



**EB-2012-0358**

**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 RE  
Orillia 3 ULC for an electricity generation licence as a  
Feed-In Tariff Program participant.

By delegation, before: David Richmond

## **DECISION AND ORDER**

**January 17, 2013**

### **THE APPLICATION**

RE Orillia 3 ULC filed an application dated October 2, 2012 with 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. The application included a “Notice to Proceed” from the Ontario Power Authority (the “OPA”) dated July 4, 2012.

The Board posted the Notice of Application and Written Hearing for an electricity generation licence on October 11, 2012. The applicant informed the Board that it posted the notice on its website on October 12, 2012. The notice invited submissions from interested parties by November 1, 2012.

On November 5, 2012, the Board received a letter from Bernard Pope on behalf of Ontario Farmland Preservation (“OFP”), requesting that the Board permit it to make a late submission. The Board’s Procedural Order No. 1 was issued on November 12, 2012, extending the timelines for the filing of written submissions.

OFP filed its written submission on November 23, 2012 and two amendments to the submission on November 25, 2012. In its submissions, among other things, OFP argued that there was a lack of meaningful consultation by the applicant, disapproved of the applicant's practice of not offering bonding for decommissioning, disagreed with the applicant's Construction Reports and submitted that the applicant spent insufficient time to complete adequate wildlife studies. Moreover, OFP indicated its disapproval with the provincial government's policies with regard to electrical infrastructure and protection of farmland. OFP stated, "The electrical infrastructure of the province has failed" and "the rural land that can produce this food, has to not only be protected in policy but also in an enforceable practice." OFP ultimately requested that the Board not issue a licence to the applicant and other projects in the dossier of, its parent company.

The applicant filed a reply submission on December 3, 2012. In its submission, the applicant noted that OFP did not allege that RE Orillia 3's application was inaccurate or incomplete but, rather, the matters raised in OFP's submission were all matters not within the ambit of the Board jurisdiction on an application for a generation licence under the FIT Program. The applicant argued that the only matter of potential interest to the Board is the allegation of insufficient consultation with respect to the project. The applicant, in any event, rejected the allegation and provided evidence of sufficient consultation by filing a Consultation Report, dated August 3, 2011, and Consultation Report Addendum, dated November 5, 2012. The applicant requested that the Board grant its application without further process.

## **FINDINGS**

The Board finds that the concerns raised by OFP 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. With respect to the Notice of Application and Written Hearing, the applicant is only required to post the Notice on its website and this was confirmed by the applicant in a letter dated October 15, 2012. The applicant has satisfied the requirements in its application.

After reviewing the application and considering the subsequent submissions by the parties, the Board finds it in the public interest to issue the electricity generation licence under Part V of the Act.

**IT IS THEREFORE ORDERED THAT:**

RE Orillia 3 ULC 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, January 17, 2013

**ONTARIO ENERGY BOARD**

*Original Signed By*

David Richmond  
Manager, Electricity Facilities & Infrastructure Applications



# Electricity Generation Licence

**EG-2012-0358**

**RE Orillia 3 ULC**

**Valid Until**

**January 16, 2033**

*Original Signed By*

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**David Richmond**  
**Manager, Electricity Facilities &**  
**Infrastructure Applications**  
**Ontario Energy Board**  
**Date of Issuance: January 17, 2013**

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## 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 RE Orillia 3 ULC;

“**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 January 17, 2013 and expire on January 16, 2033. 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 and operator of RE Orillia 3 with an installed capacity of 6.5 MW located at 1599 Line 13N, Hawkestone, Ontario.