



# **Ontario Energy Board Commission de l'énergie de l'Ontario**

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## **DECISION AND ORDER**

**EB-2016-0016**

### **LIBERTY UTILITIES (SAGATAY TRANSMISSION) GP INC. ON BEHALF OF SAGATAY TRANSMISSION LP**

**Application for an Electricity Transmission Licence**

**BY DELEGATION, BEFORE: Peter Fraser**  
Vice President,  
Industry Operations & Performance

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**February 25, 2016**

## BACKGROUND

Liberty Utilities (Sagatay Transmission) GP Inc. on Behalf Of Sagatay Transmission LP (Sagatay) filed an application dated January 12, 2016 with the Ontario Energy Board (OEB) under section 60 of the *Ontario Energy Board Act, 1998* (OEB Act) for an electricity transmission licence.

Sagatay has no existing transmission assets in Ontario. However, it intends to construct, own and operate a new transmission system in northwestern Ontario. The planned transmission system is described in the application.

While Sagatay has applied for but not yet received OEB permission to construct the planned transmission system, the current application concerns an electricity transmission licence only. It does not concern the construction of the planned transmission system.

I have considered this licence application without holding a hearing pursuant to section 6(4) of the OEB Act.

## CONFIDENTIAL FILING

In a letter accompanying the application, Sagatay filed a claim for confidentiality, pursuant to the OEB's *Practice Direction on Confidential Filings*, with respect to Sagatay's pro forma financial statements and an estimate of annual cash flow. Sagatay stated that the information is commercially sensitive and its disclosure on the public record has the potential to adversely affect the applicant.

I accept the applicant's request for confidential treatment of its pro forma financial statements and an estimate of annual cash flow as the disclosure of this information could reasonably be expected to result in prejudice to Sagatay's competitive position.

## FINDINGS

The key areas reviewed by the OEB in any licence application are the financial position, technical capability and conduct of an applicant. Furthermore, the OEB's decision in proceeding EB-2009-0164 identified two threshold tests for transmission licence applications:

1. Whether there is a specific project which underpins the application.

2. In the absence of a specific project, whether the applicant is engaged in transmission activity elsewhere and whether it has the necessary technical and financial expertise to undertake transmission activity in Ontario.

While Sagatay has no existing transmission assets in Ontario, a specific transmission project underpins its application for a transmission licence. Sagatay has also provided sufficient information on its technical and financial expertise to qualify for such licence. I will therefore grant an electricity transmission licence to Sagatay for a period of five years. The licence shall not take effect, however, until the date upon which the OEB is satisfied that Sagatay has been selected by appropriate authorities as a developer of transmission assets in Ontario, or the date upon which the OEB, on the application of Sagatay, amends schedule 1 of the licence to specify the transmission facilities to be owned and/or operated by Sagatay, whichever is earlier.

The licence will be reissued to reflect an actual date when one of the two triggering events occurs.

**IT IS ORDERED THAT:**

1. The application is granted, on such conditions as are contained in the attached licence.

**DATED** at Toronto February 25, 2016

**ONTARIO ENERGY BOARD**

*Original signed by*

Peter Fraser  
Vice President, Industry Operations & Performance



# Electricity Transmission Licence

**ET-2016-0016**

## **Liberty Utilities (Sagatay Transmission) GP Inc. on behalf of Sagatay Transmission LP (Sagatay)**

*Original signed by*

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**Peter Fraser**

**Vice President, Industry Operations & Performance  
Ontario Energy Board**

**Date of Issuance: February 25, 2016**

**Effective Date: This licence shall not take effect until the earlier of the date upon which the Ontario Energy Board is satisfied that Sagatay has been selected by appropriate authorities as a developer of transmission assets in Ontario and the date upon which the Ontario Energy Board, on the application of Sagatay, amends schedule 1 of this licence to specify the facilities to be owned and/or operated by Sagatay.**

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Liberty Utilities (Sagatay Transmission) GP Inc. on behalf of Sagatay Transmission LP  
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## 1 Definitions

In this Licence:

**“Accounting Procedures Handbook”** means the handbook, approved by the Board which specifies the accounting records, accounting principles and accounting separation standards to be followed by the Licensee;

**“Act”** means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

**“Affiliate Relationships Code for Electricity Distributors and Transmitters”** means the code, approved by the Board which, among other things, establishes the standards and conditions for the interaction between electricity distributors or transmitters and their respective affiliated companies;

**“Board”** means the Ontario Energy Board;

**“Electricity Act”** means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

**“Licensee”** means Liberty Utilities (Sagatay Transmission) GP Inc. on behalf of Sagatay Transmission LP;

**“Market Rules”** means the rules made under section 32 of the Electricity Act;

**“Performance Standards”** means the performance targets for the distribution and connection activities of the Licensee as established by the Board in accordance with section 83 of the Act;

**“Rate Order”** means an Order or Orders of the Board establishing rates the Licensee is permitted to charge;

**“transmission services”** means services related to the transmission of electricity and the services the Board has required transmitters to carry out for which a charge or rate has been established in the Rate Order;

**“Transmission System Code”** means the code approved by the Board and in effect at the relevant time, which, among other things, establishes the obligations of a transmitter with respect to the services and terms of service to be offered to customers and provides minimum technical operating standards of transmission systems;

**“wholesaler”** means a person that purchases electricity or ancillary services in the IESO administered markets or directly from a generator or, a person who sells electricity or ancillary services through the IESO-administered markets or directly to another person other than a consumer.

## **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 the 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 own and operate a transmission system consisting of the facilities described in Schedule 1 of this Licence, including all associated transmission equipment.

## **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 Comply with Codes**

- 5.1 The Licensee shall at all times comply with the following Codes (collectively the “Codes”) approved by the Board, except where the Licensee has been specifically exempted from such compliance by the Board. Any exemptions granted to the Licensee are set out in Schedule 2 of this Licence. The following Codes apply to this Licence:
- a) the Affiliate Relationships Code for Electricity Distributors and Transmitters; and
  - b) the Transmission System Code.
- 5.2 The Licensee shall:
- a) make a copy of the Codes 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 the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

## **6 Requirement to Enter into an Operating Agreement**

- 6.1 The Licensee shall enter into an agreement (“Operating Agreement”) with the IESO providing for the direction by the IESO of the operation of the Licensee’s transmission system. Following a request made by the IESO, the Licensee and the IESO shall enter into an Operating Agreement



within a period of 90 business days, unless extended with leave of the Board. The Operating Agreement shall be filed with the Board within ten (10) business days of its completion.

- 6.2 Where there is a dispute that cannot be resolved between the parties with respect to any of the terms and conditions of the Operating Agreement, the IESO or the Licensee may apply to the Board to determine the matter.

## **7 Obligation to Provide Non-discriminatory Access**

- 7.1 The Licensee shall, upon the request of a consumer, generator, distributor or retailer, provide such consumer, generator, distributor or retailer, as the case may be, with access to the Licensee's transmission system and shall convey electricity on behalf of such consumer, generator, distributor or retailer in accordance with the terms of this Licence, the Transmission System Code and the Market Rules.

## **8 Obligation to Connect**

- 8.1 If a request is made for connection to the Licensee's transmission system or for a change in the capacity of an existing connection, the Licensee shall respond to the request within 30 business days.
- 8.2 The Licensee shall process connection requests in accordance with published connection procedures and participate with the customer in the IESO's Connection Assessment and approval process in accordance with the Market Rules, its Rate Order(s) and the Transmission System Code.
- 8.3 An offer of connection shall be consistent with the terms of this Licence, the Market Rules, the Rate Order, and the Transmission System Code.
- 8.4 The terms of such offer to connect shall be fair and reasonable.
- 8.5 The Licensee shall not refuse to make an offer to connect unless it is permitted to do so by the Act or any Codes, standards or rules to which the Licensee is obligated to comply with as a condition of this Licence.

## **9 Obligation to Maintain System Integrity**

- 9.1 The Licensee shall maintain its transmission system to the standards established in the Transmission System Code and Market Rules, and have regard to any other recognized industry operating or planning standards required by the Board.

## **10 Transmission Rates and Charges**

- 10.1 The Licensee shall not charge for the connection of customers or the transmission of electricity except in accordance with the Licensee's Rate Order(s) as approved by the Board and the Transmission System Code

## **11 Separation of Business Activities**

- 11.1 The Licensee shall keep financial records associated with transmitting electricity separate from its financial records associated with distributing electricity or other activities in accordance with the Accounting Procedures Handbook and as otherwise required by the Board.

## **12 Expansion of Transmission System**

- 12.1 The Licensee shall not construct, expand or reinforce an electricity transmission system or make an interconnection except in accordance with the Act and Regulations, the Transmission System Code and the Market Rules.

## **13 Provision of Information to the Board**

- 13.1 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.
- 13.2 Without limiting the generality of paragraph 13.1, 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) business days past the date upon which such change occurs.

## **14 Restrictions on Provision of Information**

- 14.1 The Licensee shall not use information regarding a consumer, retailer, wholesaler or generator, obtained for one purpose for any other purpose without the written consent of the consumer, retailer, wholesaler or generator.
- 14.2 The Licensee shall not disclose information regarding a consumer, retailer, wholesaler or generator to any other party without the written consent of the consumer, retailer, wholesaler or generator, except where such information is required to be disclosed:
- a) to comply with any legislative or regulatory requirements, including the conditions of this Licence;
  - b) for billing, settlement or market operations purposes;
  - c) for law enforcement purposes; or
  - d) to a debt collection agency for the processing of past due accounts of the consumer, retailer, wholesaler or generator.
- 14.3 Information regarding consumers, retailers, wholesalers or generators may be disclosed where the information has been sufficiently aggregated such that their particular information cannot reasonably be identified.
- 14.4 The Licensee shall inform consumers, retailers, wholesalers and generators of the conditions under which their information may be released to a third party without their consent.
- 14.5 If the Licensee discloses information under this section, the Licensee shall ensure that the information is not be used for any other purpose except the purpose for which it was disclosed.

## **15 Term of Licence**

- 15.1 This licence shall not take effect until the earlier of the date upon which the Board is satisfied that the Licensee has been selected by appropriate authorities as a developer of transmission assets in Ontario and the date upon which the Board, on the application of the Licensee, amends schedule 1 of this licence to specify the facilities to be owned and/or operated by the Licensee. This licence expires 5 years from the date it takes effect. The term of this licence may be extended by the Board.

## **16 Transfer of Licence**

- 16.1 In accordance with subsection 18(2) of the Act, this Licence is not transferable or assignable without leave of the Board.

## **17 Amendment of Licence**

- 17.1 The Board may amend this Licence in accordance with section 74 of the Act or section 38 of the Electricity Act.

## **18 Fees and Assessments**

- 18.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

## **19 Communication**

- 19.1 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.
- 19.2 All official communication relating to this Licence shall be in writing.
- 19.3 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; and
  - c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

## **20 Copies of the Licence**

- 20.1 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 specification of transmission facilities

This Schedule specifies the facilities over which the Licensee is authorized to transmit electricity in accordance with paragraph 3 of this Licence.

Schedule 1 will be completed at such time as this licence takes effect: being the earlier of the date upon which the Board is satisfied that the Licensee has been selected by appropriate authorities as a developer of transmission assets in Ontario and the date upon which the Board, on the application of the Licensee, amends schedule 1 of this licence to specify the facilities to be owned and/or operated by the Licensee.

SCHEDULE 2 list of code exemptions

This Schedule specifies any specific Code requirements from which the Licensee has been exempted.