



**EB-2012-0075**

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

**AND IN THE MATTER OF** a Notice of Proposal under  
section 81 of the *Ontario Energy Board Act*, 1998 by  
Grand Renewable Wind Limited Partnership

**BEFORE:** Paula Conboy  
Presiding Member

Ken Quesnelle  
Member

**DECISION AND ORDER**  
**May 4, 2012**

On February 24, 2012, Grand Renewable Wind Limited Partnership ("GRWLP") filed a Notice of Proposal under section 81 of the Ontario Energy Board Act, 1998 (the "Act"). In accordance with section 81 of the Act, no generator or affiliate of a generator shall construct a transmission system in Ontario unless it has first given notice of its proposal to do so to the Board and the Board,

- (a) has not issued a notice of review of the proposal within 60 days of the filing of the notice; or
- (b) has approved the proposal under section 82. 1998, c. 15, Sched. B, s. 81.

On April 19, 2012, the Board indicated by letter that it intended to issue a Notice of Review for the proposal.

## Background

GRWLP is a special purpose vehicle established for the purpose of developing, constructing and operating a 153 MW wind generating facility (the “Wind Project”). Grand Renewable Solar LP, a related company, is a special purpose vehicle established for the purpose of developing, constructing and operating a 100 MW solar generating facility (the “Solar Project”).

In addition to the Wind Project, GRWLP intends to own and operate the interconnection facilities (the “Transmission Facility”) used to connect both the Wind Project and the Solar Project to the IESO controlled grid. The Transmission Facility was subject to a leave to construct application with the Board that was approved with conditions through the Board’s Decision and Order dated December 8, 2011 (EB-2011-0063). Both GRWLP and Grand Renewable Solar LP state they intend to apply for a generator licence with the Board in due course. GRWLP maintains it does not require a transmission licence for the Transmission Facility pursuant to an exemption under section 4.0.2(1)(d)(i) of Ontario Regulation 161/99. GRWLP states in its application that it is relying on the Board’s approval of this section 81 Notice of Proposal as confirmation that it does not require a transmission licence.

## Board Findings

The Board heard argument on the licence exemption issue in the EB-2011-0063 leave to construct proceeding. Board staff argued that it was not clear that GRWLP is in fact entitled to the exemption in Ontario Regulation 161/99. Ultimately the Board determined that it did not need to make a determination on that issue in the EB-2011-0063 proceeding, and that the issue could be addressed at a later date.

In the hope of having this issue resolved, GRWLP requested that the Board clarify whether or not it is exempt from holding a transmission licence through this proceeding.

In order to provide time to consider this issue further, the Board issued a letter indicating that it intended to issue a Notice of Review of the section 81 proposal.

The Board has now had the opportunity to consider this issue further. The scope of the Board's review on a section 81 application is established in section 82(3): "The Board shall make an order approving a proposal described in section 81 if it determines that the impact of the proposal would not adversely affect the development and maintenance of a competitive market." Although it appears that the licensing exemption issue may be partially related to the development and maintenance of a competitive market, there may be other relevant considerations as well. The real issue that concerns GRWLP is the legal interpretation of Ontario Regulation 161/99. The Board does not want to find its ability to consider the licence exemption issue constrained by the limitations on the Board's power to review in section 82(3).

The Board has therefore determined that it will initiate a proceeding on its own motion, under sections 19(4) and 57 of the Act, to consider the following question: Is GRWLP exempt from holding a transmission licence for the Transmission Facility pursuant to section 4.0.2(1)(d)(i) of Ontario Regulation 161/99? A notice and procedural order will follow shortly.

The licensing issue was the only issue in this proceeding that the Board considered to potentially require a review. As the Board has now determined that that issue will be dealt with in a separate proceeding, there is no longer any need to hold a review on the section 81 proposal. GRWLP's proposal under section 81 is approved.

#### **THE BOARD ORDERS THAT:**

1. Grand Renewable Wind Limited Partnership's Notice of Proposal under section 81 is approved.

**DATED** at Toronto, May 4, 2012

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary