



EB-2011-0282

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B;

AND IN THE MATTER OF an application under section 60 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B for an electricity transmission licence.

By delegation, before: Jennifer Lea

DECISION AND ORDER

BACKGROUND

RES Canada Transmission LP (“RES Canada”) filed an application with the Ontario Energy Board (the “Board”) on July, 2011, under section 60 of the *Ontario Energy Board Act, 1998* (the “Act”) for an electricity transmission licence.

The Board issued a Notice of Application and Hearing on August 18, 2011. Intervention requests were filed by Hydro One Networks Inc. and Great Lakes Power Transmission L.P. Canadian Niagara Power Inc. requested observer status. The Board granted all the intervenor and observer status requests.

On September 7, 2011, the Board issued Procedural Order No. 1, pursuant to which Board staff and intervenors filed interrogatories on September 26, 2011. RES Canada filed its interrogatory responses on October 11, 2011. A submission was received from Board staff on October 25, 2011. No intervenor filed a submission. RES Canada did not reply to Board staff’s submission.

The record of the proceeding is available at the Board’s offices and on the Board’s website.

THE APPLICATION

RES Canada is a new limited partnership created for the purpose of developing electricity transmission facilities in Ontario. RES Canada is owned, indirectly, by Renewable Energy Systems Limited and is affiliated with Renewable Energy Systems Americas Inc., a developer of solar and wind-power projects in North America. RES Canada has stated that it is making this application in order to participate in the Board's designation process under the *Framework for Transmission Project Development Plans* (EB-2010-0059). The applicant has no existing transmission assets in Ontario although its intended business activity is to develop, construct, own and operate transmission facilities in the province.

In a cover letter accompanying the application, RES Canada filed a claim for confidentiality, pursuant to the Board's *Practice Direction on Confidential Filings* (the "Practice Direction"), with respect to:

- Affiliates of Applicant information requested in sections 7(a) and (b) of the application form and provided in Appendices A and B;
- Energy Sector Affiliates requested in section 8 and provided in Appendix C;
- Key Individual Information contained in section 10 of the application; and
- Appendix D – Renewable Energy Systems Holdings Limited Consolidated Financial Statements.

RES Canada stated that these items contain information which is not publicly available, is commercially sensitive and is subject to pre-existing confidentiality agreements. No intervenors objected to RES Canada's claim for confidentiality.

Key Individual Information is identified in the licence application form as information that the Board shall keep confidential, and in accordance with section 4.1.1 of the Practice Direction, it will be held in confidence. It has also been the Board's practice to retain in confidence financial information, such as that in Appendix D, provided by applicants in support of licence applications.

With respect to the information about RES Canada's affiliates, the Board, in the proceeding relating to the transmission licence application from TransCanada Power Transmission (Ontario) L.P. (EB-2010-0324), dealt with a claim for confidentiality for an organizational chart displaying affiliate information and relationships. In Procedural Order No. 2 in that proceeding, the Board noted that no intervenor had objected to the request for confidentiality, and held the organizational chart in confidence. Similarly, in this case, no intervenors objected to the claim for confidentiality. I find that the

information regarding affiliates will be held in confidence for the purposes of this licence application.

On November 22, 2011 RES Canada filed a letter with the Board requesting an amendment of its application such that the effective date of its transmission licence be the date upon which RES Canada is designated as a developer of transmission assets in Ontario or the date upon which RES Canada applies to amend Schedule 1 of its licence to specify the facilities to be owned and/or operated by RES Canada, whichever is earlier.

FINDINGS

Licence Application

The Board assesses a licence application by reviewing the evidence filed by the applicant and parties who participated in the proceeding. Based on the evidence filed, I have determined that it is in the public interest to grant an electricity transmission licence to RES Canada for a period of five years.

The key areas reviewed by the Board in any licence application are the financial viability, technical capability and conduct of an applicant. In the case of electricity transmission licence applications, the Board's review is also guided by the Board's *Framework for Transmission Development Plans* (EB-2010-0059). The Board's policy seeks to encourage new transmission entrants to Ontario, thereby bringing additional resources for project development and supporting competition in the transmission sector to drive economic efficiency for the benefit of ratepayers. The Board stated in its Chatham-Kent Transmission Inc. licence decision (EB-2010-0351) that obtaining a transmission licence is intended to be a threshold qualification step, and is not intended to be unduly onerous.

I find that the applicant has provided sufficient evidence of its financial viability and technical capabilities to qualify for a transmission licence. RES Canada provided the 2009 and 2010 audited consolidated financial statements for its parent company Renewable Energy Systems Holdings Limited as RES Canada is a newly created entity and no financial results are available for it at this time. With respect to technical capabilities, RES Canada, being a newly created entity with no technical expertise of its own, intends to rely on the technical expertise of its affiliates who were described as entities with extensive experience in developing, constructing and managing high

voltage transmission facilities in numerous jurisdictions throughout the U.S. and Canada. The information provided meets the threshold qualification requirements for the licensing process.

The issuance of a transmission licence will enable RES Canada to participate in the designation process. The granting of this transmission licence does not endorse the applicant's technical and financial capabilities in relation to the development of a specific transmission project. Licensed transmitters who file plans to develop a transmission project under the Board's designation process will be required to provide a significantly more detailed demonstration of their technical and financial capabilities in relation to the development of a specific transmission project.

No concerns were raised regarding the conduct of the applicant, and I find that RES Canada has demonstrated that it is likely to operate its business in conformity with relevant legislation and regulatory requirements.

Effective Date and Term of the Licence

The applicant made a request to amend its application regarding the effective date of its licence following a decision of the Board issued on November 2, 2011: EB-2011-0260. In the EB-2011-0260 decision the Board amended TransCanada Power Transmission (Ontario) L.P.'s transmission licence by changing the effective date of the licence to the date upon which the licensee is designated as a developer of transmission assets in Ontario pursuant to the Board's designation process or the date upon which the licensee applies to amend schedule 1 of the licence to specify the facilities to be owned and/or operated by it, whichever is earlier. In making its decision the Board considered that other entrant transmitters, either licensed or whose electricity transmission licence applications are currently before the Board, may choose to seek similar relief, stating:

“A new entrant transmitter who has already been licensed, or whose application is before the Board, may choose to seek the same relief granted in this Decision and Order by way of application (or amendment to its application), referencing its licence or application number and this Decision and Order.”¹

Consistent with that decision, the effective date of the license will be the date upon

¹ Decision and Order in TransCanada Power Transmission (Ontario) L.P. Licence Amendment Application (EB-2011-0260), page 10.

which the applicant is designated as a developer of transmission assets in Ontario pursuant to the Board's designation process, or the date upon which it applies to amend schedule 1 of the licence to specify the facilities to be owned and/or operated by it, whichever is earlier.

A transmission licence is typically granted for a term of 20 years, recognizing the long term nature of transmission assets. However, the Board has found in the recent transmission licence decisions that a shorter term of licence is appropriate for entrant transmitters who presently have no facilities in Ontario. Consistent with those decisions, the term of the licence will be 5 years. The term of the licence may be amended and extended to the standard 20 year term in the event that RES Canada develops or acquires transmission facilities in Ontario.

IT IS THEREFORE ORDERED THAT:

1. The application by RES Canada Transmission LP for an electricity transmission licence is granted.
2. The licence will become effective on the date upon which RES Canada Transmission LP is designated as a developer of transmission assets in Ontario pursuant to a Board designation process, or the date upon which RES Canada Transmission LP applies to amend schedule 1 of the licence to specify the facilities to be owned and/or operated by RES Canada Transmission LP, whichever is earlier.

DATED at Toronto December 5, 2011

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Projects