



**EB-2014-0168**  
**EB-2014-0170**  
**EB-2014-0172**  
**EB-2014-0179**

**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 Sombra Solar, Inc. for leave to transfer electricity generation licence EG-2011-0022 from Sombra Solar, Inc. to Sombra Solar, LP;

**AND IN THE MATTER OF** an application by Moore Solar, Inc. for leave to transfer electricity generation licence EG-2011-0023 from Moore Solar, Inc. to Moore Solar, LP;

**AND IN THE MATTER OF** an application by Varna Wind, Inc. for leave to transfer electricity generation licence EG-2014-0011 from Varna Wind, Inc. to Varna Wind, LP;

**AND IN THE MATTER OF** an application by Kerwood Wind, Inc. for leave to transfer electricity generation licence EG-2013-0433 from Kerwood Wind, Inc. to Kerwood Wind, LP.

By delegation, before: Jennifer Lea

## **DECISION AND ORDER**

**May 30, 2014**

On April 17, 2014, Sombra Solar, Inc., Moore Solar, Inc., Varna Wind, Inc. and Kerwood Wind, Inc. each applied for leave of the Ontario Energy Board pursuant to section 18(2) *Ontario Energy Board Act, 1998* ("the Act") to transfer their electricity generation

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licences to Sombra Solar, LP, Moore Solar, LP, Varna Wind, LP and Kerwood Wind, LP, respectively. Due to the similar nature of the applications, the applications have been combined into one proceeding pursuant to section 21(5) of the Act.

All applicants are affiliates of NextEra Energy Canada, ULC (“NextEra”), and have entered into power purchase agreements (procurement contracts) with the Ontario Power Authority (the “OPA”). Sombra Solar, Inc. and Moore Solar, Inc. each have a Renewable Energy Standard Offer Program (“RESOP”) contract and Varna Wind, Inc. and Kerwood Wind, Inc. each have a Feed-in Tariff Program (“FIT”) contract. As a result of the corporate re-organization among affiliates associated with NextEra, the applicants will be transferring the electricity generation assets along with the procurement contracts to the limited partnerships. The applicants stated that the purpose of the corporate reorganization is to facilitate cost-effective and efficient management of NextEra affiliates.

### **Request for determination without a hearing**

The applicants asked that the Board dispose of the applications without a hearing under section 21(4)(b) of the Act. 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. I find that the test in section 21(4)(b) is met.

The evidence in the applications indicates that the reorganization will have no impact on the location or operation of the existing facilities or the construction and operation of facilities to be developed. I find that no person will be adversely affected in a material way by the outcome of these applications, which merely transfer the existing licences from the licensed corporations to limited partnerships.

### **Board Findings on the Applications**

I find that the applications should be granted. The applicants acknowledge that the ongoing responsibility for the ownership and operation of the generation facilities will be borne by the limited partnerships once the reorganization is complete. The change in legal structure does not reduce any of the obligations on the generators to comply with legislative and regulatory requirements, or with the conditions of the generation licences. The Board can maintain its regulatory oversight of the generators under the

new legal structure. However, I find that the granting of the applications to transfer the licences should be conditioned.

For generation licence applicants who will be operating under a RESOP or FIT contract with the OPA, proof of signing of a procurement contract with the OPA and a Notice to Proceed are part of the evidence that must be filed with the Board. At present, the applicant corporations hold the RESOP and FIT contracts and related Notices to Proceed. When generation assets are transferred to unlicensed entities, the Board generally requires the applicant to obtain confirmation from the OPA of the transfer of the contracts to the new entity before the licence is granted or transferred. However, the applicants have informed the Board that the OPA will finalize the transfer of the RESOP and FIT contracts only once the proposed re-organization is virtually complete. In order to allow completion of the corporate reorganization in an orderly fashion, the applicants proposed that the Board's approval of the transfer of the generation licences be made conditional on the OPA's assignment of the respective procurement contracts. I find this proposal has merit.

**IT IS THEREFORE ORDERED THAT:**

The applications to transfer the electricity generation licences are granted, subject to the following conditions respecting timing:

- Electricity generation licence EG-2011-0022 will be transferred to Sombra Solar, LP once the Board receives confirmation in writing that the OPA has assigned the RESOP contract presently held by Sombra Solar, Inc. to Sombra Solar, LP;
- Electricity generation licence EG-2011-0023 will be transferred to Moore Solar, LP once the Board receives confirmation in writing that the OPA has assigned the RESOP contract presently held by Moore Solar, Inc. to Moore Solar, LP;
- Electricity generation licence EG-2014-0011 will be transferred to Varna Wind, LP once the Board receives confirmation in writing that the OPA has assigned the FIT contract presently held by Varna Wind, Inc. to Varna Wind, LP; and
- Electricity generation licence EG-2013-0433 will be transferred to Kerwood Wind, LP once the Board receives confirmation in writing that the OPA has assigned the FIT contract presently held by Kerwood Wind, Inc. to Kerwood Wind, LP.

**DATED** at Toronto, May 30, 2014.

ONTARIO ENERGY BOARD

*Original signed*

Jennifer Lea  
Counsel, Special Projects



# Electricity Generation Licence

## EG-2013-0433

### Kerwood Wind, GP, ULC on behalf of Kerwood Wind, LP

Valid Until

February 12, 2034

*Original signed by*

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**Jennifer Lea**  
**Counsel, Special Projects**  
**Ontario Energy Board**  
**Date of Issuance: February 13, 2014**  
**Transferred from Kerwood Wind, Inc. on June 11, 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 Kerwood Wind, GP, ULC on behalf of Kerwood Wind, LP;

“**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 February 13, 2014 and expire on February 12, 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 of Adelaide Wind Energy Centre<sup>1</sup> with an installed capacity of 59.94 MW located at 32185 Kerwood Road, Parkhill, Ontario.

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<sup>1</sup> Operated by NextEra Energy Canadian Operating Services, Inc. under authority of its generation licence EG-2012-0311.