



Fraser Milner Casgrain LLP  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON, Canada M5K 0A1

MAIN 416 863 4511  
FAX 416 863 4592

**VIA E-MAIL**

May 30, 2011

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
PO Box 2319, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Helen T Newland  
DIRECT 416 863 4471  
Helen.Newland@FMC-Law.com

Dear Ms. Walli:

**Re: Capital Power GP Holdings Inc.; Response to Undertaking**  
**Board File No.: EB-2011-0027**

We act for Capital Power GP Holdings Inc., as general partner of Capital Power L.P. ("Capital Power"), an intervenor in the above-noted proceeding. On Tuesday, May 17th, 2011, we attended a technical conference convened by the Board (the "Hearing").

At the Hearing, Capital Power asked Summerhaven Wind LP ("Summerhaven") on what date it had optioned the land that was required for the purpose of constructing a Hydro One switching station ("Switchyard") (1Tr32, at ll 6-7). Summerhaven responded that it had optioned the land in 2007 or 2008 and recently signed "what we believe is a specific document for the severance and purchase ... in the last few months" (1Tr32, at ll 8-13). We asked for the date of that document (1Tr32, at l 14). Mr. Greenhouse, on behalf of Summerhaven, replied "[I]t was in the last few months" (1Tr32, at l 15). We requested Summerhaven to provide the exact date by way of an undertaking (1Tr32, at ll 16-17). Board counsel suggested that Summerhaven respond after the break if it was able (1Tr32, at ll 21-24).

Summerhaven did not provide the information about the specific date of the severance and purchase after the break. Accordingly, near the end of the hearing when asked again, it took a formal undertaking, as follows:

UNDERTAKING NO. TCK1.6: To provide response to how much land is under option to purchase at the connection point, how much land is under lease, and when the option was acquired (1Tr88, at ll 1-4).

In light of the earlier exchange at page 32 of the Transcript (at ll 6-15), it is clear that Undertaking No. TCK1.6 should have been worded to require Summerhaven “[T]o provide response to... when the option was exercised and when the land was severed and purchased”, rather than simply “[T]o provide response to... when the option was acquired.” [emphasis added]

On or about May 27, 2011, Summerhaven provided a response to Undertaking No. TCK1.6 which provided, in part, as follows:

Once HONI confirmed the general land requirements for the Switchyard, the Applicant, via its affiliate, proceeded to execute a purchase agreement for 5 acres of the Optioned Lands.

Summerhaven’s response does not respond to the questions put to Summerhaven at page 32 of the Transcript (ll 14-17) with respect the specific dates on which the option to purchase was exercised and the specific dates on which the land severed and purchased.

Capital Power requests that the Board direct Summerhaven to provide a complete response to its undertaking by providing the following information: (i) the date on which Summerhaven exercised its option to purchase five acres of land for the purpose of a Switchyard; (ii) the date on which the land in question was severed; and (iii) the date on which the seller executed a purchase and sale agreement in respect of the five acres of Land in question (if this is different than the date in (ii) above).

Yours very truly,

*(signed) H.T. Newland*

HTN/ko

cc: Ben Greenhouse  
Summerhaven Wind, LP

Kristyn Annis  
McCarthy Tetrault LP

Kristi Sebalj  
Ontario Energy Board

Intervenors in EB-2001-0027  
(as per List of Intervenors)