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May 22, 2011

By email and courier

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto ON M4P 1E4

Dear Madame:

**Re: EB-2011-0027: Summerhaven Wind, LP
Response to Haldimand County Hydro Inc.'s ("HCHI") request for an additional
delay in the Leave to Construct process**

Further to HCHI's letter (the "HCHI") dated May 20, 2011, the Applicant wishes to advise the Board that it strongly opposes HCHI's third request to delay the current proceedings.

Contrary to The HCHI letter, HCHI has been provided with every opportunity to ask questions of the Applicant regarding the design of the Facility (all capitalized terms not defined herein have the meaning ascribed to them in the Application). HCHI's statement that the Board did not provide an opportunity for intervenor evidence is simply not true. As per Procedural Order No. 3, the Board set a deadline for May 6, 2011 for intervenors to file evidence. HCHI chose to ignore this deadline and instead requested a delay in submissions to submit further interrogatories. The Board acceded to HCHI's request and provided for a technical conference (the "Technical Conference"). The Applicant went to extensive lengths to ensure that the appropriate experts attended during the Technical Conference, including having three panel members flown in from the United States. HCHI has been aware of the Applicant's proposal Transmission Line since [September 2010] and could have retained Kinetrics well in advance of the current proceedings if intended to rely on such expert evidence.

HCHI's contention that the Applicant provided the proposed pole design and location of the Transmission Line for the first time at the Technical Conference is also false. Design specifications and operational details of the Facility were included at Exhibit B-4-1 of the Application, including pole configuration, height, material, braces, grounding and conductor type. The Application also contains a typical pole configuration drawing. Contrary to HCHI's claim, at the Technical Conference the Applicant was very clear that the evidence being provided was of a "typical" pole design. The Applicant has not provided any "new" information that would lead to further interrogatories. The Applicant provided an additional pole configuration (Exhibit TCJ1.5) to demonstrate how the Applicant's Facility will typically exceed prescribed code clearances fourfold. As stated in the response to interrogatories and at the Technical Conference, the Applicant cannot provide the exact plan drawing until final design of

the Transmission Line is completed, which is contingent upon negotiations with Landowners, the approval of the REA and the identification of any additional gaswells, pipelines etc.

As counsel to HCHI is aware, the final design details of a transmission line are not required in order for approval by the Board under section 92 of the OEB Act (a "Section 92 Order"). The Board's application requirements (see November 2006 Filing Guidelines) contemplate as much. The Board has issued numerous Section 92 Orders based on much less detailed design information.

HCHI raises "induction" and "stray voltage" as concerns. The fact is that the Applicant will meet all required Codes and Standards. An additional study by Kinetrics on the potential for induction issues would not add anything to the proceeding that Codes and Standards have not already addressed. If HCHI has an issue with the Codes and Standards, a leave to construct proceeding is not the proper forum to raise them.

In addition to the foregoing, the Applicant's evidence is that, in its experience of building over 6,000 km of transmission and distribution lines, it has not encountered induction or stray voltage issues that could not be mitigated or alleviated altogether with a proper design. The Applicant has committed to working with HCHI to analyze any perceived induction or stray voltage issues once the final design of the Transmission Line is complete. The Applicant has gone above and beyond its call of duty and offered to conduct a pre-construction study to identify the baseline status of HCHI's system, in order to avoid any future liability issues related to induction or stray voltage. The Applicant is also on record as stating that it will cover costs incurred by HCHI to mitigate stray voltage and induction that result from the Facility. As such, HCHI's ratepayers will not be impacted by the Facility. Furthermore, the Applicant is not aware of any dairy or cattle farms in the vicinity of the area in which the Transmission Line will be in general proximity to HCHI's infrastructure. Nor did HCHI put forward such evidence at the Technical Conference.

As evidenced by HCHI's Exhibit TCJ1.4, the Transmission Line will only run parallel with HCHI's distribution lines for a length of approximately 500 m. Furthermore, the Transmission Line will, at a minimum, be a distance of 15 ft from HCHI's distribution system at any point along the 500 m span. Exhibit TCJ1.4 also shows HCHI distribution infrastructure crossing under four 230 kV circuits at least three times, indicating that HCHI is well aware of the potential impacts of 230 kV circuits on its distribution infrastructure.

With respect to HCHI's reference to the collector lines and the December 7, 2010 letter between HCHI and the Applicant (see paragraph 6 of the HCHI Letter) such issues are outside of the scope of a leave to construct application.

HCHI claims that its current request of the Board will not delay the Applicant since the Applicant's renewable energy approval ("REA") application has not been accepted by the MOE. This claim is without merit. There are many steps in the Project development that the Applicant can only take once it has received a Section 92 Order, including, if necessary, seeking a work order under section 96 of the OEB Act. As such, in order to maintain a construction schedule that will ensure commercial operation in compliance with the FIT Contract, it is imperative that the Applicant receive a Section 92 Order in a timely fashion and without further delay.

HCHI is engaging in a course of conduct aimed only at delaying the proceedings. In addition to the two delays mentioned above, HCHI submitted a Notice of Motion to defer the final decision in this proceeding until after the Board has conducted a generic proceeding to decide issues of general application to the development of transmission lines in municipal rights of way. Leaving aside the lack of legal basis for this request, a generic process could arguably take over a year

to conclude. One can only speculate as to why HCHI is seeking to continuously delay the proceedings, however it is clearly aimed at preventing the Board from making a timely decision on this matter and shows disrespect for the Board's established processes and the Applicant's good faith efforts to work alongside with HCHI. As stated at the Technical Conference and in the Applicant's response to interrogatories, the Applicant remains committed to working with HCHI to alleviate any issues and in fact believes that working together will provide benefits to both parties. However, this can not be at the expense of a timely decision by the Board regarding the Section 92 Order.

All of which is respectfully submitted,

McCarthy Tétrault LLP

Per: ***Executed in the original***

Kristyn Annis

c: Scott Goorland, Ben Greenhouse, Intervenors