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Ontario Energy Board
Attn: Kirsten Walli, Board Secretary
P Box 2319
27th Floor, 2300 Yonge Street
Toronto ON
M4P 1E4

May 7, 2014

Re: EB-2014-0022

Dear Ms. Walli,

RE: Suncor Correspondence 20140505 - Reply to CSLC&WAIT-PW letter dated May 2, 2014

Please accept this correspondence from CSLC&WAIT-PW in response to Suncor's reply correspondence May 05, 2014.

Two paper copies will be sent by regular mail.

Suncor's Submission 20140505

Suncor submits that the Board's rules make no distinction between timed and untimed interrogatories. Suncor goes on to reference Sections 28 and 29 and quotes Procedural Order #1 timeframes for initial interrogatories. Further, Suncor suggests that CSLC&WAIT-PW has misinterpreted both the letter and intent of the Board's Rules of Practice and Procedure.

In conclusion, Suncor urges the Board to decline to entertain CSLC&WAIT-PW's interpretation of these Rules. Suncor notes that it filed fulsome answers to all parties' IRs on April 17, 2014, and respectfully suggests that the Board move to the next stage of the process.

CSLC&WAIT-PW Reply

CSLC&WAIT-PW is disappointed that Suncor continues to respond to these two questions by resorting to Board Rules 28 and 29 instead of just simply providing the answers.

CSLC&WAIT-PW has done its utmost to budge Suncor from this position but to no avail.

We note the following:

1. Rule 1.03 The Board may dispense with, amend, vary or supplement, with or without a hearing, all or part of any Rule at any time, if it is satisfied that the circumstances of the proceeding so require, or it is in the public interest to do so.
2. Rule 2 2.01 These Rules shall be liberally construed in the public interest to secure the most just, expeditious, and efficient determination on the merits of every proceeding before the Board.
3. Rule 2 2.02 Where procedures are not provided for in these Rules, the Board may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate on the matter before it.
4. 3.0 Definitions contains no definition of the words “supplemental” or “Supplementary”.
5. CSLC&WAIT-PW submits that no rule explicitly references the words “supplemental” and “supplementary” (other than Section 26.02 (e) bullet 5 – which references a supplemental round of interrogatories, which we interpret to mean another timed interrogatory period, and not a reference to supplemental interrogatories).
6. Moreover, the Board has identified the Category Type of the two questions as “Interrogatories to Applicant” and Suncor has responded to/or identified them as “Supplemental Interrogatories”. Neither the Board nor Suncor has objected to the name “Interrogatories”. So we appear to be agreed on what the two questions are to be called. The only issue outstanding is the issue of whether there exists or does not exist a time frame for “interrogatories” that arise out of the evidentiary course of the proceeding.
7. CSLC&WAIT-PW respectfully submits that the two questions are deserving of a full and adequate response by Suncor, that they have been submitted in a proper manner and that both questions meet the two tests of relevance and Applicant’s ability to answer/ access the information needed to provide a response.

Summary

Given the discretionary powers of the Board as identified in the Rules noted in items 1 – 4 above, and given that there is nothing in the Rules governing this type of interrogatory, CSLC & WAIT-PW believes that it has acted in a reasonable and fair and honest manner to reconcile this matter with Suncor. We are disappointed that a meeting of minds seems to allude us – we would like to see answers and Suncor would prefer otherwise.

CSLC & WAIT-PC now respectfully requests the exercise of the Board's discretion to do whatever is required procedurally to ensure that the Applicant, Suncor, provide full and adequate responses to the two Interrogatories submitted 20140317 and further defended 20140324.

Sincerely,

Santo Giorno