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February 23, 2015

**EB-2014-0355**

Ontario Energy Board  
P.O. Box 2319  
2300 Young Street, 27th Floor  
Toronto, ON M4P 1E4

**Attn: Ms. K. Walli, Board Secretary**

Dear Ms. Walli:

**Re: Application for Intervenor Status, OEB File EB-2014-0355**

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Please accept this letter, as Application and request by The Corporation of the County of Lambton ("County of Lambton") for the following two purposes:

1. As Application for Intervenor Status, pursuant to Rule 23; and
2. A request that the Board consider its authority to require either an Interrogatory Conference or a Technical Conference pursuant to Rules 25 and 26, prior to the consideration of Suncor Energy Product Inc.'s application on its merits.

**1. Application for Intervenor Status**

Please accept this letter as the County of Lambton's official request to be granted Intervenor Status in Application EB-2014-0355. Further, please accept this letter as proof that the undersigned acts as solicitor for the County of Lambton. For the purpose of service of any and all future documents, it is requested that the Board use the address included on this correspondence's letterhead.



The County of Lambton is an upper-tier municipality, as defined by the *Municipal Act, 2001*, and as such is a democratically elected government with provincially delegated authority for the safe provision of certain public highways within its geographic territory. The County of Lambton has a substantial interest in this application as the Applicant proposes to construct infrastructure which would serve the purpose of transmission and/or collection of electricity within the rights-of-way of County owned and maintained roads.

The County, other utility providers and the public in general have an interest in determining what, if any, impact the proposed infrastructure would have on the current and future needs of the right-of-way, including maintenance thereof and of ensuring that all approved infrastructure is located in accordance with the Ministry of Transportation's Design Guidelines for Highways and other applicable Canadian road design standards.

At time of writing, the County anticipates only seeking an award of costs from these proceedings if it is unable to successfully conclude a Road Use Agreement ("RUA") which it is currently attempting to negotiate with the Applicant. Should a RUA be executed, it is anticipated that either the County, the Applicant or both parties would withdraw from this Application.

## **2. Recommendation for Interrogatory or Technical Conference**

The County of Lambton and Suncor Energy Product Inc. have held multiple discussions with respect to a potential Road Use Agreement ("RUA") that would govern relations between the two with respect to various aspects of the construction and thereafter ongoing operation and maintenance of infrastructure within the County owned road allowance(s).

While the County agrees with the Applicant that the parties have been unable to reach accord on a potential RUA, one of the major reasons for said failure are a cluster of related technical concerns regarding the Applicant's proposed installation of infrastructure. Specifically, the County has concerns regarding the ability of Suncor to accurately and reliably locate the proposed buried distribution lines following construction. Suncor was asked to respond to the County with respect to this issue. To date, the County has not received an adequate response to this question and this question remains one of the primary stumbling blocks to the County completing public review for an RUA on this project.

Given the lack of detailed response on this issue, it is difficult for the County not to view this Application either as being premature, or in the alternative as an attempt to avoid satisfying a reasonable and industry-standard technical practice. In either event, the issue of the potential deficiency in locate data and future locateability needs to be addressed either between the parties, or by the Board, in order to avoid serious future safety concerns.

Pursuant to the *Ontario Underground Infrastructure Notification System Act, 2012*, the Applicant is obligated to participate in the Ontario One Call system for locating buried infrastructure in the public right-of-way. While the Applicant does not seem to take any issue with so doing, a lack of commitment and specificity with respect to the amount of setback required from the high voltage lines that Suncor proposes to construct and bury within the County road allowance(s) could have serious health and safety implications for County staff, County hired contractors and numerous third parties (gas, cable, water and other electrical transmitters) that will inevitably need to construct in the vicinity of the proposed Suncor infrastructure.

It is unclear whether the Applicant is being intransigent or merely technically deficient, but it should not be difficult for the Applicant to answer what should be a very straightforward and practical question, regarding setback for other current and future users of the road allowance. Accordingly, an interrogatory or technical conference is appropriate for the Board to determine if there is a problem, and if so, make appropriate orders to address same.

Considering that many proposed infrastructure locations will have more than one line running in the road allowance, future impacts on regular road activities could be extensive, to the point of impracticality for the road authority. It is critical that the County is not put in a position of undue hardship to facilitate future infrastructure construction and repair. This concern needs to be addressed during design and approval, as rectifying this in a post construction environment will be costly and potentially unresolvable between the parties.

The County has a need, fundamental to its mandate as steward of the public road allowance, to be able to ask questions and demand satisfactory practices by the Applicant which respect competing needs for use of the road allowance - it is incumbent upon the County to ensure that any construction in the road allowance is done in such a manner that it causes no harm to existing users of the road allowance, and allows for future construction within the road allowance by other utility providers that also have a statutory right to build infrastructure there. If the OEB now has carriage of this matter, then it is incumbent upon the OEB to ensure that construction of electrical infrastructure does not create danger for current and future users of the roadway.

I trust the foregoing to be generally satisfactory.

Yours truly,



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