



**EB-2012-0467**

**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 SunE  
Norfolk Bloomsburg LP for an electricity generation  
licence.

By delegation, before: Adrian Pye

**DECISION AND ORDER**  
**February 21, 2013**

**THE APPLICATION**

SunE Norfolk Bloomsburg LP (“SunE”) filed an application dated December 19, 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. SunE filed a Notice to Proceed it received from the Ontario Power Authority (the “OPA”) with its application.

The Board’s Notice of Application and Written Hearing (the “Notice”) was published on January 8, 2013. 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.

On January 10, 2013, the Board issued an interim electricity generation licence to SunE in response to its request for an interim licence. The term of the licence was for 90 days, or until the final determination of the electricity generation licence application, whichever is earlier.

The Board received one submission from the Six Nations Council ("Six Nations") on January 29, 2013. On February 5, 2013, the Board issued Procedural Order No. 1 granting an extension requested by SunE for filing its reply submission from February 5, 2013 to February 12, 2013. SunE filed its reply submission on February 12, 2013.

In its submission, Six Nations set out the reasons as to why it requests a written hearing and why the electricity generation licence should not be granted. The reasons were generally focussed on the completion of discussions and consultation between SunE and Six Nations and issues in relation to accommodation. Six Nations also requested an award of costs in order to participate in the proceeding in a meaningful way.

In its reply submission, SunE stated that the request for a written hearing is moot as the Board had already determined that it would proceed by a written hearing as set out in the Notice. The Applicant noted that because the request is moot, the reasons given by Six Nations in support of the request for a written hearing are irrelevant, and therefore the Applicant made no further submissions responding to the request.

With respect to the request that the electricity generator licence application be denied, the Applicant stated that the Board has no way to determine when discussions between Six Nations and the Applicant are complete and that Six Nations has not provided any evidence in support of this "extraordinary request" to determine such. The Applicant submitted that the Board has no jurisdiction to grant this request. The Applicant further stated that even if the Board did have such jurisdiction, granting the request by Six Nations would be an improper use of the Board's discretion, resulting in a loss of jurisdiction.

## **FINDINGS**

I agree with the Applicant that the request for a written hearing is moot as the Board's Notice stated that the Board would proceed by way of a written hearing. I also find that

Six Nations is not eligible for an award of costs. The Board's Notice indicated that the Board did not intend to provide for an award of costs in the proceeding.

I find that the concerns raised by Six Nations with respect to why the electricity generation licence should not be granted are not within the scope of the matters considered by the Board when reviewing an application made by a 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 respect to the status of the connection process, I find that the information provided by SunE is satisfactory.

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

**IT IS THEREFORE ORDERED THAT:**

SunE Norfolk Bloomsburg 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, February 21, 2013

**ONTARIO ENERGY BOARD**

*Original Signed By*

Adrian Pye  
Manager, Licence Applications