



EB-2012-0312

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
Conestogo Wind, LP for an electricity generation
licence as a Feed-In Tariff Program participant.

By delegation, before: David Richmond

DECISION AND ORDER

November 8, 2012

THE APPLICATION

Conestogo Wind, LP (“Conestogo”) 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. Conestogo’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 for an electricity generation licence was posted on August 3, 2012. The Board received one submission in response to the notice, from Preserve Mapleton Inc. (“PMI”), requesting that the Board convene an oral hearing. On September 20, 2012 the Board issued a Decision with Reasons and Procedural Order No.1 denying the oral hearing request and extending the time for interested parties to file written submissions on the merits of the application.

On September 25, 2012, PMI filed a letter asking that the Board extend the date for the filing of its written submission. On September 27, 2012, the Board issued Procedural Order No. 2 extending the timelines for written submissions from PMI and other interested parties.

In Procedural Order No. 2, the Board noted its main criteria in relation to the licensing of electricity generators under the FIT Program. Specifically, the Board noted that the main criteria are whether the applicant received a Notice to Proceed from the OPA and the status of the connection process with the local distributor. The Board also noted that other agencies have the mandate to oversee areas such as the environmental and regulatory approvals related to the actual generation facilities.

The Board received a submission on the merits of the application from PMI, on October 15, 2012. In its submission, PMI raised concerns regarding financial viability, technical capability, and conduct that mainly focused on the applicant's parent company, NextEra Energy Resources, LLC and its business activities in other jurisdictions. PMI also raised concerns with how the applicant conducted itself throughout the process of setting up the Facility. In addition, PMI questioned the accuracy of Conestogo's response, in its application, that it will not own or operate a transformer station or distribution station. Conestogo filed its reply submission on October 19, 2012. Conestogo stated that PMI's submission was generally irrelevant to an application of this nature but proceeded to respond to PMI's concerns regarding its parent company's financial viability and technical capability. Conestogo cited two applications of subsidiaries of the parent company in which the Board had considered the parent company's financial and technical capability. The first case cited by Conestogo was an application for a transmission licence by Upper Canada Transmission Inc. (EB-2011-0222) and the second case cited was an application by Summerhaven Wind LP (EB-2011-0027) for leave to construct transmission facilities. Conestogo submitted that in each of these cases, the Board had an opportunity to consider real evidence on technical and financial capabilities and was satisfied with the qualifications of its parent company.

In its reply submission, Conestogo also changed the response given in its application regarding whether it will own or operate a transformer station or distribution station from "no" to "yes". Conestogo acknowledged that it should have checked the "yes" box on the licence application form instead of the "no" box.

Despite the record of the proceeding having closed on October 19, 2012, in accordance with the Board's Procedural Order No. 2, PMI filed an additional submission in response to Conestogo's reply submission on October 24, 2012.

FINDINGS

The Board finds that the concerns raised by PMI regarding the financial viability, technical capability, and conduct of Conestogo are not within the scope of the matters considered by the Board when reviewing an application made by an OPA-contracted FIT Program participant for an electricity generation licence. The Board's main criteria for review in relation to the licensing of electricity generators under the FIT Program are whether the applicant has received a Notice to Proceed from the OPA and the status of the connection process with the local distributor.

With respect to the status of the connection process with the local distributor, the Board finds that the information provided by Conestogo in its application regarding the connection of the Facility and in its reply submission is satisfactory. The Board finds that PMI's request for clarification over whether Conestogo will own or operate a transformer station or distribution system was also satisfactorily addressed by Conestogo in its reply submission.

In accordance with Procedural Order No. 2, the filing of the reply submission by Conestogo on October 19, 2012 closed the record of this proceeding. The Board finds no reason to give any weight to the subsequent submission filed by PMI on October 24, 2012.

After considering the application, it has been found to be in the public interest to issue the electricity generation licence to Conestogo.

IT IS THEREFORE ORDERED THAT:

Conestogo Wind, LP is granted an electricity generation licence as a Feed-In Tariff Program participant, on such conditions as are contained in the attached licence.

DATED at Toronto, November 8, 2012

ONTARIO ENERGY BOARD

Original signed by

David Richmond
Manager, Electricity Facilities & Infrastructure Applications



Electricity Generation Licence

EG-2012-0312

Conestogo Wind, LP

Valid Until

November 7, 2032

Original signed by

David Richmond
Manager, Electricity Facilities & Infrastructure Applications
Ontario Energy Board
Date of Issuance: November 8, 2012

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	Table of Contents	Page No.
1	Definitions	3
2	Interpretation	3
3	Authorization	3
4	Obligation to Comply with Legislation, Regulations and Market Rules	3
5	Obligation to Maintain System Integrity	3
6	Restrictions on Certain Business Activities.....	4
7	Provision of Information to the Board.....	4
8	Term of Licence	4
9	Fees and Assessments.....	4
10	Communication	4
11	Copies of the Licence.....	5
	SCHEDULE 1 LIST OF LICENSED GENERATION FACILITIES	6

1 Definitions

In this Licence:

“**Act**” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“**Electricity Act**” means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

“**generation facility**” means a facility for generating electricity or providing ancillary services, other than ancillary services provided by a transmitter or distributor through the operation of a transmission or distribution system and includes any structures, equipment or other things used for that purpose;

“**Licensee**” means Conestogo Wind, LP;

“**regulation**” means a regulation made under the Act or the Electricity Act;

2 Interpretation

- 2.1 In this Licence words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of this Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens. Where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

3 Authorization

- 3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this licence, to generate electricity or provide an ancillary service for sale under a contract with the Ontario Power Authority and the contract is entered into as part of a standard offer program offered by the Ontario Power Authority. This Licence authorizes the Licensee only in respect of those facilities set out in Schedule 1.

4 Obligation to Comply with Legislation, Regulations and Market Rules

- 4.1 The Licensee shall comply with all applicable provisions of the Act and the Electricity Act, and regulations under these acts, except where the Licensee has been exempted from such compliance by regulation.
- 4.2 The Licensee shall comply with all applicable Market Rules.

5 Obligation to Maintain System Integrity

- 5.1 Where the IESO has identified, pursuant to the conditions of its licence and the Market Rules, that it is necessary for purposes of maintaining the reliability and security of the IESO-controlled

grid, for the Licensee to provide energy or ancillary services, the IESO may require the Licensee to enter into an agreement for the supply of energy or such services.

- 5.2 Where an agreement is entered into in accordance with paragraph 5.1, it shall comply with the applicable provisions of the Market Rules or such other conditions as the Board may consider reasonable. The agreement shall be subject to approval by the Board prior to its implementation. Unresolved disputes relating to the terms of the Agreement, the interpretation of the Agreement, or amendment of the Agreement, may be determined by the Board.

6 Restrictions on Certain Business Activities

- 6.1 Neither the Licensee, nor an affiliate of the Licensee shall acquire an interest in a transmission or distribution system in Ontario, construct a transmission or distribution system in Ontario or purchase shares of a corporation that owns a transmission or distribution system in Ontario except in accordance with section 81 of the Act.

7 Provision of Information to the Board

- 7.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 7.2 Without limiting the generality of paragraph 7.1 the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee, as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

8 Term of Licence

- 8.1 This Licence shall take effect on November 8, 2012 and expire on November 7, 2032. The term of this Licence may be extended by the Board.

9 Fees and Assessments

- 9.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

10 Communication

- 10.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.
- 10.2 All official communication relating to this Licence shall be in writing.
- 10.3 All written communication is to be regarded as having been given by the sender and received by the addressee:
- a) when delivered in person to the addressee by hand, by registered mail or by courier;
 - b) ten (10) business days after the date of posting if the communication is sent by regular mail; or

- c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

11 Copies of the Licence

11.1 The Licensee shall:

- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
- b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

SCHEDULE 1 LIST OF LICENSED GENERATION FACILITIES

The Licence authorizes the Licensee only in respect to the following:

1. The ownership of Consetogo Wind Energy Centre with an installed capacity of 22.9 MW, located at RR1 Sideroad 17 between Sixteenth and Fourteenth Line, Alma, Ontario.