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By Courier and Email

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Flr.
Toronto, Ontario
M4P 1E4

Attention: Ms. Kirsten Walli
Board Secretary

Dear Ms. Walli:

**Re: Draft Filing Guidelines for the Pre-Approval of Long-Term Natural
Gas Supply and/or Upstream Transportation Contracts
Board File No. EB-2008-0280**

Comments of the Vulnerable Energy Consumers Coalition ("VECC")

This letter is VECC's response to the Ontario Energy Board's letter of February 11, 2009, inviting written comments on the Board's draft filing guidelines for the pre-approval of long-term natural gas supply and/or upstream transportation contracts ("LTC filing guidelines") provided as Attachment A to the letter.

VECC submits that any long-term supply or transportation contract that a utility enters into (i) with an affiliate or related party or (ii) with a party in which an affiliate or related party has an interest, should be subject to the pre-approval process.

VECC notes that Section 3.2 of the LTC filing guidelines requires "*An assessment on how the contract fits into the applicant's overall transportation and natural gas supply portfolio in terms of contract length, volume and services.*" (Emphasis added)

With respect to contract length, it is VECC's understanding that, while upstream transportation contracts include a nominal or primary term, these contracts typically include an evergreen type of provision that automatically renews the contract for a further fixed term in the absence of notice given by either party to the contrary. Therefore, the actual "running time" of a contract may significantly exceed its primary term.

Although VECC takes no issue with the existence of such evergreen clauses in LTCs, VECC submits that the assessment referred to in Section 3.2 of the LTC filing guidelines should consider how the contract length fits in the overall portfolio should it be "evergreened" indefinitely beyond its nominal term.

VECC further submits that the pre-approval process should not be construed as giving carte blanche with respect to visiting the cost consequences on ratepayers of indefinite renewals of the original contract, especially when the economic case for the original term may no longer be relevant or persuasive.

VECC notes that a utility is typically contractually required to give notice if it intends to not renew the contract prior to the expiry of the primary term. In the event that such notice is not given, VECC submits that the applicant should be required to demonstrate that the ensuing renewal was prudent – at the time when the utility would have been required to give its counterparty notice to terminate the agreement – before any related ongoing contractual costs are approved for recovery from ratepayers. VECC submits that the pre-approval process could make this requirement explicit if the Board so chooses.

Yours truly,

Michael Buonaguro
Counsel for VECC