



**EB-2014-0295**

**IN THE MATTER OF** the *Electricity Act, 1998*, S.O. 1998,  
c. 15, Schedule A;

**AND IN THE MATTER OF** an application by Suncor  
Energy Products Inc. to determine the location of electricity  
distribution facilities within road allowances owned by the  
Town of Plympton-Wyoming.

**BEFORE:** Ellen Fry  
Presiding Member

Ken Quesnelle  
Vice-Chair

**DECISION**

**April 16, 2015**

## **Introduction**

Suncor Energy Products Inc. (Suncor) applied to the Ontario Energy Board (OEB) for an order determining the location of Suncor distribution facilities within public roads owned by the Town of Plympton-Wyoming (the Town). The order was requested under the authority of subsection 41(9) of the *Electricity Act, 1998*<sup>1</sup> (the Electricity Act).

## **Process**

Suncor filed its application on September 12, 2014. The Town was granted intervenor status, requested an oral hearing and participated actively in the OEB's interrogatory process. The OEB scheduled an oral hearing, to be held on March 20, 2015.

In an email to OEB counsel, on March 19, 2015, the Town indicated that it would not be filing evidence, calling or cross-examining witnesses, making submissions at the hearing or participating any further in the proceeding. As a result, the Board cancelled the hearing. The Town confirmed this position in a letter to the OEB dated March 20, 2015.

On March 20, Suncor filed a letter with the OEB seeking the following:

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.

On March 31, the Town advised the OEB that it had reviewed Suncor's March 20, 2015 letter and confirmed the Town's position as communicated to the OEB in its letter of March 20, 2015.

## **Board Decision**

Subsection 41(9) of the Electricity Act provides as follows:

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<sup>1</sup> S.O. 1998, c. 15, Schedule Act, as amended

41. (9) The location of any structures, equipment or facilities constructed or installed under subsection (1) shall be agreed on by the transmitter or distributor and the owner of the street or highway, and in case of disagreement shall be determined by the Board.

Accordingly, the OEB only has jurisdiction to make an order determining the location of Suncor's distribution facilities if there is a disagreement on this issue between Suncor and the Town.

Suncor's application to the OEB and the subsequent procedural steps by both parties indicated that there was a disagreement prior to March 19, 2015. However, the communications from the parties on March 19, 20 and 31 make it clear that there is no longer any disagreement.

Accordingly, the OEB no longer has jurisdiction to determine this application.

**ISSUED at Toronto, April 16, 2015**

**ONTARIO ENERGY BOARD**

*Original Signed By*

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Ellen Fry  
Presiding Member

*Original Signed By*

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Ken Quesnelle  
Vice-Chair