



EB-2014-0022

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 Suncor
Energy Products Inc. for an Order granting leave to
construct a new transmission line and associated facilities.

PROCEDURAL ORDER NO.3

June 13, 2014

Suncor Energy Products Inc., (“Suncor”) filed an application (the “Application”) with the Ontario Energy Board (the “Board”), dated January 21, 2014 under sections 92, 96(2), 97 and 101 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B. Suncor has applied for an order of the Board for leave to construct approximately 15 kilometres of 115 kilovolt electricity transmission line and associated facilities (the “Transmission Facilities”) to connect Suncor’s Cedar Point II Wind Energy Project to the IESO-controlled grid. Suncor is also seeking an order approving the forms of agreements with landowners and an order approving the construction of certain transmission facilities upon, under or over a highway, utility line or ditch.

Confidentiality

On May 16, 2014, the Board issued Procedural Order No. 2 in which it outlined the process for access to certain confidential information filed by Suncor, namely Suncor’s Shared Transmission Facilities and Option Agreement with Kerwood Wind Inc., Jericho Wind Inc., and Bornish Wind LP and Suncor’s Jericho Shared Transmission Facilities and Option Agreement with Jericho Wind Inc. (collectively the “Agreements”).

Suncor requested that these agreements be treated as confidential in their entirety. In accordance with Procedural Order No.2, Board staff filed on June 6, 2014 a submission on this matter. Board staff recognized that, as is standard practice, commercially sensitive information should be held in confidence. However, Board staff argued that in the present case, the Agreements contained language that one would expect in any commercial agreement between parties, and partial confidential treatment was more appropriate than the one requested by Suncor. To that end, staff submitted in part that:

Suncor has failed to adhere to the Practice Direction in that it did not make an effort to limit the scope of its request for confidentiality of the Agreements to an extent commensurate with the commercial sensitivity of the information at issue nor has Suncor clearly demonstrated how and why the disclosure of the Agreements will cause harm or prejudice. Board staff submits that the request for confidentiality of the Agreements in their entirety be denied and that Suncor be ordered to file appropriately redacted versions of the Agreements which can be placed on the public record.

On June 10, 2014, Suncor filed a reply submission on the treatment of its confidential material in which it argued that contrary to Board staff's submission, the form of these two commercial agreements was the fruit of lengthy and sophisticated negotiations and were highly customized and therefore proprietary. Suncor nonetheless submitted that in order to comply with the Board's policy of transparency and openness it was prepared to file redacted copies of the Agreements, and will do so on or before June 17, 2014.

Procedural Matters

Procedural Order No. 2 outlined the schedule for the final submissions by staff, intervenors and Suncor. The Board will delay the schedule for final submissions until after such time as a decision is made on confidentiality.

Interrogatories by WAIT-PW

On June 10, 2014, WAIT-PW filed a letter with the Board asking to substitute some of its original interrogatories with modified ones.

On June 11, 2014, Suncor filed a reply arguing that the matters in WAIT-PW's letter have already been dealt with in Procedural Order No.2 and saw no need to revisit these matters.

The Board finds WAIT-PW's request inappropriate as interrogatories cannot be revisited in the manner proposed, and rejects WAIT-PW's request.

The Board considers it necessary to make provision for the following matters related to this proceeding.

THE BOARD ORDERS THAT:

1. Suncor shall file redacted versions of the Agreements and serve it on Board staff and the other parties no later than **June 17, 2014**.
2. The dates for filing submissions as set out in Procedural Order No.2 are hereby rescinded.

All filings to the Board must quote file number EB-2014-0022, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties shall use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca.

If the web portal is not available, parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Leïla Azaïez at leila.azaiez@ontarioenergyboard.ca and Board Counsel, at maureen.helt@ontarioenergyboard.ca.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary
E-mail: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

DATED at Toronto, June 13, 2014

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary