



**EB-2013-0401**

**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  
Wainfleet Wind Energy Inc. for an electricity  
generation licence.

By delegation, before: David Richmond

**DECISION AND ORDER**  
**January 2, 2014**

Wainfleet Wind Energy Inc. (“Wainfleet”) filed an application on November 11, 2013 with the Ontario Energy Board under section 60 of the *Ontario Energy Board Act, 1998* (the “Act”) for an electricity generation licence as a Feed-In Tariff (“FIT”) Program participant.

The Board’s Notice of Application and Written Hearing (the “Notice”) for an electricity generation licence was posted on November 27, 2013. One member of the public, Mr. Andrew Watts, responded to the Notice by a letter dated December 9, 2013. The writer stated that despite the fact that the Township of Wainfleet declared their community an Unwilling Host, the applicant proceeded with its wind project. In addition, the writer expressed concerns about negative environmental and health impacts of wind energy projects and the lack of economic, environmental and societal benefits of wind energy.

On December 16, 2013, the Board also received a letter in response to the Notice, from the Township of Wainfleet (the “Township”), requesting that the Board deny the application filed by Wainfleet based on the Township’s opposition to industrial wind turbine projects being pursued by the applicant in Wainfleet.

I have reviewed the concerns raised in the letters. The concerns raised in the letters are not within the scope of the matters considered by the Board in considering an application for a generation licence as a FIT Program participant. Other agencies have the mandate to oversee areas such as the environmental and regulatory approvals related to the actual generation facilities.

A FIT electricity generation licence permits the licensee to generate electricity or provide an ancillary service for sale under a contract with the Ontario Power Authority (the "OPA"). The licence does not grant approval to build the generation facility itself. It is, therefore, a process for licensing the applicant, not the facility.

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, i.e. the Board assesses the applicant's financial viability, technical capability and conduct. 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. The information provided by the applicant on this matter is satisfactory, specifically the OPA has entered into a FIT contract with Wainfleet and has provided Wainfleet with a Notice to Proceed.

After considering the application, it has been found to be in the public interest to issue the electricity generation licence under Part V of the Act.

**IT IS THEREFORE ORDERED THAT:**

The application for an electricity generation licence is granted, on such conditions as are contained in the attached licence.

**DATED** at Toronto, January 2, 2014.

**ONTARIO ENERGY BOARD**

*Original Signed By*

David Richmond  
Manager, Electricity Facilities &  
Infrastructure Applications



# Electricity Generation Licence

## EG-2013-0401

### Wainfleet Wind Energy Inc.

Valid Until

January 1, 2034

*Original Signed By*

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**David Richmond**  
**Manager, Electricity Facilities &**  
**Infrastructure Applications**  
**Ontario Energy Board**  
**Date of Issuance: January 2, 2014**

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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 Wainfleet Wind Energy Inc.;

“**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 2, 2014 and expire on January 1, 2034. 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 Licencee only in respect of the following:

1. The ownership and operation of Wainfleet Wind Farm with an installed capacity of 9 MW located at 22158 Concession 1 Road, Wainfleet, Ontario.