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July 6, 2009

VIA MAIL AND EMAIL

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

Re: Regulatory Treatment of Infrastructure Investment for Ontario's Electricity Transmitters and Distributors
Board File Number: EB-2009-0152

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 letter of June 10, 2009) to provide VECC's comments on the Staff Discussion Paper ("Staff Paper") on the above topic. The comments are organized according to the Sections of the Staff Paper and provide specific responses to the Issues for Comment identified in each Section.

Overview

Issue #1: *Should the framework and mechanisms identified in this Discussion Paper apply to other rate-regulated entities? If so, why and for what types of projects?*

VECC notes that the *Green Energy and Green Economy Act, 2009* (the "GEGEA") amends Section 78 of the OEB Act (the "Act") as follows:

The Board may, in approving or fixing just and reasonable rates or in exercising the power set out in clause 70 (2) (e), adopt methods that provide,

(a) incentives to a transmitter or a distributor in relation to the siting, design and construction of an expansion, reinforcement or other upgrade to the transmitter's transmission system or the distributor's distribution system; or

(b) for the recovery of costs incurred or to be incurred by a transmitter or distributor in relation to the activities referred to in clause (a).

There are two key points to be noted from the amendment. First, it applies specifically to transmitters and distributors. As result, the amendment to the GEGEA does not, in itself, authorize the Board to "adopt methods that provide incentives" to other rate regulated entities. The second key point is that, even for transmitters and distributors, the amendment is only permissive (i.e., uses the term "may") and does <u>not require</u> the Board to provide incentives as part of its rate approvals.

As the Staff Paper focuses on how the Board might respond to this amendment, it is VECC's view that the resulting framework and mechanisms should not be viewed as transferrable to other rate regulated entities. To be clear, this not to say that circumstances cannot arise with other rate regulated entities where Board determines that, in order to satisfy its statutory objectives, one of the mechanisms identified in the Staff Paper should be applied. However, it is VECC's submission that such a determination would need to be justified based the particular circumstances of entity concerned and the Board's objectives and statutory requirements as they apply that entity.

<u>Infrastructure Investment in Ontario</u>

Issue #2: *Are there other broad classifications for investments, beyond "routine", "non-routine incremental", and/or GEGEA-related" that should be considered? If so, what are they and what are the specific underlying drivers for such investment?*

In general, when it comes to the underlying drivers, investments made by transmitters and distributors can be divided between those that are specifically required by statute or other obligation and those that are driven more generally by the requirement that transmitters and distributors follow "good utility practice". Falling into the first category is capital spending required for connections or system expansions (including enhancements/upgrades) in response to customer requests as well as expenditures required due to right-of-way agreements with municipalities or cost sharing agreements with other utilities (e.g., TELCOM companies). Also falling into this first category is capital spending required to address environmental regulations, smart meter requirements and, with the passage of the GEGEA, any projects/initiatives included in utility plans that have been prepared and approved by the Board in accordance with Section 70 (2.1) of the Act.

Falling into the second category would typically be spending on System Sustainment as it applies to the wires, poles, stations and meters that comprise the province's distribution (and transmission) systems as well as the supporting equipment and IT infrastructure. Also falling into this category would be any system investments that are undertaken to improve efficiency and reduce customers' rates over the long run.

When considering whether an alternative/different regulatory treatment is required it is important to consider the relief that is already provided through the Board's standard rate approval processes. In the case of those distributors under an IRM-based rate setting mechanism, it is useful to make a distinction between routine spending (based on drivers and issues identified in the most recent rebasing decision) and non-routine spending that is in response to new issues/requirements that have arisen since the most recent rebasing. In VECC's view the latter is what the Board's Incremental Capital Module is aimed at addressing and could include, amongst other things, new spending requirements triggered by the GEGEA. Finally, VECC notes that, given regulatory lag, there is even the potential for such issues to be associated with cost-of-service based rate making.

Treatment of Infrastructure Investment

General Comments

Ontario vs. US Context – Requirement for Incentives

This section identifies a number of mechanisms for addressing what it suggests are "the unique challenges" that may be associated with certain investments. However, the Staff Paper fails to clearly articulate what these challenges are. While the Staff Paper draws heavily on US experience (in particular FERC Order 679), VECC notes that the circumstances in Ontario are materially different.

As stated in Paragraph #19 of FERC Order 679, FERC was directed by Congress to adopt incentive-based rate treatments in order to encourage investment in transmission. This direction from Congress arose to address the fact (see Order 679, Paragraph #25) that transmission utilities in the US are privately owned and are not obligated to build facilities to integrate new generation.

In contrast, the GEGEA requires that transmitters and distributors prepare plans as to how they will expand/reinforce their systems to accommodate the connection of renewable generation as well as develop and implement smart grid in relation to their systems. It also requires transmitters and distributors to implement those plans once they have been approved by the OEB. As a result, there is no need to incent Ontario transmitters and distributors in order to ensure they undertake the required investments – they are obligated to do so. Consistent with this approach, the amended OEB Act does not <u>require</u> that the OEB provide incentives for such investments rather simply states that they may provide them. Given this context, VECC considers the Staff Paper's failure to more fully explore when and why "incentives" may be required to be a fundamental shortcoming.

Need for Incentives

Given that Ontario's transmitters and distributors are required (by statute) to undertake investments related to a) the development and implementation of smart grid and b) the connection of renewable energy generation facilities, VECC questions why further "incentives" or "encouragement" are needed. Having said this, VECC recognizes that if the Board is to meet its new objectives related to facilitating the implementation of smart grid and timely expansion of transmission and distribution systems to facilitate the connection of renewable energy generation facilities, then it will be necessary for the Board to ensure that its regulatory processes facilitate the necessary approvals and that utilities have the resources necessary to undertake the required work.

Within this context, VECC considers measures/options such as deferred cost recovery (with or without rate riders) and single issue rate-making to be viable regulatory process options for the Board to consider. VECC notes that while such measures are identified as "options" in the FERC Order 679 (see Paragraphs 168 and 179) they are only discussed in the Staff Paper as means of implementing one/more of the identified options. In VECC's view these measures should be included as "options". In all likelihood there will be transmitters/distributors that do not require the financial "incentives" discussed in the Staff Paper, but simply need timely regulatory review/rate recognition of their plans for smart grid and connection of renewable generation resources in order to facilitate the required activities.

Also, within this context, VECC submits that undertaking a particular activity (e.g., implementation of smart grid or system expansion to facilitate the connection of renewable energy generation facilities) is not – in itself - sufficient justification to warrant granting one or more of the proposed alternate mechanisms. As noted previously, transmitters and distributor are required to undertake these activities. Granting of incentives or alternate cost recovery treatment (in accordance with amended section 78 (3.0.5) of the Act) should only be done when the utility can demonstrate that either a) the project would not proceed or b) consumers' rates would be higher without the "incentive". VECC submits that for the Board to approve measures that increase consumers' rates but are not required in order for the utility to finance and undertake these activities would be inconsistent with the Board's statutory obligation "to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service".

Issue #3: *Should the mechanisms identified in this Discussion Paper apply to the recovery of costs incurred by electricity transmitters or distributors for investments to accommodate renewable generation or to develop smart grid, or both? Why or why not?*

As per the preceding discussion, it is VECC's view that the mechanisms discussed in the Staff Paper (including new approaches to regulatory review/approvals) could be used for investments to accommodate renewable generation or to develop smart grid – but only if it is clearly demonstrated that they are needed in order for the utility to undertake investments and the related activities have been review and approved by the Board and/or will reduce consumers rates. VECC notes that the level of review/approval needed will vary depending upon the mechanism being granted. For example, if the mechanism is a deferral account where the cost will be subject to future prudence review then conditions for approval will likely be different than if the utility is seeking an accelerated cost recovery in its rates.

Issue #4: *Should the mechanisms set out in this Discussion Paper be applied to infrastructure investment if the cost of the investment is potentially recoverable through a Province-wide cost recovery mechanism? Why or why not?*

VECC agrees with the Staff view that the identified mechanisms should <u>generally</u> apply to costs of investments that are potentially recoverable through a Province-wide cost recovery mechanism. As VECC as already articulated, such mechanisms should only be provided when it is demonstrated that they are clearly needed. In VECC's view, the basis for such need will generally be independent of whether the costs are eventually recovered from the utility's ratepayers or from a Province-wide cost recovery mechanism. However, if unique circumstances arise where the basis of cost recovery is linked to "need" then these should be taken into account by the Board.

Issue #5: *Should the mechanisms set out in this Discussion Paper be applied to infrastructure investment in smart grid technology while it is at an early stage of development and where governing standards are yet to be developed? Why or why not?*

In VECC's view, the issues regarding the stage of development and the governing standards regarding smart grid technology will impact the types of activities the Board approves as part of a utility's "Plan" under Section 70 (2.1) of the Act. Once the "Plan" and associated investment activities are approved – the mechanisms set out in the Staff Paper should be applied where <u>necessary</u> to facilitate the implementation of the Plan.

Issue #6: *Should "routine" investment made by a transmitter or distributor be eligible for one or more of the alternative treatments identified in this Discussion Paper? Why or why not?*

The Staff Paper (page 18) states that "projects for the on-going management of transmission and distribution systems are generally routine in nature and generally do not involve the kinds of scope, effects, risks and challenges that may warrant the provision of alternative treatment". Staff concludes that alternative mechanisms will not frequently be warranted in relation to "routine" investments".

As noted earlier, one of the shortcomings of the Staff Paper is its failure to clearly articulate the “unique circumstances” that give rise to the need for the proposed alternative mechanisms. Without this context, it is difficult to determine what should distinguish investments that would qualify for an “alternative treatment” as opposed to those that would not. However, based on the various comments throughout the Paper, it appears that uniqueness could be associated with one or more of the following factors:

- An inability to integrate the obligations of a utility under its approved infrastructure Plan into the rate setting process due to regulatory lag and/or the application of IRM-based rate making.
- Size of investments required and ability of the transmitter/distributor to obtain the necessary financing at the lowest overall cost to consumers.
- The risk associated with the investment (e.g. new technology or uncertainty about eventual use of assets) and associated concerns regarding cost recovery.

VECC notes that “routine investments” could trigger the first two concerns listed above, but that the third concern is likely unique to smart grid implementation and the connection of renewable energy generation facilities. However, there are already mechanisms in place that would allow utilities to address the first two concerns including:

- The ability of utilities to apply for deferral accounts;
- The provision for Z-factors under the current IRM mechanism;
- The provision for an incremental capital spending module under the current IRM mechanism; and
- The ability of utilities to request consideration of a cost-of-service based application any time during their IRM period.

VECC agrees with Staff that, with access to these existing options, the need for alternative treatment for routine activities should be limited.

However, VECC also notes that these existing options are also available to distributors to address their needs for infrastructure investment to support smart grid and renewable generation. VECC submits that utilities should be directed to avail themselves of these options prior to making application for an alternate treatment and only apply for an alternative treatment where such options are demonstrably insufficient.

Issue #7: *Should the mechanisms identified in this Discussion Paper be presumed to apply to certain types of investments (for example, to accommodate renewable generation)? Why or why not? If so, to which investments?*

Issue #8: *Should the Board be more prescriptive as to which type of investment may qualify and which will not? If so, what criteria might the Board use to make as determination on which type of investment would qualify?*

In VECC's view the answer to both issues is NO. The mechanisms identified should not be presumed to apply to certain types of investments and the Board should not be more prescriptive as to which types of investments will qualify. VECC submits that there should not be a natural presumption that certain types of investments would qualify. In many instances utilities may be able to implement their approved infrastructure Plan along with the other prudent investment activities within the traditional rate setting process As discussed earlier, a utility should be required to clearly demonstrate that a requested alternative treatment/mechanism is needed in order to facilitate the planned investments.

VECC notes that the FERC's identification of limited investments which would be presumed to qualify for incentive-based treatment is a product of Congress' direction that the FERC must offer incentives. As discussed previously, the circumstances in Ontario are fundamentally different.

Issue #9: *Should the Board permit applicants to request confirmation from the Board that prudently incurred costs associated with any abandoned projects will be recovered in rates if such abandonment is outside the control of management? Why or why not?*

VECC notes that utilities already have the ability to apply for the recovery of the costs incurred for abandoned projects after the fact and that two of the key considerations would be whether the costs were prudently incurred and the reasons for the abandonment of the project. Presumably, what is contemplated with this option is that the Board would confirm (prior to the initiation of the project) that prudently incurred costs are recoverable even if the project is abandoned.

VECC is generally supportive of this mechanism provided the project has been included in a capital plan (as part of a rate filing or infrastructure plan filing) which has been reviewed and approved by the Board and that, as part of this plan, the utility has identified the risks associated with the project (as known at the time).

Indeed, VECC considers this option to one of the more acceptable and appropriate means of addressing the potential issues associated with infrastructure investment for smart grid and connection of renewable generation, relative to some of the other "mechanisms" put forward in Section 3 of the Staff Paper.

However, as FERC Order 690 stated (Paragraph 167) "a utility that receives approval to recover abandoned plant in rate base would likely face lower risk and thus may warrant a lower ROE than would otherwise be the case without this assurance". In VECC's view, this is an issue that would also need to be addressed when cost recovery was sought and the Board should acknowledge it is a relevant issue.

Issue #10: *Should the Board allow for full or partial CWIP to be placed in rate base during the construction of transmission facilities to accommodate the connection of* *renewable generation and/or develop the smart grid? Why or why not? Should the Board allow this particular treatment for distribution investment? If so, on what basis?*

As the Staff Paper notes (page 22), this option is applicable primarily to large projects with long construction periods or where the in-service date for rate setting purposes (i.e., used and useful) is uncertain as it allows for the recovery of the associated carrying costs prior to the in-service date. Most infrastructure projects, particularly, at the distribution level, are unlikely to have long construction periods. Also, while transmission projects have longer periods from project initiation to in-service much of the front-end time is related to the approval process and the carrying costs may not be significant. As result, if it is demonstrated that the project cannot be financed without some alternate treatment, it is unlikely that including CWIP in rate base would provide any material relief.

The one exception may be in cases where facilities are constructed to accommodate new renewable generation with uncertain in-service dates. In such circumstances the Board would have two options: a) declare the transmission/distribution facilities to be eligible for cost recovery once they are in-service, even if not "in use", or b) only declare the facilities to be eligible for cost recovery once generation is connected and they are used and useful. In the latter case, it may be appropriate to consider allowing the recovery of the related carrying costs once the facilities are in-service and until such time as some generation has connected and the assets are eligible for full inclusion in rates (i.e., depreciation and carrying costs).

VECC also notes that there is a difference between including CWIP in rate base (such that the average cost of capital is used to determine the carrying cost) and allowing the utility to "expense" the carry costs of CWIP based on a deemed interest rate. The distinction is important as the first approach will increase the total costs borne by consumers over the long run whereas the second only impacts the timing of the recovery of costs. As a result, in VECC's view, requests to include CWIP in rate base should be subject to greater scrutiny as to why the increase in overall return (as opposed to simply timing the return) is needed.

Issue #11: *Should the Board allow depreciation to be adjusted to match a contract term or the useful life of the connecting renewable generation facility? Why or why not?*

VECC believes that it is important to distinguish between the adoption of shorter depreciation periods (relative to the expected life of the transmission/distribution assets) for purposes of improving cash flow versus for purposes of reflecting the anticipated period over which the assets will be used and useful. As VECC understands the Staff Paper, the proposal is to adopt a shorter depreciation period for the second of these potential purposes – but not the first.

VECC agrees that it is reasonable to allow the depreciation period to be adjusted to match the useful life of the connecting renewable generation facility. However, within this context, VECC notes that the depreciation period would need to be readjusted if and when additional customers connected to the facilities.

VECC does not support matching the depreciation period to the “contract period”. In the case of renewable projects, the initial contract period may be shorter than the life of the facility. However, in such cases, there is a reasonable expectation that the facilities will continue to operate beyond the contract period. A current example of this is the NUG contracts entered into by the former Ontario Hydro. While these contracts expire over the coming years the IPSP generally assumes the generation will continue to be available and the contracts will be renewed.

Issue #12: *In light of a legislative context in which the Board may mandate infrastructure investments, are incentives necessary or appropriate in Ontario?*

Consistent with the preceding discussion, VECC does not believe that “incentives” are necessary or appropriate in Ontario”. However, as discussed above, there may be circumstances where alternative regulatory treatment is necessary in order for a utility to be able to fulfill its obligations as set out by the Act and the Transmission/Distribution System Codes. In such cases, the term “incentive” is misplaced. Rather, an alternative regulatory treatment could be allowed provided there is a demonstrated need.

Issue #13: *If the Board were to provide for incentives, should it allow project-specific ROE? If so, should the Board consider adopting a range rather than a specific adder? Further, how might the Board determine an appropriate range or ROE adder?*

Consistent with the response to Issue #12, VECC does not believe that the Board should provide project specific ROE’s as an incentive.

VECC also questions whether a project specific ROE would be the best way to address those cases where, due to risk or financing difficulties, a utility cannot undertake the project under the traditional regulatory paradigm (Note – The operative term here is “cannot”. Since the utility is obligated to undertake the initiative there is should be no question that it will not do so if able to). VECC notes that the FERC has indicated (Order 690, Paragraphs 91-92) that for qualifying projects the ROE approved would be “at the upper end of the zone of reasonableness” and would not be based on a risk assessment. However, in Ontario ROE is set by formula and there is not a pre-determined range of reasonableness.

This suggests that establishing the necessary and appropriate ROE adder could be a difficult and contentious exercise. VECC submits that in the interest of facilitating smart grid implementation and the connection of renewable generation facilities what is required are mechanisms that are straight forward and can be reviewed/implemented with relative ease. In VECC’s view Project ROE Adders do not meet these requirements.

Issue #14: *If the Board were to provide for incentives, should it allow project-specific capital structures?*

VECC's view and position are similar to those presented regarding Issue #13.

Issue #15: *What other alternative mechanisms, if any, might the Board consider be made available to applicants? Why?*

As noted under the General Comments for this Section, it is VECC's view that the provision for deferral accounts, single issue rate-making proceedings and rate adders related specifically to investments for smart grid implementation and for the connection of renewable energy generation facilities should be viewed as "mechanisms" as opposed to simply implementation considerations. Also, to facilitate the funding of such activities, the Board could consider use of variance accounts and nominal rate adders (similar to the $1.00 used for smart meters) to provide funding for infrastructure plans that have been approved but have not been subject to full costing such that a cost-based rate adder can be established – provided the infrastructure plans meet a minimum standard.

Furthermore, in VECC's view, all of these approaches are consistent with current regulatory practice and should be fully exploited prior to any consideration of the alternative mechanisms set out in Section 3 of the Staff Paper.

Considerations and Conditions That May Apply

Issue #16: *In addition to the potential considerations identified, are there any other matters that the Board might consider in making decisions on requests for alternative treatment?*

In VECC's view the first three potential considerations identified in the Staff Paper are secondary considerations; the primary consideration must be whether the alternative treatment requested is needed in order for the proposed infrastructure investments to be undertaken – recognizing that the utility is obligated to undertake the investments if able to do so. In this vein, VECC submits that the last consideration, Access to Capital, is incorrectly framed and should be worded as – "Is the approach required in order to allow the applicant to attract necessary capital on reasonable terms?"

Other considerations that should be taken into account are:

- The impacts the proposed alternative will have on rates over the long term. Some alternative treatments (such as ROE adders) will increase the total amount paid by consumers over the long run while others (such as allowing the carrying costs of CWIP to be expensed) only impact the timing of cost recovery and not the total amount to be paid by customers over the long run.
- The impacts the proposed alternative will have on intergenerational equity.

Issue #17: *What performance conditions, if any, should be established?*

In VECC's view performance and progress conditions are an essential part of the approval of any alternative treatment. However, just as the need for and the decision as to which alternative is appropriate must be determined on a case-by-case basis, VECC submits that the performance conditions must also be set on a case by case basis. Until the Board has had an opportunity to consider some applications it is premature to determine precisely what these conditions should or should not be.

With regard to the Staff suggestion that affected companies be required to report annually no later than April 30th, VECC is concerned that this does not allow any implications arising from consideration of the "report" to be factored into the annual rate adjustments which occur for most distributors on May 1st. Affected utilities should be required to report on the status of these projects as part of their annual rate application (regardless of whether it is based on IRM or cost-of-service).

Issue #18: *Are the reporting requirements suggested appropriate and adequate?*

Please see VECC's response to Issue #17.

Issue #19: *Are there any other conditions that the Board might need to establish in relation to an approved alternative mechanism referred to in this Discussion Paper to protect ratepayer interests?*

As VECC has already indicated, the key condition that the Board must establish in order to protect rate payer interests is to require that the alternative treatments only be adopted when needed. To do otherwise would be to unnecessarily increase consumers' rates (either the short term or over the long run) without any commensurate benefit.

Issue #20: *Beyond those already reflected in the Board's existing filing guidelines (e.g., the Z-factor test of causation, materiality, and prudence) and in the Board's jurisprudence, is there a specific test that successful applicants should be required to meet in order to be granted an alternative treatment?*

The Board's existing filing guidelines are aimed at establishing the <u>minimum</u> information that a utility must provide in order to support applications made under the existing regulatory framework. In contrast, the Staff Paper deals with the introduction of new/alternative regulatory treatments. As result, there is a need in requests for such alternative treatments to not only justify the projects involved (i.e., need, alternatives, costs, etc.) as would be the case in a traditional filing but to also support the "need" for the alternative regulatory treatment requested. On this later issue, the current filing guidelines do not provide any direction.

As VECC has already indicated to justify the alternative regulatory treatment the utility must be required to demonstrate that: a) project would not proceed, despite the best efforts of management, and/or b) consumers' rates would be higher without the requested "treatment".

Implementation Considerations

Issue #21: *Are the Board's existing filing guidelines for electricity transmitters and distributors sufficient to support the case-by-case approach discussed in this Discussion Paper? If not, what additional information should an applicant provide?*

Please see VECC's response to Issue #20. As noted in that response, the current filing guidelines are not designed to address the circumstances where utilities are seeking an alternative regulatory treatment.

Issue #22: *Should the process for applying for the regulatory treatment of infrastructure investment discussed in this Discussion Paper be more prescriptive (e.g., the timing, sequencing, and/or combining of applications)? Should it be combined with the process for approving infrastructure investment plans? If so, why and in what way?*

VECC does not believe that Board should or even can prescribe the timing of applications for an alternative regulatory treatment as the timing will likely to be impacted by why it is required. For example, if the concerns are with respect to potential abandonment of the project then it should be possible for the issue to be addressed as part to the consideration of the utilities infrastructure plan as filed under Section 70 (2.2) of the Act. However, if the request is related to the utility's capability to finance the project then the application would have to include the utility's overall capital plan and may best be considered in a single issue (i.e., capital program review) or cost of service rate proceeding.

Since it is the responsibility of the utility to justify its application for an alternative regulatory treatment, it should be left to the utility to decide how best to do so, recognizing the information requirements that are likely to arise during the consideration of the application.

Issue #23: *Should the Board permit applicants to seek approval prior to construction of the facilities to determine whether the facilities qualify for the requested alternative treatment(s)? Why or why not?*

As discussed earlier, VECC's view is that the alternative regulatory treatment should only be granted if required in order to for the investment to proceed on a cost-effective basis. Within this context, approval of the alternative treatment would be a necessary condition for the project construction to proceed and therefore prior approval is needed. Indeed, if prior approval is not needed, then – in VECC's view – the alternative regulatory treatment is not required and should not be approved.

Issue #24: *What are the implications, if any, of using the single-issue rate review process?*

The responses to Issues #22 and #23 highlight some of the implications and concerns regarding the use of a “single issue rate review process”. The key concern/implication is that the scope of the single issue rate review process must be sufficiently broad to permit the consideration of all relevant factors and issues. Depending upon the nature of the alternative regulatory treatment being requested and the reasons put forward as to why it is needed, it may not be possible to limit the scope of the proceeding to a specific project. As noted earlier, if the rationale for the alternative treatment is lack of financial resources then the proceeding would likely need consider the overall financial requirements of the utility which would involve consideration of it total capital spending program and single issue rate review process may not be practical.

Issue #25: *Is the use of rate riders an appropriate approach for implementing rate adjustments associated with the alternate treatments identified in this Discussion Paper? Alternatively, should the adjustments be made directly to base rates?*

As the Staff Paper notes the Board currently uses rate riders (for Smart Meters or Incremental Capital spending) in conjunction with a variance account and a prudence review at the time of rebasing before amounts are incorporated into rate base. In VECC’s view, the Staff proposals to implement (during the IRM period) any rate adjustment associated with an alternative treatment as a rate rider is appropriate provided it is accompanied by a variance account and a prudence review at rebasing. Indeed, VECC considers the early adoption of this treatment to be one of the preferred approaches for facilitating infrastructure investment in smart grid and the facilities required to connect renewable generation. It provides timely funding to support such investments while protecting consumers by ensuring the investments are ultimately subject to full regulatory scrutiny. Furthermore, unlike many of the other alternative mechanisms set out in the Staff Paper, the use of rate riders (linked to revenue requirement based on traditional cost of service) would not have to be subject to the same degree of “need” assessment and could therefore be implemented more expeditiously.

VECC does not support an approach whereby adjustments would be made directly to base rates. In VECC’s view, making such an adjustment would require additional forecast information (e.g., a load forecast) for the year concerned that is not typically produced as part of the IRM process. It would also require the Board to opine specifically on the prudence of the planned expenditures. These requirements would likely lead to a more lengthy and contentious approval process. In contrast, the rate adder/variance account approach would facilitate the implementation of the utility’s infrastructure plan.

Issue #26: *Should the Board allow applicants to seek approval of multi-year rate riders or should the applicant be required to apply every year to adjust its rate riders to reflect any changes in project costs?*

In theory, VECC sees some merit in allowing applicants to seek approval of multi-year rate riders. However, in practice, VECC does not see where there would be much improvement in regulatory efficiency. Multi-year rate riders would be based on the utility's infrastructure plan and its associated (forecast) costs at the time of approval. Going forward, not only could the project costs themselves change but also the timing of the planned investments could change due to events and changing priorities within the utility (e.g., new environmental regulations/other statutory requirements or emerging asset condition issues); even the plan itself could change due to developments in smart grid technology or changing expectations regarding the connection requirements for new renewable generation facilities. As a result, it likely that the need to adjust any approved multi-year rate riders will prove to be the norm as opposed to the exception. Furthermore, if utilities are expected to report annually on any changes it should be possible for them to readily re-calculate an updated rate-rider that reflects the current circumstances and expectations. Accordingly VECC submits that the applicant should be required to apply every year to adjust its rate riders.

Conclusions/Key Points

- Within the current regulatory framework and practices employed by the Board there are a number of regulatory options available to facilitate infrastructure investments. Examples include the use of deferral accounts; single issue rate-making proceedings (e.g. Z-factor adjustments); the provision of nominal funding through the use of rate riders/variance accounts; and the IRM's incremental capital module. The Board should fully exploit these mechanisms before changing the regulatory paradigm in ways that will impact consumers' rates either in the short term or over the long-run.
- The use of the term "incentive" is misplaced. In Ontario, distributors and transmitters are required under the amended Act and the Distribution and Transmission System Codes to make the necessary infrastructure investments. As a result, there is no need to "incent" distributors or transmitters to undertake the required investments. Rather, what the Board must ensure it that its regulatory processes facilitate the necessary approvals and ensure that utilities have the capability to undertake the required work.
- One of the shortcomings of the current Staff Paper is that it does not adequately explore/explain why the circumstances associated with the infrastructure investments required under the GEGEA are unique and, therefore, could require an alternative regulatory treatment. As result, there is no clear demonstration that there is or will be problem implementing the infrastructure investments contemplated by the GEGEA and that, therefore, any of the measures discussed are needed.
- Before approval is given for any of the "alternative" regulatory treatments set out in Section 3 of the Staff Paper, a utility must clearly demonstrate that either a) the

project would not proceed or b) consumers' rates would be higher without such treatment. This supports a case by case approach. For the Board to approve measures that increase consumers rates but are not required in order to the utility to finance and undertake these activities would be inconsistent with the Board's statutory obligation "to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service".

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

Yours truly,

Original signed

Michael Buonaguro
Counsel for VECC