

# AIRD & BERLIS LLP

Barristers and Solicitors

Scott A. Stoll  
Direct: 416.865.4703  
E-mail: [ssoll@airdberlis.com](mailto:ssoll@airdberlis.com)

June 29, 2011

BY COURIER, EMAIL AND RESS

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27th Floor, Box 2329  
Toronto, ON M4P 1E4

Dear Ms Walli:

**Re: Haldimand County Hydro Inc.**  
**Board File No.: EB-2011-0027**

---

We are counsel to Haldimand County Hydro Inc. ("HCHI"), an intervenor in this proceeding.

HCHI received correspondence from the Applicant on Monday, June 27<sup>th</sup>, 2011, see attached, requesting additional evidentiary references for the submissions made by HCHI. HCHI indicated that it would accommodate this request by June 29, 2011, end of day. HCHI does not intend to submit a revised submission but did want to respond to Summerhaven's request on the record to confirm that HCHI's submissions were based upon the evidence filed in this proceeding. In the table attached, HCHI has provided the evidentiary references specifically requested by the Applicant.

HCHI would note that where the request was in respect of a submission, rather than an evidentiary reference this has been noted and the basis or rationale has been provided. The list of references is not intended to be completely exhaustive of all references in the evidence.

We trust this response is satisfactory for Summerhaven to provide its submissions.

June 29, 2011  
Page 2

Yours truly,

AIRD & BERLIS LLP



Scott A. Stoll

SAS/hm

cc: K. Sebalj, OEB  
N. Mikhail, OEB  
All participants

9873591.1

### Additional Evidentiary References of HCHI

Paragraph	Reference
11(a)	Exhibit B, Tab 3, Schedule 2 TCK1.1 Exhibit A
11(b)	Exhibit TCJ1.4 – Map of Existing HCHI Distribution System. Please note there is no distribution line in front of the approximate location of the transformer station.  HCHI IR#4(b) requested the approximate length along Concession 5. Summerhaven response “ <i>Approximately 2 km.</i> ”  The reference to 2km comes from scaling the map provided and confirmed at the Technical Conference, Transcript, Page 36, ll. 11-12.  Single Phase power need – Technical Conference, Transcript, page 43, ll. 9-12 which was confirmed at page 80, ll. 24-28.
11(c)	Preliminary Proposed Cross-section – filed by Summerhaven at the Technical Conference, Exhibit - TCJ1.5.
11(d)	The two pole measurements are from Summerhaven Exhibit B, Tab 4, Schedule 1, para. 16, “typically 25-27 metres”. This was corrected June 23, 2011 and filed with the Board.  The “29metres” reference comes from Summerhaven’s drawing Exhibit TCJ1.5. The “12.1metres” reference comes from Summerhaven’s drawing Exhibit TCJ1.5.
11(e)	Summerhaven’s evidence - Exhibit B, Tab 6, Schedule 1, p. 1, para. 26 indicated “typical width of 25metres”.  Summerhaven draft easement- Exhibit B, Tab 6, Schedule 3. In paragraph 1, on the first page describes the easement as “one hundred (100) feet in width (more or less)”.  Summerhaven response to HCHI IR#2(a). Technical Conference, Transcript, Page 63, ll. 15-17.
11(f)	Technical Conference Transcript Page 45, ll. 7-12.
11(g)	Technical Conference Transcript Page 7, ll. 1-28 Technical Conference Transcript Page 8, ll. 1-28 Technical Conference Transcript Page 9, ll. 1-7.
13	Cost Mitigation - Technical Conference Transcript Page 53, ll. 21-23.

	<p>No Connection – this comes from the proposal now being put forth by Summerhaven for buried 34.5 kV collector lines and locating the transmission lines entirely on privately owned land.</p> <p>No Contract – is a conclusion from the fact that there is no connection or use of the HCHI facilities.</p>
16(b)	<p>“Kinectrics Report”, will be used to describe the evidence report prepared by Kinectrics and submitted by HCHI on May 31, 2011 in this proceeding.</p> <p>Kinectrics Report, page 5, 5<sup>th</sup> paragraph, 2<sup>nd</sup> sentence.</p>
17	<p>Exhibit TCJ1.4, Existing Distribution System.</p> <p>Upgrade to 27.6kV – HCHI response to Summerhaven IR#1.</p> <p>New Taller Pole – Kinectrics Report – Appendix B, Drawing 01-316, as stated in the submissions.</p> <p>The statement that “<i>The actual height of the pole will depend upon the local terrain</i>” is based upon the fact the Drawing 01-316 references height from the <b>Crown of the Road</b> and so depending upon the relative change in elevation between the road crown and the precise location of the pole the height of the pole may need to change.</p>
22	<p>This paragraph is a submission and states the absence of any indication that the consideration of the Board in a leave to construct proceeding is statutorily limited to only the connecting utility, which in this case is Hydro One Networks Inc. The statutory references were provided in paras. 19 and 20 of the submissions.</p> <p>The second sentence begins “As such, HCHI submits” so it is again not evidence but rather a submission.</p>
24	<p>Exhibit B, Tab 3, Schedule 2 is a map provided by Summerhaven that show the line running parallel to Concession 4.</p> <p>Exhibit TCJ1.4 prepared by HCHI overlaid the Summerhaven proposal as was understood by HCHI with the existing HCHI distribution system. Summerhaven did not indicate that this was in any way an error.</p> <p>Summerhaven filed a revised plan Exhibit TCK1.1 which reflected the new crossing. HCHI noted this in its submission.</p> <p>Paragraph 24 also includes the transcript references which are repeated here for your convenience. Technical Conference, Transcript, pages 35,36 and lines 21-28 and line 1.</p>
25	<p>Paragraph 25 is a statement of HCHI’s position and not a recitation of evidence. The Kinectrics Report indicated there may be a potential for an impact on the HCHI distribution system from the current design – see Kinectrics Report page 5, first paragraph.</p> <p>In the absence of any studies or analysis by the Applicant regarding the potential impact, HCHI had to undertake the analysis. The evidence will support that HCHI has been concerned with the potential impact on its distribution system</p>



	<p>which was the basis for its interrogatories, its examination at the Technical Conference, the commissioning of a study by Kinectrics and the submissions.</p>
28	<p>Exhibit B, Tab 3, Schedule 2 – This map included in the Application shows the 3 named road crossings. However, as the detail and clarity of the map are poor, a fourth road crossing, Concession 5 in two locations may have also been possible.</p> <p>Exhibit TCJ1.4 – The three road crossings are shown on the map. Summerhaven, to HCHI's knowledge, did not state that the number of road crossings was in error.</p> <p>The number of road crossings was shown on Exhibit TCK1.1. During the Technical Conference when Summerhaven finally defined a route, it became clear that the route was to be south of Concession 5.</p> <p>Technical Conference Transcript Page 7, ll. 1-28.</p> <p>Technical Conference Transcript Page 8, ll. 1-28.</p> <p>Technical Conference Transcript Page 9, ll. 1-7.</p> <p>Technical Conference Transcript Page 36, ll. 13-16.</p>
31	<p>The first part of the sentence is based upon the route shown on Exhibit TCK1.1 and the second part of the sentence is part of the relief which is specifically requested elsewhere.</p>
34	<p>There are multiple references to the municipal right-of-way, Concession 4 and Concession 5 being 66 feet in width including Exhibit TCJ1.5. During the Technical Conference, the Applicant confirmed its intent to locate the 34.6kV collector system within the municipal right-of-way and to bury those collector lines. At Technical Conference, Transcript, page 29 Summerhaven confirms that there will be crossing of natural gas lines required. See TCK1.3 indicated crossings with Union Gas and Glenfred Gas Wells.</p> <p>As such, there are multiple users of the municipal right-of-way. HCHI was requesting that guys be not permitted within the Municipal right-of-way due to the non-transmission line infrastructure.</p>
36	<p>Exhibit TCJ1.4 – Map of Existing HCHI Distribution System. Please note there is no distribution line in front of the approximate location of the transformer station.</p> <p>The reference to 2km comes from scaling the map provided and confirmed by Summerhaven at the Technical Conference, Transcript, Page 36, ll. 11-12.</p>
37	<p>Sentence 1 – is not evidence but part of the requested relief. See para. 2(c) and 59(c). The request was based upon the statements in the Kinectrics Report, page 5, first paragraph. HCHI would note other participants referenced this paragraph including, Summerhaven at IR #3.</p> <p>Sentence 2 – the centre-line of the HCHI pole is shown as 1.3 metres from the edge of the right-of-way on Exhibit TCJ1.5 – Summerhaven's proposed cross-section.</p>

38	<p>References to the 30metre easement – see 11(e) above.</p> <p>References to south side of Concession 5 - Technical Conference Transcript Page 36, ll. 13-16.</p> <p>Reference to the distance from municipal right-of-way is taken from Summerhaven's proposed cross-section Exhibit TCJ1.5. See also Technical Conference, Transcript, page 72, ll. 23-28 and p. 73, ll. 1-2.</p>
39	<p>As noted "HCHI, in response to Summerhaven IR#1, confirmed".</p> <p>It is industry standard practice in Ontario to avoid having pole lines on both sides of a municipal right-of-way.</p>
40	<p>Sentence 1 – "In response to Board Staff IR #1, HCHI confirmed..."</p> <p>Sentence 2 – This is not evidence but a submission based upon the height of the pole Summerhaven is now proposing (see Exhibit TCJ1.5) and the recommendation in the Kinectrics Report, page 5, paragraph 1 dealing with the potential for the issues to arise from lightning strikes.</p> <p>Sentence 3 – HCHI in response to Board Staff IR#1(i) noted "such arcing could cause the failure of the equipment of HCHI and HCHI's ratepayers." This was also noted in HCHI response to Summerhaven IR#3(b).</p>
41	<p>HCHI in response to Board Staff IR#1(i) noted "<i>such arcing could cause the failure of the equipment of HCHI and HCHI's ratepayers.</i>" This was also noted in HCHI response to Summerhaven IR#3(b).</p>
43	<p>Sentence 1 – is not evidence but a statement of the relief requested. See paras. 2(c) and 59(c).</p> <p>Sentence 2 - The minimum 10 metre separation distance was included in the Kinectrics Report, page 5, first paragraph. This was again referred to by HCHI in response to Board Staff IR#1(i) and Summerhaven IR#3(b) which explained the basis for the recommendation.</p> <p>Sentence 3 – Summerhaven confirmed it is seeking a 30 metre easement. See 11(e) above for references.</p>
44	<p>Sentence 1 – HCHI provided the evidence as part of the Kinectrics Report and in response to various IRs including Board Staff IR#1 and Summerhaven IR#3. Technical Conference, Transcript, page 53, ll. 6-9. This was included in the quotation from the transcript contained in HCHI submissions in para. 12.</p> <p>Summerhaven confirmed it is seeking a 30 metre easement. See 11(e) above for references.</p>
46	<p>Sentence 1 – HCHI indicated in IR#3(c) to Summerhaven that it was seeking to have the transmission design accommodate the two 27.6kV circuits. Summerhaven responded by indicating that it was pursuing an alternate location.</p> <p>Sentence 1 - Exhibit TCJ1.5 shows a pole height of 12.1metres and the existing distribution system of 4.8kV. Ms. Annis took the position during the Technical</p>

	Conference that there was no obligation to design to future needs see Technical Conference, Transcript, page 47, ll. 4-6.
53	<p>Sentence 1 - There are numerous references to the common connection including the SIA filed at Exhibit B, Tab 8, Schedule 2, page 7, Recommendation 1.</p> <p>Summerhaven response to HCHI IR#1(d), (e), (f) and (g).</p> <p>Technical Conference, Transcript – page 21, ll. 9-28, pages 80 thru 97 included at least 4 direct references to the common connection but much of the discussion was around the issue of common connection and permitting.</p> <p>The reference to the Port Dover and Nanticoke Wind Farm is to the intervenor in this proceeding as represented by counsel, Ms. Newland.</p> <p>June 17, 2011 – Letter from Ms. Newland to the Board.</p> <p>There are additional specific references but HCHI is of the view that the identified references are sufficient for the purposes of noting that this was an issue in the hearing.</p>

## Scott Stoll

---

**From:** Annis, Kristyn [kannis@mccarthy.ca]  
**Sent:** June 27, 2011 11:19 AM  
**To:** Scott Stoll  
**Cc:** BoardSec; Vegh, George  
**Subject:** EB-2011-0027 - HCHI Submissions

Dear Mr. Stoll,

Thank you for your submissions on behalf of Haldimand County Hydro Inc. ("HCHI"). We have reviewed them and have noted a number of statements that do not appear to be supported by a reference to the evidence. For example, paragraph 11 makes several conclusions regarding issues raised at the Technical Conference but does not provide the specific reference to the transcripts. Paragraph 11 is not the only instance in which statements are made without reference to the evidence. See for example, paragraphs 13, 16(b), 17, 22, 24, 25, 28, 31, 34, 36, 37, 38, 39, 40, 41, 43, 44, 46, 53, some of which require multiple references.

We would therefore ask that you carefully review the submissions and where statements of fact or re-citation are made, provide the correct reference. As you are aware, it is not permitted to submit new evidence in final argument, since parties have not had a chance to cross examine.

Yours truly,



**Kristyn Annis**  
Associate  
T: 416-601-7624  
F: 416-868-0673

McCarthy Tétrault LLP  
Box 48, Suite 5300  
Toronto Dominion Bank Tower  
Toronto ON M5K 1E6

PLEASE, think of the environment before printing this message.

=====  
This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.  
No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).  
Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at [www.mccarthy.ca](http://www.mccarthy.ca).