



EB-2014-0014

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 Rainy River
Resources Ltd. for an order or orders pursuant to section 92,
96, 97 and 101 of the Ontario Energy Board Act, 1998
granting leave to construct transmission facilities in the
Territorial District of Rainy River, in Northwestern Ontario.

BEFORE: Emad Elsayed
Presiding Member

Christine Long
Member

DECISION AND ORDER

June 26, 2014

DECISION

The Board approves the application by Rainy River Resources Ltd. for an Order granting leave to construct the transmission line and associated facilities as described in the initial January 13, 2014 application and subsequent update filed on April 28, 2014. This approval is subject to the Conditions of Approval attached to this Decision.

SUMMARY OF APPLICATION

Rainy River Resources Ltd. (the “Applicant” or “RRR”) filed an application with the Ontario Energy Board (the “Board”), dated January 13, 2014 under sections 92, 96, 97 and 101 of the *Ontario Energy Board Act, 1998* (“the Act”).

The Applicant applied, pursuant to section 92 of the Act, for an order or orders of the Board granting leave to construct approximately 17 km of 230 kiloVolts (“kV”) electricity transmission line and associated facilities (the “Transmission Project”). The Transmission Project would connect the Applicant’s Rainy River Mine in the Township of Chaplet in the Territorial District of Rainy River in northwestern Ontario to the provincial power grid.

The Applicant also applied, pursuant to section 97 of the Act, for approval of the form of easement agreement offered to landowners and, pursuant to section 101 of the Act, for authority to cross Highway 71.

On April 28, 2014, the Applicant filed a letter advising that the outlet voltage for the transformer to be located at the mine will be 13.8 kV instead of the 27.6 kV previously indicated.

The Board assigned file number EB-2014-0014 to the application.

SUMMARY OF PROCEEDING

- The Board issued its Notice of Application and Written Hearing on February 7, 2014. The Notice was published and served by the Applicant as directed by the Board.
- The following parties applied for and were granted intervenor status:
 - The Independent Electricity System Operator (“IESO”);
 - Hydro One Networks Inc. (“Hydro One”)

- Procedural Order No.1 was issued on March 10, 2014.
- Hydro One and Board Staff filed written interrogatories on March 25, 2014 and March 26, 2014 respectively, in accordance with Procedural Order No. 1.
- The Applicant filed responses to the interrogatories on April 7, 2014.
- On April 16, 2014, the Applicant filed its Argument-in-Chief.
- On April 23, 2014, Board staff filed its submission.
- On April 28, 2014, the Applicant filed its reply submission.
- On June 10 and June 18, 2014, respectively, the Applicant filed verifications from the IESO and Hydro One regarding the impact of the proposed transformer outlet voltage on the System Impact Assessment and Customer Impact Assessment.

THE BOARD'S JURISDICTION

The Board's power to grant an applicant 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.

In addition, section 97 of the Act states:

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.

Section 101 of the Act provides that “... if after the hearing the Board is of the opinion that the construction of the work upon, under or over a highway, utility line or ditch is in the public interest, it may make an order authorizing the construction upon such conditions as it considers appropriate.”

INTERESTS OF CONSUMERS WITH RESPECT TO RELIABILITY AND QUALITY OF ELECTRICITY SERVICE

The Applicant filed a System Impact Assessment by the IESO and a Customer Impact Assessment by Hydro One.

System Impact Assessment

The System Impact Assessment (“SIA”) assesses whether the proposed connection to the electricity grid will have an adverse impact on the quality and reliability of the electricity grid operation.

The Applicant filed a SIA Report issued by the IESO on December 17, 2013.

The SIA concluded that the proposed connection of the project, operating up to 57 MW and subject to the requirements specified in the SIA report, is expected to have no material adverse impact on the reliability of the integrated power system.

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

The Applicant also confirmed its understanding that Hydro One intends to fully implement the requirements as stated in the SIA.

As noted above in the “Summary of Application”, on April 28, 2014, the Applicant filed a letter advising that the outlet voltage for the transformer to be located at the mine will be 13.8 kV instead of the 27.6 kV previously indicated. On June 10, 2014, the Applicant filed a letter which provided verification from the IESO, that the proposed voltage change will not impact the findings or conclusions of the SIA report previously issued by the IESO.

Customer Impact Assessment

The Customer Impact Assessment (“CIA”) assesses the impact of the proposed connection on Hydro One customers in the area.

The Applicant filed a CIA Report issued by Hydro One on March 4, 2014.

The Applicant submitted that there are no specific Applicant or transmitter requirements in the CIA.

On June 18, 2014, the Applicant provided verification from Hydro One, that the proposed outlet voltage change for the transformer to be located at the mine will have no material impact on the 230 kV connection to the Hydro One transmission line, and that a revised CIA is not required.

Board Finding

Based on the conclusions of the SIA and the CIA, the Board is satisfied that the proposed connection will not adversely impact the interests of consumers with respect to reliability or quality of electricity service if the conditions in the SIA and CIA are met.

INTERESTS OF CONSUMERS WITH RESPECT TO PRICES

The Applicant submitted that it is not a rate regulated utility and intends to finance, construct, own and operate the proposed transmission facilities. It has also confirmed that it is responsible for any Hydro One costs needed to accommodate the proposed facilities, calculated in accordance with the requirements of the Transmission System Code and Hydro One's Capital Cost Recovery Agreement (CCRA) as approved by the Board.

Board Finding

The Board finds that the construction and connection of the proposed Transmission Facilities will not have an impact on the price of electricity paid by Ontario consumers.

LAND-RELATED MATTERS AND OTHER APPROVALS

Section 97 of the Act requires that the Board be satisfied that the Applicant has offered, or will offer, to each landowner affected by the approved route or location an agreement in a form approved by the Board.

The Applicant submitted that it will require temporary and permanent easements in respect of the proposed transmission facilities from landowners listed in Exh. B, Tab 6, Sch. 4, page 2 of its application, and provided the following status:

- Agreements of Purchase and Sale were finalized on two parcels in January 2014;
- One parcel of property currently under Agreement of Purchase and Sale with final closing proceeding;
- Option Agreements continue to be in place for two parcels.

In its pre-filed evidence, the Applicant filed the form of easement agreement (Exhibit B, Tab 6, Schedule 5) it had offered or will offer to landowners where it requires easement rights to complete the Transmission Project.

In responses to Board staff interrogatories, the Applicant submitted that all owners have been presented with their respective Agreements in accordance with their land package.

The Applicant also submitted that it holds eleven Unpatented Mining Claims that are proceeding through the Lease Application process with the Ministry of Northern Development and Mines.

Board Findings

The Board notes the Applicant's evidence that all the affected landowners have been presented with their respective Agreements in accordance with their land package. The Applicant further submitted that it has not received any comment indicating any opposition to the Transmission Project or refusal from the landowners.

The Board approves the form of agreement offered to the landowners but notes that approval in this context does not necessarily imply that the Board would, or would not, approve this form of agreement in any future proceedings.

Section 101 of the Act

RRR has applied , under section 101 of the Act, for authority for the proposed transmission line to cross Highway 71.

A letter from the Ontario Ministry of Transportation (“MTO”) dated March 13, 2014, states that authority to cross Highway 71 is granted by the MTO upon application for an Encroachment Permit. The Applicant submitted that it had contacted the MTO and will proceed with the application per normal MTO procedures.

Board Findings

Based on the above, the Board grants the Applicant approval under section 101, for the transmission line to cross Highway 71, conditional on the Applicant following appropriate MTO procedures and obtaining necessary approvals for such crossings.

BOARD DECISION

The Board finds that it would be in the public interest to grant RRR leave to construct the facilities (Transmission Project) pursuant to section 92 of the Act, and that it would also be in the public interest to grant an Order to RRR approving the construction of the proposed facilities upon, under or over a highway, utility line, or ditch under section 101 of the Act. The Board’s decision is subject to conditions, which are fully set out in the Order below.

The Board notes that RRR is responsible for obtaining all necessary approvals, permits, licences, certificates and easement rights required to construct, operate and maintain the proposed Transmission Facilities.

THE BOARD ORDERS THAT:

1. Pursuant to section 92 of the *Ontario Energy Board Act, 1998*, Rainy River Resources Ltd. is granted leave to construct an electricity transmission line and related facilities to connect a mining facility to the Ontario transmission system, subject to the Conditions of Approval attached as Appendix A to this Order.

ISSUED at Toronto, June 26, 2014

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

APPENDIX A
TO DECISION AND ORDER
BOARD FILE NO. EB-2014-0014
DATED JUNE 26, 2014

CONDITIONS OF APPROVAL

**Conditions of Approval for
Rainy River Resources Ltd.
Leave to Construct a Transmission Line
and Associated Facilities
EB-2014-0014**

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 June 26, 2015 unless construction of the Project has commenced prior to that date.

- 1.3** The Applicant shall comply with the requirements of all applicable Federal and Provincial Environmental Assessments.
- 1.4** The Applicant shall satisfy the requirements of the IESO as reflected in the System Impact Assessment, Addendum and any further updates to it.
- 1.5** The Applicant shall satisfy the requirements of Hydro One as reflected in the Customer Impact Assessment Report and any further updates to the report.
- 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, Facilities and Infrastructure.

- 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 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.
- 2.4** 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.
- 2.5** 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.