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January 28, 2010

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Our Matter Number: 1114387

BY ELECTRONIC MAIL & COURIER

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Suite 2700
Toronto, ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

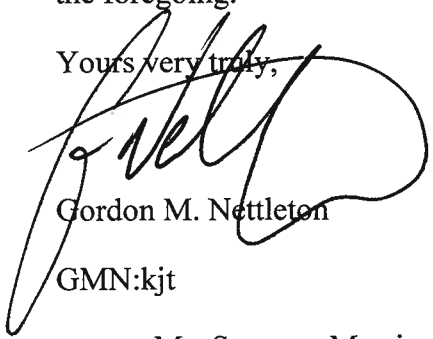
Dear Ms. Walli:

**Re: EB-2009-0242 – York Energy Centre LP (“York Energy”) – Electricity
Generation License Final Submission**

We write on behalf of York Energy to provide York Energy’s final submissions pursuant to Procedural Order No. 2.

Please do not hesitate to contact the undersigned if you have any questions concerning the foregoing.

Yours very truly,



Gordon M. Nettleton

GMN:kjt

- c. Ms. Suzanne Morrison, Pristine Power Inc.
- c. Mr. Arie D. Van Driel, Pristine Power Inc.
- c. Interested Parties

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

AND IN THE MATTER OF an Application by York Energy Centre LP (“York Energy”) pursuant to section 60 of the Act for an Electricity Generation Licence (the “Application”)

**YORK ENERGY CENTRE LP
FINAL SUBMISSIONS
January 28, 2010**

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1. York Energy herewith provides its Final Submissions in accordance with the Board's Procedural Order No. 2. The relief that York Energy has applied for in this Application is an electricity generation licence ("Licence") pursuant to section 60 of the Act. The Licence is an integral step to allowing York Energy to move forward in constructing and operating the York Energy Centre ("YEC") and ultimately participate in the Ontario electricity market.
2. York Energy is seeking approval of the License so that it may operate the YEC as a gas-fired peaking plant, to meet increasing load growth in the North York Region and contribute to the Province of Ontario's overall capacity requirements by being available to sell electricity into the IESO-administered market. The role of a "peaker plant" is to quickly provide electricity at times of peak demand and is a role that cannot be filled by other intermittent sources of electricity such as wind and solar power.
3. As such, the YEC is part of Ontario's transition away from coal-fired generation and was selected as the preferred option in a highly competitive request for proposal ("RFP") process for a North York Region peaker plant conducted by the Ontario Power Authority ("OPA"). Six proposals were pre-qualified by the OPA and submitted to an independent panel. The RFP process was implemented pursuant to a directive from the Minister of Energy, and reflects the OPA-identified urgent need for clean, reliable and secure power in one of the fastest-growing regions in Ontario.
4. The YEC has successfully completed an environmental assessment by conducting an Environmental Review Report ("ERR") to the satisfaction of the Ministry of the Environment ("MOE") and in accordance with the "Guide to Electricity Projects" and Ontario Regulation 116/01. The ERR considered the social and environmental effects of the facility and concluded that the YEC will not result in significant adverse effects to human health or the environment.
5. York Energy and the OPA have signed a Peaking Generation Contract for an Annual Average Contract Capacity of 393 MW. The YEC will have a nominal output of approximately 400 MW, dependent upon ambient conditions. The ERR described the combined gross power output for the facility to range from approximately 381.8 MW to 433.2 MW, subject to ambient conditions. The 435 MW described in York Energy's Application is consistent with that described in the ERR.

6. In Procedural Order No. 2 the Board articulated that the standard that York Energy must meet is demonstrating that it has the “ability to own and operate a generation facility and to participate reliably in Ontario’s electricity market.” York Energy submits that the information provided in its Application, and as supplemented by the detailed responses provided in response to parties’ interrogatories, abundantly meets this standard:

- York Energy’s leadership team and lead technical staff have significant experience in the electricity industry;
- York Energy has provided, on an ongoing basis, updates and status reports as to other authorizations required for the YEC to proceed to provide a clear picture and context relative to the relief applied for; and
- York Energy has set out how it will finance the YEC and have the financial wherewithal to participate reliably in the Ontario electricity market.

7. The process established by the Board to consider York Energy’s Application has resulted in submissions by a number of interested parties that have allowed the Board to test and more fully consider YEC’s Application. The concerns that have been raised by these submissions include:

- Matters that will come before the OMB, including the site plan and perceived flood risks;
- Acceptance by the MOE of the YEC Environmental Review and pending Enbridge pipeline environmental assessment, and acceptance of the Archaeological Assessment by the Ministry of Culture;
- The experience of York Energy’s leadership team, York Energy’s relationship with Harbert York Canada Company and overall financial health;
- The YEC’s overall generating capacity, interconnection point and potential related effects upon renewable energy projects; and
- Aboriginal consultation.

8. In response, York Energy readily acknowledges that authorizations in addition to the Licence applied for will be required to commission the YEC. Site plan approval is a necessary precondition for the YEC to proceed, and has been scheduled to be heard through a public hearing process before the Ontario Municipal Board (“OMB”) on February 2, 2010. York Energy expects many of the issues raised by interested parties in this proceeding, such as flood risks, to be fully debated and addressed before the OMB. Pragmatically, it makes good sense for such issues to be considered in that forum and not this one because the OMB possesses both the mandate and necessary expertise to do so.
9. Similarly, the Enbridge pipeline environmental assessment (in addition to being the subject matter of a separate application to this Board) is within the mandate of the Minister of the Environment, as are any questions or concerns relating to York Energy’s ERR. Again, the Minister of the Environment and not this Board has the legal jurisdiction and necessary expertise to ensure that environmental issues are properly considered and resolved.
10. York Energy submits that the outstanding status of the other approvals should not preclude the Board from issuing the applied-for Licence. The proper focus of this proceeding is whether York Energy has met the Board’s test for issuing the Licence, namely, the ability to own and operate the YEC and participate reliably in the Ontario electricity market.
11. York Energy submits that the record of this proceeding demonstrates that it has met the Board’s test. York Energy’s Application and its response to the Concerned Citizens of King Township (“CCKT”) interrogatory No. 6 demonstrate that York Energy has the ability to operate the YEC. York Energy is a partnership between Pristine Power Inc. (“Pristine”) and Harbert York Canada Company (“Harbert Canada,” a subsidiary of Harbert Power LLC or “Harbert Power”). York Energy and Pristine share a leadership team that has, on average, 22 years of electricity generation industry experience. Pristine has successfully constructed the East Windsor Cogeneration Centre, and Harbert Power also has a successful track record of financing and constructing power generation facilities.
12. York Energy has also demonstrated that it has the financial wherewithal to obtain financing for the construction and ongoing operation of the YEC. York Energy has satisfied the financial requirements imposed by the OPA in its RFP process and through the selection of the YEC Project. Further, as stated in CCKT interrogatory response No. 7, York Energy is a

single-purpose entity created by Pristine and Harbert Canada. These entities will together provide an equity contribution of \$73 million and have executed a term-sheet with a syndicate of lead lenders for non-recourse debt financing for 80% of the approximately \$365 million total costs of the Project. Pristine has indicated that it expects to be able to fund its equity obligation (including pre-development costs) from cash on hand.

13. Finally, York Energy has demonstrated that it will be able to reliably participate in the Ontario electricity market. Notably, Pristine presently participates reliably in the Ontario electricity market via the East Windsor Cogeneration Centre, as noted in the response to CCKT interrogatory No. 6, and York Energy has provided details about the specific and successful experience of its management team in multiple electricity markets. Finally, York Energy has completed the environmental assessment process, expects to obtain all required regulatory authorizations, and has provided updates on the status of those authorizations.
14. In summary, York Energy has met the standard required by the Board and provided sufficient evidence to justify the relief applied for. The Board and interested parties have had the opportunity to test the merits of York Energy's application. It is respectfully submitted that there is no basis to suggest that York Energy will not be able to own or operate the YEC, or reliably participate in the Ontario energy market. Scrutiny by the Board of matters relating to the distinct roles and specialized expertise of the OMB, MOE, OPA or other regulators would be duplicative and outside the proper scope of the Board's evaluation under the Act.
15. In view of the foregoing, York Energy submits that the Board should approve its Electricity Generation Licence as applied for.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 28th day of January, 2010.

YORK ENERGY CENTRE LP

By its counsel:



GORDON M. NETTLETON

TO: Interested Parties