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Our File No. 134380

VIA RESS, EMAIL AND COURIER

Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto Ontario
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Attention: Kirsten Walli,
Board Secretary

Dear Ms. Walli:

**Re: Acceptance by the Board of a Declaration and Undertaking from
Ms. Elizabeth Bellavance; Board File No. EB-2014-0022**

Suncor respectfully urges the Board not to accept a Declaration and Undertaking from Ms. Elizabeth Bellavance on behalf of We're Against Industrial Turbines Plympton-Wyoming ("WAIT-PW") for the following reasons:

Ms. Bellavance has confirmed in her letter seeking access to the Shared Transmission Facilities Agreement and Option Agreement, and the Jericho Shared Transmission Facilities Agreement and Option Agreement, that she is neither counsel nor external consultant to WAIT-PW. In fact, as stated in the WAIT-PW's notice of intervention, Ms. Bellavance is one of six directors of that organization. The Board states in its Practice Direction on Confidential Filings, at sections 6.1.2 and 6.1.3, that:

"6.1.2 Subject to section 6.1.4, the Board will, except where there are compelling reasons for not doing so, accept a Declaration and Undertaking from the following:

- (a) counsel for a party; and
- (b) an expert or consultant for a party.

As a general rule, such counsel, expert or consultant cannot be a director or employee of a party.

6.1.3 Subject to section 6.1.4, the Board may accept a Declaration and Undertaking from other persons in appropriate cases. In such a case, a modified version of the form of Declaration and Undertaking will be made available to such person".

Suncor interprets the policy rationale for this rule to be two-fold. First, that an outside counsel or expert would normally be tasked with making the intervenor's case, and that they would have professional and practical constraints which would ensure that any undertaking given would be strictly observed. In the event they breached confidentiality, they could be effectively sanctioned by the Board.

Second, Suncor believes that the reason for generally not accepting an undertaking from a counsel or external consultant or another person who is a director or an employee of the intervenor is to stress the need for prudence and restraint in the use of the confidential material. Where a party is intimately involved in the success of the intervenor, as an employee or a director, he or she may be subject to pressures that make adhering to the confidentiality promise more difficult.

Moreover, the substance of the two Agreements, and reasons that WAIT-PW now states for requesting the two Agreements on a confidential basis do not relate to issues that Board needs to address in its review of Suncor's Application.

The fact that Hydro One, NextEra, and Suncor's portion of the transmission connection line are on slightly different timelines is not unusual for a large infrastructure project. Moreover, NextEra and Jericho have already received the Board's Leave to Construct for their projects, and these facilities will likely be in place prior to Suncor's Cedar Point project, in the event it is approved. In any event, Suncor bears the risk of any delay in connecting its facilities to the Hydro One grid. The evidence in this case and in the EB-2013-0040 case makes it clear that Suncor (and NextEra) are each responsible for the capital and operating costs of their facilities, and their pro rata share of the common facilities. A delay in the commercial operation of any component of the overall transmission infrastructure will not impact the ratepayers.

Third, both Suncor and NextEra bear the risk that their FIT contracts allow them sufficient flexibility to deal with any delays in commercial operation of the required transmission projects. Moreover, Suncor (and NextEra) are at risk for arrangements to sell and transfer to the grid the electricity from their respective wind generation projects after the expiry of their FIT Agreements.

Fourth, the evidence clearly states that Suncor is responsible for its pro rata share of the operation and maintenance costs of the shared transmission facilities, including the Jericho line. NextEra is, of course, through its various subsidiaries, responsible for the remainder of the costs of the shared facilities; in no instance are the ratepayers responsible for any of the operating costs of the Suncor and NextEra facilities.

Finally, the closing sentence to the request is incorrect. Ratepayers are not paying for electricity generated by the Cedar Point project, until it is delivered into the Hydro One grid. If the transmission project does not enter service, the risk falls on Suncor, not the ratepayers.

For all of the above reasons, Suncor urges the Board not to accept a Declaration and Undertaking from Ms. Bellavance of WAIT-PW.

Yours sincerely,

FOGLER, RUBINOFF LLP



Thomas Brett

TB/dd

cc: Elizabeth Bellavance