

**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 Suncor Energy Products Inc. for an Order granting leave to construct a new transmission line and associated facilities.

## **Board Staff Submission in EB-2014-0022**

**October 17, 2014**

### **Introduction**

Board staff makes these submissions pursuant to Procedural Order No. 7. Specifically the submissions are in relation to the submission filed by Hydro One Networks Inc. ("Hydro One") in which Hydro One stated there will be incremental distribution work and associated costs resulting from the location of the proposed transmission line. Board staff has also made additional submissions in relation to the overall application for the Board's consideration.

### **Background**

Suncor Energy Products Inc., ("Suncor") filed an application (the "Application") with the Ontario Energy Board (the "Board"), under sections 92, 96(2), 97 and 101 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B.

In the Application Suncor has asked for an order of the Board for leave to construct a collector/transformer station and approximately 15 kilometres of 115 kilovolt electricity transmission line (collectively the "Proposed Transmission Facilities") to connect Suncor's Cedar Point II Wind Energy Project to the Independent Electricity System Operator ("IESO")-controlled grid. Suncor is also seeking an order approving the forms of easement agreements with landowners and an order approving the construction of certain transmission facilities upon, under or over a highway, utility line or ditch.

The Proposed Transmission Facilities will connect to certain transmission facilities owned by Jericho Wind Inc., which were recently approved in the EB-2013-0361 proceeding for the Jericho Facilities. The Jericho Facilities will convey the electricity to the recently approved Bornish transformer station (approved in EB-2013-0040/EB-2013-0041) and then through certain other transmission facilities (the Shared Transmission Facilities) to the IESO-controlled grid. This pathway allows for electricity generated at the wind farm to be conducted to the IESO-controlled grid and Suncor has provided evidence to confirm that it has the necessary agreements in place to use this pathway.

The Board issued a Notice of Application on November 18, 2013.

The following parties were granted intervenor status: Hydro One, the IESO, Lambton County and two local resident groups, namely the Concerned Seniors Group and We're Against Industrial Turbines (WAIT-PW).

The Board has issued a number of procedural orders making provisions for the filing of interrogatories, responses to interrogatories, the filing and testing of intervenor evidence and argument. Board staff has reviewed the full record in developing its submissions.

### **Hydro One's Concerns**

In accordance with Procedural Order No. 5, Suncor filed its argument-in-chief on August 25, 2014 and the intervenors including Hydro One filed their respective submissions on September 2, 2014. In the Board's view, Hydro One's submissions introduced information related to incremental distribution work and associated costs of the Proposed Transmission Facilities. Accordingly the Board issued Procedural Order No. 6 directing Hydro One to file intervenor evidence with respect to these proposed costs so that it could be properly tested and considered. On September 10, 2014, Hydro One filed its evidence. Board staff filed a number of interrogatories and Hydro One provided its response to each of the interrogatories. Following these responses, the Board issued Procedural Order No. 7 making provision for the Applicant and for staff and intervenors to file submissions on the evidence filed by Hydro One in the form of a supplemental submission to their previously filed arguments.

In its submissions to the Board dated September 2, 2014, Hydro One submitted that Suncor's proposed transmission line will result in a number of crossovers of Hydro One's distribution lines and which give rise to a number of new technical and operational issues that must be resolved before construction of the transmission line is allowed to commence. The technical and operation matters include such things as the

establishment of protocols for emergency service coordination, response time for trouble calls, establishment of asset placement and clearance standards and general coordination of operations. On the matter of costs, Hydro One also submitted that the location of the line will impose present and potential costs on Hydro One's distribution customers that are located "behind" the proposed transmission line, as the new line will make it more difficult to access these customers. In that regard, Hydro One estimated six crossings would be affected and provided examples of the work and costs that would be imposed on its current and future distribution customers.

Hydro One also submitted that Suncor is in general agreement with the principal that incremental costs arising from the location of the transmission line should not be imposed on Hydro One's distribution customers and that the parties are working diligently to resolve all matters. Hydro One submitted that the Board should either give the parties more time to resolve these matters, as it had done in the Varna Wind, Inc. application (EB-2012-0442), or that it condition its leave to construct decision on the filing of a signed agreement between Hydro One and Suncor. As part of its intervenor evidence Hydro One filed the draft Perpendicular Crossing Operational Agreement, including Schedule B, a Form of Emergency Services Agreement.

In response to Board staff interrogatory no. 1 on Hydro One's intervenor evidence, Hydro One stated that all its identified issues had been resolved and that the only unresolved item pertains to an indemnity clause in the Emergency Services Agreement.

In its supplemental argument-in-chief, Suncor confirmed that the indemnity clause issue was the only unresolved matter. Suncor expressed its concerns with respect to the indemnity clause. Suncor submitted that it would not be appropriate for the Board to defer the application and urged the Board to allow the proceeding to commence to its normal conclusions. Suncor also submitted that it did not believe Hydro One had filed any new evidence, other than the draft of the Perpendicular Crossing Operational Agreement.

*Submission:*

The only unresolved matter pertains to the indemnity clause. As has been noted before, in determining if the Proposed Transmission Facilities are in the public interest, the Board's jurisdiction is limited by the factors set out in section 96(2) of the Act, that state that the Board can only consider matters related to, the price, quality and reliability of electricity service and the promotion of the Ontario Government's renewable energy policy. In Board staff's view the matter of the indemnity clause is a contractual matter

between Hydro One and Suncor and is not within the scope of the Board's jurisdiction as set out in section 96(2) of Act. Given that this matter is outside the scope of the Board's jurisdiction, Board staff submits that it would not be appropriate to condition the Board's decision on the filing of a signed agreement between Hydro One and Suncor or to defer the proceeding to allow for negotiations to complete.

## **ADDITIONAL SUBMISSIONS**

Board staff makes the following submissions in support of Suncor's application. In Board staff's view Suncor has, through its amended pre-filed evidence and interrogatory responses, provided detailed, comprehensive and specific information in support of its Application. In staff's view, the evidence demonstrates that the public interest test for leave to construct under Section 96(2) of the Act has been met and that the proposed locations and routing are appropriate. Accordingly, Board staff submits that leave to construct the Proposed Transmission Facilities should be granted for the following reasons:

*The Proposed Transmission Facilities are consistent with the Board's legislated objective to promote the generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario.*

In July 2011 Suncor was awarded a contract (FIT Contract F-002175-WIN-130-601) in respect of the Cedar Point II Wind Energy Project by the Ontario Power Authority under the Government of Ontario's Feed-in-Tariff ("FIT") Program. The Cedar Point II Wind Energy Project is a renewable energy generation facility with an installed capacity of approximately 100 MW. The Proposed Transmission Facilities are needed to convey electricity from the Cedar Point II Wind Energy Project to the IESO-controlled grid, via the Jericho Facilities, the Bornish Transformer Station and the Shared Facilities, all of which were approved by the Board in EB-2013-0361 and EB-2013-0040/EB-2013-0041, respectively. Suncor states that as the development of the Cedar Point II Wind Energy Project promotes the use of renewable energy sources in a manner consistent with the policies of the Government of Ontario, the Proposed Transmission Facilities are in the public interest pursuant to paragraph 96(2)2 of the Act.

Board staff submits that given the awarding of a FIT contract to Suncor, the approval of the Proposed Transmission Facilities would be consistent with policies of the Government of Ontario for the promotion of generation from renewable energy sources.

*Interests of consumers with respect to prices:*

Suncor states that the costs of the Proposed Transmission Facilities will be borne by Suncor and, as such, the Proposed Transmission Facilities will not affect electricity transmission rates in Ontario. Board staff is satisfied that the Proposed Transmission Facilities will not affect transmission rates and is of the view that the approval of the project is in the public interest.

*Interests of consumers with respect to reliability and quality of electricity services:*

Suncor filed a System Impact Assessment ("SIA") Report dated July 8, 2012 as part of its application. Suncor states that it received a final SIA in the form of an Addendum, dated December 12, 2012. It appears that the December 12, 2012 Addendum has not been filed and staff requests that Suncor submit the report along with its final reply submissions. Suncor submits that the SIA concludes that the connection of the Cedar Point project will have no material adverse impacts on the reliability of the integrated power system and on that basis the IESO has recommended that a Notification of Conditional Approval be issued.

Although the December 12, 2012 SIA Addendum has not been filed in this application, it was filed in the Bornish leave to construct application (EB-2013-0040). Staff has reviewed the SIA dated July 8, 2012 as well as the December 12, 2012 Addendum and based on the conclusions of the SIA is satisfied that the proposed connection will not adversely impact the reliability of the integrated power system.

Suncor also filed a Customer Impact Assessment ("CIA") Report dated July 8, 2012 in respect of the Proposed Transmission Facilities. Based on the conclusions of the CIA Board staff is satisfied that the connection of the Proposed Transmission Facilities will not adversely impact transmission-connected customers in the area.

Based on the conclusions of the SIA and CIA Board staff is satisfied that the connection of the Proposed Transmission Facilities will not have an adverse impact on the interests of consumers with respect to the quality and reliability of electricity service.

*Forms of Agreement:*

Section 97 of the Act requires that the Board be satisfied that Suncor 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 collector/transformer station and the transmission line will be located on private lands. Suncor states that it has entered into agreements with all landowners and has filed a draft Option for Ontario Ground Leases including the Ontario Ground Lease Agreement that it has offered to landowners. None of the affected landowners have expressed any concerns regarding the form of agreement offered to them. Further staff has reviewed the draft agreement and is of the view that it is similar to agreements that the Board has approved in other applications. For these reasons Board staff is of the view that the form of agreement submitted by Suncor is appropriate and meets the requirements under section 97 of the Act.

*Section 101 Approval*

Although the transmission line is located on private lands it crosses a number of municipal roads owned by Lambton County. The list of road crossings is provided in Board staff interrogatory no. 7. Accordingly Suncor has applied under section 101 of the Act for an order approving the use of rights-of-ways (ROW) in Lambton County in the construction of the transmission line upon, under or over a highway, utility line or ditch.

Suncor states that it has received a draft Road Use Agreement from Lambton County and is considering it.

Given that staff is of the view that the Board should grant Suncor leave to construct the Proposed Transmission Facilities, staff is also of the view that the Board should grant the relief under section 101 of the Act, permitting Suncor to construct the transmission line upon, under or over a highway, utility line or ditch.

**All of which is respectfully submitted.**