



# **ONTARIO ENERGY BOARD**

## **BOARD STAFF SUBMISSION**

APPLICATION FOR RENEWAL OF LICENCE  
BY  
ONTARIO POWER AUTHORITY

EB-2010-0220

October 1, 2010

## **BACKGROUND**

Ontario Power Authority (the “OPA”) filed an application dated August 23, 2010, with the Ontario Energy Board (the “Board”) under section 60 of the *Ontario Energy Board Act, 1998* (the “Act”) for a renewal of its licence. The OPA requires a licence under section 57 of the Ontario Energy Board Act, 1998 to exercise its powers and perform its duties under the *Electricity Act, 1998*.

The powers and duties of the OPA include the following key activities:

- i. power system planning: planning for electricity generation, demand management, conservation and transmission and development of integrated power system plans for Ontario;
- ii. procuring supply: contracting for electricity supply or capacity and for demand management measures;
- iii. conservation: engage in activities to develop and promote conservation;
- iv. supply diversification: facilitating the diversification of sources of electricity supply by promoting the use of cleaner energy sources, including alternative and renewable energy resources.

The Board issued a Notice of Application and Hearing on September 10, 2010.

This submission is being provided by Board staff following a review of the application and evidence filed in this proceeding.

## **STAFF SUBMISSION**

### **1. Financial Position of OPA**

Board staff finds no issues with respect to the financial position of OPA and submits that the OPA can reasonably be expected to be financially responsible in the conduct of its business.

## **2. Amendments proposed by OPA**

In its application, the OPA has proposed amendments to several sections of its present licence as a result of the introduction of new legislation and regulations.

Board staff has no objection to the changes proposed to sections 7.2(d), 7.2(f), and 7.2(g) of the licence.

However, Board staff is proposing the inclusion of some additional provisions in section 7.2 of the licence given the OPA's role and the information that it provides to the Board.

Board staff notes that the *Green Energy and Green Economy Act* amends the *Electricity Act, 1998* and provides the Minister with additional authority to issue directions to the OPA with respect to various matters, including the filing of an integrated power system plan ("IPSP") and procurement processes, which the Board is required to review. Board staff submits that, in light of these responsibilities that a new provision be included in the licence requiring the OPA to provide the Board with a copy of any ministerial directive or letter from the Minister at the time a ministerial directive or letter is received by the OPA.

Board staff also notes that information from the OPA for the setting of the Regulated Price Plan ("RPP") is increasingly important to RPP forecasting especially where the OPA signs renewed or extended contracts which change costs. Board staff submits that the Board include an additional provision in the OPA licence requiring the OPA to provide information to the Board, upon request, on its generation programs, which includes but is not limited to contracts, costs and prices in order to assist the Board in carrying out its regulatory responsibilities in setting regulated prices. Board staff is aware that some of this information is confidential and could be provided with the understanding that the Board maintain confidentiality.

Board staff understands that the OPA has an integral role in multiple aspects of electricity planning in the Province, including but not limited to transmission and conservation and demand management. Because of this the OPA has information on these and other areas that the Board may require to fulfill its duties but would not normally have access to. Board staff submits that the Board include an additional provision in the OPA licence requiring the OPA to provide information of the type and in the format as may be required by the Board from time to time in order to assist the Board in carrying out its regulatory responsibilities.

The OPA has also proposed amendments to sections 10 and 11 of the licence. In section 10.1, the OPA has suggested the removal of reference to the three year time period for the filing of an IPSP in the event that the regulation is changed. The OPA has also proposed a revision to section 11.1 and the deletion of sections 11.2 and 11.3 to reflect changes made by the *Green Energy and Green Economy Act*.

The Green Energy Coalition has proposed that in addition to the OPA's proposed revision to section 10.1 of the licence, the OPA be required to submit an integrated plan no less frequently than every five years.

Having reviewed these sections, it is Board staff's view that the OPA's proposed revisions to sections 10 and 11 of the licence are already provided for in the *Electricity Act, 1998*. In particular, section 25.30 of the *Electricity Act, 1998* provides that the OPA shall file an IPSP as frequently as required by regulations or more frequently if required by the Minister or the Board and section 25.31(1) requires the OPA to develop appropriate procurement processes in accordance with its approved IPSPs. Furthermore, section 25.32(4.1) added to the *Electricity Act, 1998* by the *Green Energy and Green Economy Act*, provides that the Minister may direct the OPA to undertake any request for proposal, any other form of procurement solicitation or any other initiative or activity that relates to, among other things, the procurement of electricity supply or capacity derived from renewable energy sources.

As the OPA must comply with the requirements of the applicable legislation, regulations and ministerial directives, as may be the case, the sections of the licence that purport to deal with those requirements do not need to be included in the licence. Including sections 10 and 11 in the licence is redundant and removing these two sections will not impair the ability of the Board to fulfill its responsibilities, as required by legislation, the regulations or ministerial directive. Accordingly, Board staff submits that sections 10 and 11 of the licence are not required and should be removed.

### **3. Term of Licence**

Board staff notes that the OPA has proposed that the licence be renewed for five years, expiring in 2015.

Board staff submits that with its next licence renewal application, the OPA may wish to propose a longer licence term. At its next licence renewal the OPA will have been licensed for 10 years and will have demonstrated its ability to conduct its business in a financially responsible manner and in accordance with the law.

All of which is respectfully submitted.