



EB-2009-0242

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 York
Energy Centre LP for an electricity generation licence.

By delegation, before: Theodore Antonopoulos

DECISION WITH REASONS AND PROCEDURAL ORDER NO. 1

York Energy Centre LP (“York Energy”) filed an application dated June 29, 2009 with the Ontario Energy Board (the “Board”) under section 60 of the *Ontario Energy Board Act, 1998* for an electricity generation licence.

The Board’s Notice of Application and Notice of Written Hearing for an electricity generation licence was published on July 30, 2009. The Notice stated that this application will be decided by way of written hearing unless a party satisfies the Board that there is a good reason for holding an oral hearing. The Notice included timelines for interested parties to file written objections to proceeding by way of a written hearing, for interested parties to file written submissions on the merits of the application, and for the applicant to respond to any written submissions.

The Board received three submissions on the merits of the application on August 13, August 18, and August 20, 2009. However, the Board also received two submissions objecting to a written hearing on August 6 and August 8, 2009, by Harten Consulting (“Harten”) and the Concerned Citizens of King Township Inc. (“CCKT”). Harten and CCKT requested that the Board convene an oral hearing to examine the merits of the application. On August 13, 2009, York Energy responded to the oral hearing requests. This Decision and Procedural Order addresses the oral hearing requests.

Harten requested an oral hearing on the grounds that the application is lengthy and the issues in this proceeding are complex. CCKT argued that an oral hearing is required

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because of unresolved environmental and right-of-way issues associated with the subject facility, and the fact that there has been inadequate time for the public to review and respond to York Energy's application.

York Energy responded to the oral hearing requests stating that a written process is sufficient to provide fair and reasonable opportunity for all parties to be heard and for the Board to consider the issuance of a licence. York Energy stated that it does not consider the licence application to be complex and the issues with respect to the environmental assessment requirements, need and justification of the generation facility are out of scope for this proceeding.

The Board has reviewed the requests for an oral hearing and has decided not to proceed by way of an oral hearing. Harten and CCKT have not demonstrated that an oral hearing with respect to York Energy's generation licence application is necessary in order to effectively present their arguments. The Board agrees with York Energy's assessment that the issues raised by Harten and CCKT in support of an oral hearing are out of scope for this proceeding. Other agencies have the mandate to oversee the environmental and regulatory approvals related to the actual generation facilities. In the exercise of its licensing function, the Board's practice is to review a licence application based on the applicant's ability to own and/or operate a generation facility and to participate reliably in Ontario's energy market.

Furthermore, the size of an application is not necessarily determinative of the need for an oral hearing. The Board notes that the size of this application is consistent with the Board's expectations of the volume of material that should be filed in support of a new generator licence application. Generator licence applications with this amount of material are regularly determined by way of a written hearing.

The Board is also not persuaded that this proceeding contains any complexities that cannot adequately be dealt with in the context of a written hearing. The Board believes that a written proceeding will allow interested parties to adequately and fully express their concerns to the Board on issues that are within the Board's jurisdiction.

For all of the reasons stated above, the Board finds that the need for an oral hearing has not been demonstrated. However, in order to allow interested parties the opportunity to further review the application and make written submissions on the merits

of the application, the Board will grant an extension to the timelines for written submissions set out in the Notice.

Please note that this Procedural Order may be amended, and further procedural orders may be issued from time to time.

IT IS THEREFORE ORDERED THAT:

1. The application process for York Energy's electricity generation licence application will proceed by way of written hearing.
2. Interested parties who wish to make a written submission on the application must file that submission with the Board, and deliver it to York Energy and other interested parties, by **September 23, 2009**.
3. If the applicant wishes to respond to a submission, the response must be filed with the Board and delivered to interested parties by **September 30, 2009**.

Parties must file a paper copy and one electronic copy of their submissions. The electronic copy should be in searchable Adobe Acrobat (PDF) or Word, and be filed through the Board's web portal at www.errr.oeb.gov.on.ca. If the Board's web portal is not available, electronic copies of submissions may be filed by e-mail to boardsec@oeb.gov.on.ca, or on CD or diskette. All submissions must quote file number EB-2009-0242, include your name, address, e-mail address, telephone number, and fax number and be received by the Board Secretary by 4:45 pm on the required date.

DATED at Toronto, September 10, 2009

ONTARIO ENERGY BOARD

Original signed by

Theodore Antonopoulos
Manager, Electricity Rate Applications

APPENDIX A
to
Decision and Procedural Order No. 1
IN THE MATTER OF
Generation Licence Application
York Energy Centre LP
EB-2009-0242

DATED September 10, 2009

**York Energy Centre LP
Electricity Generation Licence Application
EB-2009-0242
Applicant & List of Interested Parties**

Applicant

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Interested Parties

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