 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.
- 1.8** The Applicant shall obtain all necessary easements and other instruments relating to individual parcels of land before commencing construction of the Project upon those lands.
- 1.9** The Applicant shall comply with the laws of Ontario (including the laws of Canada applicable in Ontario).

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

2.4 The Applicant 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 Applicant 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 Applicant 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 Applicant 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 Applicant 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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