



***PUBLIC INTEREST ADVOCACY CENTRE***  
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**ONE Nicholas Street, Suite 1204, Ottawa, Ontario, Canada K1N 7B7**

Tel: (613) 562-4002. Fax: (613) 562-0007. e-mail: [piac@piac.ca](mailto:piac@piac.ca). <http://www.piac.ca>

Michael Buonaguro  
Counsel for VECC  
(416) 767-1666

March 5, 2010

**VIA MAIL and E-MAIL**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge St.  
Toronto, ON  
M4P 1E4

Dear Ms. Walli:

**Re: EB-2009-0143**

Please find enclosed the submissions of VECC in the above noted proceeding.

Yours truly,

Michael Buonaguro  
Counsel for VECC  
Encl.

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sch.B, as amended;**

**AND IN THE MATTER OF an Application by Essex Powerlines Corporation pursuant to section 78 of the *Ontario Energy Board Act* for an Order or Orders approving just and reasonable rates for the delivery and distribution of electricity.**

**FINAL SUBMISSIONS**

**On Behalf of The**

**VULNERABLE ENERGY CONSUMERS COALITION (VECC)**

**March 5, 2010**

**Michael Buonaguro  
Public Interest Advocacy Centre  
34 King Street East  
Suite 1102  
Toronto, Ontario  
M5C 2X8**

**Tel: 416-767-1666  
E-mail: [mbuonaguro@piac.ca](mailto:mbuonaguro@piac.ca)**

## **1 The Application**

- 1.1 Essex Powerlines Corporation (“EPL”) filed an application (“the Application”) with the Ontario Energy Board (“the Board” or “the OEB”) on September 28, 2009, under section 78 of the Ontario Energy Board Act, 1998 for electricity distribution rates effective May 1, 2010.
- 1.2 The process included a Settlement Conference held on February 3, 2010. Subsequently, a Partial Settlement Agreement was filed with the Board on February 24, 2010. This Partial Settlement Agreement was accepted by the Board on March 3, 2010.
- 1.3 The Agreement identified eight unsettled issues<sup>1</sup> which the parties agreed would be addressed through written submissions. The following argument provides VECC’s submissions on several of the unsettled issues where VECC wishes to make specific comments.

## **2 Production of a Lead Lag Study for Next Cost of Service Application**

- 2.1 In the current Application EPL has calculated the 2010 working capital allowance based on 15% of its OM&A and projected 2010 cost of power expenses<sup>2</sup>. VECC notes that, based on the supporting schedules filed with the Settlement Agreement, the working capital component of EPL’s rate base is \$8,119,276<sup>3</sup>. Using EPL’s weighted average cost of capital<sup>4</sup> consistent with the Board’s new Cost of Capital policy this translates into \$566,725 in terms of 2010 revenue requirement – even before any allowance for PILs. This means that each percentage point of the 15% working capital allowance increases the annual revenue requirement by almost \$40,000 – without even considering tax impacts. Over the course of a four-year IRM period this translates into roughly \$160,000 per

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<sup>1</sup> Page 13

<sup>2</sup> Exhibit 2, Tab 1, Schedule 1, page 2

<sup>3</sup> Appendix A, page 142

<sup>4</sup> 6.98% per Appendix A. VECC notes that this based on the 9.75% ROE from the Board’s 2009 Cost of Capital Report. The ROE value set by the Board for 2010 is actually 9.85%

percentage point.

- 2.2 VECC notes that lead-lag studies undertaken by other Ontario electricity distributors have resulted in working capital allowances that are less than 15% of OM&A and cost of power expenses. The most recent example is Hydro One Networks' 2010/2011 Rate Application where the working capital was just under 12% for each year<sup>5</sup>.
- 2.3 VECC submits that, given the evidence that a lead-lag study could reduce the requirement for working capital by a couple of percentage points and the material impact this would have on EPL's revenue requirement, EPL should be directed to undertake a lead-lag study as part of its next rebasing rate application. In VECC's view the likely cost of such a study is more than offset by the potential benefits to customers over the rebased year and subsequent IRM years.

### **3 The Appropriate ROE**

- 3.1 The second unsettled issue is appropriateness of the ROE resulting from the application of the Board's 2009 Cost of Capital Report.
- 3.2 VECC has reviewed a draft of Energy Probe's submissions on this issue and supports those submissions: VECC submits that as a general principle, any costs which are not incurred by the utility, i.e., in this case flotation costs as included in the ROE through a 50 basis point adder but not incurred by the utility, should not be recovered from the ratepayer.
- 3.3 VECC also notes that the Board has just issued its Cost of Capital Parameter Updates for 2010 Cost of Service Applications. The 2010 rate year values for Return on Equity and the deemed Long-Term Debt rates are 9.85% and 5.87% respectively. During the recent consultation process established by the Board to review its existing approach to determining the cost of capital parameters (EB-2009-0084), there was general consensus among the experts appearing that the

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<sup>5</sup> EB-2009-0096, Exhibit D1-1-4, page 1

spread between the borrowing costs for electric distribution utilities and their allowed ROE should be in the order of 200 to 300 basis points<sup>6</sup>.

- 3.4 In light of this, VECC submits that the allowable ROE for EPL for 2010 should be no more than 325 basis points in excess of the 5.87% deemed long term debt rate set by the Board for 2010 and that the Board's "calculated" value of 9.85% is unreasonable. There is nothing unique about EPL's circumstances that would suggest its ROE should fall outside these norms. As result, VECC submits that the ROE for EPL should be set at no more than 9.12%.

#### **4 OMA: Addition of the Position of Regulatory Affairs Manager**

- 4.1 EPL's 2010 OM&A expenditure forecast includes \$108,750 for a Regulatory Manager position<sup>7</sup>. In its Application<sup>8</sup>, EPL states that the need for this position arises from the recent changes to the filing guidelines for distribution applications, the need for ongoing analysis, load forecast modeling, the onus on accuracy and benchmarking. It also notes that with the GEGEA and constant new initiatives and changes in requirements by the OEB, EPL desires to become more actively involved in these processes.
- 4.2 VECC notes that the position was approved by EPL's Board of Directors in September 2009<sup>9</sup> (at the same time as 2010 Rate Application). As a result, this position will be addressing EPL's regulatory requirements during its IRM period and the costs are over and above the rebasing costs already included in the 2010 revenue requirement. Furthermore, given EPL's size, VECC questions the need for it to be involved wholly or substantially or on its own in the various Board initiatives which may occur over the next few years.
- 4.3 VECC also notes that, in this regard, EPL's 2010 budget also includes a new Special Customer Accounts Manager position whose duties include "track and

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<sup>6</sup> Transcript Volume #1, pages 73, 95 and 137 and Volume #2, page 122

<sup>7</sup> Proposed Settlement Agreement, page 7 and Energy Probe #26

<sup>8</sup> Exhibit 4, Tab 4, Schedule 1, page 6

<sup>9</sup> Board Staff #13

participated in ... policy consultations and keep LDC staff updated with respect to the dynamic changes in policy”<sup>10</sup>. As a result, VECC questions whether a full time Regulatory Affairs Manager is warranted and prudent at this time. Overall, VECC submits that the cost of the Regulatory Affairs Manager should not be included in EPL’s 2010 rates.

## **5 Small Business Tax Deduction**

5.1 VECC has reviewed and adopts Energy Probe’s submissions on this matter.

## **6 The Level of Non-Utility Revenues and Inclusion of Non-Utility Revenues in Revenue Offsets**

6.1 EPL has excluded Non-Utility Operations Revenues (Account #4375) and Non-Utility Operations Expenses (Account #4380) from the determination of Revenue Offsets. EPL’s rationale<sup>11</sup> for doing so is that the OEB’s 2006 EDR model excluded these account from “Revenue Offsets” and they are not aware of any Board Decisions where these accounts were explicitly included in the calculation of revenue requirement.

6.2 VECC notes that in May 2009 the Board issued an update to Chapter 2 of its Filing Guidelines for Transmission and Distribution Applications. This new chapter dealt specifically with Cost of Service Rate Applications. Appendix 2-D of the Chapter sets out the accounts (from the USOA) to be included in the determination of Other Operating Revenue. VECC notes that both Accounts #4375 and #4380 are listed as accounts to be included. As result, VECC submits that based on the Board’s most recent direction these accounts are to be included in the determination of the revenue offsets to the Service Requirement.

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<sup>10</sup> Exhibit 4, Tab 4, Schedule 1, page 12

<sup>11</sup> Energy Probe #20

## **7 The Appropriate Rate Rider for the Recovery of the Global Adjustment Sub-Account**

- 7.1 The Settlement Agreement<sup>12</sup> acknowledges Board Staff's interest in the approach used by EPL to refund/recover the balance in Account #1588 RSVA Power Account – Global Adjustment Subaccount. The issue is whether the amounts allocated to each class should be recovered from all customers or just from non-RPP customers.
- 7.2 VECC submits that, in principle, the use of a separate rate rider for non-RPP customers is the appropriate resolution of this issue. VECC recognizes that in certain circumstances distributors' billing systems are not capable of creating distinctions among members of the same class with respect to rate riders. In such circumstances, a question then arises as to whether the cost of a patch or upgrade to permit such intra-class rate riders is justified by the benefits. In EPL's case it is not clear whether its billing system is capable of managing a separate rate rider for the disposition of these costs. Until the potential cost implications are clear, the Board should refrain from directing EPL to adopt the approach suggested by Board Staff.

## **8 Recovery of Reasonably Incurred Costs**

- 8.1 VECC submits that its participation in this proceeding has been focused and responsible. Accordingly, VECC requests an award of costs in the amount of 100% of its reasonably-incurred fees and disbursements.

Respectfully Submitted on the 5<sup>th</sup> Day of March 2010.

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<sup>12</sup> Page 2