

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c. 15 (Sched. B);

AND IN THE MATTER OF an application by Suncor Energy Products Inc. for an Order or Orders pursuant to Section 41(9) of the Electricity Act, 1998 (as amended) establishing the location of the applicant's distribution facilities within road allowances owned by the Town of Plympton-Wyoming, all as set out in this application.

EVIDENCE OF THE TOWN OF PLYMPTON-WYOMING

1. The Town of Plympton-Wyoming (the “Town”) was granted Intervenor status by the Ontario Energy Board (the “Board”) for this matter in Procedural Order No. 1, dated November 14, 2014.
2. On December 8, 2014 both Board Staff and the Applicant provided Interrogatories to the Town for response. The following are the Town’s responses to those questions.

Suncor’s Interrogatories

3. **Interrogatory 1:** What are the Town's specific concerns with the proposed locations of the distribution facilities?
4. **Interrogatory 2:** Given that the Ontario Electrical Safety Code requires a minimum of 1 m of cover, what is the technical basis for the 1.5 m of cover set out in the Requested Condition?
5. **Answer:** The Town responds to Question 1 and Question 2 at the same time as they are related.
6. Typically, a municipal rural road allowance is 66 feet or 20 metres wide. This road allowance would typically be occupied by a 7-8 metre wide road, possibly with a 1 metre shoulder on either side, and the required drainage ditch. Based on the terrain of the area at issue, the depth of that ditch could vary from 0.3 metres to 1.5 metres approximately. The deeper the ditch, the more of a back slope would be required and, hence, more of the right of way/road allowance

would be occupied for the drainage, approximately 5 metres on either side. Therefore, based on the depth of the ditch, the corridor for the ditch can vary from 2 to 5 metres in width. The full 20 metres is occupied with road infrastructure.

7. It is acknowledged that the Applicant has the right under section 41(9) to occupy the road allowance, however, it is the understanding of the Town that it also has the right to discuss and to make submissions with respect to the horizontal and vertical location within the road allowance to be occupied by the Applicant's electrical distribution lines.
8. It is also the understanding of the Town that the proposed electrical distribution lines may be of high voltage. Thus, any damage or any conflict with these lines may lead to significant health and safety risks. It is in the best interests of both parties to ensure that the distribution lines are located in a corridor and at such a depth that any future conflicts with the distribution lines and any excavations that the Town may undertake on the right of way over the next 20 or more years be reduced as much as possible.
9. In the future, when the Town has to clean the roadside ditch, it is highly likely that anywhere from 0.3 to 0.5 metres of earth and silt, etc. could be removed from the back slope of the ditch and from the invert of the ditch, thus reducing the cover on the distribution line to possibly 1 (one) metre or less in some areas. Roadside ditches have a tendency to erode when slopes fail, especially on deeper ditches. Therefore, with the intent to simply protect the Applicant's distribution line from any disruptions and out of service time, and to protect the Town's contractor or operator of equipment from any conflicts from any hitting of the distribution line, it was intended to locate the utility at an appropriate distance away from any future excavation but also try to make sure that it is a reasonable request.
10. In addition, it was determined if the Applicant was already committed to a depth of 1.5 metres under the municipal drains, that they would not object to a 1.5 metre depth at all locations. This

cover of 1.5 metres has always been the Town's intent throughout its discussions with the Applicant.

Board Staff Interrogatories

11. Interrogatory 1:

- i. Please confirm that the list all affected road allowances is as stated at reference (a). If there are variances please indicate what they are.
- ii. If applicable, please specify any specific concerns that the Town has in respect of any of the listed road allowances.
- iii. Please confirm that the Town received a complete copy of reference (b).
- iv. Referring to the detailed drawings at reference (b), if any, please indicate which drawings and locations are acceptable to the Town.

12. Answer:

- i. Reference numbers 1, 2, 3, 4, 5, 6, 7, 8, 39, 40, 41, 43, 47 are all County of Lambton road allowances, they are not Town of Plympton-Wyoming road allowances. All remaining roads as listed are Plympton-Wyoming streets/roads. Please note that there is a spelling error in items 14 & 15 – should read Uttoxeter. Please note that Elmsley Road between Hubbard Line and Aberarder Road is an unopened/unimproved road allowance.
- ii. Suncor should make note of any seasonal or load restrictions relating to municipal roads. For instance, Elmsley Road north of Hubbard Line is not maintained in the winter, and the Town imposes half-load restrictions on roads from March 1st to April 30th each year.
- iii. Yes, the Town has received the document.
- iv. The Town does not find any of the drawings to be acceptable as presented, due to the following reasons:
 - a. offset from property line should be changed from 1.5 metres to 1.0 metres from private

property line;

- b. dimensions should be indicated on drawings when the following conditions apply (as per June 6th commitments):

1. Crossings of municipal road allowances will be installed by directional drilling the lines underground in conduit at least 1.5m below the invert of the ditch and 2.5m below the centre line of the travelled portion of the road;
2. Crossings of municipal drains located within the municipal road allowances will be installed by directional drilling the lines in conduit at least 1.5m beneath the invert of the municipal drain; and
3. When locating lines within road allowances, the Applicant shall install the lines within 1m of the property limit of the right of way, unless unknown obstacles are discovered. In such a case the location shall be as far from the travelled portion of the road as possible.

- c. The Town would like confirmation that the property lines on the drawings have been surveyed and are true and correct;
- d. The Town has been in discussion with the Applicant regarding the request for 1.5 m depth for all drilling. As a compromise, a new request is as follows: that all open cut installations shall have 1.15 m minimum cover at the vertical and shall have 1.5 m minimum cover horizontal.

13. **Interrogatory 2:**

- i. Was the Town briefed by Suncor on the extent, timing and implications of construction, installation, operation, maintenance and future decommissioning of the distribution facilities within the Town's road allowances? Please provide any information that the Town received from Suncor.

- ii. Please specify the Town's concerns.
- iii. Please provide a complete and detailed update on the status of discussions with Suncor in respect of the location of the proposed Distribution Facilities and the draft road use agreement.

14. **Answer:**

- i. The Town has not been briefed by Suncor on the extent, timing and implications of construction, installation, operation, maintenance and future decommissioning of the distribution line facilities within the Town's road allowance. It is our understanding that this information will be covered in the final Road Use Agreement and its Traffic Management Plan which is still under discussion.
- ii. It is the Town's understanding that these electrical distribution lines may be of high voltage. Thus, any damage or any conflict with these lines may lead to significant health and safety risks. It is in the best interests of both parties to ensure that the distribution lines are located in a corridor and at such a depth that any future conflicts with the distribution lines and any excavations that the Town may undertake on the right of way over the next 20+ years be reduced as much as possible. Once the Road Use Agreement and depth concerns are resolved, it should address any Town concerns.
- iii. As recently as December 11, 2014, Town and Suncor staff members met to continue discussion on the Road Use Agreement and the location of the distribution facilities. At this time, the Town is waiting for Suncor to submit the final red line amendments to the draft Road Use Agreement for Town consideration.

15. **Interrogatory 3:**

- i. Please explain the rationale for the proposed addition.
- ii. Was Suncor informed of this proposed amendment prior to filing the application? If so,

please provide supporting documentation.

- iii. If this addition is accepted by the applicant, would this remove disagreement with Suncor and lead to agreement on the proposed location of the Distribution Facilities? If not, please provide further clarification regarding the details of any remaining disagreement with Suncor's proposed location of the Distribution Facilities.

16. **Answer:**

- i. It was always the intention and understanding of Town staff that the distribution lines would be located at a 1 m corridor parallel to the road allowance/property line and would have a cover of 1.5 m. It became apparent through discussions with Mr. Christopher Scott of Suncor that he did not have that same interpretation hence the clarification was addressed. However after further discussion with Mr. Scott, the compromise of 1.15m minimum cover at the vertical and 1.5m minimum cover horizontal is being proposed.
- ii. Mr. Scott was verbally informed within 24 hours of the proposed amendment prior to filing the application.
- iii. Yes, in the Town's opinion, if this condition is accepted by the Applicant, it would lead to the agreement of the proposed location of the distribution facilities.

17. **Interrogatory 4:**

- i. Please explain in what way a Board ruling would be premature.
- ii. What is the Town's proposed location for the Suncor's facilities within its road allowances? If applicable, please submit supporting documentation that would aid the Board in determining the location of the Distribution Facilities.

18. **Answer:**

- i. In the respectful submission of the Town, the Application and a ruling from the Board on

the Application are premature because discussions as contemplated by s. 41(9) were still ongoing and the Town does not feel that a disagreement of the nature that might prompt this Application has, in fact, arisen. The fact that discussions have continued is, in the Town's view, evidence of that interpretation. A plain reading of this section would suggest the legislation contemplated a process that would result in parties coming to an agreement through discussion rather than one party using the Board as a weapon to achieve its goals over the reasonable objections of the other party.

- ii. The newly proposed depth, through compromise discussions with Suncor, is 1.15m minimum cover at the vertical and 1.5 minimum cover horizontal.

Date: December 19, 2014

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