



EB-2008-0100

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 AIM Harrow Wind Farm GP Inc. on behalf of AIM Harrow Wind Farm LP for an electricity generation licence.

By delegation, before: Jennifer Lea

DECISION AND ORDER

AIM Harrow Wind Farm GP Inc. on behalf of AIM Harrow Wind Farm LP filed an application dated May 5, 2008 with the Ontario Energy Board under section 60 of the *Ontario Energy Board Act, 1998* (the "Act") for an electricity generation licence.

The Board's Notice of Application and Written Hearing for an electricity generation licence was published on May 16, 2008.

The Application

The application relates to four wind farms located adjacent to each other in Essex County. Each wind farm has six units and a total installed capacity of 9.9 MW.

Submissions

By a letter dated May 22, 2008, two members of the public, Maureen Anderson and Colette McLean, requested that the Board deny the applicant a generation licence. The letter states that the applicant is a subsidiary of a large UK energy company and is abusing the Standard Offer Program (“SOP”) of the Ontario Power Authority (“OPA”) by breaking a large project into smaller pieces. The letter argues:

“Using taxpayer’s dollars to subsidize a large foreign-based company who have manipulated the intent of the Standard Offer Program is not how the government presented the Standard Offer Program.”

The writers further point out that the OPA has recently changed the qualifying criteria for SOP projects to prevent “piecemealing”.

In a response dated May 28, 2008, the applicant stated that the Board cannot entertain an argument about foreign participation in new power projects by non-Canadian entities, since this would amount to a re-write of Canada’s foreign investment rules. The applicant also submitted that the four projects that are the subject of this licence application are in conformity with the OPA’s SOP rules as they existed at the time the application was made to the OPA. The applicant stated that the OPA’s rules prohibiting piecemealing came into force long after contracts for the four AIM Harrow projects were signed between the applicant and the OPA.

Findings

After considering the application, I have found that is in the public interest to issue the electricity generation licence under Part V of the Act.

The Board’s main criteria in relation to the licensing of new generators qualifying under the SOP program are the status of the OPA contract and the status of the connection process with the local distributor. The information provided by the applicant on these two matters is satisfactory. The applicant has SOP contracts with the OPA for each of the four facilities and it has completed the connection impact assessment for each facility with Hydro One, the local distributor.

The submission made by Ms. Anderson and Ms. Mclean regarding foreign ownership of the wind farms is not relevant to the question of whether the applicant is eligible to hold a generation licence in Ontario. With respect to the question of improper piecemealing, the rules at the time the contracts were signed with the OPA permitted the applicant to qualify for the Standard Offer Program. The Board cannot apply rule changes retroactively, and in any event, relies on the OPA to determine which applicants qualify under the program. The applicant has demonstrated that it is eligible for an electricity generation licence with respect to the four facilities named in the application.

IT IS THEREFORE ORDERED THAT:

The application for an electricity generation licence is granted, on such conditions as are contained in the attached licence.

DATED at Toronto, July 23, 2008.

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Projects