

Includes 2011 ECAO Annual Report

The Ontario
ELECTRICAL CONTRACTOR

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Volume 49 • Number 2 • Spring 2011



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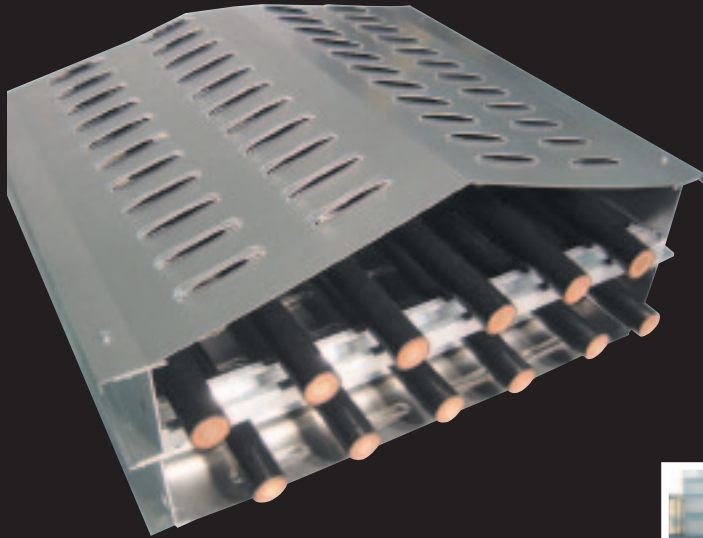
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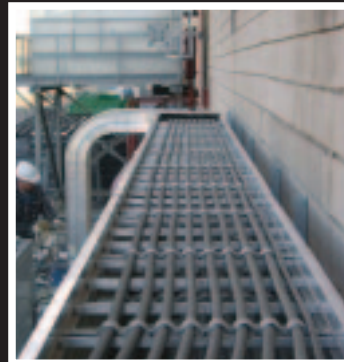
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On The Cover: ECAO's incoming President, Jim Kellett, K-Line Maintenance & Construction Limited (see story page 10).

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Jim Kellett

By Angela Altass

Takes The Lead at ECAO



The incoming president of the Electrical Contractors Association of Ontario brings a wealth of experience and a passion for the industry with him to lead the association for the next two years.

“This is a good time – a time of opportunity for this industry,” states ECAO’s new President Jim Kellett. “It is also a time of challenge.”

There is a great need for infrastructure renewal in the province but, at the same time, the industry is dealing with a skilled worker shortage, especially in the high-voltage sector, notes Kellett.

“There are also many people in our association who are trade folks who started their own electrical contracting business and are now getting ready to retire,” he says. “These people need a succession plan – do they sell the company to employees or to a larger company or is there someone to hand the company down to in their family, or do they just wind down the company altogether?”

Jim Kellett, Senior Vice President of Operations and Engineering with K-Line Group of Company’s Construction sector, has worked his way up the ladder with the company that was founded by his uncle Glenn Kellett in 1967.

“I started as an apprentice lineman in 1979,” recalls Kellett who later moved to Saskatchewan to complete his apprenticeship and then moved on to a supervisory role for the company. “In 1985, the company expanded to Nova Scotia and the Atlantic Provinces and I went there in 1987 to take over as Division Manager for Atlantic Canada. After Nova Scotia power privatized, we wound down that operation and I went back to Saskatchewan.”

Kellett, who still holds a power line certification in Saskatchewan, Ontario and Nova Scotia, and a red seal (Interprovincial,) has also worked in the Bahamas for the company’s International Division and has worked on projects in St. Lucia and Dominica before settling back in Ontario with his current role in 2000.

Kellett, who oversees a staff of nearly 400 located across the country, says the electrical contracting industry has changed vastly since his uncle started in the business.

“My uncle started the business in the basement of his house with one truck,” he says, noting that live line work has always been a foundation of the company business.

Safety is a key component of K-Line’s work ethic, and the importance of safety is something that Kellett will be carrying over into his role of President of the Electrical Contractors Association of Ontario.

“We have a world-class safety program at K-Line,” says Kellett. “Safety and training are absolutely critical in this industry.”

Since 2002 Kellett has been involved with the Electrical & Utilities Safety Association, and now the Infrastructure Health and Safety Association where he has participated in the development of a ZeroQuest program with a vision of zero lost time injuries and illnesses. The goal of ZeroQuest is to guide participants through the process of building a sustainable health and safety system.

He was a member of a power line advisory committee in Nova Scotia from 1988 to 1995 and has been involved with Ontario's PAC and is looking forward to participating with the new College of Trades and has been actively involved with the Greater Toronto Electrical Contractors Association. In addition, Kellett is a founding member of the Safe Saskatchewan board, which has a vision to keep Saskatchewan injury free. Kellett is also a board member and on the executive with Canada's Electricity Sector Council.

The amalgamation of local area contractor associations into a larger regional association is a goal that Kellett intends to carry on from his predecessor John Raeppe.

"It would serve the industry better if we pool our resources as a unified voice," says Kellett. We need to ensure we are representing all the constituents properly! A stronger regional association would provide a better focus on our long-term goals as an association and to make government and industry alike understand what it is that we do and how we do it. Whether it is in the telecommunications, industrial, commercial, residential or high-voltage line work, we have a shared focus on industry issues."

Kellett also believes in working together with labour partners the International Brotherhood of Electrical Workers (IBEW) to sustain and improve the overall industry.

Although he comes from a line workers background, Kellett emphasizes that the association, and himself as president, is there to represent the entire industry. He notes that the electrical industry is a unique sector that is not totally understood by the general public, who tend to take electricity for granted.

"I am looking forward to being President," he states. "This is the first time in a while that someone from the high-voltage utility side has served as President, so it brings a different perspective to the position, although I am not just biased to that sector."

Kellett praises the staff at K-Line and at the Electrical Contractors Association of Ontario for their help in making it possible



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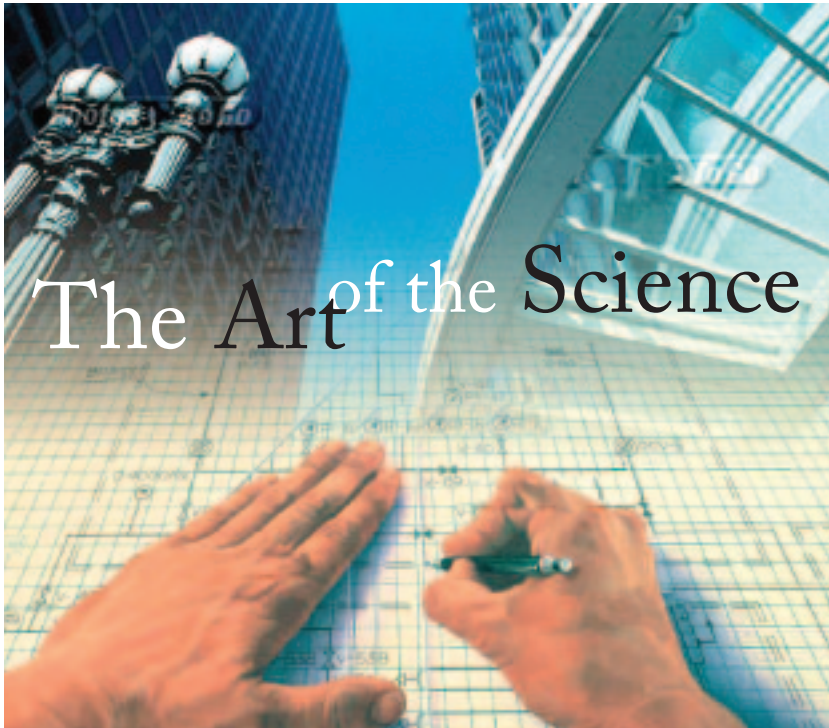
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ECAO PRESIDENT

for him to take on the role of president of the association.

“I am pretty good at multi-tasking,” he comments. “I don’t micro-manage. It’s a team focus for the board and management and there is an excellent staff whose experience will be immensely helpful. Also, the staff here at K-Line helps me with what needs

to be done here, enabling me to spend time on association matters. I have some good people here who help pick up the slack when I am involved with associations and organizations. I would say that 45 to 50 per cent of my time is spent on external entities, but everyone understands that being involved in industry associations comes back to the business in many positive ways.”



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Kellett describes himself as someone with a good sense of humour who also knows when to be serious.

“You’ve heard of Larry the Cable Guy, well, I am Jimmy the Line Guy,” he says with a chuckle. “I am passionate about my ideas and uses my sense of humour effectively.”

He resides with his wife Linda in Aurora and enjoys travelling, hunting, fishing and spending time outdoors, including hunting and fishing camp, just East of Bracebridge or visiting his cottage in the Haliburton area or his farm in rural Saskatchewan. His son, Morgan, recently became a power line technician and his daughter, Ariel, is studying art and design.

“I am an optimistic person who is looking forward to the challenges and opportunities that will come to my attention as President of ECAO,” says Kellett. “This is a great association with such diversity in the size of the businesses and regions that belong to it, and yet we are all able to come together on common challenges and find solutions for the overall good of the industry. Regionally, there can be some disparity sometimes but we are still able to come together in the most unbiased way possible. I like the people within the association – the staff and board members. We have a very productive and effective board.”

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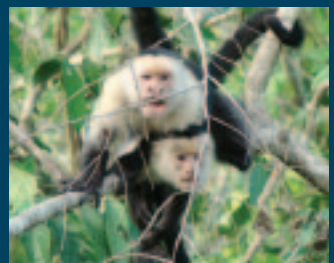
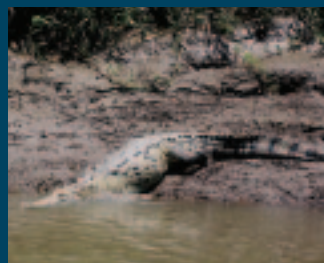


The Electrical Contractors Association of Ontario welcomed 129 delegates to the JW Marriott Guanacaste Spa and Resort Hotel in Liberia, Costa Rica, from March 19 to 26, 2011. Costa Rica should be considered one of the world's rarest jewels. With warm waters year-round, an unparalleled tourism infrastructure, limitless attractions spanning two coasts, tropical rainforests, active volcanoes, windswept mountaintops and a high density of wildlife, Costa Rica is an exciting, adventurous, vibrant and exotic place to explore.

The country prides itself on its ecological values that would embarrass many in the so-called modern world. It is also the only country in Latin America that is neutral, with no military. Instead, the focus is on education, health, community and the environment. It's no wonder the popular Costa Rican phrase "Pura Vida," literally meaning "Pure Life," is used to express a philosophy of strong community, perseverance, resilience in overcoming difficulties with good spirits, enjoying life slowly, and celebrating good fortune, no matter how small.

With its stunning surroundings, Costa Rica was ready to provide the ECAO delegates with the "kind of beauty" that hurts the eyes and was sure to guarantee an extraordinarily unforgettable experience.

Delegates were welcomed by the JW Marriott's warm hospitality and stunning 5-star property with a relaxing spa-like atmosphere. With stunning sunsets on the beachfront every night and wonderful service-with-a-smile all day, it was not difficult to settle in.



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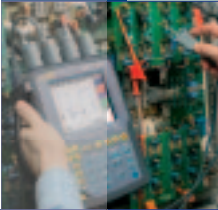
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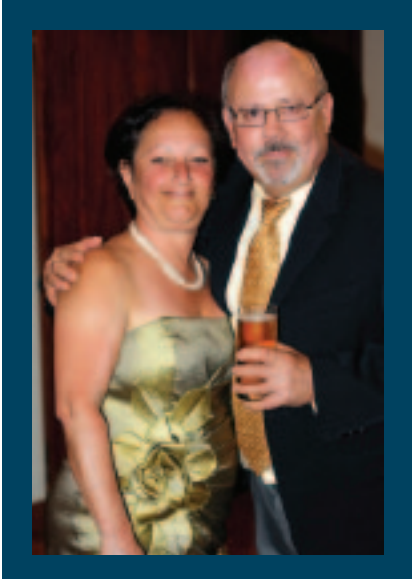
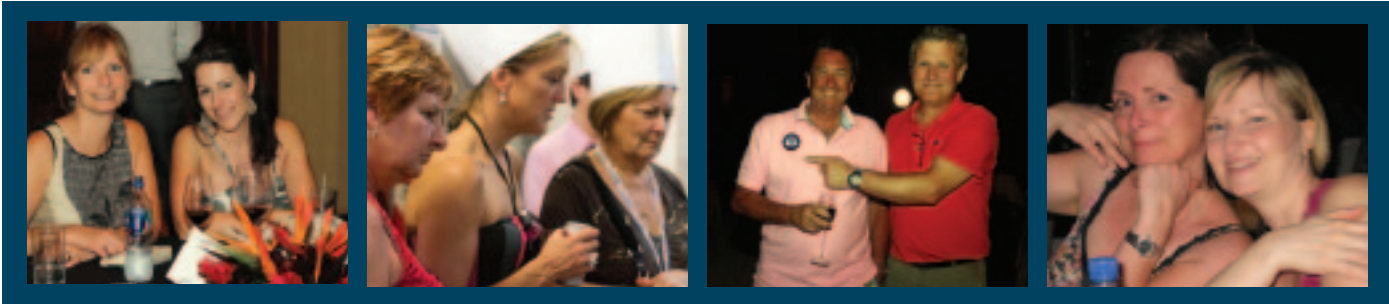
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ECAO kicked off the conference with a welcome party that shook off winter in a hurry. The elaborate buffet tickled the tastebuds and the traditional Costa Rican Marimba players (a marimba is a wooden key instrument that resembles a xylophone) produced a beautiful sound to set the mood.

The business portion of the conference consisted of two days of sessions, commencing with keynote speaker and stand-up comedian Adam Growe, host of Discovery Channel's Game Show "Cash Cab." Adam provided a hilarious interactive session engaging the delegates in a morning of laughter, brain-teasing questions and

comedic relief that revved everyone up for the upcoming serious side of the agenda.

Chris Schultz with the Light Up The World foundation spoke on "Electricity for Human Development: The Story of Off-grid Villages in Costa Rica." Chris's enlightening presentation on this charitable organization's efforts to provide solar energy to remote villages in Costa Rica impressed the ECAO board of directors who consequently made a donation to projects in this country.

Dan Leduc, Ogilvy Renault presented his take on "Shifts Happens; Subcontractor

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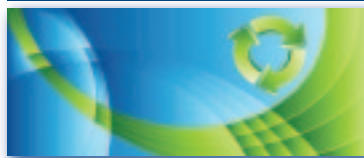
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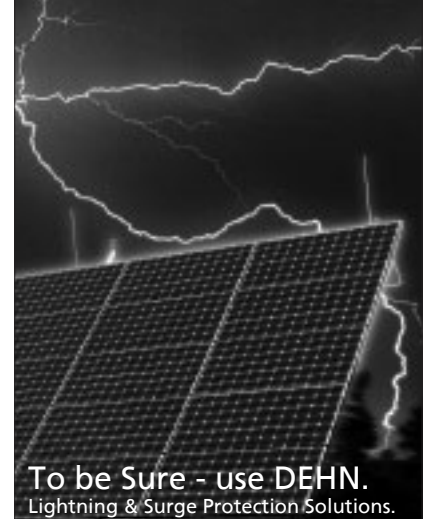
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Risk Management – Dealing with Shifting Risk.” Dan’s ever insightful view on contract law cautioned delegates on the risks associated with non-standard contract language (see story page 35).

Brian Gauthier, IMAGINiT Technologies presented “Building Information Modeling: Examining the impact of BIM on the Canadian Building Industry.” Brian’s review of this innovative technology and its valuable application in the construction and maintenance phases of a building was truly an eye opener.

Dr. Awad Hanna, University of

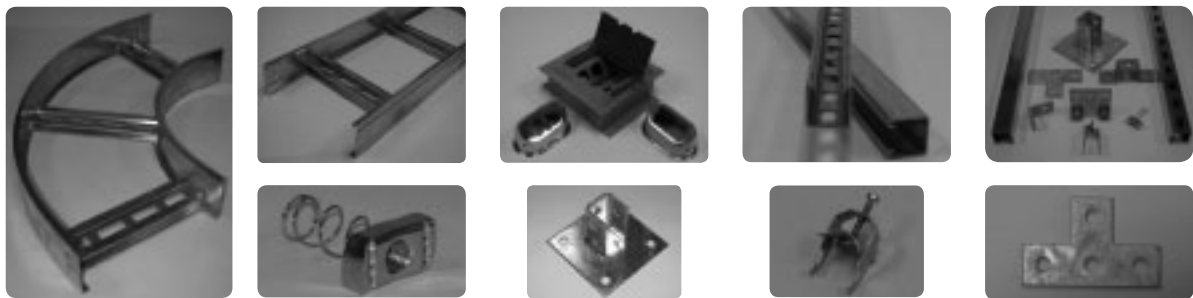
Wisconsin-Madison, spoke on “The Effects of Overtime on Productivity” explaining the pros and cons of various overtime scenarios and their effect on the bottom line (see story page 38).

ECAO organized a unique dining experience with a beach party for the delegates on the Wednesday evening. Delegates enjoyed another night of unwinding with great company and conversation, tasty barbeque fare, a rocking band, and if that wasn’t enough, a stellar fireworks display. Delegates were out of their chairs and flip flops and into the sand, dancing till the wee hours to The Leatherbacks, a rock ‘n’ roll



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band fronted by Canadian Nick D’Amico, vocalist and guitarist and his five band mates. The night was especially memorable for Roger McFarlane, who celebrated his 60th birthday.

While some delegates used their free time to relax by the pool or on the beach, excursions were organized for those curious to explore more of Costa Rica. Many delegates participated in the Cartagena Canopy Tour, where they conquered their fear of heights as they strapped into a harness, clipped onto a cable, and soared through the trees alongside the howler monkeys. Kudos to those dare-devils brave enough to zip-line upside down! Other tours included the Arenal Volcano and a trek through the Coter Rainforest ending in a relaxing time in the natural hot springs, or crossing the border to Costa Rica’s neighbouring country, Nicaragua. A few delegates got their adrenaline pumping on an off-road ATV tour through the dusty terrain. Some first-timers experienced a few bumps in the road and found themselves in the ditch while some others just felt compelled

to share their excitement before taking off. Final excursions included a visit to Palo Verde National Park where delegates explored the waterways filled with birds, crocodiles, iguanas, white faced monkeys, howler monkeys, and more and a visit to the Rincon de la Vieja Park where delegates participated in a marathon of horseback riding, zip-lining, rappelling, swinging over the Rio Blanco Canyon and rock climbing their way through an expedition to a nearby waterfall.

As difficult as it was to think about, the trip had to come to an end. On the last evening at the President’s Gala delegates started by the pool side with mouth-watering hor d’oeuvres like crab cakes and ceviche, with the guitar trio gently filling the night air with sound.

Delegates then moved on to the stunning ballroom for one last evening, chatting about the days past and hoping to hear their names called for the cash prizes. Congratulations to Tom Grenon, Jenny Mason, Cindy Gibson, Susan Conrad, Lori

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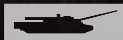
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Salmon, Trish Crawford and our grand prize winner Maureen Tilson. Dinner ended but the night continued as the band Rrequete filled the evening with dance and music. Delegates had the time of their life, whether it was doing the limbo or the

Macarena, or even assisting the band in the vocals.

The last trip was to the airport but not without some additional excitement. Those on the last bus experienced a broken

fan belt, but Swiss Travel soon had the delegates transferred to another bus and on their way. It was tough to say goodbye, but all in all it was an amazing trip, and one that will, no doubt, be talked about for some time.

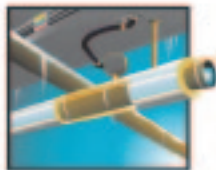


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2011 ECAO ANNUAL REPORT

Who We Are:

The Electrical Contractors Association of Ontario (ECAO) represents approximately 1,000 unionized electrical contracting firms, the majority of which are small- to medium- sized, family owned and operated businesses in Ontario. Sixty per cent of these firms are full members by virtue of their membership in one or more of the 13 local area ECAs.

ECAO represents only bona fide electrical contractors who have a contractual relationship with the IBEW.

Membership in ECAO also affords membership in the Canadian Electrical Contractors Association (CECA) and affiliation with the National Electrical Contractors Association (NECA).

Who We Work With:

ECAO acts as the secretariat and “head office” to a number of related organizations whose activities may also be included in this report. They are:

- Canadian Electrical Contractors Association (CECA)
- Energy Efficiency Contractors Network (EECN)
- Joint Electrical Promotion Plan (JEPP)
- National Electrical Trade Council (NETCO)

Through these organizations ECAO partners with ECAs from other provinces, other national and provincial trade associations and the IBEW to further the interests of the electrical contracting industry on specific issues beyond ECAO’s immediate jurisdiction.

Partners and Alliances:

ECAO participates in organizations that further the interests of ECAO members. These organizations include:

- Council of Ontario Construction Associations (COCA)

- Ontario Construction Users Council (OCUC)
- Construction Employers Coordinating Council of Ontario (CECCO)

What We Do:

- Present a favourable contractor image to our customers and industry colleagues.
- Provide information to keep members current on industry and business trends.
- Increase member capabilities by developing, promoting and delivering training to advance their technical and business management skills.
- Promote the safe use of electricity.

- Work cooperatively with others in construction to provide satisfactory customer service at a profit.
- Maintain economically sound labour/management business relations.
- Liaise with governments on matters of mutual interest or concern.
- Work with other government organizations to be a good contributing corporate citizen.



President's Report - *By John Raepple*

This is my second and last annual report to you as ECAO president. I have spent six years in various capacities on the ECAO executive and have come to appreciate the strengths of the ECAO contractor membership and the capabilities of the association itself. As I move into the role of past president and assume the position of strategic planner, I will strive to develop a plan that makes the most of these different talents.

The members of ECAO have shown amazing resilience throughout the economic upset that started in 2008 and from which we are still struggling to recover. Looking back over the past two years, the 20-30% reduction in work hours we feared did not materialize. Instead of falling back to 14 or 15 million hours from the record of 20 million set in 2008, we managed to bottom out at 17.2 in 2009 and improved slightly to 17.6 in 2010. How does this compare with other experiences? Well, between 1990 and 1993, ECAO members lost 50% of their hours, tanking to 9.5 million from a then record of 19 million set in 1989. I do not want to sound like grandpa, who walked 10 miles to school through snowdrifts in bare feet, but by comparison to 1990, as a group, and as measured by work hours, we have fared reasonably well.

There is no doubt that many members have suffered significant setbacks that cannot be taken lightly, but overall this latest economic challenge has been less severe than anticipated. There are a number of reasons for this: some good planning, some good



luck. But it is largely a credit to the business acumen of the members themselves with their ability to find niches and diversify the business. If there is an electrical contracting specialty, an ECAO member is in there. If there is an emerging market, ECAO contractors will be quick to explore it.

The role of the association in all this is not to make the markets or to find new opportunities. That's what contractors do. The association's job is to try to keep up and, when necessary, clear away the obstacles that might limit members' natural ability to make the most of developing opportunities.

As an ECAO member, I experienced this first-hand as I guided my business into the fast developing solar market. Like you, I naturally assume that this new market is, without question, electrical work. The reality is that ECAO has spent the better part of 2010 fighting to preserve this work as part of the electrical trade scope and our business. To buttress our belief in including solar within the electrical trade, we have also created a national occupational analysis (NOA) for electricians doing solar installations. From the NOA we developed, and are about to launch, a CSA personnel certification to validate our workers' qualifications to perform this work and to differentiate our product from all the others. (See the NETCO section later in this report).

Of course, ECAO can never get far away from labour relations, and solar was front and centre on that file as well. In this instance, the issue was solar farms where trade scope also figured prominently in the mix. On the farms we had to deal with the reality of huge amounts of up front unskilled work. The Electrical Trade Bargaining Agency and IBEW-CCO worked throughout the year to develop a protocol to allow for a standardized, yet flexible, approach to developing competitive terms and conditions for multi-megawatt installations.

Though solar farms are considered to be a short term prospect, ECAO members have



been aggressively pursuing them. The result is that the farms have contributed significantly to the overall work hour volume in the last two years and likely through 2013. With the protocol in place and the competitive field among ECAO members levelled, it is now up to the contractors through their ECA and local union to perfect the conditions for their area.

Encroachment on the scope of electrical contracting has also dogged the line contractors installing wind farms across Ontario. Utilities have used their monopoly status to require developers to engage the utility, not private contractors, to build collector lines. It took ECAO two years at the Ontario Energy Board to finally get an amendment to the distribution systems code clarifying that the work, including joint use, is "subject to alternative bid." Now, hopefully the market and not monopoly power is determining who gets the work.

On a related matter, ECAO continues to fight against utilities' legal and lobbying campaigns aimed at absorbing municipal streetlights into the utility and out of the private sector. This issue is particularly sensitive given the deluge of work now being contracted out to ECAO members by these same utilities, reversing their "no contracting out" policy of the previous 10 years.

There is no doubt that it is the association's job - not the members' - to press the cause.

2011 ECAO ANNUAL REPORT

President's Report - *(continued)*

Too often these matters end up with your customers, regulators or others with market power on the opposite side of the issue and at the table.

One area where ECAO could do a better job of running interference for the membership is standard commercial practices. Over the past five years, ECAO has gradually expanded its educational and lobbying role related to our favourite topic of getting paid, but there is a lot more to be done. In recognition of this, the ECAO board has created a new standard practices committee whose role will go beyond education and may include interceding on behalf of the membership on matters related to tendering and contracts. Some area ECAs already have a well-developed process in place for this, but there is a need to ensure that the same message is delivered to clients, their representatives and general contractors throughout the province - and that it is delivered by the association. This whole issue will be fleshed out in development of the new ECAO strategic plan this spring.

As the electrical trade and business evolves, ECAO's commitment to protecting the scope of the electrical business and maintaining open and fair access to electrical markets becomes increasingly valuable and well recognized. It is an asset we should exploit whenever necessary to allow electrical contractors to do what they do best - grow the market.

The new ECAO strategic plan will be developed in May 2011 with participation of all area directors and labour relations representatives. The new plan will be presented to the membership at the annual meeting on June 16.

My years on the ECAO executive and, in particular, the past two years as your president have been both challenging and exciting. During my tenure the association has faced recession, renewal of the no strike accord, collective bargaining, decline of our industrial work base and emergence of new market opportunities in the commercial and renewable energy sectors. It has been quite a

ride, but through it all I have had the privilege of working with a committed team of contractor volunteers and ECAO staff with the best interests of the industry foremost in mind.

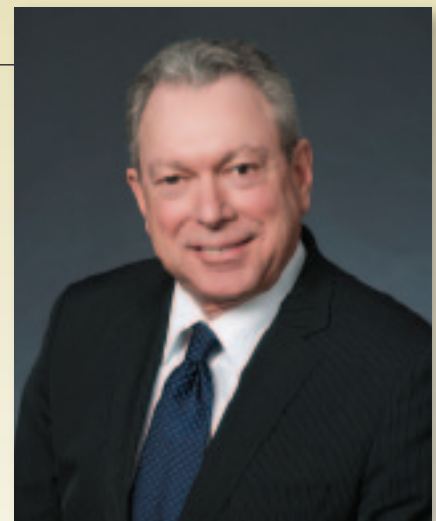
On behalf of the members of the board of directors and myself, I wish to sincerely thank all the volunteer members of our committees and our staff for their dedicated efforts on our behalf. If you have not already done so, please go to www.ecao.org and check the names and affiliations of our many committee volunteers. These people work with the support of their companies to help improve the working environment for all of us. Likewise our staff who work long hours to operate a very effective association dedicated to the betterment of its members. Please tell them thanks the next time you see them.

Executive Vice-President's Report - *By Eryl Roberts*

In last year's report we wrote that economic stability might be a thing of the past - a figment of an economist's dream. The strengthening Canadian dollar reinforces our concern about any real advances in the industrial sector which has traditionally been our strong suit. We are, however, still betting that the recovery will be led by the small commercial market. Our record in this market is not so good, but if that is where the work is going to be, there is where we have to go. In the 2010 round of bargaining we made it a central issue and found some success with an additional four locals negotiating more competitive conditions for this type of work. Unfortunately, a month of labour/management brainstorming during provincial negotiations does not solve the problem. We have to keep at it during the term of the agreement, particularly during

a period when massive infrastructure/stimulus work is masking the reality of small job competition. Typically it is during periods of relative good employment on the mega-jobs that we get killed on the small work.

After the negotiations proper, the ETBA and IBEW-CCO met on several occasions to deal with solar farm installations. These talks resulted in development of a protocol for application in each area and dealt with issues such as work assignment, trade jurisdiction and temporary help. Though these installations are impressive man-hour generators, the market will be saturated by the end of the current agreement. The sustainable growth will be in the ICI rooftop installations. Our involvement with the IBEW on this has been directed at confirming solar as part of the electrical trade and establishing



quality standards and training to differentiate our product from the others. Some area ECAs and local unions have begun to consider different employment terms for this work, but the market is so new it is hard to

Executive Vice-President's Report - (continued)

find consensus around what is required to be competitive.

Over the term of the current agreement ECAO's labour relations policy will continue to focus on those markets that are going to lead the recovery. One of those markets is utility reconstruction.

On the less productive side of the relationship with the IBEW is the re-emergence of the inside/outside jurisdiction debate. In 2010 we experienced the first ever dispute on work for a public utility. Since the restructuring of the electricity system more than a decade ago, there has been little contracting out by the utilities and they are now scrambling to catch up with much needed system reinforcement. Today the shortage of line workers and the mindboggling work prospects are combining to cause inside/outside friction within the industry, labour and management. Even contractors who never considered outside work before are now fully committed to it.

To tackle the labour shortage, the Line Contractors Standing Committee has earmarked 50 cents per hour for paying out the huge training costs for powerline apprentices. In addition, ECAO has committed to press for compulsory certification of the power line trade once the College of Trades compulsory certification tribunal is in place.

The ETBA has agreed to move the inside/outside jurisdictional disputes from the Labour Relations Board to a mediation process in the hope that we can reach a binding and lasting resolution to this problem and get on with doing the job. Failure to do so will cause an influx of competition from Quebec and other jurisdictions outside Ontario where utility policies have nurtured rather than hampered growth of utility contractors. We cannot be left behind.

If we have learned anything from our experiences in 2010, resolution of the inside/outside issue must be a top labour relations priority in the coming year.

Outside of labour relations, the ECAO has been hyperactive on representing the industry on a number of issues thrown at us by the government. Advocacy on behalf of the electrical contracting industry has dominated activities in 2010 and early 2011.

WSIB and Ontario's safety system have been prime issues. The ECAO Human Resources/WSIB Committee participated in both the Dean Safety System Review and the Arthurs WSIB Funding Review. There is a full story elsewhere in this edition of the Ontario Electrical Contractor so I won't go into detail here. I simply want to thank Chairman Fred Black and advisor Rob Boswell for their expert handling of ECAO's representations...and while I am at it to congratulate Rob for his Ontario Bar Association Award for excellence in WSIB law.

In a surprise move, the Ministry of Colleges and Universities opined that the electrical trade regulations are restricted to electrical work "inside buildings and structures," presumably as justification that roof top solar systems are not electrical work. The unintended consequences of this official opinion were immediately recognized by the ECAO board as untenable. This began a year-long project led by directors John Salmon and Fred Black with the legal support of McCarthy Tétrault to challenge the sweeping implications of the opinion. At the time of writing this report it appears that an understanding of the scope of the electrical trade has been reached, at least as far as solar is concerned. The need to update the electrical trade regulation has been highlighted by this fiasco and will become part of the HR committee agenda going forward.

2010 also saw the final resolution of long-term, hard fought issues. Chief among them were the amendments to the Construction Lien Act regarding industrial construction (the infamous Kennedy Case) and the clarification of the Distribution Systems Code to allow energy developers to hire private contractors (not utilities) to perform their connection work.



As is usually the case, success leads to further work. I have already commented on the utility sector; the payment issue is another matter. Kennedy aside, there is a need to further improve the Lien Act and ECAO fully supports the Council of Ontario Construction Associations (COCA) in this cause. Furthermore, there is a prospect that Ontario may join some American jurisdictions in creating prompt payment legislation. ECAO is fully engaged in this quest along with COCA and the National Trade Contractors Coalition of Canada (NTCCC).

While all of these external issues were being engaged, the regular duties of the association continued apace. The Public Relations Committee headed by Jack Gibson maintained the high quality of communications with the membership through publications such as this and organized one of our best offshore conferences ever in Costa Rica. (See the article elsewhere in this edition). Brad Walker's Member Services Committee expanded its value-added offerings to the membership with the addition of online classified and a new bonding facility for small government projects. All of this is available to members just by clicking on the ECAO website.

I know that in this brief synopsis of the year that was I will have missed something important, so please take a few minutes to read the balance of this annual report and visit the ECAO website to get it all.

In closing, I want to thank the board of directors, ETBA and all the ECAO committees for their tireless work and continued support and - most importantly - the ECAO membership for recognizing what we do.

2011 ECAO ANNUAL REPORT

2010-2011

During the 12 preceding months the ECAO has focused efforts to assist its members through a major economic slowdown. Projects, programs, lobby efforts, seminars and training initiatives have all been intended to help increase our skills, improve our abilities to compete, and broaden electrical involvements so we can expand the range of work we are qualified to do.

The board of directors thanks the staff team and member volunteer committees for their



help in achieving its objectives. The committee structure and mandates are outlined in detail on our website www.ecao.org along with the names and company affiliations of our volunteers. The ECAO committees currently include:

1. Contractor and Industry Standards (Codes & Standards and Standard Practices)
2. Human Resources Development (including the WSIB subcommittee)
3. Member Services
4. Public Relations and Communications
5. Electrical Trade Bargaining Agency
6. Power and Utility Sector



While not all committees deal with every issue there is always significant crossover when moving any initiative through from concept to delivery.

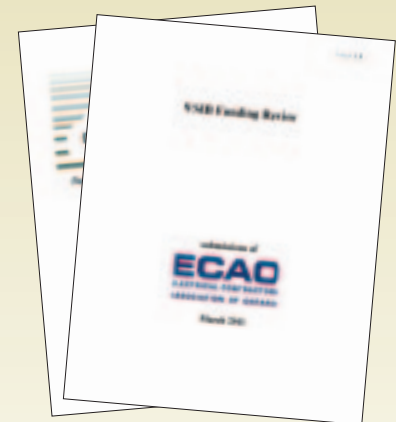
This year's annual report summarizes the actions of your association over the past year and highlights ongoing and newly established programs and activities.

Health, Safety & WSIB

- TeksMed's WSIB Claims Management contract test period was extended through to October 31, 2011. During this period ECAO pays for TeksMed services on behalf of all its members from association reserves.
- Currently there are about 100 ECAO contractors that have signed up with TeksMed.
- The ECAO board of directors to evaluate the effectiveness of the TeksMed service prior to October 31, 2011.
- In 2010 the ECAO WSIB Committee made submissions to WSIB on Bill 119 relating to clearance certificates and mandatory coverage of the construction industry and to the Ton Dean Review relating to the comprehensive review of

Ontario's occupational health and safety system which was reflected in Bill 160.

- Recommendations from Tony Dean support IHSA's work. The top recommendation was to open a separate prevention organization that would be housed under the Ministry of Labour. The newly created health and safety organizations would then align with this new organization.
- In March 2011, the ECAO WSIB Committee participated in the consultation process and made a written submission to Harry Arthurs regarding funding of WSIB. The review concentrated on six key issues: funding, premium rates, rate groups, employer incentives and occupational disease claims.



“K-Line has decided to register nationally with TeksMed because they are able to provide us with a different approach to reporting workplace injuries which contributed to preventing a lost-time injury for our company. They are committed to reducing the amount of time K-Line spends on WSIB claims management by interacting directly with injured workers and the WSIB”
– Jim Kellett, K-Line Maintenance & Construction Ltd.

2011 ECAO ANNUAL REPORT

Political Affairs

- ECAO was successful in getting amendments to the Construction Lien Act addressing application of the Act to industrial process construction (e.g., the Kennedy case). Culmination of five years of legal and government relations efforts by ECAO supported by the Council of Ontario Construction Associations.
- Participated with COCA in Construction Day at Queen's Park promoting further improvements to the Act and adoption of prompt payment legislation.



Kaleidoscope Photography: www.kaleidoscopephotography.com

College of Trades

- In October 2010, the College of Trades Transition Board sought input from stakeholders and potential members of the colleges on the application and decision-making process for ratio review. The ECAO submission focused on four proposed criteria ranked in the following priority order: 1. Health and safety

of workers, the public, and the environment. 2. Quality training. 3. Impact on labour supply. 4. Economic impact.

- In February 2011, MTCU sought applicants to the College of Trades: board of governors, divisional board and trade boards. ECAO assisted ECAO members

in making applications to the board of governors, divisional board and trade boards for the Electrical Construction & Maintenance Electrician, Industrial Electrician and Powerline Technician.

Skills Canada and Ontario Apprenticeship Competitions



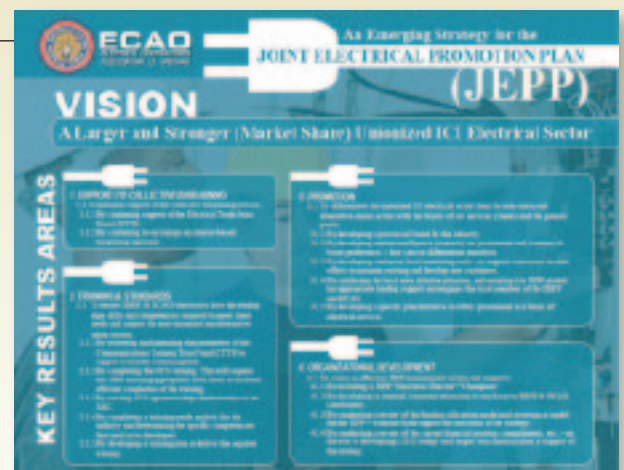
- The provincial competitions were held May 17 to 19, 2010, and the national competitions were held May 20 to 23, 2010.
- IBEW Local 120 apprentice Mitch Robertson took the gold medal in the prov-

incials and proceeded to the national competition where he took bronze.

- Over 24,000 visitors were estimated to have visited during these events.

Joint Electrical Promotion Plan (JEPP)

- October 27 to 29, 2010, JEPP held its first strategic planning session.
- The purpose of the session was to identify options for refocusing the Joint Electrical Promotion Plan (JEPP) and the Communications Training Trust Fund (CTTF) and developing a strategic plan in support of the new direction.



2011 ECAO ANNUAL REPORT

CFAE Fire Alarm Instructors Conference

- Second conference was held in Toronto.
- Conference included a site visit to Mircom Group in Vaughan.
- Full detailed conference report can be referenced in the winter 2011 edition of *The Ontario Electrical Contractor*.



National Electrical Trade Council (NETCO)

- In June 2010 and February 2011, NETCO participated in consultations with the Canadian Council of Directors of Apprenticeship (CCDA) about strengthening the Red Seal Program in relation to the Agreement on Internal Trade (AIT).
- NETCO published a comprehensive primary policy document entitled *Red Seal Electrical Trades in Canada: A Policy Framework on National Standards, Apprenticeship and Journeyman Skills Training*. This policy document was distributed to CCDA members across Canada.
- In April 2011, representatives of the CCDA's Stakeholder Relations Com-

mittee met with the NETCO board to discuss issues such as trade splintering and foreign credential recognition arising from the consultations and policy document.

- NETCO developed a powerful online diagnostic assessment tool to support success in apprenticeship. After extensive pilot testing with electrical industry partners, such as the Toronto Joint Apprenticeship Council, Numeracy Power was released in August 2010.
- NETCO has partnered with CSA Standards to create the Construction Electrician (NOC 7241) Solar Photovoltaic (PV) Systems Certified Personnel Certification Program. The program is



expected to be available by the summer of 2011.

- The NETCO board meeting was held April 2011 in Toronto. Staff for Minister John Milloy, Ministry of Training, Colleges and Universities, joined the board for a briefing on the NETCO-CSA Personnel Certification Program.
- Information on these and other initiatives by NETCO are posted at www.ceca.org/netco.



2011 ECAO ANNUAL REPORT

Canadian Electrical Contractors Association (CECA)

- Presented seminars in Ontario and British Columbia through the National Trade Contractors Coalition on the Guide to the CCA 1 – Standard Subcontract. A webinar series is in the works.
- Continuing development of the Canadian Electrical Installations Standards (CEIS), based on the NEIS in the U.S. This project is being managed for CECA by the Canadian Standards Association (CSA). The full slate of 35 standards will be available before year end.



Industry Conference

- 2010 Conference and Annual General Meeting in Kingston, June 23 to 27.
- 2011 conference held in Costa Rica March 19 to 26. Seminar topics covered included Building Information Modeling, Contract Law and the Effect of Overtime on Productivity.
- 2011 Annual General Meeting to be held in Toronto June 16.
- 2012 conference to be held in Whistler, B.C., June 13 to 17. ECAO partnering with ECA British Columbia under the CECA umbrella.



2011 ECAO ANNUAL REPORT

Publications & Member Communications

- ECAO continues to provide valuable information on the ECAO website such as updates to the collective agreement, upcoming events, publications and resources.
- ECAO produced several publications for its members, including An Administrative Guide to the Ontario HST for Electrical Contractors, Preventing Workplace Violence & Harassment under Bill 168 – A Guide for Electrical Contractors and the Contractor's Guide to Workplace Safety and Insurance 2nd Edition.
- ECAO is exploring the use of social media, like Facebook, as a method of connecting the membership.



Member Recognition



- 2010 Douglas J.B. Wright Award winner for contributions to the electrical contracting industry is George Docherty, Guild Electric Ltd.
- 2010 R.H. Carroll Safety Award winners include:
 - o Advantage Electric Thunder Bay Ltd.
 - o Earl Carr Electric Canada Ltd.
 - o K-Line Maintenance and Construction Limited
 - o Panson Electric Contractors
 - o S & T Electrical Contractors Limited
 - o Sutherland-Schultz Ltd.
- 2010 educational scholarship winners to children of ECAO members were Robert Murphy and Steven Taggart, both of Hamilton.

2011 ECAO ANNUAL REPORT

Member Advantage Program

- Over 20 different services available to ECAO members at discounted rates can be accessed through the ECAO website.
- Created a free online classified for members wishing to buy and sell surplus material, equipment, etc.
- Engaged Ogilvy & Ogilvy to provide a unique bonding facility – Quickbond – for small projects under \$300K
- Regular online surveys of memberships to evaluate quality of existing products and services.



Associate Members

- Coordinated the production of the 2011 calendar.
- Participated in the 2010 and 2011 conference as sponsors and the trade show in June 2010 in Kingston



2011 ECAO ANNUAL REPORT

Electrical Trade Bargaining Agency



- The “joint proposal” no strike/no lockout protocol successfully renegotiated and utilized in 2010 negotiations including the redesigned post-negotiations wage adjustment formula (increase of \$0.25 May 1, 2011, and \$0.25 May 1, 2012).
- ETBA and IBEW-CCO negotiated a protocol for solar farm projects dealing with work assignment, trade jurisdiction and temporary help.
- ETBA successful at the Ontario Labour Relations Board (OLRB) in its argument that the “older employees” clause (over 50) is contrary to the Human Rights Code as it requires employers to make employment decisions on the basis of age.
- Inside/outside jurisdiction issue is still ongoing but, on agreement of the ETBA and IBEW-CCO, will now be referred to mediation.

Provincial Licensing of Electrical Contractors

- Provincial licensing regulations are being amended to accommodate high-voltage/line contractors employing power line technicians.
- ECAO representative John Salmon is formally elected as Chair of the Electrical Contractor Registration Agency (ECRA). ECAO representative Fred Black is also a director. They also both serve on the ECRA Master Examining Board.
- ECAO representatives on the Contractor Advisory Council (CoAC) are Joe Kurpe, John Slamon, Dan Toppazzini and Eryl Roberts.

Power & Utility Sector

- ECAO successful at Ontario Energy Board (OEB) in getting amendments to the Distribution Systems Code (DSC) clarifying that work related to new connections and renewable energy projects are open to “alternative bids” as opposed to being a monopoly for Hydro One.
- ECAO continues to oppose absorption of municipal street lighting into the utilities.
- ECAO Line Contractors Standing Committee has created a bursary for power line technician apprentices attending trade school as a means of addressing the shortage of qualified line workers.



Downloading of Risk in Construction Contracts....

We have (Unfortunately) a Winner

By Dan Leduc

For those who may have read other articles by me in this magazine or have heard me at various seminars including the very recent ECAO Conference in Costa Rica, you will know that I have one topic that drives me nuts: downloading of risks in construction contracts without consideration of the type of risks being downloaded. It has become an epidemic in this country. The norm is currently to use a standard form contract such as a CCDC 2 and then pull out of it balanced provisions replacing them with a series of often onerous and partisan terms and conditions that take away any and all balance in the allocation of risks from the originally drafted standard form. When was the last time you saw tender documents that simply had the CCDC 2 as the form of contract?

Conversely, Americans have tried to allocate construction risks contractually in a manner that is more balanced. Part of that balance has resulted in something called ConsensusDOCS, the product of 33 leading U.S. construction associations, dedicated to identifying and utilizing best practices in the construction industry for standard construction contracts (see: <http://consensusdocs.org/catalog/consensusdocs-guidebook/>).

Weekly, I am asked to review tender documents for clients in order to provide an assessment of risks associated with a bid and to suggest potential qualifications if the client decides to qualify its bid.

Recently, I came across what I consider to be one of the worst examples of downloading of risks in a contract. I ask for your patience when reading the passage in question because not only is it a 'run-on sentence' but much like most contractual terms, it is written without much regard to communicating

succinct, easily understandable sentences and phrases.

The impugned provision requires the following to be added to a CCDC 2 form of contract:

GC 1.1.18 shall be added to state:

The Contractor declares and represents that in entering into the Contract with the Owner for the performance of the Work, it has either visually investigated for itself the character of the Work to be done and all local conditions including without limitation, the position of all pole lines, conduits, watermains, sewers and other underground or overground utilities and structures which are reasonably identifiable by the Contractor being duly diligent or that, not having been so visually investigated, the Contractor has assumed and does hereby assume all risk of such conditions now existing or arising in the course of the Work related to the scope of the Work as described in the Contract Documents which might or could make the Work or any items thereof more expensive in character or more onerous to fulfill, than was contemplated or known when the Contract was signed.

First, you have a 143-word sentence. That can never serve to be an effective communication of a term or condition.

Second, in most cases the contractor is given a 45-minute or so site inspection prior to the close of bids which at best allows for a walk through and questions to be put to the consultant or consultant's assignee. How does the contractor 'visually investigate' the 'underground... utilities and structures'? Only Superman can see through things and

he was not a contractor. How can a contractor in that situation make a full assessment of risks sufficient to assume all risks associated with the location and extent of utilities?

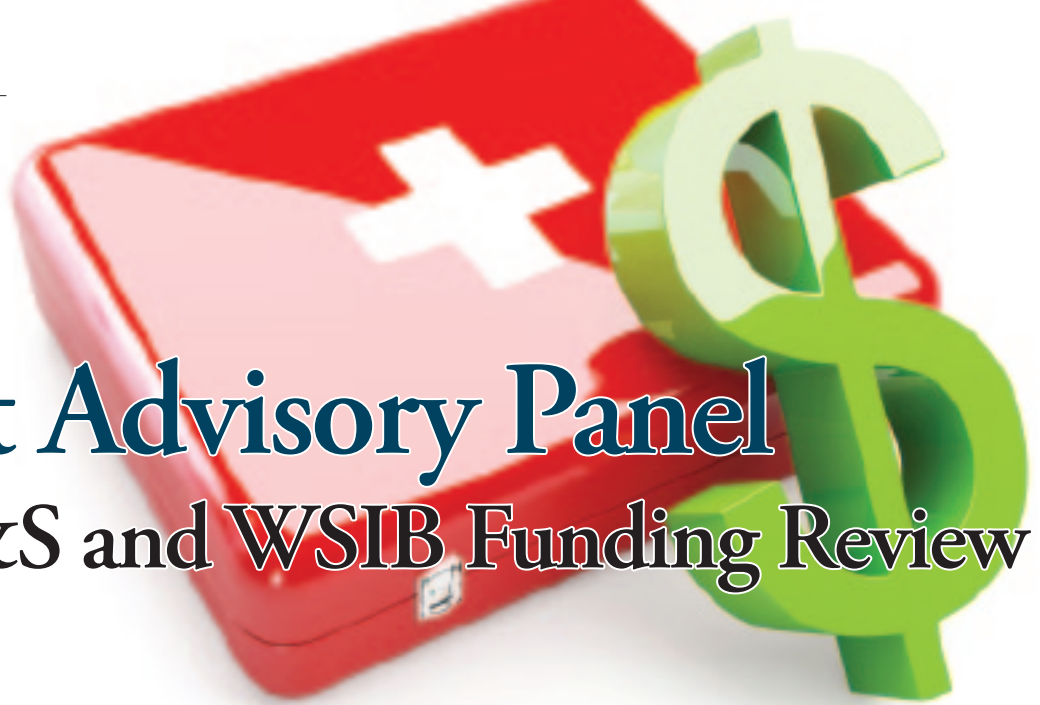
Third, the above provision likely seems innocuous to you given that we see this type of supplementary general condition often. It simply serves to have the contractor assume ALL risks associated with, in this case, location and extent of utilities. However, what makes this provision even more repulsive is the fact that the owner for whom the tender documents is being prepared is the local Public Utilities Company and the project is for construction of a building on its property! In other words, the local Public Utilities Company, that entity responsible for the location and extent of local utilities, is directing that contractor to assume all risks associated with the location and extent of its own utilities.

I am afraid to say that we now have a reigning champion of the most one-sided and onerous contractual provision in a construction contract. It begs the question: why is the construction industry, including engineers, architects and lawyers, mandating these type of clauses and why is the industry, as a whole, accepting them?

Reprinted from the Ottawa Construction Association's Construction Comment.

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Expert Advisory Panel on OH&S and WSIB Funding Review

In 2010 and 2011, two significant consultation processes have taken place relating to occupational health and safety and workplace safety and insurance. The ECAO fully participated in both consultations providing written and oral submissions in each case.

In 2010, the Ministry of Labour formed an Expert Advisory Panel on Occupational Health and Safety. The panel was chaired by Mr. Tony Dean. The mandate of the panel was to conduct a review of Ontario's Occupational Health and Safety (OHS) system and to make recommendations to the Minister of Labour regarding structural, operational and policy improvements to Ontario's OHS system.

In December 2010, the panel made 46 key recommendations, including the following:

- A new prevention organization should be created within the Ministry of Labour, headed by a Chief Prevention Executive and featuring a multi-stakeholder Prevention Council.
- New training standards should be created, implemented and audited.

- Mandatory training requirements should be established for health and safety representatives (in addition to those required of certified joint health and safety committee members).
- Health and safety training of workers and supervisors should be mandatory.
- Mandatory entry-level training should be required for all construction workers, including mandatory fall protection training for workers working at heights and additional high-hazard training for specific activities.
- The WSIB should review its existing financial incentives, develop an accreditation program, rewards for employers who qualify suppliers based on health and safety performance, and place less emphasis on claims costs and frequency in such programs.
- Reprisal complaints should be expedited.

It is anticipated that all of the panel's recommendations will be implemented by the Ministry of Labour.

In its submissions to the panel, the ECAO argued for clarification in the roles of the Ministry of Labour, the WSIB and the Health and Safety Associations (including the CSAO). We argued that prevention should be the mandate of the HSAs, not the Ministry (who is responsible for enforcement) or the WSIB (who insures workplace parties against accidents and injuries). We endorsed minimum qualifications for health and safety trainers, safety training standards and universal entry-level training, and early education for students in high school. We highlighted the efforts of the electrical construction industry in such programs as the ESC's "Just Don't Ask" campaign. We also recommended a single construction worker ID card to demonstrate trade certification, WSIB registration and safety training certification. Moreover, we recommended the creation of a central training registry to eliminate duplication of training from one employer to the next for the same worker.

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We also recommended that experience rating systems continue at the WSIB, but be focused only on insurance principles related to costs. In addition to these incentives, we recommended that other incentives and recognitions be created for employers who are leaders in OHS and who regularly exceed minimum standards of safety.

In early 2011, the WSIB created a Funding Review. It created an independent review panel, chaired by Professor Harry Arthurs. The Arthurs review has been actively engaged in expert consultations and public hearings for several weeks. The ECAO has provided written submissions and made an oral presentation to the Funding Review panel in a public hearing on April 5, 2011.

The primary mandate of the Funding Review is to review the current funding model for the insurance fund managed by the WSIB. A considerable concern giving rise to the review is the significant increase in the unfunded liability (the portion of future claims costs on existing claims that are not currently fully funded) to an amount approaching \$12 billion. Stakeholder input was requested on six issues:

- Funding
- Premium rates
- Rate groups
- Employer incentives
- Occupational disease claims
- Benefits indexation

In its submissions, the ECAO recommended that the WSIB incrementally move towards a full funding target (on a 20-year plan), keeping in mind the difficulties a sudden increase in premiums would cause for the economy. Upon retirement of the unfunded liability, the ECAO recommended that the funding target be increased to 110 per cent, to allow additional future funding to accommodate fluctuations in investment performance, Income Tax Act changes and other economic variables.

The ECAO recommended that premium rates be set each year with a view to the performance of a rate group or class as a whole, but also

with a view to the performance of each individual employer within that rate group. In so setting premium rates, the performance of an employer over a seven to 10 year period should be used. The ECAO also encouraged that a retrospective experience model should remain in place in a single, simplified program that applies to all employers, and that would allow incentives for single-year performances.

The ECAO did not recommend substantial changes to the rate group model, but did encourage a modification for multi-trade contractors to allow for classification based on trades rather than based on the contract as a whole. This approach, in our view, would allow for more favourable classification of electrical trades when engaged in multi-trade contracts. We also recommended that non-licensed electrical workers should not be included in rate group 704.

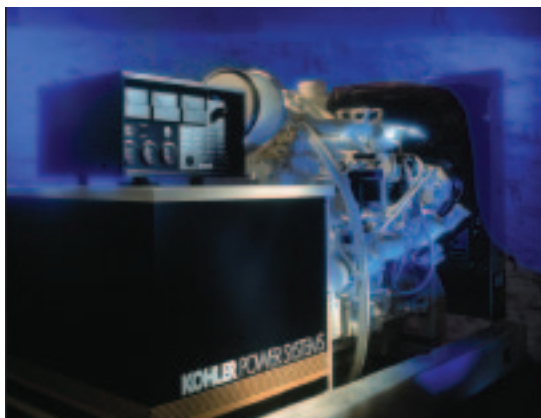
We recommended that long-latency occupational disease costs should continue to be excluded from experience rating, but that where the disease process was understood at the time of exposure that costs should be apportioned to the industry class or rate group that is solely linked to the onset of the disease. For example, silicosis would become the responsibility of the mining industry class and not all employers at large.

We anticipate that a further round of consultation will proceed later this year. A final report from the Funding Review is not expected until late 2011 or early 2012.

Rob Boswell is a lawyer and partner with Boswell Chapman Professional Corporation, a litigation firm located in Barrie, Ontario. Since 1996, Rob has represented and advised employers on matters relating to workplace safety and insurance law and occupational health and safety law. Rob regularly represents employers in the construction sector and has acted as a legal consultant for the ECAO for several years.

Rob is also very active with the Ontario Bar Association have twice served as the chair of the Ontario Bar Association's Workers' Compensation Section. ECAO is pleased to congratulate Rob Boswell as this year's winner of the Ron Ellis Award for excellence in workers' compensation.

Mr. Boswell may be contacted at 705-719-2200 or rboswell@boswellchapman.com.



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Impact of Overtime on Electrical Labor Productivity: A Measured Mile Approach

By Dr. Awad Hanna

Electrical contractors are frequently faced with the need to compress or accelerate the construction schedule as a result of added scope, delays and/or a late start of activities. The most common approach to schedule acceleration is the use of overtime and/or extended overtime. Extended overtime occurs when workers are required to work more than 40 hours per week for longer than two consecutive weeks. Extended overtime can be implemented using a variety of crew scheduling techniques, including five work-days at 10 hours per day per worker – also known as 5-10s – or by using 5-12s, 6-10s, 6-12s, 7-10s, or 7-12s. However, research has shown that extended overtime results in increased fatigue, decreased productivity, a greater risk for injuries or accidents, and increased absenteeism and turnover. As a result, extended overtime significantly increases the cost of construction projects.

Past research studies concluded that placing workers on scheduled overtime reduces labour productivity. Although several research efforts have studied the effect of overtime on labour efficiency, these studies have unknown data sources and were conducted many years previously.

A recent study commissioned and published by Electri International and authored by Professor Hanna, President of Hanna Consulting Inc., and Professor of Construction at the University of Wisconsin-Madison focused on the analysis of scheduled and unscheduled (sporadic) overtime on labour productivity

using the Measured Mile Method. The Measured Mile Method (MMM) is the gold standard of productivity loss measurements. This approach compares the unit productivity levels during unimpeded time (during the reference schedule) to those during impacted time (when using overtime) in order to determine how significantly the project's productivity was impacted. The theory is that the difference between a contractor's

actual inefficient productivity and an identified normal productivity is the amount of excess cost to the contractor as a direct result of labour inefficiencies and loss of productivity. As it is a reliable and widely accepted method, this new study utilizes MMM to form the basis of a model to predict and forward price overtime labour inefficiencies. The MMM was successfully used in the *Natkin & Co. v. George A. Fuller Co.* (347

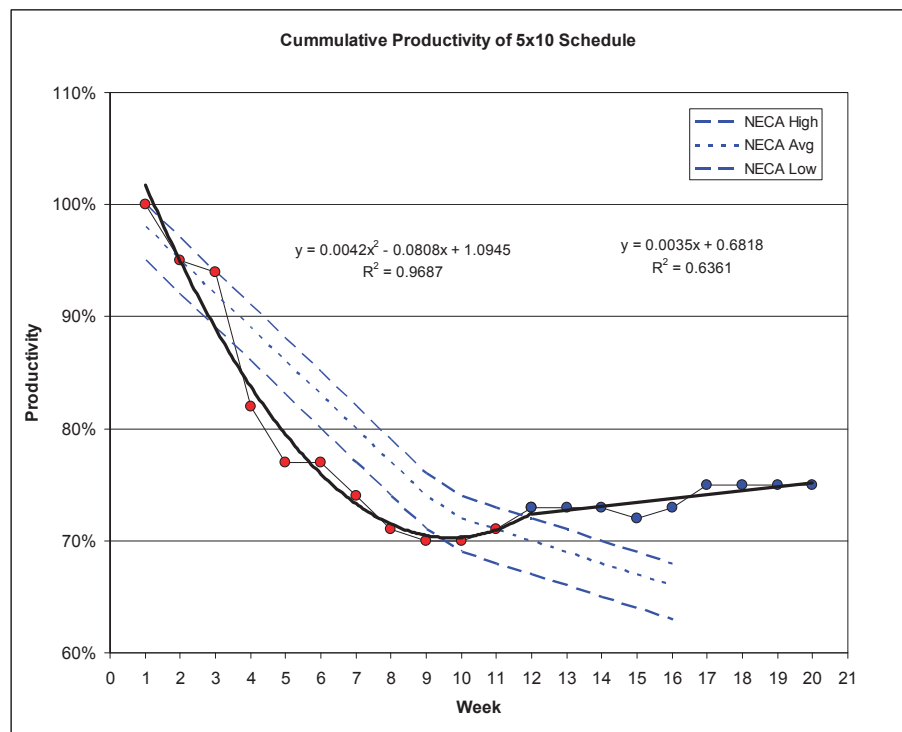


Figure 1- 5-10 model and Comparison to 1969 NECA Model

F. Supp. 17(W.D. Mo. 1972)) case: the court found that comparing the unit costs during the impacted and unimpacted periods was a reasonable manner in which to compute the damages, and Natkin was awarded its lost productivity damages. Moreover, in *Clark Concrete Contractors, Inc v. General Services Administration* (GSBA No. 14,340, 99-1 BCA (CCH) (1999)), the Board permitted Omni (the contractor) to recover damages of more than \$1 million for lost productivity based on the measured mile analysis.

There were two components of this new study: qualitative and quantitative. The qualitative aspect aims to document the views of electrical contractors regarding the use of overtime and other schedule compression techniques such as overmanning and shiftwork. The quantitative component deals with macro and micro analysis of overtime. The macro and micro approaches are used for analyzing the impact of both sporadic and scheduled overtime. The macro approach is used to analyze projects where no fixed overtime schedule is utilized or mixed work schedules are used throughout a week. The micro approach is used to analyze projects that utilize a fixed overtime schedule, such as 5x10 or 6x10 throughout a certain number of weeks. This new study presents the results of a statistical analysis of productivity data collected from several projects that used a variety of overtime scheduling techniques. The statistical analysis includes several productivity models that can be used to estimate electrical labour inefficiency within a project, given both its scheduled overtime per week and the total successive number of weeks of overtime. Figure 1 compares the results of the new and old NECA study on the impact of 5x10 overtime schedule on labour productivity.

Additional conclusions and scope highlight the findings of this study:

1. Placing an electrical crew on scheduled or unscheduled overtime reduces labour productivity and increases labour costs.
2. A greater number of hours worked beyond the regular 40 hours per week is related to higher productivity losses.

3. There is a direct correlation between labour inefficiency and the duration of overtime use.
4. Despite productivity losses related to overtime, placing an electrical crew on overtime schedule is more efficient than overmanning.
5. The data collected for this study was limited to electrical workers for projects executed between 2004 and 2008.
6. The measured mile method was used in this study, which compares periods of time when the regular 40-hour work week was utilized to overtime schedules of 50 hours or more. The measured mile technique is a widely accepted and accurate method of capturing labour inefficiency.

Use of The New Study

It is widely and legally recognized that inefficiency factors cited in the National Electrical Contractors Association (NECA) study and



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other similar studies should be used as a guide and not as absolute qualification of overtime impact. This author believes that the best use of this study is for "FORWARD PRICING", i.e., BEFORE the work is executed for the selected overtime schedule (i.e., 5x10, 6x10, etc.). However, in case of sporadic use of overtime, one statistical model developed in this study, the "Macro Model", was produced using completed projects with a mix of overtime schedule, and can be used "after-the-fact."

This study enhances the ability of electrical contractors to rely on published scientific studies. It is recommended that forward pricing for a change request be determined before expending cost. The authors of this study recommend requesting the appropriate change request, as most construction contracts require electrical contractors to do.

To order a copy of the new overtime study, contact Lucy Roberts at LRoberts@ecao.org

Dr. Hanna is a Professor of Civil Engineering at the University of Wisconsin-Madison. He can be reached at 608-263-8903 or hanna@engr.wisc.edu. Dr. Hanna is also an author of a major book of Construction Labor Productivity Management & Methods Improvement. For more information about the productivity book, see the following link

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Construction Labor Productivity Management and Methods Improvement

Dr. Awad S. Hanna, University of Wisconsin-Madison

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