



**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



# **Electricity Generation Licence**

**EG-2008-0100**

**AIM Harrow Wind Farm GP Inc.  
on behalf of AIM Harrow Wind Farm LP**

**Valid Until**

**July 22, 2028**

*Original signed by*

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**Jennifer Lea  
Counsel, Special Projects  
Ontario Energy Board  
Date of Issuance: July 23, 2008**

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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 AIM Harrow Wind Farm GP Inc. on behalf of AIM Harrow Wind Farm 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 ancillary services for sale under a contract 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 July 23, 2008 and expire on July 22, 2028. 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 Licensee only in respect to the following:

1. Harrow I Wind Farm, owned and operated by the Licensee in the Municipality of the Town of Essex, County of Essex:
  - Turbines 1 & 7 - Concession 1, Part Lot 95
  - Turbines 2 & 3 – Concession 1, Part Lot 94
  - Turbine 4 - Concession1, Part Lot 92
  - Turbine 13 - Concession1, Part Lot 90 & 91
  - Switching Station - Concession 1, Part Lots 93 & 94
2. Harrow II Wind Farm, owned and operated by the Licensee in the Municipality of the Town of Essex, County of Essex:
  - Turbines 11 & 5 - Concession 1, Part Lots 90 & 91
  - Turbine 12 - Concession 1, Part Lots 88 & 89
  - Turbine 6 - Concession 1, Part Lot 87
  - Turbine 14 - Concession1, Part Lots 85 & 86
  - Turbine 15 -Concession 1, Part Lot 84
3. Harrow III Wind Farm, owned and operated by the Licensee in the Municipality of the Town of Essex, County of Essex, Ontario:
  - Turbine 23 - Concession 2, Part Lot 2
  - Turbine 9 - Concession 2, Part Lot 4
  - Turbine 8 - Concession 2, Part Lot 4
  - Turbine 10 - Concession 2, Part Lot 5
  - Turbine 22 - Concession 2, Part Lot 2
  - Turbine 24 - Concession 2, Part Lot 3
4. Harrow IV Wind Farm, owned and operated by the Licensee in the Municipality of the Town of Essex, County of Essex:
  - Turbines 36, 20 & 34 - Concession 1, Part Lot 75
  - Turbines 28 & 29 - Concession GORE, Part Lot 1
  - Turbine 30 - Concession GORE, Part Lot 5