



EB-2013-0424

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 Greenfield South Power Corporation for an amendment to its electricity generation licence EG-2009-0023.

By delegation, before: Jennifer Lea

DECISION AND ORDER
April 10, 2014

On December 9, 2013, Greenfield South Power Corporation ("Greenfield") filed an application with the Ontario Energy Board (the "Board") pursuant to section 74 of the *Ontario Energy Board Act, 1998*, for an order of the Board to amend Schedule 1 of its electricity generation licence EG-2009-0023. Greenfield asked that the Board dispose of the matter without holding a hearing.

Greenfield requested that the Board revise the name and address of the generation facility in Schedule 1 of its generation licence as the intended location of the facility has been changed. The facility is a 300 MW natural gas facility that is to be located in the Township of St. Clair. The new name for the facility is the Green Electron Power Project.

Greenfield stated that the facility is being relocated in accordance with its agreement with the Ontario Power Authority (the "OPA"). Greenfield has a Clean Energy Supply Contract with the OPA. Greenfield stated that the impacts of relocating the facility have been canvassed in detail with relevant government bodies as well as with members of

the public and with members of the business community, as is mandated for a project of this type by the *Environmental Assessment Act* and the *Planning Act*.

Greenfield also requested that the term of its licence be extended until 2033.

On February 28, 2014, the Board received a letter from Union Gas Limited ("Union") seeking to intervene in the proceeding to raise issues with respect to the need for Greenfield to apply for a Certificate of Public Convenience and Necessity, and the possibility that Greenfield may have to apply to the Board for leave to construct a gas pipeline. Greenfield filed a response to Union's letter on March 7, 2014 objecting to Union's attempt to intervene and submitting that the concerns raised by Union should not be considered by the Board in this proceeding. Greenfield submitted that the issues raised by Union are not relevant to Greenfield's application for a licence amendment.

Union filed a second letter on March 12, 2014 and Greenfield responded to this letter on March 17, 2014. Union noted, as was indicated in its February 28, 2014 letter, that it currently has a Certificate of Public Convenience and Necessity to construct works and supply gas in the Township of St. Clair, which it considers to be exclusive. Given that the facility will be located in the Township of St. Clair, Union argued that it does have a direct interest in the location of the facility and its impact on Union's Certificate and its distribution system. In its response, Greenfield submitted that Union does not have a substantial interest in the electricity generation licence which is the subject of the application before the Board.

The Board also received a letter from the OPA on March 19, 2014 seeking intervenor status. The OPA stated that it has a substantial interest in Greenfield's application to amend its electricity generation licence, given the amended supply contract between the OPA and Greenfield and their agreement to relocate the facility.

Board Findings

The first issue to be determined is whether the Board will hold a hearing to decide this application. Prior to this decision, the Board had not decided whether to hold a hearing, issue notice of this application, or invite intervention. In its application, Greenfield asked that the Board dispose of this matter without a hearing under section 21(4)(b) of the *Ontario Energy Board Act, 1998*. That section says that the Board may dispose of an

application without a hearing where it determines that no person other than the applicant will be adversely affected in a material way by the outcome of the proceeding.

As indicated in the summary above, the Board has received correspondence from Union and the OPA, and responses from the applicant. I have considered this correspondence in making a determination as to whether to hold a hearing.

It appears from the correspondence that the OPA will not be adversely affected if this application is granted. The OPA has apparently entered into a revised contract with the applicant for energy supply, and agreed with the relocation of the generation facility. Union has argued that it has a significant interest in the location of the facility, and its correspondence suggests that in its view it would be adversely affected were this application granted. However, I find that the submissions made by Union suggest a broader view of the Board's jurisdiction than it actually exercises in licensing matters.

The scope of a generation licence application process has been articulated by the Board in its decision in EB-2009-0242 (York Energy Centre LP). In that decision, the Board stated:

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.

The Board does not exercise any jurisdiction under the *Ontario Energy Board Act, 1998* over the siting of generation facilities. This was confirmed by the Board in EB-2013-

0015, which was an application by McLean's Mountain Wind Limited Partnership for an electricity generation licence as a Feed-In Tariff Program participant. The Board stated:

...[the Board] has no jurisdiction in this licence proceeding "with respect to the siting, contracting, construction or impacts of the [generation facility]"

Other legislation, and provincial agencies implementing that legislation, deal with the siting of generation facilities and the impacts of the location of such facilities.

In this case, the amendment to Schedule 1 requested by the applicant is for the recognition in the licence of a change in the location of the facility, not a decision as to where the facility will be located. As this Board has no jurisdiction over the choice of location of the generation facility, I find that Union will not be adversely affected in a material way by the outcome of this proceeding. While Union may have valid concerns if the applicant fails to comply with the laws of Ontario, that question is not before me at this time. Greenfield has indicated that it is aware of its obligations under the *Municipal Franchises Act* and the *Ontario Energy Board Act, 1998*, and I make no finding as to whether an application under those statutes will be required in connection with this facility, or the supply of gas to the facility.

I find that the test in section 21(4)(b) is met and I have proceeded to consider this application without a hearing. An amendment to Schedule 1 of the applicant's licence will be made to recognise the new name and new location of the generation facility. At the time of the original application for a licence, Greenfield had demonstrated its ability to own and operate a generation facility and to participate reliably in Ontario's energy market. Although the name and location of the facility listed at Schedule 1 will change, there is no change in the licensed owner and operator. Greenfield has a Clean Energy Supply contract with the OPA for the new location. There is no reason to believe the change of facility name and location will affect the capability of the applicant to own and operate the facility.

The applicant also asked that the term of the licence be extended by four years. No reason was given for this amendment, nor was evidence filed to support it. The licence was issued on June 3, 2009 for the Board's standard term for an electricity generation licence of 20 years. I find nothing in the application to justify a departure from the Board's standard term, and the licence term will not be extended.

IT IS THEREFORE ORDERED THAT:

Greenfield South Power Corporation's electricity generation licence (EG-2009-0023) is amended to reflect the updated name and address of the facility. The amended licence is attached to this Order.

DATED at Toronto, April 10, 2014

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Project