February 13, 2009

BY EMAIL & BY COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

Board File No. EB-2008-0226
COLLUS Power Corp. – 2009 Rates Rebasing Application
Energy Probe Argument

Pursuant to Procedural Order No. 5, issued by the Board on January 21, 2009, please find two hard copies of the Argument of Energy Probe Research Foundation (Energy Probe) in the EB-2008-0226 proceeding. An electronic version of this communication will be forwarded in PDF format.

Should you have any questions, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc: Darius Vaiciunas, COLLUS Power Corp. (By email)
Tim Fryer, COLLUS Power Corp. (By email)
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EB-2008-0226

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

AND IN THE MATTER OF an application by **COLLUS Power Corp.** for an order approving just and reasonable rates and other charges for electricity distribution of electricity to be effective May 1, 2009.

ENERGY PROBE RESEARCH FOUNDATION
("ENERGY PROBE")

ARGUMENT

February 13, 2009

COLLUS POWER CORP.
2009 RATES

EB-2008-0226

ARGUMENT OF ENERGY PROBE RESEARCH FOUNDATION

INTRODUCTION

This is the Argument of the Energy Probe Research Foundation ("Energy Probe") related to the setting of 2009 rates for COLLUS Power Corp. ("COLLUS") effective May 1, 2009.

This Argument has been structured to reflect the major components of the COLLUS evidence. Where readily available, Energy Probe has attempted to provide the impact of its submissions on the revenue requirement of COLLUS. However, in order to minimize intervenor time and costs, a comprehensive impact analysis has not been undertaken. If the Board accepts any or all of the Energy Probe submissions, it is assumed that the direct and indirect impacts will be determined by COLLUS and reviewed by intervenors and Board Staff through the associated draft rate order. An example of a comprehensive impact analysis would include the direct impact on rate base of a reduction in $10,000 in OM&A expenses and a $25,000 reduction in capital expenditures. Depreciation expense would also be directly impacted by the capital expenditure change. The indirect impacts would include the change in total cost of capital and taxes (due to CCA, interest and OM&A expense changes).

RATE BASE

a) Working Capital

Energy Probe accepts the approach taken by COLLUS to calculate the working capital allowance component of rate base, with the adjustments noted below. However, Energy Probe continues to believe that the 15% methodology may be overstating the required allowance for working capital and recommends that the Board direct COLLUS to prepare a working cash (lead lag) study for its next rebasing application.

i) Cost of Power

Energy Probe submits that the cost of power component of the working capital allowance should be updated to reflect the most recent cost of power forecast presented to the Board. It should also be updated to reflect the forecast of network and connection transmission services provided by Hydro One Networks.

Energy Probe notes that COLLUS accepted the proposition to update the working cash allowance and resulting rate base calculations using the most recent information available prior to the completion of the final submission (Energy Probe Interrogatory #8). Energy Probe submits that rather than the information available at the time of the final submission, the Board should direct COLLUS to update the calculation based on the latest information available to the Board at the time of its Decision if more recent information is available.

Energy Probe does, however, have concerns over the methodology used to calculate the commodity component of the cost of power. As shown in the response to Energy Probe Interrogatory # 8, COLLUS indicates that it will use an updated rate of $60.30 per mWh. Apparently this price would be used for all commodity volumes across all rate classes This price is the Average Supply Cost for RPP Consumers taken from the October 15, 2008 Regulated Price Plan Price Report. It is not clear to Energy Probe that this RPP price should be applied to all consumers. Energy Probe submits that the Board should direct COLLUS to estimate the kWh's that are associated with RPP consumers and the kWh's associated with non-RPP consumers and then apply the appropriate price to these two different sets of volumes to calculate the cost of power component of the working capital allowance.

ii) Changes to Controllable Expenses

Energy Probe submits that if the Board makes any adjustments to the controllable OM&A expenses in its Decision, these changes should be reflected in the calculation of the working capital component of rate base.

b) Capital Expenditures in 2009

COLLUS is forecasting a significant increase in the level of capital expenditures in 2009 relative to the actual expenditures in 2006 and 2007 and to the forecast for 2008. In particular, capital expenditures are forecast to be more than $3.0 million in 2009. The 2008 forecast is just under $1.9 million and the 2007 and 2006 actual expenditures were approximately $1.9 million and $0.6 million, respectively. These figures are taken from Tables 1 through 4 of Exhibit 2, Tab 2, Schedule 1.

The driver of the increase in 2009 is $1.9 million for construction of a new distribution station. The need for this station is, in part, driven by the forecast of future growth (Appendix C-2 of Exhibit 2, Tab 3, Schedule 1). In response to Board Staff Supplemental Interrogatory #1, COLLUS indicates that it has taken the economic situation into consideration when preparing its forecasts and does not believe that there is a need to modify its forecast. At the same time, however, COLLUS indicates in the same interrogatory response that it would be very receptive to any initiative that would provide for a variance account to track any lost revenue directly related to the loss of an industrial or larger commercial customer.

COLLUS provides further evidence that it was recently (November 14, 2008) advised by a large developer that they could be moving their planned development well ahead of schedule (Board Staff Interrogatory #3.6c). In addition, COLLUS notes the plans for the expansion of an existing commercial facility. On the other hand, COLLUS notes that it does have a number of industrial customers which are directly tied to the automotive industry (Board Staff Supplemental Interrogatory #1) where the demand could be significantly reduced.

Given the significant and rapidly changing economic developments that have taken place in the last several months of 2008 to the current time, Energy Probe submits that the Board should allow the inclusion of the cost for the new distribution station in rate base for 2009. However, it should also direct COLLUS to establish a variance account to track any changes in the revenue requirement if it is determined that this expenditure can be deferred from 2009 to a future year. Given the uncertainty surrounding the need for this project in the current economy, Energy Probe submits that this is a pragmatic approach to take. On one hand, it allows the utility to include this expenditure in rate base and earn a return on the investment and recover the depreciation associated with it for the test year. On the other hand, if the expenditure does not occur, or if the station is not completed during 2009, it protects ratepayers from paying a return on capital and depreciation on a project that is not in rate base in the test year. Given that this one project represents more than 60% of the total capital expenditures forecast for 2009 and is larger than the total capital expenditures of either 2006, 2007 or 2008, Energy Probe submits that this approach is reasonable for all parties involved.

OM&A EXPENSES

a) 2009 Rate Rebasing Costs

COLLUS is forecasting costs associated with the 2009 rates rebasing application of $160,000 (Energy Probe Interrogatory #16 & Board Staff Interrogatory #1.8). Further, COLLUS has included one-fourth of this cost in the revenue requirement for 2009. Energy submits that this is the appropriate approach to be taken for these costs, as this will recover the costs over the current test year and the following three years that will be subject to IRM.

Energy Probe submits that the estimated $160,000 cost includes three amounts that should be adjusted. COLLUS has included an estimated cost of $35,000 for a technical conference and a further $35,000 as the cost of an oral component of the process (i.e. hearing). Energy Probe submits that since neither of these took place in this proceeding, these costs should be eliminated. The third amount that Energy Probe believes should be adjusted is the intervenor cost figure of $50,000. This estimate was based on five intervenors being involved in the process. Energy Probe is only aware of four intervenors that have requested costs in this proceeding. Given this, Energy Probe submits it is reasonable to reduce the budget associated with intervenor costs by $10,000 to $40,000.

The total reduction in costs associated with the 2009 rates rebasing application would total $80,000 based on the above submissions of Energy Probe. This would result in a $20,000 reduction to the 2009 revenue requirement.

b) Transition to International Financial Reporting Standards (IFRS)

COLLUS has not adjusted their evidence to include any amounts in the 2009 revenue requirement for costs related to IFRS (Interrogatories Response Summary November 28, 2008). COLLUS has stated in this Summary that the implementation cost has been estimated at $100,000. In addition there is an estimated $30,000 per year expense for operation requirements. However, COLLUS fails to provide any evidence in support of these cost estimates. COLLUS indicates that "one of the many difficulties with determining our requirements to conform to IFRS is obtaining an understanding of how the OEB's regulatory requirements are going to be brought forward."

COLLUS has, however, requested the approval of a variance account for use in tracking the impact of the implementation costs associated with IFRS. Energy Probe's submissions in respect of this request are found below under the 'Deferral and Variance Accounts' heading.

c) Inflation Forecast and Impact on Wages

The following table shows that OM&A increases forecast for 2008 and 2009 are driven by increases in wages and benefits. The figures are taken from the response to VECC Interrogatory #20a.

	2006	2007	2008	2009
OM&A - Wages & Benefits	1,469,092	1,554,405	1,721,958	1,942,218
- % change		5.8%	10.8%	12.8%
OM&A - Other	1,678,335	1,731,392	1,808,353	1,855,630
- % change		3.2%	4.4%	2.6%
OM&A - Total	3,147,427	3,285,797	3,530,311	3,797,848
- % change		4.4%	7.4%	7.6%

As this table shows, the increases of 7.4% and 7.6% respectively for 2008 and 2009 in total OM&A costs are driven by increases of 10.8% and 12.8% in wages and benefit costs. Other OM&A costs are shown to have much more modest increases.

In response to VECC Interrogatory #20a and Board Staff Interrogatory #1.2b and c, COLLUS has indicated that wage increases have been budgeted to increase on average by 3.0%. Employee progression is over and above this average. In response to VECC Interrogatory #21a and b, the average wage increase shown is 4.0%, again before employee progression. These responses provide a breakdown of the annual increase in wage and benefits costs due to the change in FTE's and the wage increases and employee progression.

Energy Probe submits that these average wage increases are well above inflation forecasts and are out of date and out of tune with the current economic situation. The actual inflation rate for 2008 for Ontario was 2.3%, as reported in January, 2009 by Statistics Canada. More recent forecasts for 2009 are publicly available. In particular, BMO Capital Markets is forecasting inflation for Ontario of 0.3% based on their January, 2009 Provincial Economic Outlook. Similarly, TD Economics, in their December, 2008 Provincial Economic Outlook is forecasting an inflation rate of 0.5% for Ontario in 2009.

In light of the substantial changes in the inflation outlook from when COLLUS did their forecast, Energy Probe submits that the following changes should be made to their OM&A forecast for 2009.

First, since the inflation rate was substantially lower in 2008 at 2.3% as compared to the 3.0% forecast by COLLUS, the increase related to wages and benefits for 2008 of $167,552 should be reduced by $10,860 ($167,552 x 0.7 / 10.8) to reflect that actual inflation was 0.7 percentage points lower than the forecast of 3.0%. This leaves the increases related to employee progression in the forecast. This reduction of $10,860 should be carried forward as a base reduction for 2009.

Second, the increase related to wages and benefits for 2009 of $220,261 should be reduced by $43,020 ($220,261 x 2.5 / 12.8) to reflect a reduction in the forecasted inflation rate by 2.5% from 3.0% to 0.5%. Again this leaves the increases related to employee progression in the forecast.

In summary, Energy Probe submits that a reduction of $53,880 ($10,860 + $43,020) is appropriate given the lower actual inflation in 2008 and the lower forecast for 2009.

d) Overall Increase in OM&A Costs

COLLUS is proposing an increase in overall OM&A costs in 2009 of $267,538 or 7.58% over the 2008 forecasted levels. The increase forecast for 2009 is on top of an increase forecast for 2008 of 7.44% (Energy Probe Interrogatory #15).

Energy Probe submits that an increase in excess of 7% for two consecutive years in 2008 and 2009 does not appear to be reasonable in light on inflation over these years of 2.3% in 2008 and a forecast of 0.5% for 2009.

Based on the submissions of Energy Probe above in (a) and (c), there would be a reduction in the OM&A costs claimed for 2009 of approximately $73,880. The resulting increase over the 2008 forecast would be approximately $193,658, or 5.5%. Energy Probe submits that this is a much more reasonable increase than the 7.6% requested by COLLUS.

DEPRECIATION & AMORTIZATION

a) Half Year Rule for New Additions

A review of the depreciation expense by account for 2009, as shown in Table 4 of Exhibit 2, Tab 2, Schedule 1 shows that most of the accounts have a depreciation expense that appears to be calculated using the half year rule for new additions. In fact, the response to Energy Probe Interrogatory #5b (Schedule EP IR#5(b)-1, page 3) illustrates the use of the half year rule for vehicles (account 1930). In this example, 2009 additions total

$50,000 and the depreciation rate is 20%. The depreciation expense booked for 2009 related to this addition is $5,000, which is equal to one half of $50,000 times 20%.

However, the response to the Energy Probe interrogatory on pages 1 and 2 of the Schedule noted above show the calculation of the depreciation expense for software (account 1925) and substation equipment (account 1820) that do not use the half year rule for additions in 2009.

In particular, the addition of $60,000 in software in 2009 shows a depreciation expense of $12,000. The depreciation rate used for this account is 20% (Energy Probe Interrogatory #5a). Energy Probe submits that the depreciation amount associated with this addition in 2009 should be $6,000 to reflect the half year rule (i.e. $60,000 divided by 2 times 20%), for a reduction of $6,000.

Similarly, the addition of $1,900,000 in expenditures in the substation equipment shows a depreciation expense of $63,343. The depreciation rate used for this account is 3.33% (Energy Probe Interrogatory #5a). Energy Probe submits that the depreciation amount associated with this addition in 2009 should be $31,671 to reflect the half year rule (i.e. $1,900,000 divided by 2 times 3.33%), for a reduction of $31,672.

In addition to the two accounts noted above, it appears that the depreciation expense for underground conductors and devices (account 1845) is also overstated. The depreciation rate to be applied to this account is 4.0% (Energy Probe Interrogatory #5a). However, as the following calculation illustrates, the depreciation claimed is higher than it should be. The figures in the following calculations are taken from Table 4 of Exhibit 2, Tab 2, Schedule 1.

Opening Balance = $6,768,890.93 x 4.0% =	$270,755.64
Additions = $236,500 divided by 2 x 4.0% =	$4,730.00
Maximum Depreciation	$275,485.64

The depreciation claimed, as shown in Table 4 of Exhibit 2, Tab 2, Schedule 1 is $279,580, which is higher than the maximum calculated above. For the depreciation expense to reach the maximum none of the assets reflected in the opening balance could be fully depreciated. This is not likely to be the case. It is more likely that the half year rule has not been applied to this account, resulting in the depreciation expense being overstated by $4,730.

Energy Probe submits that the depreciation expense should be reduced in total by $42,402 to reflect changes to the three accounts discussed above.

The reduction in the revenue requirement associated with this decrease in depreciation expense would be partially offset by the increase in the return on equity and debt costs associated with the resulting increase in the remaining net book value and resulting rate base associated with the lower accumulated depreciation value.

b) Substation Equipment - Account 1820

In addition to the change related to the half year rule recommended by Energy Probe for this account, there is another change that should be reflected in the depreciation expense claimed for this account. As noted in part (a) above, the depreciation rate associated with this account is 3.33%. However, a review of page 1 of Schedule EP IR#5(b)-1 shows a depreciation expense claim for 2009 of $16,346 associated with capital additions of $267,296.17 in 2001. This represents a rate of approximately 6.1%. The column in the Schedule also shows that these 2001 additions are fully depreciated well before the 30 year life of these assets that is expected.

Utilizing the depreciation rate of 3.33% the depreciation expense in 2009 associated with the 2001 additions would total $8,901, for a reduction in the claimed expense of $7,445.

TAXES

Energy Probe submits that COLLUS should calculate its income and capital taxes using the most recent information available, including tax rates that are expected to be applicable to 2009. This would include any changes resulting from the recent federal budget. It would also include any other changes as the result of any provincial budget that is known to the Board and other parties when the Decision is issued.

a) Capital Tax

Energy Probe agrees with the methodology used by COLLUS to forecast the capital tax in 2009 (Exhibit 4, Tab 3, Schedule 1). In addition, Energy Probe accepts both the tax rate of 0.225% and the exemption level of $15 million used by COLLUS in this calculation for 2009.

Energy Probe submits that the rate base changes that result from the change in the forecasted capital expenditures, changes in the working capital allowance and any further changes in capital expenditures and/or OM&A costs as determined by the Board should be reflected in this calculation.

b) Income Tax

i) Tax Rates

COLLUS used a total tax rate of 33.00% in the calculation of income taxes in 2009 (Exhibit 4, Tab 3, Schedule 1). This rate included a federal tax rate of 19.00% and a provincial tax rate of 14.00%.

In response to Energy Probe Interrogatory #19, COLLUS recognized that the rates used are not appropriate because their forecasted regulatory taxable income is less than $1.5 million for the 2009 test year. When regulatory taxable income is less than $1.5 million, the tax calculation should reflect the provincial small business income tax rates. Energy Probe submits that these rates are 5.50% applied to the first $500,000 of taxable income, a general tax rate of 14.0% for taxable income in excess of $500,000 and the claw back rate of 4.25% that is applicable to taxable income above $500,000 up to $1,500,000. Energy Probe submits that COLLUS should use the above noted provincial income tax rates and associated taxable income thresholds in the calculation of income taxes. The reduction in income taxes, with no other changes to the application, is a reduction of approximately $33,500 as shown in the response to Board Staff Interrogatory #5.1.

Energy Probe notes that COLLUS appears to agree to use these tax rates, both in response to Energy Probe Interrogatory #19 and by their use in the Updated version of Exhibit 7 dated January 9, 2009.

<u>ii) Impact of the Federal Budget</u>

The January 27, 2009 federal budget introduced two changes that may have an impact on the regulatory taxable income in 2009. The first of these is an increase in the small business limit. The budget increased the amount of business income earned by a small business that is taxed at the lower federal corporate tax rate of 11%, as compared to the general federal corporate rate of 19%, from $400,000 to $500,000. Given that the COLLUS taxable capital (rate base) is in excess of $15 million, this change does not appear to impact on COLLUS. However, Energy Probe notes that the proposed rate base is just over the $15 million threshold and any Board changes may reduce it below the threshold. If this were to be the case, then it is submitted that this change should be taken into account in calculating the federal portion of the corporate income taxes.

The second tax change does not appear to have an impact on COLLUS. This change increases the CCA deduction for computers and system software in Class 50 acquired after January 27, 2009 and before February, 2011 from 55% to 100%. It also eliminates the half-year rule. In other words, businesses can fully deduct the cost of these computers and systems software in 2009. As shown in Exhibit 4, Tab 3, Schedule 3, Table 2, COLLUS has not forecast the addition of any expenditures in this category. As a result there would be no change to the CCA deduction for income tax purposes.

<u>iii) Update to Regulatory Taxable Income</u>

Energy Probe submits that if the regulatory taxable income is changed as a result of the Board's Decision or adjustments that COLLUS has agreed to make, then the income tax calculation should also be updated to reflect the revised level of regulatory taxable income.

LOSS ADJUSTMENT FACTOR

COLLUS has calculated a three year average distribution loss factor of 1.0397 using data from 2005 through 2007, as shown in Table 1 in Exhibit 4, Tab 2, Schedule 7. COLLUS is proposing to use a supply facility loss factor of 1.0340. This figure is equal to the average over the period 2005 through 2007. The resulting total loss factor of these proposals is 1.0750 for secondary metered customers and 1.0643 for primary metered customers.

Energy Probe submits that the methodology proposed by COLLUS is appropriate and recommends their adoption. The use of the three year average for the distribution and supply facility loss factors is appropriate.

REVENUES

a) Forecast Methodology

COLLUS uses a methodology that relies on a single year (2004) of weather normalized historic load to forecast future loads. Energy Probe submits that there is no evidence to suggest that the normalized average use per customer would remain unchanged at the 2004 level. Improved energy efficiency would suggest that the normalized average use would be declining, but this could be partially or more than offset by changes in the use of electric appliances. However, given the lack of information to determine otherwise, Energy Probe submits that the Board should accept the assumption of no change in normalized average use for the purpose of setting rates in 2009.

Energy Probe recommends that the Board direct COLLUS to develop a forecasting methodology that generates a forecast of normalized average use for the weather sensitive rate classes.

The load forecast for each rate class would be based on a forecast for the number of customers in each rate class and a forecast of monthly normalized average use for each rate class. The latter could be based on an econometric estimation of average use based on a number of explanatory variables that could differ by rate class. These explanatory variables could include heating degree days, cooling degree days, days in the month, trends in conservation, etc. for residential customers to various economic indicators for the commercial and industrial dominated rate classes. The forecast of customers could be driven by economic activity and/or local developments and need not be based on an econometric approach but should reflect a monthly profile of customer additions based on historical additions.

Such a process would enable COLLUS to distinguish between the drivers of volumes by rate class. Forecasts for these drivers for the bridge and test years would then result in a more forward looking analysis.

b) Adjustments to the Forecast

Energy Probe submits that a number of adjustments should be made to the forecast as filed. The adjustments are listed below.

i) USL Customers and Volumes

COLLUS is forecasting a reduction in both the number of USL connections and volumes as shown in Table 3 of Exhibit 3, Tab 2, Schedule 2. In particular, the forecast decline in connections in 2009 is 8, or more than 10%.

COLLUS indicates that it expects the number of customers in the USL class to decrease within the next year as metering units continue to be added where possible (Exhibit 3, Tab 2, Schedule 2, page 1). Furth COLLUS indicates that any transfers for customers out of the USL class would be into the GS < 50 kW class (Board Staff Interrogatory #6.3). However, in response to VECC Interrogatory #16, COLLUS states that it does not anticipate any further conversion of the USL customers to the GS < 50 kW class in 2009 since this decision is solely in the hands of the customer and metering of USL loads is solely their choice. COLLUS further indicates that it has not been approached with any requests for individual metering of existing USL during the period covered by the rate application.

In light of the above, Energy Probe submits that there should be no decrease in the number of USL connections in 2009 as compared to 2008. Maintaining the USL connections at 76 in 2009 would increase the volume forecast by approximately 53,612 kWh to 509,314 kWh, or nearly 12%.

ii) Residential Customer Forecast

Energy Probe submits that the customer forecast provided by COLLUS at Exhibit 3, Tab 2, Schedule 2, Table 1 should not be accepted for the residential rate class. Energy Probe submits that this forecast is too low for both 2008 and 2009.

COLLUS is forecasting the addition of 236 residential customers in 2008, followed by the addition of 240 in 2009 (Exhibit 3, Tab 2, Schedule 2, Table 1). This follows increases of 208 in 2005, 100 in 2006 and 293 in 2007.

In response to Board Staff Interrogatory #6.2b, COLLUS provided the number of dwelling units created. The evidence indicates that there were 135 dwelling unites created in 2005, 302 in 2006 and 205 in 2007. To the end of October, 2008, there were another 374 dwelling units created.

In the response to Board Staff Second Round Interrogatory #4.2, COLLUS indicates that there is a lag between when a dwelling unit is created and when COLLUS adds the unit as a connection. Another difference is that some dwelling units are apartments and condominiums that could be bulk metered rather than individually metered.

As noted above, there can be a significant difference between the number of residential customers added in any year and the number of dwelling units created in that year. The following table illustrates this point.

Year	Net Customer Additions	Dwelling Units Created	Difference
2005	208	135	73
2006	100	302	(202)
2007	293	205	88
Average	200	214	(14)

It should be noted that the net customer additions also reflect the loss of existing customers due to disconnections, demolitions, etc. While the numbers may not match up on a year to year basis, on average they are very close. In particular, on average over the 2005 through 2007 period the net customer additions are equal to 93.5% of the new dwelling units created.

Energy Probe submits that a reasonable residential net customer addition forecast for 2008 would be to take the year-to-date October 2008 dwelling units created of 374 and increase it to 400 for the full year of 2008. Applying the 93.5% factor calculated above yields a net customer addition forecast of 374. This figure is 138 above the COLLUS forecast of 236 residential additions. Even if these customers do not come on by the end of 2008, they would be expected to connect in early 2009.

COLLUS has indicated in their evidence that it believes its service territory will continue to post strong growth because of its unique circumstances (Board Staff Supplemental Interrogatory #1a). COLLUS has also indicated that a large development scheduled for 2012 has now been moved forward to 2010 despite the economic uncertainty (Board Staff Interrogatory #3.6c). This seems to support the COLLUS claim that development is continuing at a fast pace in its area.

Assuming a 25% reduction in the number of dwelling units created in 2009, there still would be an increase of 300 units. Applying the 93.5% factor to this figure results in a net residential additions forecast of 280, or 40 above the COLLUS forecast.

In total, the 2009 forecast for residential customers would be 178 higher than that forecast by COLLUS. Energy Probe submits that given the evidence on the record, this is a reasonable increase in the number of residential customers in 2009.

At a normalized average use per residential customer of 9,310 kWh (Exhibit 3, Tab 2, Schedule 2, Table 2), the additional 178 customers would increase the load forecast by 1,657,180 kWh.

iii) Summary

In aggregate, the adjustments proposed by Energy Probe for 2009 total approximately 1,710,792 kWh (1,657,180 kWh to reflect change in residential customers; 53,612 kWh to reflect change in USL customers). This represents an overall increase in the billed kWh of approximately 1.0%. The increase in the number of residential customers in 2009 would also generate additional revenue to partially offset the increase in the revenue requirement.

c) Other Distribution Revenue

COLLUS is forecasting a decrease in other distribution revenue from $603,922 in 2007 to $477,269 in 2008. This decrease in 2008 is followed by a further decline in 2009 to $394,856. These figures are provided in Exhibit 3, Tab 3, Schedule 5.

The decline in 2008 and 2009 is almost entirely the result of a forecasted decline in account 4405, interest income.

Energy Probe submits that the other distribution revenues forecasts, exclude interest income, appear to be reasonable and should be accepted by the Board.

In its original evidence, at Exhibit 3, Tab 3, Schedule 5, COLLUS indicated that it was not including the interest income, forecast to be $68,856 in 2009, as a revenue offset to the total revenue requirement. However, upon review of previous Decisions by the Board in relation to this issue, COLLUS has now indicated that this request has been removed and the interest will be included as a revenue offset (Energy Probe Interrogatory #13c and Board Staff Interrogatory #6.6). Energy Probe submits that the inclusion of interest income as part of other distribution revenue and used as an offset to the total revenue requirement is appropriate.

In the response to Board Staff Second Round Interrogatory #4.3, COLLUS indicated that it has reduced the interest income forecast for 2009 to $46,000 to reflect lower interest rates than originally used to calculate the $68,856 forecast. In light of the recent decline in interest rates, Energy Probe submits that this reduction is appropriate.

DEFERRAL AND VARIANCE ACCOUNTS

COLLUS originally proposed to recover the debit balances related to the loss of distribution revenue from the close of ALCOA Wheel Products. COLLUS has calculated an amount of approximately $425,000 and recorded it in account 2405 Other Regulatory Credits (Exhibit 5, Tab 1, Schedule 1).

However, in response to Energy Probe Interrogatory #21, COLLUS indicates that it is removing its request as to the treatment of account 2405. Energy Probe also notes that COLLUS did not make any application for a non-standard deferral account.

As a result of the withdrawal of this request, COLLUS is not requesting the disposition of any deferral or variance accounts as part of this application (Board Staff Interrogatory #7.1). Energy Probe accepts the revised COLLUS proposal.

COLLUS has asked for the approval of a variance account for use in tracking the impact of the implementation of the International Financial Reporting Standards (IFRS). Energy Probe submits that this request should be denied.

The Board has initiated a Consultation on Transition to International Financial Reporting Standards and Consequent Amendments to Regulatory Instruments (EB-2008-0408). It has not been established at this point whether the conversion is required by all distributors. It has not been established at this point the degree to which changes may be required. It has not been established at this point whether conversion costs can be minimized through a joint effort through either the Board or the EDA.

If the costs for transition do materialize and are significant, Energy Probe would expect COLLUS to apply for Z factor treatment of the costs under the Third Generation IRM if these costs are incurred post 2009. If the costs are incurred in 2009, Energy Probe would expect the Board to deal with these costs for all distributors, including the use of a deferral or variance accounts to track actual costs.

COLLUS has also requested the establishment of a variance account in the event of the loss of their other Large Use Customers (Interrogatory Response Letter, page 2, dated November 28, 2008). In response to a clarification request to the response to VECC Interrogatory #35, COLLUS has indicated that the annual distribution revenue from this customer, LOF Glass is $166,142.07. This represents approximately 2.9% of their base revenue requirement which is forecast to be $5,709,546.

Energy Probe submits that the Board should not approve this request for the 2009 test year. Part of the return on equity that is given to a distributor is to account for risk. This risk includes forecast risk of the type that COLLUS is concerned about and has resulted in this request. If some of this forecast risk is to be removed, then there should be a reduction in the allowed return on equity. There is also a risk, of course, that the customer in question may consume higher amounts of electricity than forecast. There is also a risk that revenues from other rate classes and customers may be higher or lower than forecast and that OM&A costs may be higher or lower than forecast.

In particular, COLLUS had indicated in the response to Board Staff Interrogatory #3.6 that they have recently been advised by a large developer that they could be moving their planned development "well ahead of schedule". COLLUS also indicated in their response to Board Staff Supplemental Interrogatory #1 that it has taken the current economic situation into consideration when preparing the forecasts and does not believe that there is a need to modify the existing forecast for either load or revenues.

COLLUS is not requesting a variance account to track any gains or losses associated with these risks in the test year or beyond.

As for the need for a variance account for the three remaining years of the IRM beyond the 2009 test year, Energy Probe submits that such an account is not needed because the Board has made provision for this type of problem, should it occur, in the July 14, 2008 Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors. In particular, the Board has made an allowance for the need for a Z-factor event such as the closure of a large customer. On page 36 of the Report, the Board set a materiality threshold based on the distributor's revenue requirement. This materiality threshold is differentiated based on the relative magnitude of the revenue requirement. The materiality threshold for COLLUS, which has a revenue requirement of less $10 million, is $50,000. The loss of the large customer account would exceed this threshold and COLLUS would be free to request a Z factor adjustment.

In summary, Energy Probe submits that the request for a variance account for the potential loss of the large customer should be denied by the Board. It is not needed in the post test years under 3rd Generation IRM because a Z factor adjustment is available to the utility. It should not be allowed in the test year because it reduces the risk to the utility without any reduction in costs to ratepayers; it is asymmetric in that the customer may use more electricity than forecast; it ignores that other forecasts, both revenues and costs, may be different from forecast. Finally COLLUS has indicated that they do not see the need to adjust the load or revenue forecast from that filed.

COST OF CAPITAL

a) Capital Structure

COLLUS is requesting a deemed equity component of 43.3%, short term debt of 4.00% and long term debt of 52.7%. Energy Probe accepts this capital structure as it is in compliance with the *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario Electricity Distributors* dated December 20, 2006.

b) Return on Equity

COLLUS has requested a return on equity of 8.57% in the 2009 test year (Exhibit 6, Tab 1, Schedule 1). COLLUS also states that the OEB will update the return on equity rate based on January 2009 market interest rate information for rates effective May 1, 2009. Energy Probe accepts this position because it is compliance with the *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario Electricity Distributors* dated December 20, 2006.

c) Short Term Debt Rate

COLLUS has requested a short term debt rate of 4.47% in the test year (Exhibit 6, Tab 1, Schedule 2). This reflects the OEB's March 7, 2008 letter regarding the cost of capital updates for the 2008 cost of service applications. COLLUS acknowledges that the cost of short term debt will also be updated by the Board in early 2009 for rates effective May 1, 2009 (Energy Probe Interrogatory #22). Energy Probe submits that this update is required to be compliant with the *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario Electricity Distributors* dated December 20, 2006 and consistent with the approach taken related to the return on equity.

d) Long Term Debt Rate

COLLUS has two sources of long term debt for the 2009 test year, as shown in Exhibit 6, Tab 1, Schedule 3, Table 2. These two sources include a promissory note for $1,710,170 payable to an affiliate at an interest rate of 6.25% and a demand loan for $1,100,000 at a rate of 5.08%. The weighted average cost of this long term debt is shown in Table 3 of Exhibit 6, Tab 1, Schedule 4 and is 5.79% for the 2009 test year.

Section 2.2.1 of the *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors* dated December 20, 2006 states that:

> "For all variable-rate debt and for all affiliate debt that is callable on demand the Board will use the current deemed long-term debt rate. When setting distribution rates at rebasing these debt rates will be adjusted regardless of whether the applicant makes a request for the change."

The promissory note payable to an affiliate is callable on demand (Energy Probe Interrogatory #23b). Therefore Energy Probe submits that this debt should have its rate adjusted from the 6.25% currently being used to the deemed long term rate as determined by the Board based on January 2009 market interest rate information. Based on the response to Board Staff Interrogatory #2.1b, COLLUS agrees with the adjustment of the rate from 6.25% to the Board deemed rate.

COLLUS has forecast a rate for the demand loan of 5.08%. This rate was based on information from Infrastructure Ontario as indicated in the response to Board Staff Interrogatory # 2.2. In that response COLLUS indicated it intended to update the 25 year rate for a serial loan to 5.99%. This rate was based on the Infrastructure Ontario rate as of November 25, 2008. COLLUS proposes that the debt rate to be used for the bank loan would be based on the debt rate quoted by Infrastructure Ontario for a 25 year serial loan when the OEB sets the deemed long term debt rate.

However, COLLUS indicated in their evidence that the demand loan was to be issued on January 7, 2009. If this demand loan has been issued, then the actual rate, assuming it is from Infrastructure Ontario, should be used. However, as noted in the following paragraph, there is a discrepancy between using a 25 year term rate when the term for the new loan has been clearly identified to be 5 years. Energy Probe, therefore submits that the debt rate that is used if COLLUS has issued the debt should be the rate for a 5 year term available from Infrastructure Ontario on the appropriate date.

The discrepancy noted above is between the rate of 5.99% associated with the 25 year rate for a serial loan as reported by COLLUS based on the November 25, 2008 information from Infrastructure Ontario (Board Staff Interrogatory #2.2) and the evidence provided at Exhibit 6, Tab 1, Schedule 3, Table 2. In this table, COLLUS has shown this demand loan as item number 4 with a date of issuance of January 7, 2009 and at a rate of 5.08%, as originally forecast. However, the term shown is for 5 years, not 25. The written evidence on page 2 of Exhibit 6, Tab 1, Schedule 1 also clearly states that as of

January 7, 2009 "a new loan of $1,100,000 for a 5 year term will be issued". COLLUS has not provided any rationale for now proposing the use of a 25 year term rate when the loan to be issued is clearly for a 5 year term. The response to Board Staff Interrogatory #2.2 shows that the 5 year term rate from Infrastructure Ontario as of November 25, 2008 was 4.12%, significantly lower than the 25 year rate of 5.99%.

In the event that COLLUS has not yet issued the demand loan, then Energy Probe has two submissions on their proposal. First, Energy Probe agrees in principle with the use of the most recent Infrastructure Ontario debt rate available at the time the OEB sets the deemed long term debt rate as this rate reflects the cost of borrowing in the market.

Second, it is unclear to Energy Probe why the 25 year term is the appropriate term to use. Lower rates for shorter terms are available from Infrastructure Ontario, currently ranging from 3.40% for a 5 year serial loan, to 4.59% for a 10 year serial loan, to 5.17% for a 15 year serial loan, to 5.49% for a 20 year serial loan. In this respect, Energy Probe once again notes that the evidence clearly states that COLLUS would be issuing the debt based on a 5 year term. Energy Probe submits that the Board should approve a deemed long term weighted debt rate that includes the current forecast rate of 3.40% for a 5 year term, or the rate for a 5 year term when the Board issues its Decision.

COST ALLOCATION & RATE DESIGN

COLLUS proposes to adjust the revenue to cost ratios for all rate classes. COLLUS proposes to reduce the revenue to cost ratios for the residential and large use rates, with increases for GS < 50 kW, GS > 50 kW, street lighting and unmetered scattered load classes.

Based on the 2006 cost allocation informational filing, the street lighting and GS > 50 kW classes are below the revenue to cost range identified as appropriate in the Board's "Report on Application of Cost Allocation for Electricity Distributors" dated November 28, 2007. The large use class is below the range. All of the other rate classes are within the range. These figures are shown in Table 3 of Updated Exhibit 8. It should be noted that this table shows a range for the large user class of 80% to 180%. Energy Probe believes these figures should be 85% and 115%, respectively.

COLLUS has proposed to move the revenue to cost ratio for the street lighting class 50% of the way from what the current ratio is to the bottom of the OEB target range of 70%. COLLUS also proposes to move the ratio for this customer classes the remainder of the way to 70% in 2010 and 2011 (Updated Exhibit 8, Tab 1, Schedule 2, page 5 and Energy Probe Interrogatory #24a). Energy Probe believes this movement is appropriate given that in the various 2008 Decisions the Board expected the applicants to achieve the remaining 50% move to the bottom of the range in equal increments in the two years following the rebasing year. Energy Probe therefore recommends that the Board adopt this movement.

Energy Probe also submits that the Board should accept the COLLUS proposal to increase the revenue-to-cost ratio for the GS > 50 kW customer class to 80% from the current level of 42.2%. The 80% level is the minimum of the Board approved range for this rate class. Given that this class is one the largest classes for COLLUS in terms of allocated costs, Energy Probe submits that it is important to move this class to the bottom of the revenue to class ratio and to do so as quickly as possible, as is proposed by COLLUS. The rate impact for these customers is still relatively small on a total bill basis because the distribution rates comprise a small portion of the overall costs. As shown in Appendix A to Updated Exhibit 9, the total bill impact on an average use customer in this class is 3.58%.

Energy Probe does not, however, agree with the changes proposed by COLLUS for the other rate classes. There is no reason to tinker with the revenue to cost ratios for the rate classes that already have revenue to cost ratios within the ranges approved by the Board. This submission is based on the Decision and Order for Wellington North Power Inc. (EB-2007-0693), where the Board stated at page 29 that:

> "An important element in the Board's report on cost allocation was its express reservation about the quality of the data underpinning cost allocation work to date. The report frankly indicated that the Board did not consider all

> of the data underpinning the report to be so reliable as to justify the application of the report's findings directly into rate cases. For this reason, among others, the Board established the ranges depicted above and mandated the migration of revenue to cost ratios currently outside the ranges to points within the ranges, but not to unity. In short, the ranges reflect a margin of confidence with the data underpinning the report. No point within any of the ranges should be considered to be any more reliable than any other point within the range. Accordingly, there is no particular significance to the unity point in any of the ranges."

Energy Probe does submits that the additional revenue generated by increasing the revenue to cost ratio for the street lighting and GS > 50 kW classes should be used to reduce the corresponding ratios for the residential and large user customer classes. These are the only two classes with revenue to cost ratios in excess of 1.00. Energy Probe submits that the fairest way to allocate the incremental revenue generated by increasing the revenue to cost ratios for the street lighting and GS > 50 kW classes is to first bring the ratio for the large user class down to the residential level and thereafter reduce both ratios in tandem by the same amount. This would include using the additional revenue generated in 2010 and 2011 by increasing the street lighting ratio to reduce the over contribution of both the residential and large user customer class.

COSTS

Energy Probe requests that it be awarded 100% of its reasonably incurred costs. Recognizing the size of COLLUS, Energy Probe has attempted to minimize its time on this application, while at the same time ensuring a thorough review.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

February 13, 2009

Randy Aiken

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