



Ontario Energy Board Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2015-0143

FIVE NATIONS ENERGY INC.

**Application to Amend Electricity Transmission Licence
ET-2003-0074**

By Delegation Before: Peter Fraser

August 20, 2015

INTRODUCTION AND SUMMARY

Five Nations Energy Inc. (FNEI) has applied to the Ontario Energy Board (OEB) for an order amending its Electricity Transmission Licence, ET-2003-0074 (Licence). The amendment is necessary to facilitate FNEI's purchase and operation of approximately 80 km of electricity transmission line in Northern Ontario. In addition, FNEI asks the OEB to update items 3 and 4 of Schedule 1 of the Licence.

The OEB assigned file number EB-2015-0143 to the application.

The OEB approves the application for the reasons set out below, subject to the Condition of Approval attached as Appendix A to this Decision and Order.

THE PROCESS

This Decision and Order is being issued by Delegated Authority without a hearing pursuant to section 6(4) of the *Ontario Energy Board Act, 1998* (Act).

THE APPLICATION

Request to amend Licence to add transmission assets

On April 6, 2015, FNEI filed an application under section 74 of the Act for an order amending its Licence, in order to facilitate its acquisition and operation of a part of Hydro One Networks Inc.'s (Hydro One) transmission system that is necessary in serving the public. On July 30, 2015, the OEB issued a Decision and Order (EB-2015-0127) which approved Hydro One's sale of the Assets to FNEI. Specifically, FNEI seeks to amend Schedule 1 of the Licence to add approximately 80 km of electricity transmission line beginning at the Moosonee Switching Station and running northwest along James Bay (Assets).

At present, Item 1 of Schedule 1 of the Licence describes FNEI's transmission asset as:

“...a 138 kV three-phase line approximately 190 km in length beginning at approximately **80 km northwest** of Moosonee and running northwest along James Bay by way of Fort Albany and Kashechewan and terminating at Attawapiskat”.(emphasis added)

FNEI intends to purchase and operate the Assets, i.e. the 80 km of transmission line southeast of the above starting point. Thus, if this application is approved, FNEI's owned transmission assets would begin at the Moosonee Switching Station and not "approximately 80 km northwest of Moosonee."

The Assets are situated on Crown Land. FNEI's current Land Use Permit as issued by the Ontario Ministry of Natural Resources pursuant to the *Public Lands Act*, does not extend over the lands relating to the Assets. FNEI has applied to the Ontario Ministry of Natural Resources for an amendment to the Land Use Permit, such that the permit will extend over the lands relating to the Assets. FNEI states that it will provide regular updates to the OEB, as required by the OEB, with respect to the status of the Land Use Permit amendment.

FNEI submits that the desired amendment to the Licence is in the public interest because it will enable FNEI to own and operate the Assets and to serve its customers in Northern Ontario, including Fort Albany Power Corporation, Kashechewan Power Corporation, Attawapiskat Power Corporation, and DeBeers Canada Inc. FNEI submits that the desired amendment satisfies the OEB's objectives enumerated in the Act, particularly that of "promot[ing] economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry." The location of the Assets is remote and FNEI submits that it makes operational sense for one transmitter to own, operate and maintain the lines in the region.

FNEI further submits that the proposed amendment also satisfies the purposes of the *Electricity Act, 1998*, especially that of "ensur[ing] the adequacy, safety, sustainability and reliability of electricity supply in Ontario through responsible planning and management of electricity resources, supply and demand" and "promot[ing] economic efficiency and sustainability in the generation, transmission, distribution and sale of electricity."

Upon completing the purchase of the Assets from Hydro One, FNEI intends to include the Assets in its rate base.

Request to amend Licence in accordance with EB-2009-0395

FNEI requests that the OEB correct items 3 and 4 of Schedule 1 of the Licence, by deleting the word "interim". In the OEB's Decision and Order in EB-2009-0395, issued December 18, 2009, the OEB approved an amendment to the Licence. The approval

was made on an interim basis until such time as FNEI advised the OEB that it had obtained permits from the Department of Indian and Northern Affairs (now Aboriginal Affairs and Northern Development Canada) authorizing the presence of electricity transmission assets on reserve land pursuant to section 28(2) of the *Indian Act*. By way of two letters dated August 30, 2010 and September 30, 2010, FNEI advised the OEB that the section 28(2) permits had been received. Apparently, due to inadvertence, the “interim” designation was never removed from the Licence, nor was a Final Order issued in EB-2009-0395, despite FNEI having provided written notice to the OEB that the section 28(2) permits had been obtained. FNEI seeks an amendment to the Licence in order to rectify this oversight.

OEB FINDINGS

I approve the application.

I will correct items 3 and 4 of Schedule 1 of the Licence, by deleting the word “interim”. It is only because of an inadvertent oversight, that this amendment was not made as part of the EB-2009-0395 proceeding.

I find that it is in the public interest to grant FNEI’s request to amend the Licence in order to own and operate the Assets, subject to the Condition of Approval attached as Appendix A to this Decision and Order. FNEI has the financial and technical capacity to purchase and operate the Assets. FNEI’s acquisition of the Assets will enable FNEI to better serve its customers in Northern Ontario and will promote economic efficiency and cost effectiveness in the transmission of electricity in that region. As noted in the Condition of Approval, this authorization shall become effective on the date that the OEB is advised that FNEI has obtained the requisite approval from the Ontario Ministry of Natural Resources to operate the Assets on Crown Land.

IT IS ORDERED THAT:

1. FNEI’s Electricity Transmission Licence - ET-2003-0074 is amended to include the Assets, as described in this Decision and Order. This amendment shall be effective on the date that FNEI satisfies the Condition of Approval as set out in Appendix A to this Decision and Order. The amended Licence is attached at Appendix B to this Decision and Order.
2. FNEI’s Electricity Transmission Licence - ET-2003-0074 is amended by deleting the word “interim” in items 3 and 4 of Schedule 1. Appendix C to this Decision

and Order sets out, for information purposes only, a comparison version of Schedule 1 of the Licence, showing the revisions made.

3. FNEI shall immediately advise the OEB, in writing, if the Ontario Ministry of Natural Resources' approval to amend FNEI's Land Use Permit is not granted within sixty days of this Decision and Order.

DATED at Toronto August 20, 2015

ONTARIO ENERGY BOARD

Original signed by

Peter Fraser
Vice President, Industry Operations & Performance

APPENDIX A
DECISION AND ORDER
FIVE NATIONS ENERGY INC.
EB-2015-0143
AUGUST 20, 2015

CONDITION OF APPROVAL

1. FNEI shall not operate the Assets until:
 - (i) FNEI has received the requisite amendment to its Land Use Permit from the Ontario Ministry of Natural Resources, pursuant to the *Public Lands Act*, permitting FNEI to operate the Assets on Crown Land; and,
 - (ii) FNEI has provided to the OEB, written confirmation of the Ontario Ministry of Natural Resources' approval.

APPENDIX B
DECISION AND ORDER
FIVE NATIONS ENERGY INC.
EB-2015-0143
AUGUST 20, 2015

**FIVE NATIONS ENERGY INC.
ELECTRICITY TRANSMISSION LICENCE ET-2003-0074**



Electricity Transmission Licence

ET-2003-0074

Five Nations Energy Inc.

Valid Until

December 23, 2023

Original signed by

Peter Fraser
Vice President, Industry Operations & Performance
Ontario Energy Board
Date of Issuance: December 24, 2003
Date of Amendment: November 3, 2009
Date of Amendment: August 20, 2015

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1 Definitions

In this Licence:

“**Accounting Procedures Handbook**” means the handbook, approved by the Board which specifies the accounting records, accounting principles and accounting separation standards to be followed by the Licensee;

“**Act**” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“**Affiliate Relationships Code for Electricity Distributors and Transmitters**” means the code, approved by the Board which, among other things, establishes the standards and conditions for the interaction between electricity distributors or transmitters and their respective affiliated companies;

“**Board**” means the Ontario Energy Board;

“**Electricity Act**” means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

“**Licensee**” means Five Nations Energy Inc.

“**Market Rules**” means the rules made under section 32 of the Electricity Act;

“**Performance Standards**” means the performance targets for the distribution and connection activities of the Licensee as established by the Board in accordance with section 83 of the Act;

“**Rate Order**” means an Order or Orders of the Board establishing rates the Licensee is permitted to charge;

“**transmission services**” means services related to the transmission of electricity and the services the Board has required transmitters to carry out for which a charge or rate has been established in the Rate Order;

“**Transmission System Code**” means the code approved by the Board and in effect at the relevant time, which, among other things, establishes the obligations of a transmitter with respect to the services and terms of service to be offered to customers and provides minimum technical operating standards of transmission systems;

“**wholesaler**” means a person that purchases electricity or ancillary services in the IESO administered markets or directly from a generator or, a person who sells electricity or ancillary services through the IESO-administered markets or directly to another person other than a consumer.

2 Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of the Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens. Where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

3 Authorization

- 3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this Licence to own and operate a transmission system consisting of the facilities described in Schedule 1 of this Licence, including all associated transmission equipment.

4 Obligation to Comply with Legislation, Regulations and Market Rules

- 4.1 The Licensee shall comply with all applicable provisions of the Act and the Electricity Act and regulations under these Acts, except where the Licensee has been exempted from such compliance by regulation.
- 4.2 The Licensee shall comply with all applicable Market Rules.

5 Obligation to Comply with Codes

- 5.1 The Licensee shall at all times comply with the following Codes (collectively the "Codes") approved by the Board, except where the Licensee has been specifically exempted from such compliance by the Board. Any exemptions granted to the Licensee are set out in Schedule 2 of this Licence. The following Codes apply to this Licence:
- a) the Affiliate Relationships Code for Electricity Distributors and Transmitters; and
 - b) the Transmission System Code.
- 5.2 The Licensee shall:
- a) make a copy of the Codes available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

6 Requirement to Enter into an Operating Agreement

- 6.1 The Licensee shall enter into an agreement ("Operating Agreement") with the IESO providing for the direction by the IESO of the operation of the Licensee's transmission system. Following a request made by the IESO, the Licensee and the IESO shall enter into an Operating Agreement

within a period of 90 business days, unless extended with leave of the Board. The Operating Agreement shall be filed with the Board within ten (10) business days of its completion.

- 6.2 Where there is a dispute that cannot be resolved between the parties with respect to any of the terms and conditions of the Operating Agreement, the IESO or the Licensee may apply to the Board to determine the matter.

7 Obligation to Provide Non-discriminatory Access

- 7.1 The Licensee shall, upon the request of a consumer, generator, distributor or retailer, provide such consumer, generator, distributor or retailer, as the case may be, with access to the Licensee's transmission system and shall convey electricity on behalf of such consumer, generator, distributor or retailer in accordance with the terms of this Licence, the Transmission System Code and the Market Rules.

8 Obligation to Connect

- 8.1 If a request is made for connection to the Licensee's transmission system or for a change in the capacity of an existing connection, the Licensee shall respond to the request within 30 business days.
- 8.2 The Licensee shall process connection requests in accordance with published connection procedures and participate with the customer in the IESO's Connection Assessment and approval process in accordance with the Market Rules, its Rate Order(s) and the Transmission System Code.
- 8.3 An offer of connection shall be consistent with the terms of this Licence, the Market Rules, the Rate Order, and the Transmission System Code.
- 8.4 The terms of such offer to connect shall be fair and reasonable.
- 8.5 The Licensee shall not refuse to make an offer to connect unless it is permitted to do so by the Act or any Codes, standards or rules to which the Licensee is obligated to comply with as a condition of this Licence.

9 Obligation to Maintain System Integrity

- 9.1 The Licensee shall maintain its transmission system to the standards established in the Transmission System Code and Market Rules, and have regard to any other recognized industry operating or planning standards required by the Board.

10 Transmission Rates and Charges

- 10.1 The Licensee shall not charge for the connection of customers or the transmission of electricity except in accordance with the Licensee's Rate Order(s) as approved by the Board and the Transmission System Code

11 Separation of Business Activities

- 11.1 The Licensee shall keep financial records associated with transmitting electricity separate from its financial records associated with distributing electricity or other activities in accordance with the Accounting Procedures Handbook and as otherwise required by the Board.

12 Expansion of Transmission System

- 12.1 The Licensee shall not construct, expand or reinforce an electricity transmission system or make an interconnection except in accordance with the Act and Regulations, the Transmission System Code and the Market Rules.

13 Provision of Information to the Board

- 13.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 13.2 Without limiting the generality of paragraph 13.1, the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) business days past the date upon which such change occurs.

14 Restrictions on Provision of Information

- 14.1 The Licensee shall not use information regarding a consumer, retailer, wholesaler or generator, obtained for one purpose for any other purpose without the written consent of the consumer, retailer, wholesaler or generator.
- 14.2 The Licensee shall not disclose information regarding a consumer, retailer, wholesaler or generator to any other party without the written consent of the consumer, retailer, wholesaler or generator, except where such information is required to be disclosed:
- a) to comply with any legislative or regulatory requirements, including the conditions of this Licence;
 - b) for billing, settlement or market operations purposes;
 - c) for law enforcement purposes; or
 - d) to a debt collection agency for the processing of past due accounts of the consumer, retailer, wholesaler or generator.
- 14.3 Information regarding consumers, retailers, wholesalers or generators may be disclosed where the information has been sufficiently aggregated such that their particular information cannot reasonably be identified.
- 14.4 The Licensee shall inform consumers, retailers, wholesalers and generators of the conditions under which their information may be released to a third party without their consent.
- 14.5 If the Licensee discloses information under this section, the Licensee shall ensure that the information is not be used for any other purpose except the purpose for which it was disclosed.

15 Term of Licence

15.1 This Licence shall take effect on December 24, 2003 and expire on December 23, 2023. The term of this Licence may be extended by the Board.

16 Transfer of Licence

16.1 In accordance with subsection 18(2) of the Act, this Licence is not transferable or assignable without leave of the Board.

17 Amendment of Licence

17.1 The Board may amend this Licence in accordance with section 74 of the Act or section 38 of the Electricity Act.

18 Fees and Assessments

18.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

19 Communication

19.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.

19.2 All official communication relating to this Licence shall be in writing.

19.3 All written communication is to be regarded as having been given by the sender and received by the addressee:

- a) when delivered in person to the addressee by hand, by registered mail or by courier;
- b) ten (10) business days after the date of posting if the communication is sent by regular mail; and
- c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

20 Copies of the Licence

20.1 The Licensee shall:

- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
- b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

SCHEDULE 1 SPECIFICATION OF TRANSMISSION FACILITIES

This Schedule specifies the facilities over which the Licensee is authorized to transmit electricity in accordance with paragraph 3 of this Licence.

1. A 138 kV three-phase line approximately 270 km in length beginning at Moosonee and running northwest along James Bay by way of Fort Albany and Kashechewan and terminating at Attawapiskat.
2. Three step-down substations, one in each of Fort Albany, Kashechewan and Attawapiskat to supply the electrical distribution systems in these communities.
3. A second 138 kV three-phase line approximately 179 km in length beginning at Moosonee and running northwest along James Bay, parallel to the original 138 kV circuit terminating in Kashechewan.
4. A 138 kV switching station in Kashechewan where both 138 kV circuits in parallel from Moosonee terminate

SCHEDULE 2 LIST OF CODE EXEMPTIONS

This Schedule specifies any specific Code requirements from which the licensee has been exempted.

None

APPENDIX C
DECISION AND ORDER
FIVE NATIONS ENERGY INC.
EB-2015-0143
AUGUST 20, 2015

**COMPARATIVE VERSION OF SCHEDULE 1 –
SPECIFICATION OF TRANSMISSION FACILITIES**

SCHEDULE 1 SPECIFICATION OF TRANSMISSION FACILITIES

This Schedule specifies the facilities over which the Licensee is authorized to transmit electricity in accordance with paragraph 3 of this Licence.

1. A 138 kV three-phase line approximately ~~190~~ 270 km in length beginning at approximately ~~80 km northwest~~ Moosonee and running northwest along James Bay by way of Fort Albany and Kashechewan and terminating at Attawapiskat
2. Three step-down substations, one in each of Fort Albany, Kashechewan and Attawapiskat to supply the electrical distribution systems in these communities.
3. A second 138 kV three-phase line approximately 179 km in length beginning at Moosonee and running northwest along James Bay, parallel to the original 138 kV circuit terminating in Kashechewan (~~Interim~~).
4. A 138 kV switching station in Kashechewan where both 138 kV circuits in parallel from Moosonee terminate (~~interim~~).