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By email, courier and RESS

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

Dear Madame:

**Re: EB-2011-0027: Summerhaven Wind, LP (the "Applicant")  
Draft Conditions of Approval**

On behalf of the Applicant, we wish to apologize for the late filing due to internal approvals processes. Please find enclosed the Applicant's revisions to the Draft Conditions. Please note the following:

***Draft Condition 1.4:*** The Applicant worked with the intervenor, Capital Power Inc., to determine the appropriate revision language. As per our discussion with Board Staff on September 21, 2011, it is our understanding that the Board intended the Draft Condition to make exception to the particular recommendation in the System Impact Assessment relating to the common switch yard. We have therefore amended Draft Condition 1.4 to reflect what we understand to be the Board's original intention.

***Draft Conditions 2.2, 2.4, 2.7, 2.8, 2.9, 2.10, 2.11, 2.12 and 2.13.*** The Applicant worked with Haldimand County Hydro Inc. ("HCHI") to determine the appropriate revision language. HCHI has reviewed the changes and indicated they are in agreement. As HCHI's submissions indicate, there is general consensus among the parties on these particular Draft Conditions.

***Draft Condition 2.1:*** The Applicant agrees with the Board's original suggested language around Adjacent Length, which specifies only that the Adjacent Length is a "certain distance". This is important since the Applicant will require flexibility in the final design of the Applicant's 230 kV transmission line (the "Transmission Line"), including the length of the Transmission Line along the south side of Concession Rd 5. As the Board is aware, the final design of the Transmission Line may be altered somewhat according to the conditions of the REA and once the final geotechnical survey has been carried out and negotiations with landowners have been finalized. In its submissions, the Applicant agreed that, at all points along Concession Rd. 5, the Transmission Line will be designed so as to accommodate HCHI's proposed upgrades to two 26.7 kV three phase upgrades (the "HCHI Upgrades"). The Applicant therefore submits that

restrictions concerning the Adjacent Length are not relevant to HCHI and may adversely affect the Applicant's final design. It is the Applicant's understanding that HCHI agrees with the above reasoning.

The Applicant and HCHI agreed that in order to properly describe the HCHI Upgrades, reference should be made to the design drawings included in HCHI's submission to the Board dated July 13, 2011. These have been attached as Schedule 'A' to the Draft Conditions. The Applicant notes that, in addition to pole height, the poles in HCHI Upgrades are placed at a distance that is 3 meters from the edge of the Concession Rd 5 (See drawing entitled "Cross Section A Concession Rd 5"). This is relevant for the purposes of the Applicant's Draft Condition 2.3(b).

**Draft Condition 2.3:** The Applicant notes that there is an apparent discrepancy in Draft Condition 2.3 and Draft Condition 2.5 since it would be impossible to determine the centreline of the HCHI Upgrades without knowing the exact location of the poles (the "HCHI Poles") that form part of the HCHI Upgrades. The Applicant is therefore proposing that, in the event the Transmission Line is on schedule to be constructed prior to the HCHI Upgrades (i.e. the exact location of the HCHI Poles is not known and therefore the centreline of the HCHI Upgrade is not known yet), the Transmission Line poles shall be a minimum distance of **3.3** meters from the south edge of Concession Rd 5. The 3.3-meter distance is derived from the fact that, according to Schedule A (forming part of the Draft Conditions) the HCHI Poles are designed to be placed at a minimum distance of 3 meters from the property line ( $6.3 \text{ m} - 3 \text{ m} = 3.3 \text{ m}$ ). This Draft Condition was discussed with counsel to HCHI and it is the Applicant's understanding that HCHI is in agreement with the proposed changes.

**Draft Condition 2.5:** Unfortunately, the Applicant and HCHI were not able to come to an agreement with respect to the radial distance between the Transmission Line poles and the HCHI Poles. To be clear, a radial separation distance of 10 meters could be highly detrimental to the Applicant and may force the Applicant to seek to amend their leave to construct to build on the municipal right of way (which HCHI does not want, recalling that the Applicant moved the Transmission Line to private property at the request of HCHI in the first place) if the affected Landowners do not agree to staggered pole placements. Furthermore, the Applicant does not understand why HCHI would insist on this distance when:

- There is no science/study to prove that 10 meters is a required separation. The reliance by Kintectrics on the gas standard is not "conservative", rather it is without scientific basis. Indeed, the Peak Underground Arcing and GPR Report (the "GPR Report")<sup>1</sup> examined the standards and underlying research cited in the Kinectrics Report in detail and found that "the standard cited to support the 10-m separation request was not applicable to the situation."<sup>2</sup>
- There is an engineering report that validates the 6 m distance. As per the GPR Report, on the basis of engineering calculations, "the design separation of 6 m between the transmission line ground electrodes and the distribution line ground electrodes was determined to be more than adequate to avoid underground arcing."<sup>3</sup>

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<sup>1</sup> Applicant's Reply Submissions filed July 27, 2011.

<sup>2</sup> The Peak Arc Report, at p. 2.

<sup>3</sup> *Ibid.*

The Board has a clear choice – (1) Rely on a non-applicable gas standard to impose a separation distance that will result in a design that does not meet landowners reasonable requests, and thereby possibly forcing the Applicant to seek a new routing for the Transmission Line in the municipal right of way, or (2) Rely on a comprehensive engineering study to implement a minimum 6 meter separation distance, thereby allowing the twinning of Transmission Line poles and HCHI Poles and satisfying directly affected landowners and the community generally.

***Draft Condition 2.10:*** The addition of “primary circuit” indicates that the neutral voltage survey will be conducted on the distribution side of the connection point, as opposed to the customer side of the connection point, an amendment that HCHI agrees with.

All of which is respectfully submitted,

McCarthy Tétrault LLP

Per: *Signed in the original*

Kristyn Annis

c: Scott Goorland, Ben Greenhouse, Intervenors