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Toronto, November 12, 2009

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700, PO Box 2319  
Toronto, ON, M4P 1E4

Dear Ms. Walli:

**RE: Canadian Niagara Power Inc. - Port Colborne ("CNPI - Port Colborne")  
EB-2008-0224**

**Canadian Niagara Power Inc. – Fort Erie ("CNPI – Fort Erie") EB-2008-0223**

**Canadian Niagara Power Inc. – Eastern Ontario Power ("CNPI – EOP") EB-2008-0222**

We are writing in regard to the cost claims filed in the above-referenced proceedings by the School Energy Coalition (the "SEC"), Energy Probe Research Foundation ("EPRF") and the Vulnerable Energy Consumers Coalition ("VECC"). Our comments on each intervenor cost claim are set out below.

**Energy Probe Research Foundation**

*Total Claim: \$25,823.00*

CNPI believes that the costs submitted by EPRF are reasonable in the circumstance, and are consistent with cost claims sought in other distribution rate applications. EPRF, for the most part, restricted its review to matters related to distribution operations and capital programs. EPRF was also active in the various written and oral proceedings in the application process.

**Vulnerable Energy Consumers Coalition**

*Total Claim: \$61,547.00*

CNPI is concerned about the magnitude of VECC's cost claim. It appears that VECC has submitted costs related to consultant services that are not commensurate with the level of complexity of the applications. VECC is requesting costs for 151.75 hours of consultation services; this equates to approximately 4 weeks of consulting services.

While VECC actively examined a variety of issues in the applications, much of its focus was related customer and load forecasting, cost allocation and weather normalization. CNPI used simple straightforward customer and load forecasting and provided ample evidence on its customer profile and current economic conditions. CNPI used the commonly accepted template for Cost Allocation and did not dispute the issues related to transformer and miscellaneous revenue allocations raised by VECC. CNPI did implement a weather normalization process that may have differed from other LDC applications, however the methodology was not overly complicated and CNPI was open in its discussions related to this matter.

Harmonization of Fort Erie and Gananoque involved a straightforward combination of the individual metrics submitted of the service territories; it did not introduce new complexities.

Further, we would expect that VECC's costs associated with the two motions would be minimal, given that the SEC took full responsibility for the Port Colborne lease (as claimed by the SEC in its cost claim).

For all of these reasons, CNPI believes that the level of costs approved for VECC should be at a level that more closely resembles the cost claim of EPRF.

**School Energy Coalition**

*Total Claim: \$95,917.17*

It is CNPI's view that the total amount claimed by SEC is significantly higher than one would expect in this matter. It is more than three times higher than EPRF's cost claim. We understand that SEC took responsibility for the Port Colborne lease issue, however we do not believe that its efforts in that regard justify costs that are more than three times those of EPRF.

It should also be noted that not all the information requested by SEC in the first motion was determined relevant to the proceeding (i.e. SEC also requesting information related to CNPI's transmission business and Cornwall Electric).

What is particularly troubling about the SEC's cost claim is that during the evidentiary phase of the proceeding, the SEC was aware of both CNPI's forecasted budget for intervenor costs, as well as its own unusually high costs. At no time did the SEC advise CNPI or the Board that CNPI's forecast of intervenor costs was likely deficient. If the role of intervenors in a rate proceeding is to scrutinize an applicant's forecasted costs, it follows that intervenors have an obligation to provide notice of apparent discrepancies related to the forecast of their own costs. Had SEC done so, CNPI could have adjusted its forecast of intervenor costs accordingly. Instead, the SEC remained silent on the issue.

We understand that the SEC's cost claim is only one of three, so on its own it could not have determined the sum of the intervenor cost claims relative to CNPI's budget. However, we do not believe that this would be a valid excuse since the intervenors consulted with one another throughout proceeding and could have easily corrected CNPI's deficient forecast.

For all of these reasons, CNPI believes that the level of costs approved for the SEC should be significantly reduced. We are in the Board's hands on the amount of the reduction.

Yours very truly,

**Ogilvy Renault LLP**



Andrew Taylor

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