

Via Email

July 27, 2018

McCarthy Tétrault LLP

Alberta Energy Regulator
Authorizations GroupCalgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canadawww.aer.ca**Attention: Kimberly J. Howard****Attention: Karen Lilly and
Danielle Brezina**

Dear Counsel:

**RE: Request to Participate by Suncor Energy Inc. (Suncor) in
Gibson Energy Inc. (Gibson Inc.) Request for Regulatory Appeal
Alberta Energy Regulator Authorizations (Authorizations)
EPEA Approval Amendments Nos.: 00246980-00-00 and 00010801-02-00
Gibson Inc.'s Request for Regulatory Appeal No.: 1908002**

The Alberta Energy Regulator (AER) has considered Suncor's request to participate in the regulatory appeal requested by Gibson Inc. of the decision to amend the above noted *Environmental Protection and Enhancement Act* approvals. The AER has also reviewed further submissions made by AER Authorizations and by Suncor in relation to Suncor's request.

The AER has decided that Suncor's request is premature and therefore Suncor is not being granted participation at this time.

The AER *Rules of Practice* provide the mechanism for applying to participate in a regulatory appeal hearing. They indicate:

Notice of hearing in respect of regulatory appeal**32(1)** If the Regulator sets a regulatory appeal down for a hearing,

- (a) the chief hearing commissioner shall establish a panel of one or more hearing commissioners to conduct a hearing in respect of the regulatory appeal, and
- (b) the Regulator shall issue a notice of hearing on regulatory appeal.

(2) Part 2 applies to a hearing in respect of a regulatory appeal.

(3) A notice of hearing in respect of a regulatory appeal must contain the same information as is contained in a notice of hearing under Part 2, and a reference to a notice of hearing in Part 2 or Part 5 shall be read as including a reference to the notice of hearing on regulatory appeal.

Request to participate

32.1 (1) A person who wishes to participate in a hearing on a regulatory appeal shall file a request to participate with the Regulator and serve a copy on the parties within the time set out in the notice of hearing. [underlining added]

The above sections of the *Rules of Practice* demonstrate that a request to participate must be filed after a notice of hearing has been issued. No notice has been issued and therefore Suncor's request is premature.

The AER also notes that in its request to participate, Suncor asked to participate as a co-appellant. The *Rules of Practice* do not allow a participant to be a "co-appellant". To be an appellant of an AER decision a person must file a request for regulatory appeal in accordance with the *Rules of Practice*. Suncor has not done that and is therefore not entitled to appeal the subject decision.

If Gibson Inc.'s request for regulatory appeal is granted, the matter will be assigned to a panel of hearing commissioners who will issue a notice of hearing. That notice will advise how and by what date interested parties may file requests to participate. Suncor may apply at the time to participate in the hearing of Gibson Inc.'s appeal.

Sincerely,

<original signed by>

Paul Ferensowicz,
Senior Advisor, Industry Operations

<original signed by>

Renee Marx,
Director, Regulatory Management