



Ontario
Energy
Board | Commission
de l'énergie
de l'Ontario

DECISION AND ORDER

EB-2023-0292

KINGSTON COGEN LIMITED PARTNERSHIP

Application for an Electricity Generation Licence Amendment

EB-2023-0246

IROQUOIS FALLS POWER CORP.

Application for an Electricity Generation Licence Amendment

BY DELEGATION, BEFORE: Brian Hewson
Vice President
Consumer Protection & Industry Performance

October 16, 2023

DECISION AND ORDER

On September 25, 2023, KSV Restructuring Inc. (KSV), on behalf of Kingston Cogen Limited Partnership (Kingston Cogen) and Iroquois Falls Power Corp. (Iroquois Falls Power) requested that the Ontario Energy Board (OEB) extend the term of the electricity generation licences of Kingston Cogen (EG-2003-0137) and Iroquois Falls Power (EG-2003-0144) for a period of six months.

The OEB combined the two matters into one proceeding, pursuant to section 21(5) of the Ontario Energy Board Act, 1998 (OEB Act). This Decision and Order is being issued by the Delegated Authority without a hearing pursuant to section 6(4) of the OEB Act.

Kingston Cogen's current licence was issued on October 17, 2003, and will expire on October 16, 2023. Iroquois Falls Power's current licence was issued on October 21, 2003, and will expire on October 20, 2023. Both licences provide that the term may be extended by the OEB.

Under their current electricity generation licences, Kingston Cogen and Iroquois Falls Power (the Companies) are authorized to do the following, subject to the conditions set out in their respective licences:

- generate electricity or provide ancillary services for sale through the IESO-administered markets or directly to another person;
- purchase electricity or ancillary services in the IESO-administered markets or directly from a generator; and
- sell electricity or ancillary services through the IESO-administered markets or directly to another person, other than a consumer.

A licence is required under section 57 of the OEB Act to carry out these activities.

The OEB was notified and is aware that the Companies (and other related entities) were placed into Receivership on August 10, 2023, with KSV appointed as Receiver of the Companies; and on August 29, 2023 KSV obtained an initial order under the *Companies' Creditors Arrangement Act* (CCAA) in favour of the Companies (and the other related entities) with KSV acting as CCAA Monitor. The OEB understands that the purpose of the Companies' CCAA proceedings is to facilitate the marketing and sale of the Companies (and other related entities) as a going concern (Sale Process).

The six-month extension requested by KSV is intended to allow the Companies to continue to operate during the Sale Process and the completion of any associated sale transaction. KSV has retained Complete Energy Consulting Inc. to assist with the operations at the Companies' licensed electricity generation facilities. KSV also advised that, during the Receivership / CCAA proceedings, there are key individuals in place to

oversee the continued operation of the generation facilities in a safe and reliable manner.

KSV expects any sale transaction to be completed in 2023, leaving at least 60 to 90 days for the OEB to process a further application from the new owner(s) before the expiry of the requested 6-month extension period. Absent a sale, alternative steps may be taken by KSV in respect of the licences at the relevant time prior to the expiry of that period.

The OEB finds it appropriate to extend the term of the licences for six months, considering the time required for KSV to complete the Sale Process and any related sale transaction. As matters develop in the Receivership / CCAA proceedings the OEB may impose additional licence conditions, or take other regulatory actions, if needed, in the public interest.

The OEB notes that an application was filed on August 11, 2023 to renew Iroquois Falls Power's electricity generation licence. That application is being placed in abeyance until further notice in light of the Sale Process and the six-month extension granted in this Decision and Order.

The OEB reminds the Companies of their obligation to notify the OEB of any material change in circumstances that adversely affects or is likely to adversely affect their business, operations or assets as set out in their respective licences.

IT IS ORDERED THAT:

1. The electricity generation licence issued to Kingston Cogen Limited Partnership, EG-2003-0137, is amended by extending the term of the licence to April 15, 2024. All other conditions of licence EG-2003-0137 remain unchanged.
2. The electricity generation licence issued to Iroquois Falls Power Corp., EG-2003-0144, is amended by extending the term of the licence to April 19, 2024. All other conditions of licence EG-2003-0144 remain unchanged.

DATED at Toronto October 16, 2023

ONTARIO ENERGY BOARD

Brian Hewson
Vice President, Consumer Protection & Industry Performance