



EB-2013-0403
EB-2013-0404

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 Fiera Solar Orillia 3 L.P. and Fiera Solar Ingersoll 1 L.P.

By delegation, before: Viive Sawler

DECISION AND ORDER

January 2, 2014

Fiera Solar Orillia 3 L.P. and Fiera Solar Ingersoll 1 L.P. each filed an application on November 13, 2013. The applications were filed under section 60 of the *Ontario Energy Board Act, 1998* for an electricity generation licence as Feed-in Tariff (“FIT”) program participants, and for authorization to own and operate a generation facility. The Board assigned file numbers EB-2013-0403 and EB-2013-0404 to the applications, respectively.

The Board issued a combined Notice of Application and Written Hearing on December 2, 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 also stated that they require to be licensed in advance of the closing of commercial transactions to provide the degree of commercial certainty appropriate to support the amount of borrowing and investment that the applicants have committed to in their agreements with lenders and Recurrent. Accordingly, 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 an application for an 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 the case of 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, Fiera Axiom Infrastructure Canada L.P., which currently owns 352.8 MW of wind generation and 67.4 MW of solar PV generation located across southeastern 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 the applicant that the commercial transaction has closed and that the generation facility has been transferred to the applicant.

DATED at Toronto January 2, 2014

ONTARIO ENERGY BOARD

Original Signed By

Viive Sawler
Manager,
Licence Applications,
Conservation & Reporting