

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'énergie de l'Ontario
C.P. 2319
27^e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone: 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL

October 11, 2013

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Bornish Wind, LP, Kerwood Wind, Inc. and Jericho Wind, Inc.
Applications for Leave to Construct Transmission Facilities
Board File No. EB-2013-0040 and EB-2013-0041**

In accordance with the process documented in Procedural Order No. 10, please find attached Board staff's submission.

Yours truly,

Original signed by

Violet Binette
Project Advisor, Applications & Regulatory Audit

Attach

BORNISH WIND, LP, KERWOOD WIND,
INC. AND JERICHO WIND, INC.

LEAVE TO CONSTRUCT APPLICATIONS

EB-2013-0040/EB-2013-0041

Board Staff Submission

October 11, 2013

Introduction

Bornish Wind, LP, Kerwood Wind, Inc. and Jericho Wind, Inc. (the “Co-owners”) filed an application with the Ontario Energy Board (the “Board”), dated February 8, 2013, under sections 92, 97 and 101 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, (Schedule B) (the “Act”). The Co-owners have applied for an order of the Board granting leave to construct an electricity transmission line and related facilities. The Board assigned file number EB-2013-0040 to this application. A separate application under sections 92, 97 and 101 of the Act was filed by Kerwood Wind, Inc. (“Kerwood”) on February 8, 2013. Kerwood has applied for an order of the Board granting leave to construct an electricity transmission line and related facilities. The Board assigned file number EB-2013-0041 to this application. In the interest of efficiency, the Board combined the EB-2013-0040 and EB-2013-0041 applications.

The proposed Co-owners transmission facilities include:

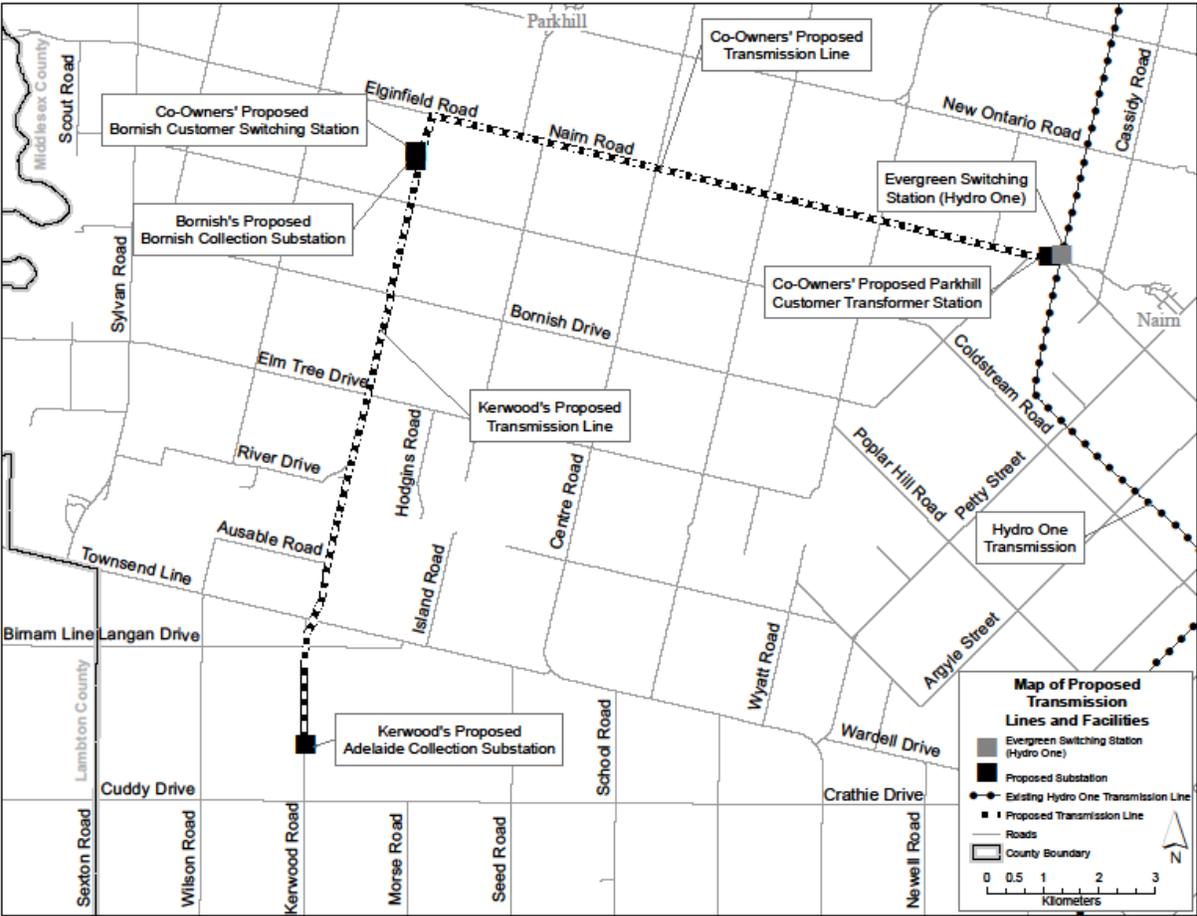
- A substation to be owned by Bornish Wind, LP, that will step-up power from the Bornish Wind Energy Centre from 34.5 kV to 121 kV¹ (“Bornish Collection Substation”);
- A switching station to be owned by the Co-owners at which power from the Bornish Wind Energy Centre, Adelaide Wind Energy Centre and Jericho Wind Energy Centre will converge (“Bornish Customer Switching Station”);
- A 115 kV line of less than 100 m connecting the Bornish Collection Substation and the Bornish Customer Switching Station;
- A 115 kV single circuit transmission line, to be owned by the Co-owners, approximately 12.6 km in length connecting the Bornish Customer Switching Station and the Parkhill Customer Transformer Station. As proposed in the application, the transmission line would run within the municipal road right of ways;
- A 500 kV transformer station to be owned by the Co-owners, that will step-up power from the Bornish Customer Switching Station from 121 kV to 500 kV (“Parkhill Customer Transformer Station”); and
- A 500 kV line of less than 100 m connecting the Parkhill Customer Transformer Station to Hydro One Networks Inc.’s Evergreen Switching Station.

¹ As revised from 115 kV, in Evidence Update filed September 18, 2013

The proposed Kerwood transmission facilities include:

- A substation to be owned by Kerwood, that will step-up power from the Adelaide Wind Energy Centre from 34.5 kV to 121 kV (“Adelaide Collection Substation”); and
- A 115 kV single circuit transmission line, to be owned by Kerwood, approximately 10.8 km in length connecting the Adelaide Collection Substation to the Bornish Customer Switching Station. As proposed in the application, the transmission line would run within the municipal road right of way.

As proposed in the applications, the Co-owners’ transmission facilities and the Kerwood transmission facilities are illustrated in the following:



The generation projects associated with the transmission facilities are the Bornish Wind Energy Centre, the Adelaide Wind Energy Centre (to be constructed and operated by

Kerwood) and the Jericho Wind Energy Centre. In July 2011, the OPA awarded contracts under the FIT program for each of the projects.²

Additional transmission facilities related to the Jericho Wind Energy Centre will be the subject of a separate leave to construct application. The Suncor Energy Cedar Point Wind Power Project (the “Suncor Project”) may connect to the IESO-controlled grid through the planned Jericho transmission facilities.³

For any leave to construct application under section 92 of the Act, section 96(2) of the Act provides that when determining if the proposed construction of an electricity transmission line is in the public interest, the Board’s jurisdiction is limited to the consideration of the interests of consumers with respect to prices and the reliability and quality of electricity service, and where applicable in a manner consistent with the policies of the Government of Ontario, the promotion of the use of renewable energy resources.

As discussed below, there appears to be nothing in the evidence that suggests there are any concerns associated with the proposed facilities that are relevant to the Board’s jurisdiction. While other issues and concerns were raised by parties during the proceeding, these matters have either been resolved or are outside the Board’s jurisdiction.

Price of Electricity Service

Cost of Transmission Facilities

The Co-owners state in the evidence that the cost of the Co-owners Transmission Facilities will be borne by the Co-owners, and similarly, Kerwood will bear the cost of the Kerwood Transmission Facilities. The Applicants state that, as such, the proposed transmission facilities will not affect electricity transmission rates in Ontario.⁴

The Co-owners also filed the Connection and Cost Recovery Agreement (“CCRA”) in confidence and filed a redacted version for the public record.⁵ The CCRA sets out the terms and conditions, including capital contributions for the Co-owners’ connection to Hydro One’s transmission system at 500 kV through the Evergreen SS. The CCRA

² EB-2013-0040, Exh B-2-1 page 3, EB-2013-0041, Exh B-2-1 page 2

³ EB-2013-0040, Exh D-1-1 page 6

⁴ EB-2013-0040, Exh B-2-1 page 6, EB-2013-0041, Exh B-2-1 page 5

⁵ CCRA filed June 25, 2013, Board Decision on Confidentiality July 26, 2013

also includes the consideration of connection of the Suncor Project to the transmission facilities.

Hydro One Networks Inc. (“Hydro One”) Evidence

The Co-owners’ line will be located on the opposite side of the road from Hydro One’s distribution line for about 11 km. Similarly, Kerwood’s line will be located on the opposite side of the road from Hydro One’s distribution line for about 7 km. In its evidence, Hydro One raised concern about provision of service to Hydro One distribution customers who reside on the other side of the proposed transmission facilities as well as connection of new customers.⁶ The specific concerns were cost responsibility and duration of cost responsibility for services that need to be placed underground to avoid overhead crossing of the transmission lines. Hydro One noted that neither the Transmission System Code nor the Distribution System Code provide guidance on this issue.

In its evidence, Hydro One indicated that it was optimistic that a mutual agreement would be reached between parties. Hydro One submitted that the Board may wish to consider the concerns and provide general guidance on cost responsibilities and service quality when the assets of one entity affect those of another.

On September 18, 2013, the Applicants filed an evidence update reporting that a Perpendicular Crossing Agreement and Emergency Services Agreement had been finalized with Hydro One. In addition to service matters, the agreement addresses the allocation of increased costs for installing new customer drops.

Based on the above, Board staff submits that there are no concerns related to the transmission facilities with respect to price of electricity service.

Reliability and Quality of Electricity Service

System Impact Assessment (“SIA”)

The Bornish Wind Energy Centre SIA was performed as a cluster by the IESO, “with requirements being developed for the combination of the Bornish, Adelaide and Jericho Wind Energy Centres.” The SIA “Connection Assessment & Approval Process – Final Report” was issued on December 21, 2011. Similarly, the Adelaide Wind Energy Centre SIA Final Report was also issued on December 21, 2011.

⁶ Hydro One Intervenor Evidence filed June 3, 2013

The Final Reports⁷ concluded that the proposed connection of the Bornish Wind Energy Centre and Adelaide Wind Energy Centre are expected to have no material impact on the reliability of the integrated power system. An Addendum was issued on June 6, 2012 relating to the proposed connection of the Suncor Project. New SIA studies were performed for the four wind power projects as a cluster. The June 6, 2012 Addendum concluded that the proposed changes are expected to have no material adverse impact on reliability. A second Addendum was issued on December 12, 2012. The proponents of the four wind power generation projects proposed to connect to the 500 kV system via two separate autotransformers rather than a single autotransformer. The IESO concluded that the change was not materially different from the first Addendum application.

Customer Impact Assessment (“CIA”)

The Final Customer Impact Assessment Report, issued on December 20, 2011, considered the total wind generation capacity of 283.5 MW from the Bornish, Adelaide and Jericho Wind Energy Centres.⁸ The report concluded that the generation can be incorporated without adverse impact on existing transmission customers in the area.

An Addendum was issued on June 8, 2012 relating to the proposed connection of the 100 MW Suncor Project. A second Addendum was issued on February 1, 2013 relating to the modification to connect to the 500 kV system via two separate autotransformers rather than a single autotransformer, and the increased number of breakers to aid in the protection of the additional transformer. In both circumstances, it was concluded that there was no adverse impact on existing customers supplied from Bruce A TS and Longwood TS and in the local electrical area.

There was no evidence indicating concerns related to the transmission facilities’ impact on reliability and quality of electricity service at the distribution level. Based on the above, Board staff submits there are no concerns with respect to reliability and quality of electricity service.

⁷ EB-2013-0040 and EB-2013-0041 Exh H-2-1 Appendix B

⁸ EB-2013-0040 and EB-2013-0041 Exh H-3-1 Appendix A

Renewable Energy Approval (“REA”)

The wind power projects associated with the transmission facilities in the current proceeding require an REA. The Bornish Wind Energy Centre and the Adelaide Wind Energy Centre, including transmission facilities as originally proposed, received REA's during the course of this proceeding. However, as noted in the evidence update, both REAs are currently under appeal. The evidence update, the response to the Group of Intervenor's interrogatory #10 and the argument in chief stated that both REA's considered all transmission facilities necessary to connect the relevant project to the IESO controlled grid, which includes the Co-owners' transmission facilities.

As summarized in the application, the Co-owners considered co-locating the transmission lines with Hydro One distribution and a back country route, but decided that the municipal road right of way was the preferred route. It is a direct route that makes use of existing infrastructure corridors. The Kerwood route selection was constrained by available crossings along the Ausable River. The route selected along Kerwood Road provided the most direct route.

The Applicants advised the Board in the evidence update that the routing of both transmission lines had been revised as a result of discussions with Hydro One, Bell Canada and the County of Middlesex (the “County”).

The Applicants have applied for REA amendments to reflect the use of private easements where necessary land rights have been secured for both the Co-owners' transmission facilities and Kerwood's transmission facilities.⁹ With respect to the Co-owners transmission facilities, the evidence update states that, “If the REA amendment is not obtained within the timeframe agreed to by the County and the Applicant, then (subject to obtaining leave to construct) the County and the Applicant have agreed that the Applicant would instead implement the initially proposed plan of locating the transmission line entirely within, and along the south side of, the municipal road ROW.”¹⁰ Board staff requests the Applicants to confirm whether there is a similar provision for the Kerwood transmission facilities.

⁹ EB-2013-0040 and EB-2013-0041 Exh F-1-2 page 1, filed September 18, 2013

¹⁰ EB-2013-0040 Exh F-1-2 page 2, filed September 18, 2013

Board staff submits that the Board can proceed with its decision as the Board's leave to construct decisions generally include conditions that require securing all relevant approvals, including REA.

Forms of Land Agreement

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

The Bornish and Adelaide Collection Substations, the Bornish Customer Switching Station and the Parkhill Customer Transformer Station will be located on private land. The transmission lines will be located on both private land and County road right of way. The Applicants have confirmed that they have secured all land rights necessary for construction of the proposed facilities.

The Applicants filed six forms of land agreement with the applications filed on February 8, 2013. In the evidence update, the Applicants stated that on September 10, 2013, it reached agreement with the County on two road use agreements, and filed those agreements as part of the evidence update.

The only other matter raised during the proceeding relating to forms of land agreement was provision for independent legal advice. The Applicants confirmed in response to Board staff interrogatory #23 that all parties who have entered into a land use agreement have been provided with an opportunity to obtain independent legal advice. The Applicants also confirmed their practice with respect to reimbursement for costs incurred for obtaining independent legal advice.

Board staff does not see any reason for the Board not to approve the forms of agreement filed by the Applicant with the application and with the evidence update.

Section 101 of the Act

The Applicants have applied under section 101 of the Act for an order approving the construction of certain transmission facilities upon, under or over a highway, utility line or ditch.

The Applicants argue that the “application of Section 92 of the OEB Act does not diminish the Applicants' rights to be in the road allowance. Given Section 41 [of the *Electricity Act*], with respect to location of the transmission lines, the question before the Board under Section 92 is not whether the Applicants have a right to be in the road allowance or whether they can locate in the road allowance. Rather, the question for the Board is only with respect to where in the road allowance the transmission lines will be located.”¹¹

Based on the evidence filed in the proceeding, Board staff does not see any reason for the Board not to approve the order approving construction of transmission lines under section 101 of the Act.

All of which is respectfully submitted

¹¹ Argument in Chief, page 8 filed October 2, 2013