



EB-2012-0312

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
Conestogo Wind, LP for an electricity generation
licence as a Feed-In Tariff Program participant.

By delegation, before: David Richmond

DECISION AND ORDER

November 8, 2012

THE APPLICATION

Conestogo Wind, LP (“Conestogo”) filed an application dated July 9, 2012 with the Ontario Energy Board (the “Board”) under section 60 of the *Ontario Energy Board Act*, 1998 for an electricity generation licence as a Feed-In Tariff (“FIT”) Program participant. Conestogo’s application states that it has received a “Notice to Proceed” from the Ontario Power Authority (the “OPA”) to construct an electricity generation facility in Alma, Ontario (the “Facility”).

The Board’s Notice of Application and Written Hearing for an electricity generation licence was posted on August 3, 2012. The Board received one submission in response to the notice, from Preserve Mapleton Inc. (“PMI”), requesting that the Board convene an oral hearing. On September 20, 2012 the Board issued a Decision with Reasons and Procedural Order No.1 denying the oral hearing request and extending the time for interested parties to file written submissions on the merits of the application.

On September 25, 2012, PMI filed a letter asking that the Board extend the date for the filing of its written submission. On September 27, 2012, the Board issued Procedural Order No. 2 extending the timelines for written submissions from PMI and other interested parties.

In Procedural Order No. 2, the Board noted its main criteria in relation to the licensing of electricity generators under the FIT Program. Specifically, the Board noted that the main criteria are whether the applicant received a Notice to Proceed from the OPA and the status of the connection process with the local distributor. The Board also noted that other agencies have the mandate to oversee areas such as the environmental and regulatory approvals related to the actual generation facilities.

The Board received a submission on the merits of the application from PMI, on October 15, 2012. In its submission, PMI raised concerns regarding financial viability, technical capability, and conduct that mainly focused on the applicant's parent company, NextEra Energy Resources, LLC and its business activities in other jurisdictions. PMI also raised concerns with how the applicant conducted itself throughout the process of setting up the Facility. In addition, PMI questioned the accuracy of Conestogo's response, in its application, that it will not own or operate a transformer station or distribution station. Conestogo filed its reply submission on October 19, 2012. Conestogo stated that PMI's submission was generally irrelevant to an application of this nature but proceeded to respond to PMI's concerns regarding its parent company's financial viability and technical capability. Conestogo cited two applications of subsidiaries of the parent company in which the Board had considered the parent company's financial and technical capability. The first case cited by Conestogo was an application for a transmission licence by Upper Canada Transmission Inc. (EB-2011-0222) and the second case cited was an application by Summerhaven Wind LP (EB-2011-0027) for leave to construct transmission facilities. Conestogo submitted that in each of these cases, the Board had an opportunity to consider real evidence on technical and financial capabilities and was satisfied with the qualifications of its parent company.

In its reply submission, Conestogo also changed the response given in its application regarding whether it will own or operate a transformer station or distribution station from "no" to "yes". Conestogo acknowledged that it should have checked the "yes" box on the licence application form instead of the "no" box.

Despite the record of the proceeding having closed on October 19, 2012, in accordance with the Board's Procedural Order No. 2, PMI filed an additional submission in response to Conestogo's reply submission on October 24, 2012.

FINDINGS

The Board finds that the concerns raised by PMI regarding the financial viability, technical capability, and conduct of Conestogo are not within the scope of the matters considered by the Board when reviewing an application made by an OPA-contracted FIT Program participant for an electricity generation licence. The Board's main criteria for review in relation to the licensing of electricity generators under the FIT Program are whether the applicant has received a Notice to Proceed from the OPA and the status of the connection process with the local distributor.

With respect to the status of the connection process with the local distributor, the Board finds that the information provided by Conestogo in its application regarding the connection of the Facility and in its reply submission is satisfactory. The Board finds that PMI's request for clarification over whether Conestogo will own or operate a transformer station or distribution system was also satisfactorily addressed by Conestogo in its reply submission.

In accordance with Procedural Order No. 2, the filing of the reply submission by Conestogo on October 19, 2012 closed the record of this proceeding. The Board finds no reason to give any weight to the subsequent submission filed by PMI on October 24, 2012.

After considering the application, it has been found to be in the public interest to issue the electricity generation licence to Conestogo.

IT IS THEREFORE ORDERED THAT:

Conestogo Wind, LP is granted an electricity generation licence as a Feed-In Tariff Program participant, on such conditions as are contained in the attached licence.

DATED at Toronto, November 8, 2012

ONTARIO ENERGY BOARD

Original signed by

David Richmond
Manager, Electricity Facilities & Infrastructure Applications