



Nova Scotia Utility and Review Board

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September 23, 2008

By email: rene.gallant@emera.com

Nova Scotia Power Inc.
c/o Mr. Rene Gallant
General Manager Regulatory Affairs
Regulatory Counsel
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Dear Mr. Gallant:

NSPI Application to Amend the Generation Interconnection Procedures (GIP) P-890

Nova Scotia Power Inc. ("NSPI") made an application to the Board on August 6, 2008, pursuant to ss. 65, 68 and 72 of the *Public Utilities Act* ("Act"), requesting Board approval for immediate and temporary relief from the current requirements of the Generation Interconnection Procedures ("GIP") relating to the queue position of projects and the establishment of a non-discriminatory prioritized queue based on 'First Ready' criteria. In addition, NSPI requested that the Board establish an expedited written process for stakeholder comments and a separate long-term stakeholder process to consider revisions to the current GIP. NSPI requested the Board's decision by September 20, 2008, to enable it to meet the legislated Renewable Energy Standards (RES) requirements for 2010 which is 5% of its energy sales in 2010-2012. This RES requirement increases to 10% of energy sales in 2013. NSPI provided copies of its application to all project owners who are currently in the GIP queue and participants in the Open Access Transmission Tariff (OATT) proceeding (NSUARB-NSPI-P-880).

The Board, upon preliminary review of the application, established the following timeline for stakeholder input:

Notice of Intention to Participate
Submissions from Interested Parties
Reply by NSPI

Wednesday, August 27, 2008
Thursday, September 4, 2008
Tuesday, September 9, 2008

Cape Breton Exploration Ltd. (CBEL), Shear Wind Inc. (SWI), RMSenergy Ltd. (RMS), Scotia Investments Group of Companies (SIL), Halifax Regional Municipality (HRM), Province of Nova Scotia Department of Energy (NSDOE) and Municipal Electric Utilities of Nova Scotia Co-operative (MEUNSC) provided written submissions to the Board.

The Board also received requests from Scotian WindFields and SkyPower Corp. on September 10, 2008 to allow their submissions, which were not granted.

NSPI, in its application, requested that:

1. The Board carry out an expedited written process for stakeholder comments to allow a Board decision by September 20, 2008;
2. Approve immediate and temporary relief from the current requirements of GIP relating to the queue position of projects;
3. Establish a non-discriminatory prioritized queue based on First Ready criteria; and
4. Establish a stakeholder process to consider revisions to GIP in the long term.

GIP is part of the Board approved OATT tariff, which establishes a priority queue for Independent Power Producers (IPPs) requiring the use of NSPI's transmission system to deliver energy to their customers. Currently, this priority queue has 26 projects in the queue and NSPI says it does not have the resources to review and deal with all the queued projects and also meet its RES requirements by 2010.

In its application, NSPI outlined the current process to review the projects which are on the GIP queue:

Standard Generator Interconnection Procedures are an appendix to the OATT and were specifically approved by the Board. The GIP are applicable to generating facilities desiring connection to the NSPI transmission system. The GIP describes, in detail, the procedures involved with administering generation interconnection requests, including application content, costs and fees, the order and process for completing system studies and engineering, procurement and construction processes, and provides standard interconnection and operating agreements. The GIP establishes a queue for the required processes and analyses, which protects the chronological order in which projects have been placed into the queue by virtue of the date and time of receipt of a valid application to interconnection (the "queue").

[NSPI Application, pp. 3-4]

Under the Provincial Regulations, NSPI is required to have 5% of its energy sales from RES by 2010, acquired from IPP facilities constructed within the Province after 2001. NSPI solicited proposals and has signed contracts with seven developers for over 240 MW to meet its 2010 RES requirements. These projects are currently in the queue. The developers of these projects are ready to proceed and meet their commitments to NSPI. Before these developers can proceed with their projects, they need to know the specific interconnection requirements associated with each

of their projects. NSPI needs to carry out various power and infrastructure related studies which determines the requirements and cost for each of these projects. NSPI believes that the completion of these studies will take a long time as the time required for these studies is dependent upon the size, complexity, nature and location of each project and its position within the GIP queue.

Under the current system, the projects which have a higher position in the queue than those of the developers which have signed agreements with NSPI must be studied first. In addition, if these higher priority projects do not actually proceed to interconnection, the scope of the studies and costs of the lower priority queued projects may be affected.

NSPI has indicated that it will be able to complete the work in time to meet the 2010 RES requirements if a priority queue is created for those projects which have and are able to demonstrate the commercial readiness to develop and interconnect their system.

NSPI noted in its application that other jurisdictions such as Federal Energy Regulatory Commission ("FERC"), Regional Transmission Operators and Independent System Operators across North America have faced a similar situation to NSPI and have made changes to their GIP interconnection queue. NSPI is proposing a similar process to temporarily waive GIP queue requirements on a short term basis and create a priority queue to meet the RES requirements.

NSPI's proposal is to create a priority queue for projects that demonstrate a readiness to interconnect, including renewable generation facilities. This will essentially create two groups of projects. Group 1 will consist of those projects that meet established non-discriminatory 'First Read' criteria, and Group 2 will consist of the current remaining projects. The projects within Group 1 will be further prioritized based on the 'First Ready' criteria, and will be sequenced on the date and time they are determined to have met the criteria.

The proposed 'First Ready' criteria is as follows:

The 'First Ready' queue (Group I) would include projects that meet the following objective criteria for priority. The First Ready queue criteria would be:

- a. A project's power or capacity has been identified by a load-serving entity as needed to meet demand, reliability or renewable portfolio standard requirements; and
- b. The project has a signed Power Purchase Agreement (PPA) (for a minimum of 50% of project capability) in place as of August 1, 2008, or that have UARB approval in the case of a utility project, for which the developer has or must engage in activities such as procurement of long lead time equipment in reliance on the signed PPA; and
- c. The project demonstrates an ability to secure financing and move forward with the associated GIP and project activities; and
- d. A long-term Transmission service reservation has been made
 1. Reservations must be for at least one year
 2. Reservations must be for at least 50% of the project capability
 3. Connection Applicant must hold the reservation directly, or contract with another market participant that holds the required transmission reservation.

[NSPI Application, p. 12]

It is proposed that projects within Group 2 will maintain their original queue sequence in respect to each other within the Group.

NSPI is also proposing to initiate a stakeholder process, no later than November 30, 2008, to consider revision to the GIP to address this issue on a long term basis. The Terms of Reference including deadlines for each task's completion, will have to be drafted by NSPI and approved by the Board before the start of the stakeholder process. The final recommendations of the stakeholders Committee are expected to be filed with the Board no later than May 30, 2009.

NSPI suggests keeping the temporary waiver in place until the stakeholder process is completed and a revised GIP is approved and implemented.

STAKEHOLDER SUBMISSIONS

The Board received submissions from seven stakeholders as noted earlier.

Cape Breton Exploration Limited (CBEL)

This participant is identified in the queue as ID#130 and is in 17th position as of July 31, 2008. CBEL submitted that NSPI has shown "due diligence" and exceeded expectation to meet their 2010 RES requirements. However, in their view, the Province should be extending the deadline to allow NSPI sufficient time to meet the terms and implementation of RES regulations and not change GIP queue priority. CBEL states that it is one of the largest projects that could be affected negatively by the requested changes.

CBEL is prepared to support the NSPI request "...on the condition that certain revisions described below be implemented."

- a. Independent Exporters must be included in Group 1. (Projects defined as "First Ready").
- b. Definition of "First Ready" to be worked out with stakeholders and tests verified by a Truly Independent Committee.
- c. The definition of PPA must be expanded to include Export Energy Marketing Agreements (EMA).
- d. The changes to the current OATT-GIP would be temporary to provide relief as requested in the application. No permanent changes should be allowed until the NS System Operator has held an appropriate stakeholder consultation process to develop new future and permanent GIP.
- e. UARB should recognize the need to socialize the cost of system upgrades when they result from a legislated mandate such as the RES.

[CBEL letter dated September 4, 2008, p. 2]

Halifax Regional Municipality (HRM)

HRM makes no recommendations, but suggests that the current Market Rule Development Committee and/or the Wholesale Market Advisory Committee forum should have been used to make the proposed amendments and not set up a parallel process as suggested here. In its view, the situation was known to NSPI for sometime and HRM raised it during NSPI's RFP process about a year ago. HRM stated that NSPI had ample time to advise the Board about this and seek direction. In addition, Nova Scotia Power System Operator ("NSPSO") filed its 10 year system outlook in June 2008 and did not identify any of these issues.

HRM is also concerned about the ambiguity and role of NSPSO within NSPI. HRM recommends that the NSPSO responsibility of NSPI be assigned to an Independent System Operator similar to New Brunswick. As an alternative, a regional identity could be created to include both provinces.

Shear Wind Inc. (SWI)

SWI currently has an executed PPA with NSPI for 60 MW wind farms in Pictou and Antigonish Counties and is project identification number ID #114 in the interconnection queue (holding 12th place).

The project is waiting for its final System Impact Study (SIS) report from NSPI which will allow it to proceed with the construction and implementation of its project and meet its commitment to supply energy by 2010.

SWI only supports the current temporary deviation from the queue to meet the provincially legislated RES 2010 deadline so that the current holders of interconnection requests are treated fairly and do not further lose their priority position in the GIP queue.

SWI also supports NSPI's proposed stakeholder process to consider revisions to the GIP. It is their view that the scope of the review process should be broad to discuss the current status of the GIP and potential changes to it and not a single issue as proposed by NSPI.

RMSenergy Ltd. (RMS)

RMS is a developer of 50 MW wind farms and is a holder of PPA with NSPI. It is concerned with the damages it will have to pay NSPI for not meeting the delivery deadline by the end of 2009. RMS has signed the agreement and paid the necessary deposits to NSPI in September 2007 to carry out the SIS. This study has not been completed due to the current GIP process and the number of projects in the queue. RMS states that it has committed a substantial amount of funds and by signing the agreements with NSPI has taken a risk without knowing the final cost of interconnection. In addition, long lead times in procurement of electrical parts can result in failure to begin delivery of electricity to NSPI before the end of 2009.

RMS supports the approval of NSPI's application if it will provide the relief needed to proceed with its SIS.

Nova Scotia Department of Energy (NSDOE)

NSDOE supports NSPI's request for immediate and temporary relief from the current requirements of the GIP priority queue with the condition that the cost responsibility of the currently higher queued projects is not prejudiced. NSDOE also supports the establishment of a stakeholder process to consider revisions to GIP, including the cost impact on higher queued projects if NSPI's request is approved by the Board.

NSDOE compared NSPI's proposed revisions, which the Utility claimed are based on the recent FERC decision for the California Independent System Operator ("CAISO"). In its view, NSPI's proposal does not balance the rights of the currently higher queued projects against those of lower priority projects. The FERC decision appears to have recognized this issue and considered in its decision.

NSDOE, in its submission, noted that:

15. Conspicuously absent from NSPI's list, however, is any recognition of the existing rights of projects currently in later-stages under the existing procedures. CAISO noted that projects at the interconnection system impact study (ISIS) stage were appropriately included in its grandfathered group because this was "an important milestone and, therefore a reasonable and logical demarcation between late-stage and early -stage IRs" (para. 13).

NSDOE also questioned the timing of NSPI's application because NSPI has known about the backlog for some time. As per NSPI's RFP for renewable energy, all proponents were required to secure a place on the GIP queue by April 20, 2007, which means the higher queued projects were there before this date. Based on this, NSDOE states that NSPI was aware of the problem for over a year and should have brought its application before the Board much earlier than now.

Finally, NSDOE states that the RES regulations are important public policy goals and failure to meet these goals is not an option therefore supports the approval of NSPI's application. However, NSDOE is of the view that if in achieving these goals the rights of the current higher queued projects are overridden, especially relating to cost allocations, then these cost allocations should be deferred to the stakeholder process proposed in the application.

NSDOE would also like to see a definite end date and not an open-ended process for a temporary waiver as requested by NSPI.

Scotia Investments Limited (SIL)

SIL provided comments on behalf of its clients, Minas Basin Pulp and Power Company and Suez Energy North America ("MBS"), who are jointly identified as ID#17 and hold priority #2 in the current GIP queue. MBS submitted its application for transmission interconnection to NSPI four years ago in 2004 and has been working with NSPI to get their project ready for market. MBS is one of the developers which will be negatively affected by this application.

SIL has the following concerns with NSPI's application:

a) Independence of NSPSO

The issue of NSPSO was raised during the Electricity Marketplace Governance Committee ("EMGC") deliberation at which time pros and cons were discussed. EMGC concluded that a separate identity was not warranted at that time given the size of the proposed market opening. SIL is of the opinion that the current arrangement worked well until the filing of this application and believes that NSPSO should have been aware of this problem with an early action. The Board should review the situation to determine if there is a need for an Independent System Operator at this time.

b) Timing

This queue issue was raised by various proponents in the early stages of the NSPI's RFP and SIL has attached a copy of the questions and answers during the NSPI's RFP process. Based on the information provided by NSPI during the RFP process, SIL believes that proponents understood that this problem had been addressed by NSPI. SIL recognizes that the Board has been put in a difficult situation given the public policy requiring NSPI to meet RES requirements and the timing of NSPI's application.

c) Other Jurisdictions

NSPI has referenced CAISO and FERC solutions to a similar problem currently faced by NSPI. SIL believes that NSPI has not provided complete background and long-term impact of the solutions in these jurisdictions in its application. In addition, many other jurisdictions have dealt with the same problem and NSPI should have referenced those jurisdictions also in the application.

d) Fairness Issue

SIL is of the view that a number of developers have made significant investments, including its own clients, in preparing feasibility and SIS studies. All this was done within the current rules and regulations in place. The impact of the proposed changes may need certain projects to be restudied and may impact the cost of interconnection, including elimination of some future market opportunities.

SIL is concerned with the precedent this approval may set, particularly the transparency of the process and stability of the queue. The methodology used to group the current projects into two categories is questioned by SIL and, in its opinion, the parties which may be impacted by this change need to be compensated by NSPI or costs added to the rate base.

NSPI Reply Submission

NSPI's response to the participant submissions states:

...based on the submissions, the Board is able to conclude that the Application, as filed by NSPI, is in the public interest and should be approved. The majority of parties are supportive of the Application, as filed. The remainder, while critical of NSPI for bringing the Application forward at this time, do not present an alternative...

[NSPI letter dated September 9, 2008, p. 2]

The response also contained an attachment with comments on each of the individual submissions and a separate attachment which addresses criticism of NSPI's efforts to manage the GIP queue to date.

NSPI believes that it has taken all reasonable efforts to efficiently and effectively comply with the requirements of the GIP queue and there is no alternative to the current application to the Board that will allow NSPI to meet the regulatory requirements of the GIP and the legislative requirements of the RES.

Findings

The Board has reviewed NSPI's application and submissions of the participants before it and has determined that NSPI's application be approved, with conditions as noted later, in the interest of meeting legislated public policy concerning RES requirements by 2010.

The Board, however, does have concerns with respect to the manner in which NSPI conducted the process in this particular case. Based on the evidence before the Board, it appears that NSPI was aware of this potential problem during its RFP process in 2007. In addition, based on the number and status of each project in the GIP queue and available resources, NSPI was aware or should have known about this potential issue.

The Board notes that based on the information in the application and submissions from participants, very little, if any, consultation was undertaken by NSPI. NSPI chose to seek the Board's ruling to impose a temporary waiver which has the potential to prejudice some of the projects in the queue. As pointed out by SIL "... all parties [to the OATT] agreed that future rules will be developed together...", but no such consultation appears to have taken place during the past three years since OATT was approved by the Board in 2005.

The stakeholders' submissions have raised a number of questions regarding the working of NSPSO within NSPI, including the independence of NSPSO, resource allocation to NSPSO by NSPI, who is in charge of leading the OATT/GIP process and who should carry out interconnection studies.

The Board understands that this is a new process for NSPI and stakeholders, however, this does not dismiss the need and seriousness of these issues. The Board directs NSPI to meet with all the developers in the GIP queue and other stakeholders to clarify the relationship between NSPSO and NSPI no later than November 17, 2008 with a report to the Board no later than December 15, 2008.

The remaining issues raised by the participants are added to the stakeholders committee noted below

NSPI is seeking a temporary waiver to suspend the operations of the queue under the GIP to meet its legislated RES requirements for 2010-2012. These requirements being that 5% of NSPI's energy sales in 2010-2012 should be from RES supplied by IPP projects completed after 2001.

The Board's understanding of NSPI's proposed process is to take the current GIP priority list, which contains 26 projects as of July 31, 2008, and divide them into two groups. Group 1 projects will be those which can meet the "First Ready" criteria identified in the NSPI application and Group 2 projects will be those which do not meet the criteria.

In Group 1, the projects which are already in the queue as of August 1, 2008, will be prioritized for "First Ready" list. Any other project which may meet the criteria after this date, will be added to the Group 1 list based on the date they are deemed to have met the above criteria. NSPI is proposing to complete all Group 1 projects first and then deal with Group 2 projects.

The Group 2 projects will be kept in the queue within the group, based on their original queue date.

The Board has concerns with NSPI's proposed process. It is the Board's view that by following NSPI's proposed process, NSPI may have more projects in Group 1 than it needs to satisfy its RES requirements. This is not fair to the developers who have not signed IPP contracts with NSPI and may not be included in Group 1.

NSPI's request is based on its need to meet Provincial RES requirements by 2010 and to meet these requirements the Board approves a temporary waiver for the GIP queue for seven projects for which NSPI has signed agreements with IPPs and are required to meet 2010 RES requirements. After the completion of review of the these seven projects, NSPSO should follow the current GIP queue priority, as amended by this Order.

The Board agrees with NSPI's other request that a stakeholder committee be established to review potential revisions to the GIP with a long term view. The mandate of this committee should also include the issues raised in the submissions of participants including the potential increase of resources to clear the backlog of the review process, etc. The Board agrees with the proposed timing of the stakeholders process and expects NSPI to file the report no later than May 30, 2009.

NSPI is directed to revise and provide the Board with the amended GIP priority queue list based on this temporary waiver, with copies to all project developers on the GIP queue and P-890 participants.

Yours truly,

Nancy McNeil
Regulatory Affairs Officer/Clerk

cc: Interested Parties P-890

By email