



Fogler, Rubinoff LLP  
Lawyers

77 King Street West  
Suite 3000, PO Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8  
t: 416.864.9700 | f: 416.941.8852  
foglers.com

March 20, 2015

Reply To: Albert M. Engel  
Direct Dial: 416.864.7602  
E-mail: aengel@foglers.com

**VIA EMAIL, RESS & COURIER**

Ontario Energy Board  
P.O. Box 2319  
27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

**Re: EB-2014-0295 – Request for Expedited Decision on Application in Light of  
Withdrawal of Town Participation and Cancellation of Oral Hearing**

We are counsel to Suncor Energy Products Inc. ("Suncor").

We write in response to the Ontario Energy Board's ("OEB") cancellation of today's oral hearing in the above-captioned matter as a result of the Corporation of the Town of Plympton-Wyoming's ("Town") decision to withdraw from the hearing.

The OEB's cancellation of today's oral hearing has the potential to delay the conclusion of this application and substantially prejudice Suncor's ability to meet the requirements of its FIT Contract. As a result, Suncor requests that the OEB dispense with any further procedural orders, consider the contents of this letter and issue its decision on this application as soon as possible.

In accordance with Procedural Order No. 2 ("PO2") in this matter, Suncor attended the OEB's offices at 2300 Yonge Street, 25<sup>th</sup> Floor this morning at 9:30am with its witness panel, prepared to make submissions and provide the OEB with evidence in support of Suncor's application to have the OEB determine the locations of Suncor's distribution system within streets and highways ("Locations") owned by the Town. Mr. Graham Andrews attended on behalf of counsel for the Town, Mr. Eric Gillespie.

Upon arriving at the OEB offices this morning, all present were advised by OEB staff that the OEB panel had cancelled today's oral hearing because the Town, through its counsel, had advised OEB staff on March 19, 2015 at 5:59pm via email, that "it would

not be filing any evidence, calling or cross-examining any witnesses nor making submissions at the hearing". The Town's decision to do so did not include any indication from the Town that it does or would in fact agree to the Locations<sup>1</sup>. It is unfortunate that the Town did not advise the OEB of its intention to withdraw from this proceeding earlier.

Despite Suncor's efforts to reach an agreement as to the Locations with the Town since May 15, 2014<sup>2</sup>, **Suncor and the Town have not reached an agreement, and the Town has not indicated that it has any intention to agree to the Locations.**

As such, pursuant to s.41(9) of the *Electricity Act*, 1998, S.O. 1998, c.15, Sched.A ("*Electricity Act*") and the direction set out in PO2, Suncor was prepared to seek OEB approval of the Locations at today's oral hearing, **with or without the participation** of the Town, as follows:

An order approving the Locations as set out in the Plan and Profile Drawings filed as further evidence by Suncor on March 19, 2015, Exhibit B, Tab 1 ("March 19, 2015 Drawings"), unless unforeseen constraints are encountered, in which case, the Locations shall be as far from the travelled portion of the road as possible while still meeting the requirements of the Ontario Electrical Safety Code ("OESC") and all applicable engineering, environmental and health and safety standards.

Suncor's witness panel was to consist of Christopher Scott, P. Eng., Senior Engineer, Renewable Energy with Suncor and Byron Nicholson, a Senior Electrical Engineer and Protection & System Study Specialist with AMEC Foster Wheeler. Mr. Scott was to provide factual evidence with respect to the process by which Suncor has attempted to reach agreement with the Town. Suncor was intending to request that Mr. Nicholson be qualified to provide expert opinion evidence as a professional engineer licenced to practice engineering in the Province of Ontario, with particular expertise in the design of underground electrical cable installation<sup>3</sup>. Suncor's witness panel was prepared to provide the OEB with evidence at today's oral hearing that, subject to unforeseen constraints, the Locations as set out in the March 19, 2015 Drawings, meet the OESC requirements and all applicable engineering, environmental and health and safety

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<sup>1</sup> Counsel for the Town filed a letter with the OEB to this effect by email at 12:23pm on Friday, March 20, 2015.

<sup>2</sup> As detailed in the Chronology of Events, Exhibit B, Tab 4, Schedule 1 set out in Suncor's Pre-Filed Evidence dated September 12, 2014 and Suncor's Response to Board Staff Interrogatory No. 3iii., filed December 19, 2014

<sup>3</sup> A copy of Mr. Nicholson's CV was filed as Exhibit B, Tab 4 of Suncor's Further Evidence on March 19, 2015.

standards. As set out in the Application<sup>4</sup>, the Locations reflect the best balance of environmental, social, technical and economic considerations.

As set out in the Application<sup>5</sup>, and reiterated in correspondence to the OEB on February 10, 2015, Suncor requested that the OEB expedite its hearing of this application.

On the basis of the above, and as a result of the Town's withdrawal from participation in this application, and the OEB's subsequent cancellation of today's oral hearing, Suncor requests that the OEB issue an Order, on an expedited basis, determining the Locations as follows:

An order approving the Locations as set out in the Plan and Profile Drawings filed as further evidence by Suncor on March 19, 2015, Exhibit B, Tab 1, unless unforeseen constraints are encountered, in which case, the Locations shall be as far from the travelled portion of the road as possible while still meeting the requirements of the Ontario Electrical Safety Code and all applicable engineering, environmental and health and safety standards.

While Suncor respects the OEB's process, any further delay of this proceeding will result in substantial prejudice to Suncor's ability to fulfill the requirements of its FIT Contract.

Yours truly,

**FOGLER, RUBINOFF LLP**

Albert M. Engel

cc: C. Brett, Suncor  
C. Scott, Suncor  
J. Hood, Suncor

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<sup>4</sup> Exhibit B, Tab 2, Schedule 1, Page 4 of 4 of Suncor's Pre-filed Evidence filed September 12, 2014.

<sup>5</sup> Exhibit A, Tab 2, Schedule 1, Page 2 of 3, Paragraph 9 of Suncor's Application filed September 12, 2014.