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December 20, 2011

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: Vulnerable Energy Consumers Coalition (VECC)
Festival Hydro Inc. EB-2011-0167
Final Submissions of VECC

Please find enclosed the submissions of VECC in the above-noted proceeding. We have also directed a copy of the same to the Applicant.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC
Encl.

cc: Festival Hydro Inc.
Ms. Debbie Reece

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EB-2011-0167

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an Application by Festival Hydro Inc. for an order or orders approving or fixing just and reasonable distribution rates to be effective May 1, 2012.

FINAL SUBMISSIONS

On Behalf of The

Vulnerable Energy Consumers Coalition (VECC)

December 19, 2011

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1 The Application

1.1 Festival Hydro Inc. ("Festival Hydro", "the Applicant", or "the Utility") filed an application ("the Application") with the Ontario Energy Board ("the Board" or "the OEB"), under section 78 of the *Ontario Energy Board Act, 1998* for electricity distribution rates effective May 1, 2012. The Application was filed in accordance with the OEB's guidelines for 3rd Generation Incentive Regulation which provides for a mechanistic and formulaic adjustment to distribution rates between cost of service applications.

1.2 As part of its application, Festival Hydro included adjustments to revenue to cost ratios and a request to recover the impact of lost revenues associated with various conservation and demand management (CDM) activities (i.e. an LRAM recovery). The following sections set out VECC's final submissions regarding these two aspects of the application.

2 Revenue to Cost Ratios

2.1 In Festival Hydro's 2010 Cost of Service (COS) Decision and Order (EB-2009-0263), the Board directed Festival Hydro in 2011 to move street lighting and sentinel lighting half way toward their 70% lower target, USL customers down to 120% and residential Hensall customers to 91.00%. In 2012, the 2nd year phase of adjustments is to move street lighting and sentinel lighting to 70% and residential Hensall to 99.00%.[1]

2.2 In response to Board Staff Interrogatory # 3 (a), Festival Hydro updated the Revenue to Cost Workform to adjust the ratio for GS>50KW down to 81.31% as per the Board's Decision in EB-2009-0263.

2.3 VECC has reviewed the final revenue to cost ratio adjustments proposed by Festival Hydro and submits that:

- the revenue to cost ratio adjustments are in accordance with the EB-2009-0263 Decision; and

- the Revenue to Cost Ratio Workform has been completed appropriately.

[1] Section 4. Revenue to Cost Ratio Adjustments, Page 6

3 Lost Revenue Adjustment Mechanism (LRAM Recovery)

3.1 Festival Hydro applied to the Board in this application for the recovery of $191,652.72 of lost distribution revenue through a two-year rate rider effective May 1, 2012, as a result of the successful implementation of CDM programs.

3.2 Festival Hydro has one previously approved LRAM claim in 2011 (EB-2010-0083) in the amount of $459,010.83 up to the end of 2009, for combined CDM program efforts undertaken between 2006 and 2009.[2]

3.3 The LRAM claim in this application includes incremental amounts related to 2010, as well as persistence in 2010 for programs implemented in 2009 and prior, and persistence in 2011 related to programs implemented in 2010 and prior.

3.4 Festival Hydro's original LRAM claim in this application was based on 2006-2009 Final OPA CDM Program Results and 2010 CDM Program Results Summary. Festival received the Final OPA 2010 CDM Program Results Evaluation Report on November 15, 2011.[3] Festival Hydro updated its LRAM claim to reflect the Final 2010 Program Results provided by the OPA on December 5, 2011 in response to Board Staff and VECC interrogatories.

3.5 The Table below shows the updated LRAM claim by customer class. Festival Hydro chose not to collect carrying charges on the LRAM claim amount.[4] The LRAM claim revisions are due to updated 2010 final program evaluation results and adjustments to persistent results into 2011.[5]

Rate Class	**Original LRAM Claim**[6]	**Updated LRAM Claim**[7]
OPA Residential	$88,114.24	$88,806.86
3rd Tranche Residential	$21,037.69	$21,037.69
GS< 50 kW	$65,922.52	$65,971.04
GS 50-4,999 kW	$15,784.64	$10,652.47
Large Use	$829.63	$ 1,176.15
Total	**$191,652.72**	**$187,644.21**

3.6 In the Board's Decision in the Horizon Application (EB-2009-0192), the Board indicated that distributors are to use the most current input assumptions which have been adopted by the Board when preparing their LRAM recovery as these

[2] Burman Energy LRAM Report, Page 2
[3] Response to Board Staff Interrogatory # 14 (d)
[4] Response to VECC Interrogatory # 7 (c)
[5] Response to Board Staff Interrogatory # 14 (h)
[6] Burman Energy LRAM Report, Page 4
[7] Updated Attachment C – LRAM Totals, December 5, 2011

assumptions represent the best estimate of the impacts of the programs.

OPA Funded Programs

3.7 VECC accepts for LRAM purposes, the OPA verification of the energy savings for Festival's 2006 to 2010 OPA-funded CDM programs using the OPA's Final 2006-2009 CDM Program Results and the OPA's Final 2010 CDM Program Results.

3.8 VECC submits Festival Hydro has appropriately demonstrated through interrogatory responses that savings for the OPA's 2006 Every Kilowatt Counts Program regarding 13-15 W Energy Star CFL's are not included in the LRAM claim. [8]

3.9 Festival Hydro has confirmed that no adjustments to the claim are needed as the LRAM claim already accounts for any measures that expired before the full span of the LRAM claim.[9]

3rd Tranche Programs

3.10 For the 3rd Tranche LRAM claim, Festival Hydro has used the latest available information on input assumptions, i.e., the 2011 Prescriptive Measures and Assumptions Release Version 1, March 2011.

3.11 VECC has reviewed the responses to interrogatories and confirms that the correct input assumptions were applied to the residential 3rd tranche LRAM claims.

3.12 Festival Hydro has confirmed that measure lives have already been taken into account for Third Tranche CDM Programs and no changes are necessary to the Third Tranche calculations.[10]

Load Forecast

3.13 The Board's Guideline states "The LRAM is determined by calculating the energy savings by customer class and valuing those energy savings using the distributor's Board-approved variable distribution charge appropriate to the class. The calculation does not include any Regulatory Asset Recovery rate riders, as these funds are subject to their own independent true-up process. Lost revenues are only accruable until new rates (based on a new revenue requirement and load forecast) are set by the Board, as the savings would be assumed to be

[8]Response to VECC Interrogatory # 6 (c) (d)
[9] Response to VECC Interrogatory # 6 (d)
[10] Response to VECC Interrogatory # 6 (d)

incorporated in the load forecast at that time."[11]

3.14 Festival Hydro's last Board approved load forecast was included in Festival Hydro's 2010 cost of service rate application (EB-2009-0263) for rates effective May 1, 2010. The load forecast projected and submitted by Festival for the 2010 test year was 579.87 GWh. The load forecast was based on 11 years of actual monthly data (1998 to 2008).[12]

3.15 In its Decision in EB-2009-0263, the Board noted that a number of load forecasts and averages have been suggested by the parties for the test year and that each of the test year forecasts has some degree of deficiency. The Board indicated that the most appropriate final forecast likely lies within the range of forecasts and that the average of the regression results in a billed energy forecast of approximately 600.0 GWh. The Board adopted 600 GWh as the test year forecast.

3.16 The Board further observed that "Festival Hydro commented on the effects of CDM and reduced manufacturing load in relation to the negative population coefficient. However, the Applicant failed to provide data to support their comments and failed to demonstrate efforts to include these factors and any other local factors in the regression model. Festival Hydro may wish to undertake further work in this area for its next cost of service application in order to better reflect the impacts of CDM and local economic factors". [13]

3.17 In response to Board Staff and VECC interrogatories, Festival Hydro indicates that the because the argument that it put forward regarding the impact of CDM was not factored in when the 2010 forecasted load of 600 GWh was established, it is fair to say that there were no savings included in Festival Hydro's last Board approved load forecast, for CDM programs deployed from 2006 to 2010 inclusive.[14]

3.18 VECC does not agree with Festival Hydro that no savings for CDM programs deployed from 2006 to 2010 are included in the load forecast.

3.19 First, VECC notes that the load forecast model utilized by Festival Hydro in its 2010 COS Application used 11 years of historical data for the period 1998 to 2008. As result, VECC submits that the impact of 2006 to 2008 CDM programs is already included in the forecast.

3.20 Second, VECC submits that although Festival Hydro did not include a specific variable to reflect CDM savings on a forecast basis, persisting impacts related to

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[11] Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18
[12] EB-2009-0263, Exhibit 3, Tab 2, Schedule 1
[13] EB-2009-0263 Decision
[14] Response to Board Staff Interrogatory # 14 (b) & VECC Interrogatory # 3 (b)

CDM are included in the forecast. The regression model would capture not only historical savings but would carry forward into future years trends in the historical data regarding increased CDM savings over time that would be implicit in the 2010 forecast.

3.21 More specifically, VECC notes that the Board's concern about the 2010 load forecast was not the fact that CDM impacts had not been incorporated. Indeed, Festival used CDM impacts as the basis for explaining[15] the apparent counter-intuitive results of its proposed forecast (one of the two relied upon by the Board in establishing the 600 GWh). Rather, the Board's concern was that the purported impacts of CDM were not well supported[16].

3.22 In summary, VECC submits that there is already a recognition of lost sales (and therefore revenues) in 2010 from 2006 to 2008 CDM programs and additional 2009 and 2010 CDM programs accounted for in the 2010 load forecast. As there is no information available to indicate whether the savings implicitly included in the 2010 forecast are more or less than the actual impact of 2006 to 2010 CDM programs in 2010, VECC submits that based on these considerations and the Board's Guidelines, lost revenue for Festival Hydro's 2006 to 2010 programs are not accruable in 2010 or 2011.

Claim Period

3.23 Festival proposes that the LRAM claim for 2006 to 2010 CDM Programs cover the years January 1, 2010 to December 31, 2011. 2011 calculations are persistent values from 2006-2010 programs only (i.e., excluding results from 2011 program initiatives).[17]

3.24 The Board's Guidelines indicate that "LRAM is a retrospective adjustment, which is designed to recover revenues lost from distributor supported CDM activities in a prior year."[18]

3.25 VECC submits that Festival is calculating estimated lost revenues for 2006 to 2010 CDM Programs in 2011 based on the OPA's Measures and Assumptions list and OPA verified results available at the timing of this application, which is not appropriate or in accordance with the Guidelines.

3.26 VECC references Page 34 of the Board's Chapter 2 Filing Guidelines for Transmission and Distribution Applications dated June 22, 2011:

"Distributors intending to file an LRAM or SSM application for CDM Programs

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[15] EB-2009-0263 Decision, pages 7 & 10
[16] EB-2009-0263 Decision, page 10
[17] Response to VECC Interrogatory # 6 (f)
[18] Guidelines for Electricity Distributor Conservation and Demand Management, EB-2008-0037, Page 18

funded through distribution rates, or an LRAM application for CDM Programs funded by the OPA between 2005 and 2010, shall do so as part of their 2012 rate application filings, either cost-of-service or IRM. If a distributor does not file for the recovery of LRAM or SSM amounts in its 2012 rate application, it will forego the opportunity to recover LRAM or SSM for this legacy period of CDM activity."

3.27 VECC submits that the Board's updated Chapter 2 Guidelines do not specify the LRAM recovery period. VECC interprets the Board's guideline to mean that if a distributor does not file for the recovery of LRAM/SSM for 2005 to 2010 CDM programs, to the end of the program implementation period, i.e. to the end of 2010, it would forgo the opportunity to do so. VECC does not believe the Chapter 2 update is intended to override the requirement that the most current OPA Measures and Assumptions lists, as updated by the OPA from time to time, represent the best estimate of losses associated with a distributor's CDM programs.

3.28 If the Board accepts Festival Hydro's submissions on the load forecast and approves Festival Hydro's LRAM claim, VECC submits that in the absence of OPA input assumptions and verified final results for 2011, the LRAM claim should be adjusted to cover only lost revenues in 2010.

3.29 In response to VECC Interrogatory # 7 (a), Festival indicates that if the proposed 2011 lost revenues were removed, the amount of the LRAM claim in 2010 would be $97,595.31.

3.30 Should the Board approves Festival Hydro's LRAM claim to December 31, 2011, VECC submits that Festival should file an updated LRAM application to recover or refund any variance between the requested amounts and verified amounts for 2011 based on the (still to be published) OPA Measures and Assumptions List and OPA verified results for this period.

3 Recovery of Reasonably Incurred Costs

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

All of which is respectfully submitted this 19th day of December 2011.