



EB-2012-0311

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
NextEra Energy Canadian Operating Services, Inc.
for an electricity generation licence.

By delegation, before: David Richmond

**DECISION WITH REASONS AND
PROCEDURAL ORDER NO. 1**

NextEra Energy Canadian Operating Services, Inc. ("NextEra") filed an application dated July 9, 2012 with the Ontario Energy Board (the "Board") under section 60 of the *Ontario Energy Board Act*, 1998 for an electricity generation licence as a Feed-In Tariff ("FIT") Program participant. NextEra's application states that it has received a "Notice to Proceed" from the Ontario Power Authority (the "OPA") to construct an electricity generation facility in Alma, Ontario (the "Facility").

The Board's Notice of Application and Written Hearing (the "Notice") for this proceeding was published on August 3, 2012. The Notice stated that the 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 did not receive any submissions on the merits of the application.

The Board received one submission objecting to a written hearing on August 21, 2012, by Preserve Mapleton Inc. ("PMI"). Specifically, PMI requested that the Board convene

“an oral hearing on the granting of Feed-in Tariff Program licences” to NextEra. On August 31, 2012, NextEra responded to the PMI submission.

PMI bases its request on the grounds that it has a “vested interest” in the Facility. In addition, PMI submitted that an oral hearing will allow for it to receive immediate clarification on any matters requiring interpretation of rules and regulations.

NextEra responded to the PMI submission by stating that the Board should proceed with a written hearing, and requested that the Board not accord intervenor status to PMI. NextEra stated that the PMI submission provided no information with respect to its identity or interest other than to state that its members are the ones who will be affected by the Facility.

The Board notes that the application that is under consideration is for a licence to generate electricity (which the Board has authority to grant pursuant to section 57 of the Act), and that such applications are regularly determined by way of a written hearing. In this light, the Board has considered the request by PMI and the response by NextEra. The Board finds that PMI has not demonstrated that an oral hearing with respect to NextEra’s application for a generation licence is necessary in order to effectively present its arguments. The Board will, accordingly, proceed in this matter by way of a written hearing.

The Board’s Notice did not envision granting intervenor status to any parties in this proceeding. Rather, it invited interested parties to file written submissions. PMI has not requested and the Board does not grant to PMI intervenor status in this proceeding. PMI shall, however, be permitted to adequately and fully express its concerns through a submission to the Board on issues that are within the Board’s jurisdiction. The Board believes that a written proceeding will allow PMI (and any other interested party) the opportunity to do so.

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 PMI 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.

The Board considers it necessary to make provision for the following matters related to this proceeding. Please be aware that this procedural order may be amended, and further procedural orders may be issued from time to time.

IT IS THEREFORE ORDERED THAT:

1. NextEra's application for a generation licence will proceed by way of written hearing.
2. If PMI or any other interested party wishes to make a written submission on the application, the submission must be filed with the Board and delivered to the applicant by **September 27, 2012**.
3. If the applicant wishes to respond to any submissions filed on its application, the response must be filed with the Board and copied to the party having filed the submission by **October 4, 2012**.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

All filings to the Board must quote the file number, EB-2012-0311, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

DATED at Toronto, September 20, 2012

ONTARIO ENERGY BOARD

Original signed by

David Richmond
Manager, Electricity Facilities & Infrastructure Applications

APPENDIX A
to
Decision with Reasons and Procedural Order No. 1
IN THE MATTER OF
Generation Licence Application as a Feed-In Tariff Program Participant
NextEra Energy Canadian Operating Services, Inc.
EB-2012-0311

DATED September 20, 2012

**NextEra Energy Canadian Operating Services, Inc.
Electricity Generation Licence Application as a Feed-In Tariff Program Participant
EB-2012-0311**

Applicant & List of Interested Parties

APPLICANT

Rep. and Address for Service

NextEra Energy Canadian Operating Services, Inc.

Jeremy Ferrell
5500 North Service Road
Suite 205
Burlington, ON L7L 6W6

Tel: (905) 335-4904
Fax: (905) 335-5731
Email: jeremy.ferrell@nexteraenergy.com

APPLICANT COUNSEL

McCarthy Tétrault LLP

George Vegh
Toronto Dominion Bank Tower
Box 48, Suite 4700
Toronto, ON M5K 1E6

Tel: (416) 601-7709
Fax: (416) 868-0673
Email: gvegh@mccarthy.ca

INTERESTED PARTIES

Rep. and Address for Service

Preserve Mapleton Inc.

c/o Elissa Krul

Tel: (519) 848-5589
Fax: (519) 848-2227