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BY EMAIL

August 23, 2013

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Board Staff Submission
Met Fiera Solar Orillia 1 L.P., Met Fiera Solar Orillia 2 L.P., Met Fiera Solar Breen 2 L.P., Met Fiera Solar Midhurst 2 L.P., Met Fiera Solar Midhurst 3 L.P., Met Fiera Solar Midhurst 4 L.P., Met Fiera Solar Midhurst 6 L.P., Met Fiera Solar Adelaide 1 L.P.
Applications for Electricity Generation Licence
Board File Nos. EB-2013-0235/0236/0237/0238/0239/0240/0241/0277**

In accordance with the Notice of Application and Written Hearing, please find enclosed Board Staff Submission filed in the above mentioned proceedings.

Yours truly,

Original signed by

Irina Kuznetsova
Case Manager

Attachment



ONTARIO ENERGY BOARD

STAFF SUBMISSION

APPLICATIONS FOR A FIT ELECTRICITY GENERATION LICENCE

by

Met Fiera Solar Orillia 1 L.P., Met Fiera Solar Orillia 2 L.P., Met Fiera Solar Breen 2 L.P., Met Fiera Solar Midhurst 2 L.P., Met Fiera Solar Midhurst 3 L.P., Met Fiera Solar Midhurst 4 L.P., Met Fiera Solar Midhurst 6 L.P., Met Fiera Solar Adelaide 1 L.P.

EB-2013-0235/0236/0237/0238/0239/0240/0241/0277

August 23, 2013

THE APPLICATIONS

Seven affiliates of Met Fiera Solar LP (“Met Fiera”) each filed an application dated June 14, 2013 with the Ontario Energy Board under section 60 of the *Ontario Energy Board Act, 1998* seeking an electricity generation licence as a Feed-in Tariff Program (FIT) participant. On July 23, 2013, the eighth application for a FIT generation licence was submitted by another affiliate of Met Fiera. The applications are to own and operate solar generation facilities with nameplate installed capacities ranging from 3.5 to 10 MW. The applications are combined into one proceeding pursuant to section 21(5) of the Act.

Currently the solar generation facilities that are the subjects of these applications are included in Schedule 1 of the licences issued by the Board to eight affiliates of Recurrent Energy Lux Holdings (Recurrent). As stated in the applications’ transmittal letter, Met Fiera has agreed to purchase these facilities from Recurrent. It is also stated in the letter that the parties have agreed to transfer each of the facilities once the facility achieves commercial operation in accordance with established dates, and certain other conditions are satisfied.

On June 21, 2013, the Board issued a letter indicating that the applications cannot be processed until the applicants provide proof of the Ontario Power Authority’s (“OPA”) approval of the transfer of the facilities to the applicants. By letter dated July 23, 2013, Met Fiera stated that the requested information can only be provided after the facilities achieve commercial operation due to the OPA’s FIT program rules that specify that the contract can only be assigned by the contract holder following the commercial operation date for the facility that is the subject of the contract. Accordingly, the applicants request that the Board proceed in its normal licence application review process and consider issuance of the “full term” licence (as opposed to an “interim” or “short term” licence, as has been done in the past). The letter states that, in the applicants’ view, an “interim” licence will not provide a degree of commercial certainty appropriate to support the amount of investment required to close the sale transactions with Recurrent.

The purpose of this document is to provide the submission of Board staff after its review of the applications and evidence.

STAFF SUBMISSION

Each of the applicants seeking an electricity generation licence from the Board is doing so as an OPA FIT Program participant. In the McLean's Mountain Wind Limited Partnership's decision [EB-2013-0015], the Board stated that:

In the exercise of its licensing function, the Board's practice is to review a licence application based on the Applicant's ability to own and/or operate a generation facility and to participate reliably in Ontario's energy market.

The Board uses three main criteria to assess an electricity generator licence applicant:

- The applicant's ability to be a financially viable entity with respect to owning and operating a generation facility in Ontario's energy market;
- The applicant's technical capability to reliably and safely operate a generator; and
- The applicant and its key individuals' past business history and conduct such that they afford reasonable grounds for belief that the applicant will carry on business in accordance with the law, integrity and honesty.

When an applicant for an electricity generation licence is a FIT Program participant, the OPA undertakes a rigorous assessment of the applicant's financial viability, technical capability and conduct. If the OPA is satisfied with the results of this assessment, the OPA grants the applicant a Notice to Proceed. Because of the rigour of the OPA assessment process, the Board will generally grant a generation licence to an applicant if it has received a Notice to Proceed from the OPA.

Board staff notes that, in instances where an applicant for an electricity generation licence (as FIT Program participant) is purchasing a facility from an entity that holds an OPA contract and Notice to Proceed, the Board will generally accept an OPA-executed Assumption and Acknowledgement agreement as confirmation of the OPA's approval of the applicant's qualifications mentioned above.

In this proceeding, the Board has not received any proof that the OPA has approved the applicants as the assignees of Recurrent's FIT contracts. However, the applicants provided information on their technical capabilities which can be considered by the Board in its determination of these applications. Met Fiera has stated that section 15.5 of the OPA FIT contract provides that the OPA shall not unreasonably withhold its consent to contract assignment provided that the facility purchaser meets minimum program participation requirements. Met Fiera has advised that it is a partnership consisting of the Metropolitan Life Insurance Company and Fiera Axium Infrastructure Canada II L.P., the latter being an entity that has extensive experience with solar projects located across southeastern Ontario, and which has a combined installed capacity of 67 MW. Therefore, in the applicants' view, the process of the OPA's confirmation of a contract assignment is a mechanical one. The applicants further state that issuance of the "full term" licence in advance of commercial closing of the transaction would be appropriate with subsequent completion and issuance of Schedule 1 of the licence where the solar facilities will be listed.

Board staff does not oppose the issuance of the licences, as requested by the applicants, subject to the following conditions. Board staff submits that, because the sale transactions will not be finalized at the time of the issuance of the licences (and therefore the applicants will not yet own and operate the subject facilities), the Board may consider issuing the "full term" licences with a future effective date; namely, each of the licences would become effective upon the date when each of the respective applicants (i) confirms that the commercial transaction has closed and (ii) files an executed copy of the OPA's Assumption and Acknowledgement Agreement in respect of the transferred facility. The term of the licence section should indicate that the licence will expire in 20 years from the date it takes effect. Schedule 1 of each licence should be also completed only after the applicant's filing of written confirmation to the Board that the commercial transaction has closed.

All of which is respectfully submitted.