



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



Electricity Generation Licence

EG-2012-0467

SunE Norfolk Bloomsburg LP

Valid Until

February 20, 2033

Original signed by

Adrian Pye
Manager, Licence Applications
Ontario Energy Board
Date of Issuance: February 21, 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 SunE Norfolk Bloomsburg 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 February 21, 2013 and expire on February 20, 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 operation of SunE Norfolk Bloomsburg with an installed capacity of 10 MW, located at 48 Cloet Road, Simcoe, ON, N3Y 4K3.