



EB-2013-0387
EB-2013-0388

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O.1998, c.15, Schedule B;

AND IN THE MATTER OF an application for an electricity generation licence by Aurora Smiths Falls 1 Limited Partnership;

AND IN THE MATTER OF an application for an electricity generation licence by Aurora Smiths Falls 3 Limited Partnership.

By delegation, before: Viive Sawler

DECISION AND ORDER
December 23, 2013

Aurora Smiths Falls 1 Limited Partnership and Aurora Smiths Falls 3 Limited Partnership each filed an application on October 31, 2013. The applications were filed under section 60 of the *Ontario Energy Board Act, 1998* for an electricity generation licence as a Feed-in Tariff (“FIT”) program participant, and for authorization to own and operate a generation facility. The Board assigned file numbers EB-2013-0387 and EB-2013-0388 to the applications, respectively.

The Board issued a combined Notice of Application and Written Hearing on November 19, 2013, giving notice that both applications would be heard together. No parties responded to the Notice of Application and Written Hearing.

As stated in the applications, the applicants have entered into agreements to purchase two ground mount FIT contracted solar generation facilities from Recurrent Energy Lux Holdings (“Recurrent”). Recurrent, through the project entities associated with each of

the subject facilities, has been granted by the Board the electricity generation licences to own and operate respective facilities. Parties agreed to transfer each of the facilities to the respective applicant once the facilities achieve commercial operation in accordance with dates established by the parties to the sale transactions, and given that certain other conditions are satisfied. On the closing date of the commercial transactions, each of the Recurrent affiliates will transfer all of its rights, title, and interest in its generation facility to the respective applicant. At the same time, the Recurrent affiliates will request cancellation of their respective licences.

The applicants requested that each of the licences be issued for a 20 year term with a future effective date, specifically the date when the respective applicant (i) confirms that the commercial transaction has closed and (ii) files an executed copy of the Ontario Power Authority's ("OPA") Assumption and Acknowledgement Agreement in respect of the transferred facility.

In its review of a licence application for electricity generation licence as a FIT program participant, the Board relies on the OPA's 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. In case with these applications, the applicants are purchasing the facilities from the entities that hold the OPA contracts and Notices to Proceed. In such instances the Board generally accepts an OPA-executed Assumption and Acknowledgement agreement as confirmation of the OPA's approval of the applicant's qualifications mentioned above. However, under the OPA's FIT contracting rules, the OPA will only issue the Assumption and Acknowledgement agreement after the commercial operation date for the facility is achieved.

As has been previously done in Board proceedings¹ where the Board granted the full term licences with a future effective date to the entities involved in similar transactions, in the absence of the OPA-executed Assumption and Acknowledgement agreement, in these licence applications, I have considered the technical capabilities of the applicants' owner Aurora Solar Corporation., which currently owns six ground mount solar facilities in Ontario.

¹ Board File Numbers EB-2013-0235 to EB-2013-0241 and EB-2013-0277

After considering the applications, I find it to be in the public interest to issue an electricity generation licence under Part V of the Act to each of the applicants. This will permit the applicants to finalize their transaction with the Recurrent affiliates.

IT IS THEREFORE ORDERED THAT FOR EACH OF THE APPLICATIONS:

1. The application for an electricity generation licence is granted, on such conditions as are contained in the attached licence.
2. The licence will become effective on the date upon which the applicant files with the Board an executed copy of the Ontario Power Authority's Assumption and Acknowledgement agreement in respect of the transferred facility and a written confirmation that the commercial transaction has closed.
3. Schedule 1 to the licence will be completed when the Board receives written confirmation from applicant that the commercial transaction has closed and that the generation facility has been transferred to the applicant.

DATED at Toronto December 23, 2013

ONTARIO ENERGY BOARD

Original signed by

Viive Sawler
Manager,
Licence Applications, Conservation & Reporting



Electricity Generation Licence

EG-2013-0388

Aurora Smiths Falls 3 Limited Partnership

Original signed by

Viive Sawler
Manager, Licence Applications, Conservation & Reporting
Ontario Energy Board
Date of Issuance: December 23, 2013

Effective Date: The date upon which Aurora Smiths Falls 3 Limited Partnership files with the Board an executed copy of the Ontario Power Authority's Assumption and Acknowledgement agreement in respect of Smiths Falls 3 solar generation facility and a written confirmation that the commercial transaction with RE Smiths Falls 3 ULC has closed.

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

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 Aurora Smiths Falls 3 Limited Partnership;

“**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 the date upon which the Licensee files with the Board an executed copy of the Ontario Power Authority's Assumption and Acknowledgement agreement in respect of Smiths Falls 3 solar generation facility and a written confirmation that the commercial transaction with RE Smiths Falls 3 ULC has closed. This Licence expires 20 years from the date it takes effect. 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

This Schedule specifies the facilities which the Licensee is authorized to own and operate in accordance with paragraph 3 of this Licence.

1. Schedule 1 will be completed at such time as the Licensee files with the Board written confirmation that the commercial transaction with RE Smiths Falls 3 ULC has closed and that Smiths Falls 3 solar generation facility has been transferred to the Licensee.