



Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

April 7, 2014

Reply To: Thomas Brett
Direct Dial: 416.941.8861
E-mail: tbrett@foglers.com
Our File No. 134380

VIA RESS, EMAIL AND COURIER

Ontario Energy Board
27th Floor
2300 Yonge Street
Toronto, ON
M4P 1E4

Attention: Ms. Kirsten Walli,
Board Secretary

Dear Ms. Walli:

Re: EB-2014-0022 - Objection to County of Lambton's Request for an Oral Hearing

I represent Suncor Energy Products Inc. in this Leave to Construct case.

In its Notice of Application in this case the Board stated that it would proceed by way of a written hearing, unless there is a good reason why an oral hearing is necessary. The County of Lambton ("Lambton" and/or the "County") wrote to the Board on March 27, 2014, requesting an oral hearing. This letter is Suncor's response to that request.

Suncor is of the view that an oral hearing is neither necessary nor appropriate in this case, for the following reasons:

First, Suncor's proposed transmission line and associated facilities will be located entirely on privately owned lands with the exception of two road crossings over Lambton controlled roads. Lambton's letter conflates the transmission infrastructure, which is the subject of the leave to construct application before the Board, with the distribution lines (the "gathering system"), which transfer the electricity from the wind turbines to a central station which will step up the power to transmission voltage. While the proposed distribution line will be located substantially on Lambton roads, the location of these lines is not the subject of this proceeding.

As for the two proposed transmission line road crossings, Suncor's evidence clearly lays out their locations at Ex B, T2, Sch 1, p2, par 5. Lambton has not provided a comment as yet to Suncor

on the acceptability of these proposed locations, but Suncor anticipates it will not be difficult to reach an agreement on those locations. In the unlikely event that parties are unable to reach agreement on the location of the road crossings, the Board can set locations as part of its approval of the transmission line route in this proceeding. To repeat, the road crossings are the only place that Suncor's proposed transmission lines utilize Lambton roads. Therefore, apart from the need to agree on the location of the crossings, there should be no dispute between Suncor and Lambton with respect to Suncor's use of Lambton roads or its transmission infrastructure.

Second, the Lambton letter makes reference to the fact that the County has a number of registered plans in the vicinity of Thompson Road, which indicate the County's intention to widen and possibly relocate portions of the road, and that such a possible road widening or relocation raises issues that require an oral hearing to adjudicate. Suncor does not agree. Suncor's proposed transmission line will run parallel to Thompson Road on privately owned lands. As stated in its Application, Suncor has already secured these rights from land owners along its route. In the event Lambton needs to widen or relocate a portion of Thompson Road at some point in the future, and that widening or relocation required lands on which Suncor had constructed its poles and lines, Suncor would move its poles a short distance to another location on the private lands.

Third, as the Board stated in its Notice of Application for the leave to construct process:

"As required by the *Ontario Energy Board Act* the OEB will consider four issues:

- The interests of consumers with respect to prices and the reliability and quality of electricity service;
- The promotion of the use of renewable energy sources in a manner consistent with the policies of the Government of Ontario;
- The form of agreement that **Suncor Energy Products, Inc.** offers to landowners affected by the route or location of the Transmission Facilities; and
- The public interest with respect to the construction of the work upon, under or over a highway, utility line or ditch."

The Applicant's letter deals only with the fourth issue. As part of its leave to construct, the Board approves a route and location for the Applicant's transmission line and associated infrastructure. The Board has recently clarified, in EB-2013-0203 (p13), the issues that the Board may take into account in approving a route. The Board states:

"Both private landowners and municipalities can make appropriate representations to the Board with respect to the route or location of a proposed line and the Board may consider such representations to the extent that they are relevant to the public interest, as defined

in subsection 96(2) of the Act, in deciding whether to grant a leave to construct order pursuant to section 92 of the Act. Issues pertaining to the route or location that fall outside of the scope of the Board's jurisdiction may fall within the jurisdiction of the Minister of the Environment under the environmental assessment process."

The issues raised in the Lambton letter do not address these aspects of public interest.

Finally, an oral hearing would lengthen the current proceeding for no good reason, and would increase the parties' costs and the Board's costs. Suncor's intention is to commence construction in September 2014, and an oral hearing may put this date in jeopardy.

In conclusion, the Board's practice in these wind project related transmission line leave to construct cases, has been to proceed by way of a written hearing. In Suncor's view, the Board has chosen the correct course and should maintain this practice in this case.

Yours sincerely,

FOGLER, RUBINOFF LLP



Thomas Brett

TB/dd

Encls.

cc: All Parties (*via email*)