



EB-2006-0175
EB-2006-0124
EB-2006-0128

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

IN THE MATTER OF an application by Abitibi-Consolidated
Company of Canada for a licence amendment pursuant to
section 74 of the *Ontario Energy Board Act, 1998* and
applications by ACH Limited Partnership for an electricity
generator licence and an electricity retailer licence pursuant
to section 60 of the *Ontario Energy Board Act, 1998*.

By delegation, before: Mark C. Garner

PROCEDURAL ORDER NO. 1

Abitibi-Consolidated Company of Canada ("Abitibi") filed an application with the Ontario Energy Board (the "Board") on June 2, 2006 for an amendment to Schedule 1 of its electricity generator licence, EG-2003-0204. The Board assigned the application file no. EB-2006-0175. The requested amendment is to change Abitibi's status as owner and operator of eight hydroelectric generating stations to operator only. Orion Limited Partnership (now known as ACH Limited Partnership) filed applications for an electricity generator licence as owner of the subject facilities, and an electricity retailer licence with the Board on June 2, 2006. The Board assigned these applications file no. EB-2006-0124 and EB-2006-0128 respectively.

A Notice of Application and Hearing (the "Notice") was published on November 8, 2006 in Fort Frances and Kenora. The Notice was published on November 9, 2006 in Iroquois Falls. In addition, the Board posted the Notice on its website on November 8,

2006. The applicants served the Notice to four parties who receive electricity directly from Abitibi and to three parties who had submitted letters of interest prior to publication of the Notice.

The Notice provided 5 days from the publication date or service date of the Notice for parties to object to a written hearing. The Notice provided 10 days from the publication date or service date of the Notice for parties to make written submissions.

Objections to a Written Hearing

The Board received a letter from the Communications, Energy and Paperworkers Union of Canada (“CEP”) in relation to the proceedings. CEP stated that it did not object to a written hearing. Subsequently, CEP filed a written submission on the applications by the deadline stated in the Notice.

The Board received four submissions objecting to written hearings by the deadline stated in the Notice. The submissions were received from:

- Mr. Ben Lefebvre, Iroquois Falls;
- The Corporation of the Town of Iroquois Falls;
- “Save the Dams, an Iroquois Falls Concerned Community Coalition”; and
- “Saving the Region of Ontario North Group”, on behalf of members in Iroquois Falls.

The authors of the four submissions expressed concern about Abitibi’s pending commercial transaction in relation to the subject generation assets. The concerns included: the negative impact of the transaction on the profitability of Abitibi’s Iroquois Falls mill; the recent downsizing of operations in Iroquois Falls and the social consequences of unemployment in the community; the recent closure of Abitibi operations elsewhere; the sustainability of the community of Iroquois Falls; and the terms of agreements such as Water Power Lease Agreements.

One of the parties, the Town of Iroquois Falls, objected to a written hearing and requested a thirty day extension to file their written submission should the Board decide to continue by way of written hearing.

The applicants filed reply letters on November 16 and 20, 2006 responding to the objections to written hearings. The applicants stated that the concerns of the parties related to the decision by Abitibi to transfer ownership of the subject generation facilities to ACH Limited Partnership. The applicants stated that the Board has no mandate or statutory basis to approve or deny the transfer of generating facilities. The applicants noted that there is nothing precedent-setting or unique about the subject licence applications. Given the limited scope of the matters considered by the Board in licence applications, the applicants submitted that there is no justification for an oral hearing. The applicants requested that the Board maintain the schedule set out in the Notice.

The Board received an additional submission from CEP on December 1, 2006, after the Notice deadline and after the applicants' reply letters were filed. This additional submission noted CEP's support of the requests submitted by parties who have requested an oral hearing. CEP stated that an oral hearing is the most effective procedure by which all the circumstances of the applications can be properly reviewed. CEP requested that the Board take the necessary time to inquire and consider the manner of hearing the applications.

The applicants filed a reply on December 1, 2006. The applicants noted that CEP's submission was received after the deadline and that the applicants, and not the intervenors, have the right of reply in these proceedings. The applicants also expressed concern that CEP is engaging in conduct that would unnecessarily lengthen the duration of the process.

Cost Awards

The Town of Iroquois Falls has advised the Board that it will seek cost awards in these proceedings.

In their response, the applicants noted that municipalities are not typically considered by the Board to be eligible to apply for a cost award. They also stated that the Town of Iroquois Falls, by requesting an oral hearing and in the alternative requesting an extension to prepare a written submission on matters not considered by the Board in licence applications, is engaging in inappropriate conduct that will lengthen the process and add to costs. The applicants noted that these are among the principles in awarding costs that would lead to denial of a cost award. The applicants request that the Board reject the Town of Iroquois Falls' request for cost award eligibility.

The Board's Objective and Mandate

In relation to licence amendments, the Board may amend a licence if the Board considers the amendment to be in the public interest having regard to the objectives of the Board and the purposes of the *Electricity Act, 1998*. The Board's objective are set out in section 1 of the *Ontario Energy Board Act, 1998* which states that:

The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

The Board's concern in relation to the licensing of new generators and retailers is in relation to the qualifications of the person applying for a generator or retailer licence, namely their capability to act as a generator or retailer.

Findings

I have reviewed the submissions objecting to a written hearing. While I understand and appreciate the concerns expressed by the objecting parties, I note that the Board's mandate in the context of licensing is limited in scope and does not include a review of the propriety of any aspect of a commercial transaction. I am not satisfied that any party has provided good reasons to demonstrate the need for an oral hearing. On this basis, I find that the provision for written submissions is sufficient to afford parties the opportunity to present their positions and arguments that are germane to the Board's defined mandate in these matters.

Based on the limited scope of issues to be determined in these proceedings, I find that cost awards are not required to enable comprehensive submissions to be made. Further, I find that the issues raised by the Town of Iroquois Falls are outside of the limited scope of the Board's mandate and therefore not relevant in these proceedings. I have therefore decided that there will be no award of costs in these proceedings.

As the date to file written submissions has elapsed, I will provide another opportunity for parties to participate in a final round of written submissions. I will grant two weeks for submissions to be filed by parties. I will allow seven business days for the applicants to file a response should they choose to do so.

A list of all parties is attached as Appendix "A" to this Procedural Order.

The Board considers it necessary to make provision for the following items related to the applications. The Board may issue further procedural orders from time to time.

IT IS THEREFORE ORDERED THAT:

1. The applications will proceed by way of written hearings.
2. Parties wishing to file a written submission in this final round shall file a written submission with the Board and deliver it to all other parties to the proceeding on or before December 20, 2006.
3. If the applicants wish to respond to any submissions, they may do so by filing a response with the Board and delivering it to all other parties to the proceeding on or before January 3, 2007.
4. All filings to the Board noted in this procedural order must be in the form of 4 hard copies and must be received by the Board no later than 4:45 p.m. on the stated dates. The filings must be addressed to the Board Secretary as follows:

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario M4P 1E4

The Board requests that, in addition to the hard copies that are filed, all parties make every effort to include a copy of their filings in Word and, if available, in searchable Adobe Acrobat (PDF) format. Electronic copies may be provided on diskette or by e-mail to the Board Secretary at Boardsec@oeb.gov.on.ca.

All submissions must quote one or all applicable file numbers (EB-2006-0175, EB-2006-0124, EB-2006-0128) and clearly state the sender's name, postal address, telephone number, fax number and e-mail address.

ISSUED at Toronto, December 6, 2006

ONTARIO ENERGY BOARD

Original signed by

Mark C. Garner
Managing Director, Market Operations

Appendix "A"

To Procedural Order No. 1

EB-2006-0175

EB-2006-0124

EB-2006-0128

Dated December 6, 2006

EB-2006-0175
EB-2006-0124
EB-2006-0128

APPLICANTS AND LIST OF PARTIES

Applicants

Representative and Address for Delivery

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Parties

Representative and Address for Delivery

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2. The Corporation of the Town of Iroquois Falls

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3. Save the Dams, an Iroquois Falls Concerned Community Coalition

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4. Saving the Region of Ontario North Group

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5. Communications, Energy and Paperworkers Union of Canada

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