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VIA MAIL and E-MAIL

May 6, 2009

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
26th Floor
2300 Yonge Street
Toronto, ON
M4P 1E4

Dear Ms. Walli:

**Re: Proposed Amendments to the Transmission System Code
Board File Number: EB-2008-0003**

Comments of the Vulnerable Energy Consumers Coalition (VECC)

As Counsel to the Vulnerable Energy Consumer's Coalition (VECC), I am writing (per the Board's Notice of April 15, 2009) to provide VECC's comments on the revised amendments to the Transmission System Code to deal with the issue of "enabler facilities".

Cost Responsibility and Capital Contributions

Section III-D.1 discusses the Board's intentions with respect to cost responsibility and concludes that "it is more appropriate for any generation facility that connects to an enabler facility to pay its pro-rata share of the cost of the enabler facility". This principle that the entire cost of the facility will attributed to the associated generation facilities is also reflected in the proposed wording of TSC Section 6.5.1A. However, the revised amendment to TSC Section 6.3.14A states that each generation facility's share of the

costs will be determined based on the nameplate rating of the respective generation facility as a percentage of the total capacity of the enabler facility.

It is VECC's view that under Section 6.3.14A (as revised) it is highly unlikely that the entire cost of enabler facility will ever be entirely "assigned" to the generation facilities that seek to use it. Even if designed and built just to meet the requirements of generation that has indicated an intention to connect to the enabler facility, the design capacity of an enabler facility will generally exceed the sum of the nameplate ratings of these facilities. The reason for this is that connection facilities can not be designed to a precise capacity level but rather are designed to a capacity level that will meet/exceed requirements. The result is that the proposed formula will almost always allocate to users something less than 100% of the cost of the enabler facility.

Indeed the only way 100% of the cost of the enabler line is likely to be allocated to generation facilities connecting to the facility is if additional generation facilities come forward for connection such that the enabler facility needs to be upgraded. At this point generating facility seeking connection would be allocated the final share of the enabler facility's costs plus the cost of any required upgrade (per TSC Section 6.3.4).

In VECC's view there are two implications of this result that are worth noting. The first is that the "rate payers" of the transmitters constructing/owning the enabler facility will likely bear some going responsibility for the cost facility over the long term, a result that is contrary to the statement in Section 6.5.1A.

The second implication relates to the issue of ownership discussed on pages 6-7 of the April 2009 Notice. Here the Board concludes that there is little incentive for a proponent to disaggregate itself given that ultimately the owner of each generation facility will be required to pay its share of the cost of the facility. However, based on the current revised proposals this will not be the case. Under single ownership the proponent will be responsible for the entire cost of the enabler connection facility. In contrast, as the preceding paragraphs explained, given multiple ownership the generation facilities will generally not be allocated 100% of the cost. As a result, the ultimate cost responsibility is likely to be different depending upon the ownership.

Security Deposits

The proposed revision to TSC Section 6.3.10A means that transmitters cannot require a security deposit in relation to the construction of an enabler facility. VECC has two concerns with this revision. First, VECC sees security deposits as a useful means of confirming (for purposes of the "leave to construct" application) that there is a "real" need for the line and what the minimum design capacity of the enabler line should be. Also, security deposits provide a specific indication as to which generation facilities are "committed" to connecting to line and, thereby, should facilitate decisions around the siting of the facility.

VECC's other concern in this regard is that this revisions introduces a further "cost" difference in the case of multiple vs. single ownership of the associated generation facilities.

Please contact Bill Harper (416-348-0193) if you have any questions or require clarification.

Yours truly,

Michael Buonaguro
Counsel for VECC