



**EB-2013-0047**

**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 Northland  
Power Solar Empire L.P., Northland Power Solar Martin's  
Meadows L.P., Northland Power Solar Abitibi L.P., and  
Northland Power Solar Long Lake L.P. for an order or  
orders pursuant to section 92 of the Ontario Energy Board  
Act, 1998 granting leave to construct transmission facilities  
in the Town of Cochrane and Township of Clute.

**BEFORE:** Paula Conboy  
Presiding Member

Emad Elsayed  
Member

**DECISION AND ORDER**  
July 11, 2013

## DECISION

The Board approves the application by Northland Power Solar Empire L.P., Northland Power Solar Martin's Meadows L.P., Northland Power Solar Abitibi L.P., and Northland Power Solar Long Lake L.P. for an Order granting leave to construct the transmission line and associated facilities as described in the February 12, 2013 application. This approval is subject to the Conditions of Approval attached to this Decision.

## APPLICATION AND PROCEEDING

Northland Power Solar Empire L.P., Northland Power Solar Martin's Meadows L.P., Northland Power Solar Abitibi L.P. and Northland Power Solar Long Lake L.P. (collectively the Applicants) filed an application with the Board, dated February 12, 2013, under sections 92 and 96(2) of the Ontario Energy Board Act, 1998. The Applicants have applied for an order of the Board granting leave to construct an electricity transmission line and related facilities ("the Project") which will connect four solar power generating facilities near the Town of Cochrane to the provincial transmission system. The Applicants are also seeking Board approval of the form of easement agreements that has been or will be offered to affected landowners.

The Board has assigned file number EB-2013-0047 to this application.

The Applicants' general partners are Northland Power Solar Empire GP Inc., Northland Power Solar Martin's Meadows GP Inc., Northland Power Solar Abitibi GP Inc., and Northland Power Solar Long Lake GP Inc., respectively, with each general partner being a wholly owned subsidiary of Northland Power Inc. ("NPI"). NPI and Northland Power Limited Partner Holdings Inc. are the limited partners, holding 99.9% and 0.1% limited partner interest, respectively, in each of the Applicants.

The Board issued a Notice of Application and Written Hearing on March 7, 2013.

On April 9, 2013, the Board issued Procedural Order No. 1 granting the intervention request received from the Independent Electricity System Operator ("IESO").

Details on the various procedural steps which followed are available on the Board's website.

## 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 which result from the transmission project, the health risks of the transmission project, and the aesthetic impacts of the transmission project are outside the Board's jurisdiction. All of those matters are determined by the Government of Ontario through the Renewable Energy Approval ("REA") process administered by

the Ministry of the Environment 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.

### **Cost Responsibility and Transmission Rates Impact**

The Applicants submit that the costs related to the construction and operation of the Transmission Facilities will be the responsibility of the Applicants, and as such rate payers will not be adversely affected. The Board finds, therefore, that the Project will not impact transmission rates in Ontario.

The Applicants also confirmed, and the Board accepts, that they will be responsible for any decommissioning and removal costs of the transmission facilities in the event of unforeseen events such as inability to secure the various permits or due to a force majeure even though such an event is unlikely? .

### **Interests of Consumers in respect of Reliability and Quality of Electricity Service**

#### System Impact Assessment Report

System Impact Assessments (“SIA”) are conducted by the IESO to assess whether an applicant's proposed connection with the IESO-controlled grid would have an adverse impact on the reliability of the integrated power system and whether the IESO should issue a notice of approval or disapproval of the proposed connection under Chapter 4, section 6 of the Market Rules. This is a technical document intended to provide a detailed review of the components of the proposal and its impacts on system operating

voltage, system operating flexibility and the implications for other connections to deliver and withdraw power from the transmission system.

The IESO filed an SIA<sup>1</sup> which confirmed its conclusion that the connection arrangement will not have material negative impacts on the reliability of the IESO-controlled grid. However it also indicated that Hydro One will undertake some minor upgrades to the H6T and H7T circuits to help alleviate overloading these circuits under certain conditions.

The IESO issued a second addendum to the SIA Report<sup>2</sup> to address the Applicants' updated pre-filed evidence of May 27 and recommended that a Notification of Conditional Approval for Connection be issued.

### Customer Impact Assessment Report

As required by the Board's Filing Requirements for leave to construct proceedings, a final Customer Impact Assessment Report ("CIA") conducted by Hydro One was filed on June 18, 2012. This study is designed to assess the implications of the project for other transmission customers of the transmission system. The assessment confirmed that the project will not have any adverse impact on the transmission system owned by Hydro One or on the transmission customers in the vicinity of the project.

### **Connection Agreement**

Board staff's submission<sup>3</sup> raised a concern relating to a potential "gap" in the requirements to meet certain technical and safety standards for all of the Transmission Facilities. Staff pointed out that the Transmission Facilities will connect to a Hydro One section of the IESO controlled grid through the Calder Switching Station, which is one part of the Transmission Facilities and will be owned by all four Applicants. In order to connect to the IESO controlled grid, the Applicants must enter into a Transmission Connection Agreement (the "Connection Agreement") with Hydro One. The standard Connection Agreement is an appendix to the Transmission System Code ("TSC"). Staff highlighted the following:

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<sup>1</sup> Exh. H/Tab 1/Sch. 2/Final System Impact Assessment Report, May 15, 2012

<sup>2</sup> The second addendum SIA Report dated May 20, was attached to the May 27 letter filed by the Applicants

<sup>3</sup> Board staff submission, May 31, 2013, pages 3-5

- The TSC, applies to all licensed transmitters, ensures, amongst other things, that transmission facilities meet certain technical and safety requirements. The Applicants, however, are exempt from the requirement to hold a licence, and as an unlicensed transmitter will not be directly covered by the TSC.
- The TSC also applies to all transactions and interactions between the licensed transmitter and its customers<sup>4</sup>.
- Section 3 of the Connection Agreement further confirms that the TSC is incorporated by reference into the Connection Agreement, and that the Transmitter (in this case Hydro One) is bound by the TSC and that the Customer (though not formally bound by the TSC itself) acknowledges that Hydro One is bound by the TSC.

Board staff is concerned that there is a “gap” in that the remainder of the Transmission Facilities will not be covered by either the Connection Agreement or, by reference, by the TSC. Staff concedes that this would likely not be a great concern in the short term – the CIA and SIA for the project do not reveal any problems with the current configurations. However, staff submits that it is possible that the TSC standards may change in the future and in such a scenario, it is not clear that the transmitter (Hydro One) would have the power to require upgrades to any Transmission Facilities that are not subject to the Connection Agreement.

Board staff proposed that a potential solution would be to require that the Connection Agreement specify that all Transmission Facilities be covered and not just the Calder SS.. Alternately, the Board could require that separate Connection Agreements be executed for each of the individual elements of the Transmission Facilities.

Board staff recognized that while this issue is not unique to the current application, the Board should address the potential “gap” in the current decision to ensure there is “no confusion going forward”.

In its reply, the Applicants included comments from Hydro One to Staff’s submissions. Hydro One agrees that the Connection Agreement applies only to those facilities that are owned by the directly connected customer. As such, the transmitter has no contractual relationship with any potential embedded customers. Hydro One confirmed that in the current proceeding, only Calder SS and the segment of transmission line that connects Calder SS to Hydro One’s transmission system would be captured by the

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<sup>4</sup> TSC, section 3.0.5

Connection Agreement. Hydro One acknowledged that this represents a gap in the standard form of the Connection Agreement in terms of the obligations to the transmitter of directly connected customers in respect of embedded customers and their facilities. However, Hydro One submitted that it was not clear that either specifying that “all” transmission facilities in the Connection Agreement be covered or executing separate transmission connection agreements with each of the four individual Applicants would be sufficient or appropriate to fully address all of the issues.

Hydro One proposed that a separate examination of the TSC and the standard transmission connection agreement outside of this proceeding may address this and other potential gaps with respect to embedded and other customers beyond the specific issues raised by staff in this proceeding. Dealing with these boarder issues outside this proceeding, in Hydro One’s and the Applicants’ submissions, would avoid delaying the current proceeding.

The Board acknowledges that only Calder SS and the segment of transmission line that connects Calder SS to Hydro One’s transmission system are captured by the Connection Agreement between Hydro One and the Applicants. However, there is no evidence to suggest that the project creates a risk to the Hydro One system. This is supported by the findings of the SIA and the CIA, and their respective addenda. The Board notes that no third party connections to the Transmission Facilities are planned. Even if a third party were to connect to the Transmission Facilities, the Applicants submit that they would be required to maintain their system in such a manner as to avoid negative impacts on the reliability and performance of the Hydro One transmission system. Further, the Board notes that in a circumstance where a third party might connect to the Transmission Facilities, the Applicants would likely be required to obtain a transmission licence. The Board agrees that the degree to which obligations of the TSC or the standard connection agreement might apply to embedded customers may warrant a more generic review separate from this proceeding where all interested stakeholders can provide input.

### **Outstanding Permits**

The Applicants will require six crossing agreements, and a Road User’s Agreement with the Town of Cochrane prior to the start of construction.

The Applicants indicated that the MTO Highway 668 Encroachment Permit EC-2012-

53C-20 was approved on December 16, 2012, and that progress is being made to conclude the other five crossing agreements. The Applicants also indicated that a revised draft of the Road User's Agreement was sent to the Town of Cochrane for review and approval on March 25, 2013.

### **Land Rights and Easement Agreement**

Section 97 of the Act states that an application under section 90, 91 or 92, leave to construct shall not be granted until the Applicants satisfy 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.

The Board notes that approximately 22 km of the transmission line will be above ground, and that the Applicants (through NPI) currently hold options for all of the land rights required for the private properties where project components are to be located, except for the Calder SS.

The Applicants provided an update in regard to negotiations with the landowner for the Calder SS and stated in part that:

The negotiations with the landowner for the Calder SS have been finalized and NPI has an option to lease the property for the Calder SS, the transmission line from the Long Lake solar development, and the section of the underground cable. A lease was executed on March 6, 2013. An amendment changing the lease from the estate of the former owner of the property to the current owner was executed by NPI on April 10, 2013 and forwarded to the owner's solicitor for final signature on April 11, 2013. The form of lease is the same as that provided in Exhibit F, Tab 1, Schedule 2 of the Application.

The Board finds that the proposed form of land rights and easement agreements are acceptable.

### **Renewable Energy Approval ("REA") Process**

The Applicants provided an update on the status of the REA<sup>5</sup> in their response to a Board staff interrogatory.<sup>6</sup> The REA was deemed complete on April 19, 2013. The

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<sup>5</sup> Exh. C/Tab 1/Sch. 1/p. 2/ 1<sup>st</sup> paragraph

<sup>6</sup> Applicants Response to Board staff interrogatory 8, April 26, 2013/



Applicants also indicated that if the MOE takes a full 6 months to approve the REA application, the approval date will be August 15, 2013.

The Applicants also indicated that they would submit copies of the REA approvals upon receipt.

**THE BOARD ORDERS THAT:**

1. Pursuant to section 92 of the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Schedule B, the Applicants are granted leave to construct an electricity transmission line and related facilities subject to the Conditions of Approval attached as Appendix A to this Order.

**DATED** at Toronto on July 11, 2013

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX A**

**CONDITIONS OF APPROVAL**

**Northland Power Solar Empire L.P., Northland Power Solar  
Martin's Meadows L.P., Northland Power Solar Abitibi L.P., and  
Northland Power Solar Long Lake L.P.**

**Decision and Order  
Board File NO. EB-2013-0047  
Dated July 11, 2013**

## **Definitions:**

- (1) “Project” means the Transmission Line and associated Transmission Facilities as defined in the Decision and Order.**
- (2) “Applicants” means NORTHLAND POWER SOLAR EMPIRE L.P., NORTHLAND POWER SOLAR MARTIN’S MEADOWS L.P., NORTHLAND POWER SOLAR ABITIBI L.P., and NORTHLAND POWER SOLAR LONG LAKE L.P.**

## **1 General Requirements**

- 1.1 The Applicants shall construct the Project and restore the Project land in accordance with the Leave to Construct application, evidence and undertakings, except as modified by this Order and these Conditions of Approval.
- 1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate July 31, 2014 unless construction of the Project has commenced prior to that date.
- 1.3 The Applicants shall comply with the requirements of the Renewable Energy Approval (“REA”) Process and any amendment thereto.
- 1.4 The Applicants shall satisfy the Independent Electricity System Operator (“IESO”) requirements as reflected in the second addendum System Impact Assessment Report dated May 20, 2013, and such further and other conditions which may be imposed by the IESO.
- 1.5 The Applicants shall satisfy the Hydro One Networks Inc. requirements as reflected in the Addendum # 3 Customer Impact Assessment Report dated June 18, 2013.
- 1.6 The Applicants 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 Applicants 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 Applicants 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.

## **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 Applicants 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 Applicants 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 Applicants 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 Applicants 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 Applicants shall give the Board's designated representative ten (10) days written notice in advance of the commencement of construction.
- 2.4 The Applicants 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 Applicants shall, in conjunction with Hydro One Networks Inc. 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 Applicants 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 Applicants 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 Applicants 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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