

IN THE MATTER of the *Ontario Energy Board Act*, 1998, S. O. 1998, c.15, Schedule B (the “OEB Act”);

AND IN THE MATTER of an Application by wpd White Pines Wind Inc. for an Order or Orders pursuant to Section 92 of the Ontario Energy Board Act, 1998 granting Leave to Construct transmission facilities in Prince Edward County.

**FINAL SUBMISSIONS OF THE ALLIANCE TO PROTECT PRINCE EDWARD
COUNTY (“APPEC”)**

Introduction

1. Section 1(1) of the OEB Act provides the Board with jurisdiction to promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario:

The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives... To promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities.

2. The OEB Act also sets out the Board's jurisdiction: 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. 2009, c. 12, Sched. D, s. 16.*

3. In consideration of the OEB Act and the Board's Procedural Order No. 1 APPEC's submissions are as follows:

Project Location Description and Route Map

4. **APPEC submits that** Section 94 of the OEB Act calls for a map of the route showing the general location of the proposed work and the municipalities, highways, railways, utility lines and navigable waters through, under, over, upon or across which the proposed work is to pass. As previously noted in pre-filed Interrogatories and Evidence, the Project Location Description as stated does not correspond with project location descriptions that are provided in other parts of the Application.¹ The Application contains multiple, disjointed maps of the route. Several figures / maps in the Exhibit List are or appear to be irrelevant in terms of the subject matter of the Application, i.e., the Transmission Line.²
5. **APPEC submits that** the Application is incomplete with respect to OEB Filing Requirements for Transmission and Distribution Applications, May 2012, Exhibit D: Project Details the Application must provide:
 1. the route of the line and the Lot number and Concession number of the land over, under, on or adjacent to which, the line runs;
 2. the plan of each section of the transmission line in relation to the description and indicating clearances to the land profile or, where buried, in relation to the surface.

1 Evidence of APPEC, EB-2013-0339, May 26, 2014, para. 1(a) 1

2 *ibid*

Transmission Line Route

6. **APPEC submits that** the Applicant did not provide information and material that was requested and that was relevant to the hearing.
7. As an example, APPEC requested information from the Applicant regarding the route of the Transmission Line in relation to the Milford Black Creek Valley Provincially Significant ANSI.³ APPEC was informed that “this question is outside the scope of the Board's jurisdiction under section 96 of the Act” and that “questions of this nature will be addressed as part of the REA process or other regulatory or permitting processes.”
8. The requested information should have been provided for reasons as follows:
 - (i) APPEC's request for information regarding the Milford Black Creek Valley Provincially Significant ANSI is relevant to this hearing in the context in which it was raised: the OEB Act provides the Board with jurisdiction to promote the use of renewable energy sources where applicable and in a manner consistent with the policies of the Government of Ontario;
 - (ii) The information is relevant in the context of the Applicant's claims that the Transmission Line will be buried. The Applicant's own project reports describe the portion of the Black Creek ANSI in which the Project Location occurs as a “channel of bedrock”⁴ and
 - (iii) The Applicant's considerations of the Preferred Route which according to the Application was selected “because it minimizes the potential impacts on residents in the community without affecting the efficiency of the Transmission Line, while

³ Interrogatories of APPEC, EB-2013-0339, March 19, 2014, para. 1(c)

⁴ wpd White Pines Wind Project, Natural Heritage Assessment and Environmental Impact Study, May 2012 (section 3.2.5.1)

also minimizing any potential adverse environmental impact.”⁵

Construction of the Transmission Line

9. **APPEC submits that** Applicant should be required to adhere to the OEB Filing Requirements for Transmission and Distribution Applications in order to provide a complete Application.
10. **APPEC submits that** the Applicant did not provide information and material that was requested by APPEC and that was relevant to the hearing:
 - (i) The Application contains no information on the type of transmission line. Please refer to para. 2(d) in APPEC’s Evidence and to OEB Filing Requirements for Transmission and Distribution Applications, May 2012, Exhibit D: Project Details.
 - (ii) Information regarding construction plans in the Application is incomplete and the construction schedule in Schedule C is out of date. Please refer to para. 3(b) in APPEC’s Evidence and to OEB Filing Requirements for Transmission and Distribution Applications, May 2012, Exhibit C: Project Planning.
 - (iii) The Application does not identify Public Safety Concerns regarding buried high voltage transmission lines. Please refer to para. 2(l) in APPEC’s Evidence.
 - (iv) The Application does not provide information and material regarding issues of reliability and quality of electricity regarding high voltage transmission lines that are buried.
 - (v) The Applicant responded to APPEC’s Interrogatory 6(i) regarding culvert installation that: “This question is outside the scope of the Board’s jurisdiction

5 It is now being claimed in the Applicant's Arguments-in-Chief that the proposed Transmission Project was preferred “because it minimizes the impact of construction and operation on residents of the affected communities and on existing infrastructure.”

under section 96 of the Act. Questions of this nature will be addressed as part of the REA process or other regulatory or permitting processes.” Interestingly, the Applicant provided a response to an Interrogatory from Prince Edward County on the same topic. According to the Applicant: “wpd will not be installing any culverts as part of the installation of the transmission Line.”

- (vi) At the April 30, 2013 Public Open House for the Interconnection Line APPEC was led to understand by the Applicant that no hydrological studies had been done for the Interconnection Line. What hydrological studies been done since April 2013 that would confirm that no culvert installations along the Transmission Line are required.
- (vii) It is APPEC's understanding that the lifespan of XLPTE cable that is not enclosed in a metal sheath or fibreglass casing is 15 – 20 years. It does not seem that public interest is served by a 28 kilometre underground Transmission Lines that must be dug up and replaced along its length after 15 or 20 years or by the attendant issues of reliability and quality of service from aging and deteriorating lines.

Reliability and Quality of Electricity Service

- 11. **APPEC submits that** in the matter of Dufferin Wind Power Inc. (EB-2012-0365) the Board acknowledged that burying Transmission Lines engages questions of reliability. The Board goes on to note that questions of reliability were not engaged in this particular case as evidenced by the conclusion of the SIA. It is noted in the Applicant’s Argument in Chief that an amended SIA regarding the underground line will not be available until September 2014. APPEC therefore requests that the Board postpone engaging with

questions of reliability until it has had an opportunity to review the conclusion of the SIA. This request seems quite reasonable since final approval by the IESO and confirmation with its conditions is a requirement for granting leave to construct.

12. The Applicant's Argument in Chief makes note of the project modification to bury the line which necessitated an amendment to the SIA:

Due to the modification of the Transmission Line from an overhead line to an underground line, the Applicant applied to the IESO for an amended SIA. The Applicant anticipates that it will receive an amended SIA in September 2014, and that the amended SIA will also conclude that the connection of the White Pines Wind Project will have no material adverse impact on the reliability of electricity service.

and

The IESO advised the Applicant that it will notify HONI in the event that an amended CIA is required following completion of the amended SIA. The Applicant will construct the Transmission Project in accordance with the reasonable connection requirements contained in the CIA, or the amended CIA should one be required.

13. It is APPEC's understanding that CIAs are performed by Hydro One and are intended to assess the potential impacts of the connection of the proposed wind generation projects on transmission customers in the local vicinity. The primary focus of the study is to assess the voltage and fault level variations due to the connection. APPEC respectfully requests that the Board await the decision of the IESO regarding the Applicant's CIA.
14. The Applicant acknowledges in the Interconnection Line Effects Assessment that "Potential exists for interference with local utilities".⁶ According to the Assessment the interconnection line will cross two existing electrical transmission lines. Power disruptions and outages during the construction of the Transmission Line will not simply cause some people some inconvenience. Power disruptions will impact the ability of

6 Interconnection Line Effects Assessment, May 2013, Table 3.1.

business owners to carry out their business and will impact those whose homes serve as their workplace in ways that are both tangible and intangible. APPEC respectfully requests that the Board engage with questions of reliability and quality of service to residences and businesses in its considerations of the Application.

Consultation

15. **APPEC submits that** consultation has been inadequate and unproductive. In the perspective of the APPEC Board and members comments and concerns are not acted on. As an example, the Applicant refused to redirect the route of the line to avoid Maypul Layn, as it was strongly urged to do very early on in the process. Maypul Layn Road is appreciated by many County residents as a historical landmark. To the best of APPEC's knowledge no recommendations and mitigations from interested parties and affected stakeholders such as the Prince Edward Heritage Advisory Committee (PEHAC) have been implemented.
16. **APPEC submits that** the Application is incomplete with respect to OEB Filing Requirements for Transmission and Distribution Applications.
17. **APPEC submits that** the OEB Filing Requirements for Transmission and Distribution Applications, May 2012 Exhibit G asks that Applicants provide the results of the consultation carried out, including how public input influenced the design, construction, or operation of the project, or an explanation if no consultation was pursued. To the best of APPEC's knowledge this information is not provided in the Application.
18. The Applicant states in its Arguments in Chief that it has engaged in extensive consultation with all stakeholders and affected parties regarding the White Pines Wind

Project generally, and the Transmission Project in particular.

19. At the April 30, 2013 Public Open House for the Interconnection Line the Applicant provided little solid information other than the route of the 28 km Transmission Line from the White Pines wind generation facility to the Elmbrook electrical substation.
20. A chart on display included an important disclaimer on the proposed construction plans, namely “Subject to confirmation during detailed design, the intention is to install the majority of the Interconnection Line underground within the road Right-of-Way (ROW).”
21. In consequence, the Open House and wpd spokespersons, including Canadian President Ian MacCrae and Paul Deol from the German parent company, did not satisfactorily answer the APPEC Board’s questions and would give no firm commitment on underground installation.
22. Prince Edward County citizens were unable to comment fully on the project because there were:
 - (i) No geological and hydrological studies;
 - (ii) No detailed pre-construction feasibility study;
 - (iii) No confirmation of road allowances or alternatives along forced roads like Maypul Layn;
 - (iv) No complete impact assessments on heritage properties along the route; and
 - (v) No visual impact analysis of above-ground installation should it prove necessary.
23. The Applicant indicates in its Argument in Chief that the April 29, 2013 public meeting was held “to provide the general public and interested stakeholders with information regarding the Transmission Project and to obtain the public's feedback.” In APPEC's perspective, feedback from the public was obtained, put on a spreadsheet and submitted

to the Ministry of the Environment.⁷ Another way of putting this is that feedback from the community was not used by the Applicant in any constructive way.

24. Property owners along the route and in the vicinity of the Transmission Line continue to be concerned about property damage from vibrations during construction, damage to vulnerable heritage structures and features such as the century-old maple trees on Maypul Layn and Crowes Road, the feasibility of burying the 28 kilometre Transmission Line along its length, etc.
25. Lack of consultation with stakeholders and affected parties is evidenced in the number and scope of the Interrogatories that were submitted by APPEC on this matter. Of particular note is the Applicant's response to the request for information and material that is of specific interest to interested stakeholders, specifically to the property owners along the route. APPEC's Interrogatories 5(a) – (i) requested information and material from the Applicant such as surveys of structures along the route, mitigation measures that would be taken for residences and other buildings (some of which have heritage designation), compensation to property owners who suffer damage, etc. As an example, APPEC asked the Applicant if structures along the Transmission Line route (166 structures have been identified⁸) have been surveyed to determine the general level of risk to these structures and to determine where special care needs to be taken. The Applicant responded that “This question is outside the scope of the Board's jurisdiction under section 96 of the Act. Questions of this nature will be addressed as part of the REA process or other regulatory or permitting processes.”

⁷ Appendix E of the Application, EB-2013-0339

⁸ Appendix 1 attached to APPEC Interrogatories. See also APPEC's Evidence.

26. The Applicant declined to provide any of the requested information and material in response to APPEC's Interrogatories 5(a) - 5(i).
27. It should be noted that the landowners who have leased land to the Applicant for project infrastructure (wind turbines, access roads, etc.) and from whom easements must be obtained do not own property along the Transmission Line. To the best of APPEC's knowledge there are only two affected parties in this Application, those being the owners of the two properties where the electrical substations are located where short segments of the Transmission Line will be laid from the substation to the public road nearby.
28. PEHAC was compelled to identify impacts on cultural heritage resources located along the route in order to fill in gaps in project documentation and it has made every effort to propose appropriate mitigation measures with the Applicant for the identified impacts on cultural heritage resources located along the Transmission Line.⁹ The Applicant has not shown any interest in engaging in discussion with PEHAC on this or on other issues.

Private Land Acquisition Agreement That Forms Part of This Application

29. To the best of APPEC's knowledge the land acquisition agreement involves only two property owners on whose lands the electrical substations are proposed to be located.

The Preferred Route

30. As stated in the Applicant's Arguments in Chief the proposed Transmission Project was preferred because it minimizes the impact of construction and operation on residents of the affected communities and on existing infrastructure. APPEC's evidence indicates quite the contrary, that the construction impacts will be substantial. Concerns in this

⁹ APPEC Evidence, EB-2013-0339, May 26, 2014, para. 5(b)

regard are justified and supported by APPEC's evidence. It is also important to note that the Applicant has shown no interest to date in accepting input from affected communities or in implementing recommendations and mitigations proposed by affected stakeholders (for example, PEHAC) that may to some extent have lessened the impact of construction and operation of the wind project on residents of the affected communities.

Conclusion

31. **APPEC submits that** the issues that have been raised throughout this hearing are within the Board's purview in the context in which they are raised. The Board is clearly responsible for ensuring *that the use and generation of electricity from renewable energy sources is promoted in a manner that is consistent with the policies of the Government of Ontario* including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities. The only way to ensure that it is promoted in a manner that is consistent with the policies of the Government of Ontario is by acknowledging the relevance of the issues with the Transmission Line that have been raised.
32. The alternative is that the issues that have been raised by APPEC will not be considered at all. The Applicant's response to Interrogatories that "questions of this nature will be addressed as part of the REA process or other regulatory or permitting processes" assumes that there are other regulatory or permitting processes for the Transmission Line in addition to the REA process. To the best of APPEC's knowledge there are no other such processes. It was clearly not the intent of the legislature to allow a gap such as the Applicant is suggesting where these issues are properly handled in the REA process but

the REA process in actuality does not address those issues nor allow an appeal of them.

All of which is respectfully submitted.

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