*PUBLIC INTEREST ADVOCACY CENTRE*
*LE CENTRE POUR LA DEFENSE DE L'INTERET PUBLIC*
**ONE Nicholas Street, Suite 1204, Ottawa, Ontario, Canada K1N 7B7**
Tel: (613) 562-4002. Fax: (613) 562-0007. e-mail: piac@piac.ca. http://www.piac.ca

Michael Buonaguro
Counsel for VECC
(416) 767-1666

February 16, 2010

**VIA MAIL and E-MAIL**

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

Dear Ms. Walli:

**Re: Vulnerable Energy Consumers Coalition (VECC)**
**EB-2009-0132**
**Cooperative Hydro Embrun Inc. – 2010 Electricity Distribution Rate Application**

Please find enclosed the submissions of the Vulnerable Energy Consumers Coalition in the above-noted proceeding.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC

Encl.

EB-2009-0132

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sch.B, as amended;

AND IN THE MATTER OF an Application by Cooperative Hydro Embrun pursuant to section 78 of the *Ontario Energy Board Act* for an Order or Orders approving just and reasonable rates for the delivery and distribution of electricity.

FINAL SUBMISSIONS

On Behalf of The

VULNERABLE ENERGY CONSUMERS COALITION (VECC)

February 16, 2010

Michael Buonaguro
Public Interest Advocacy Centre
34 King Street East
Suite 1102
Toronto, Ontario
M5C 2X8

Tel: 416-767-1666
E-mail: mbuonaguro@piac,ca

Vulnerable Energy Consumers' Coalition (VECC)

Final Argument

# 1 The Application

1.1 Cooperative Hydro Embrun ("CHE," "Embrun," "the Applicant," or "the Utility") filed an application ("the Application") with the Ontario Energy Board ("the Board" or "the OEB") on September 16, 2009, under section 78 of the Ontario Energy Board Act, 1998 for electricity distribution rates effective May 1, 2010.

1.2 The Application requested a base distribution revenue requirement of $766,580 for the 2010 test year and claimed a revenue deficiency of $151,359[1] based on existing rates.

1.3 The associated percentage increase in distribution revenues proposed was 24.60%.[2]

1.4 In the Application, CHE has also requested (i) approval to dispose of balances in some deferral and variance accounts, in aggregate amounting to ($151,981), over one year,[3] (ii) approval to increase the smart meter adder from $1.00 per customer per month to $1.32 per customer per month,[4] and (iii) approval to revise its Retail Transmission Service Rates (RTSR) to reflect the Uniform Transmission Rates (UTR) approved effective July 1, 2009 in the Board's Decision and Order EB-2008-0272.

1.5 In response to interrogatories regarding inclusion of IFRS transition costs in the revenue requirement, CHE proposed to remove these costs from the revenue requirement resulting in a revenue requirement reduction from $766,580 to $751,396.[5]

1.6 During the interrogatory phase of the process, CHE revised its forecasted rebasing and regulatory costs over the four-year period 2010-2013 from $120,000 to $246,000.[6]

[1] Revised Exhibit 1/Tab 1/Schedule 3, page 1 as filed on November 5, 2009
[2] At existing rates, Total Net Revenues are forecast to be $656,593 per Exhibit 6/Tab 2/Schedule 1, Attachment 1; Other Revenues are forecast to be $41,371 per Exhibit 6/Tab 1/Schedule 1, Attachment 1. Therefore forecast 2010 distribution revenue at existing rates is $615,222. Based on the claimed deficiency of $151,359, the required increase in distribution revenues is 24.60%.
[3] Revised Exhibit 1/Tab 1/Schedule 3, page 1
[4] Exhibit 9/Tab 3/Schedule 1
[5] See VECC IR #9 and Board Staff IR # XXX
[6] Board Staff Supplementary IR on Issue 3

1.7 Further, in responses to interrogatories, CHE indicated that its 2010 employee costs had been revised downwards by $8,208, reducing its revenue requirement by $8,309 for the Test Year.[7]

1.8 CHE provided a document entitled "Summary of Proposed Changes to Revenue Requirement" and appended it to the responses to VECC's Supplementary IRs. This document proposed: (i) revision to CHE's depreciation expense, (ii) OM&A to be increased due to application of PST, (iii) removal of IFRS conversion costs from the revenue requirement (as above), (iv) reduction in Test Year employee costs (as above), (v) an increase in regulatory costs (as above), (vi) inclusion of inadvertently omitted on-going costs for maintaining the billing system, (vii) various changes relating to deferral account balances and proposed treatments, (viii) updating commodity costs to reflect new RPP rates, (ix) an updated loss factor, and (x) recalculating its RSTR.

1.9 Per CHE's Revenue Requirement Work Form attached, the overall net impact of these changes is to increase the base revenue requirement from $766,580 as originally filed, to $803,329.[8] While VECC has been unable to verify all the changes reflected in the document, VECC takes issue with two of the proposed revisions.

1.10 First, VECC strongly disagrees that recognition of 2010 OM&A savings due to implementation of the HST on July 1, 2010 should cause the revenue requirement to increase. Rather, there should be a decrease in revenue requirement to remove the forecasted PST amounts on OM&A from the 2010 revenue requirement. In VECC's view, this correction should be made and verified prior to a final rate order being issued. VECC elaborates further on this below.

1.11 VECC also notes that it does not understand the increase in annual costs for regulatory and rebasing activities as calculated by CHE. VECC elaborates further on this below.

1.12 The following sections contain VECC's final submissions regarding Embrun's Application.

## 2 Rate Base and Capital Spending

*Capital Spending*

[7] VECC IR #11, Revised Exhibit 4/Tab 4/Schedule 1, Attachment 1, and VECC Supplementary IR #24
[8] "Revenue Requirement" sheet of the Work Form

2.1 CHE's capital spending in 2007 was $168,110 including contributions and grants of $93,114, for an increase in gross fixed assets of $74,996;[9] CHE's capital spending in 2008 was $151,261 including contributions and grants of $22,283, for an increase in gross fixed assets of $128,979.[10]

2.2 CHE's projected capital spending in 2009 is $301,580 including contributions and grants of $83,200, for an increase in gross fixed assets of $218,380.[11] VECC notes that of the total gross spending in 2009, over 70% is related to future demand ($162,080) and to the new Harris CIS ($67,200),[12]while the remainder is mainly comprised of projects classified by CHE as "safety and reliability."

2.3 CHE's projected spending on capital additions in the 2010 Test Year is $332,665 including contributions and grants of $120,000, for an increase in gross fixed assets of $212,665.[13] VECC notes that of the total gross spending in 2010, over 80% is related to future demand ($268,165) and a further 16.7% is comprised of projects classified by CHE as "safety and reliability" ($55,500).

2.4 CHE's rate base for 2006, 2007, and 2008 was $2,184,551, $2,197,863, and $2,174,714 respectively;[14] for 2009, CHE projects a rate base of $2,312,166 (an increase of $137,452 over 2008) while for 2010, CHE projects a rate base of $2,406,167 (an increase of $94,001 over 2009).[15]

2.5 VECC takes no issue with the proposed capital expenditure estimates as such but VECC believes that the savings in provincial sales tax ("PST") which will begin as of July 1, 2010 as a result of the agreement between the federal and provincial government to harmonize the GST and the PST should be reflected in the 2010 revenue requirement.

2.6 VECC notes that CHE has not made any adjustment to its Test Year capital expenditure related to upcoming July 1, 2010 implementation of the Harmonized Sales Tax ("HST"). In response to an interrogatory, CHE provided the actual "PST" included in capital expenditures for the years 2006-09 inclusive: $28,180, $13,511.20, $12,101.04, and $7,350.24 respectively.[16] The average annual PST

---

[9] Exhibit 2/Tab 3/Schedule 3, Attachment 1, page 4
[10] Ibid, page 6
[11] Ibid, page 8 and Exhibit 2/Tab 4/Schedule 4, Attachment 1
[12] Exhibit 2/Tab 4/Schedule 4, Attachment 1
[13] Exhibit 2/Tab 3/Schedule 3, Attachment 1, page 10 and Exhibit 2/Tab 4/Schedule 4, Attachment 2
[14] Exhibit 2/Tab 1/Schedule 1, Attachment 1
[15] Ibid
[16] VECC IR #22 d)

included in capital expenditures over this four-year period was $15,285.62.[17]

2.7 VECC submits that (i) a reduction in 2010 capital expenditures in the amount of $7,643 (reflecting one-half year impact) be made and reflected in the 2010 rate base and that (ii) the Board require CHE to establish a variance account to track deviations around this reduction with respect to actual PST savings, are appropriate.

2.8 In the alternative, if the Board deems that a variance account is not warranted then the 2010 rate base should still be reduced by the forecasted impact of the introduction of the HST.

2.9 Subject to this adjustment, VECC accepts CHE's proposed capital spending as appropriate and also accepts the <u>forecasted non-Working Capital Allowance portion of rate base</u> for the Test Year.

*Working Capital Allowance ("WCA")*

2.10 Of the total 2010 rate base of $2,406,167 proposed by CHE, $438,431 or 18.22% is WCA.[18] Of the $438,431 WCA, $367,256 is due to the cost of power component.[19] Therefore, 15.3% of the Test Year rate base is due to the use of the "15% rule" applied to projected power costs.

2.11 VECC submits that a lead-lag study should be filed with CHE's next rebasing application to assess the appropriateness of continuing with the "15% option," an option that might generate a figure that bears no relationship to actual working capital requirements or their actual cost.

## 3 <u>Load Forecast and Revenue Offsets</u>

*Load Forecast*

3.1 Embrun's load forecast methodology consists of the following steps:

- First, weather normalized purchases for 2010 are estimated based on a multifactor regression analysis that includes weather, employment levels population and seasonal calendar variables as independent explanatory variables. The regression equation was developed using monthly data

---

[17] VECC IR#22 e)
[18] Exhibit 2/Tab 1/Schedule 1 Attachment 1
[19] Ibid

for the period May 2002 to December 2008[20]. Normal weather is based on a 10 year average[21].

- Second, for the weather sensitive classes (Residential, GS<50 and GS>50), the 2010 retail kWh were determined based on each class' 2008 share of wholesale kWh, exclusive of distribution losses. For the remaining classes (Street Lights and USL), 2010 sales are assumed to be the same as those for 2008[22].
- Finally, for the customer count forecast, residential customer growth was projected based on the CMHC forecast for the Ottawa metropolitan area for 2009 and 2010 while the customer count for the other classes was held constant at 2008 levels[23].

3.2 Overall, the total billed energy for 2010 is forecast to be 29.503 GWh as compared to an actual 2008 billed energy value of 29.484 GWh and a 2008 weather normalized value of 30.079 GWh[24] – a reduction of roughly 2%.

3.3 In terms of the regression model used to predict total weather normalized purchases, VECC notes that model has an adjusted R-squared value of over 90% and that the coefficients are all (statistically) significant and intuitively correct[25]. VECC has reviewed the comments of Board Staff[26] and while it acknowledges there is room for improvement, it submits that the model's results provide a reasonable forecast for purposes of setting 2010 rates.

3.4 VECC also agrees with Board Staff that the approach used to determining the 2010 weather normalized use by customer class is simplistic in that it assumes all customer classes have the same degree of weather sensitivity. Furthermore, there is a disconnect between the methodology used to determine the 2010 weather normal use for the larger customer classes (which uses percentage of 2008 sales) and the methodology used for the smaller customer classes (which uses actual 2008 sales). Implicit in using the Residential, GS<50 and GS>50 actual sales as a percentage of <u>total</u> purchases is the assumption that the sales to <u>all</u> customer classes vary with the weather. However, this is not the case as Embrun assumes that Street Light and USL are not weather sensitive[27].

---

[20] Exhibit 3/Tab 1/Schedule 1, Attachment 2 (ERA Load Forecast Report), page2
[21] Exhibit 3/Tab 1/Schedule 1, Attachment 2 (ERA Load Forecast Report), page 7
[22] Exhibit 3/Tab 1/Schedule 1, Attachment 2 (ERA Load Forecast Report), pages 10-11
[23] Exhibit 3/Tab 1/Schedule 1, Attachment 2 (ERA Load Forecast Report), page 12
[24] Exhibit 3/Tab 1/Schedule 1, Attachment 2 (ERA Load Forecast Report), page 11
[25] Exhibit 3/Tab 1/Schedule 1, Attachment 2, page5
[26] Staff Submission, pages 3-4
[27] Exhibit 3/Tab 1/Schedule 1, Attachment 2, page 11

*2010 Load Forecast Results*

3.5 VECC submits that a more consistent approach would have been to determine the 2008 percentage use by customer class of total 2008 purchases excluding the sales to Street Lights and USL. These percentages would then be applied to the forecast 2010 purchases to determine the 2010 weather normalized sales for Residential, GS<50 and GS>50. This approach would yield a slightly higher forecast of 2010 sales for these customer classes. However, VECC notes that by using 2008 data to translate the projected 2010 purchases into customer class sales, Embrun is implicitly using the loss factor for 2008 which has the lowest value for any of the previous 5 years[28].

3.6 Thus, while "two wrongs never make a right", VECC submits that, in this case, Embrun's customer class load forecast is likely the most reasonable one available given the limitations of its load forecasting methodology and the data availability.

## 4 Operating Costs

*HST*

4.1 In response to VECC IR #22 a), CHE stated that "[t]he estimated cost of PST in the revised OM&A for 2010 is 19,059." However, at the bottom of the next page, CHE has bolded a total of $19,599 for OM&A PST.

4.2 Further, VECC notes that the PST paid on non-capital purchases in previous years is markedly different from the either $19,059 or $19,599.[29]

4.3 Therefore VECC is unclear as to how robust or accurate CHE's estimated $19K in the 2010 amount of PST embedded in OM&A expenses.

4.4 VECC submits that the appropriate reflection of the HST implementation mid-year in 2010, is to remove ½ of the PST embedded in forecasted OM&A expenses.

---

[28] Exhibit 8, Tab 3, Schedule 3, Attachment 1, page 1
[29] VECC IR #22 c) and d)

4.5 Given that the estimate provided by CHE is at least uncertain and unclear, VECC urges that (i) CHE be required to provide a better and supportable estimate of PST embedded in 2010 OM&A expenses, (ii) that the Board reduce 2010 OM&A expenses by half this amount, and (iii) that CHE be required to establish a variance account to track actual versus estimated savings in PST on OM&A expenses.

*Regulatory and Rebasing Costs*

4.6 In its reply to Board Staff Supplementary IR on Issue 3, CHE revised its regulatory and rebasing costs from $120,000 to $246,000. While just over half the increase was attributed to adding three years of IRM costs (originally not included), the remaining increase was due to initially budgeted costs being optimistically low in VECC's view.

4.7 While the increase and increased level of costs seem quite high to VECC, VECC accepts that an increase in these costs was justified. VECC notes that amortizing an amount of $246K over four years implies a cost of $61.5K per year; in its document entitled "Summary of Proposed Changes to Revenue Requirement," CHE has stated that these costs amount to $67,224 per year. VECC submits that CHE should be required to justify the annual amount in light of its revised total costs.

*Other Issues*

4.8 VECC notes that CHE's pre-filed evidence indicated that Test Year OM&A costs per customer would have been comparable to 2009's level had rebasing costs and IFRS costs not been incurred.[30] Given the proposal to remove IFRS costs from the revenue requirement (booking them instead to a deferral account), the main driver of increased OM&A per customer costs is regulatory/rebasing costs as discussed above.

4.9 VECC accepts the proposed decrease in 2010 employee costs resulting in an $8.3K decrease in revenue requirement as acceptable.

4.10 VECC also submits that the proposal to remove IFRS conversion costs from the revenue

[30] Exhibit 4/Tab 2/Schedule 1 Attachment 5

requirement is appropriate.

4.11 VECC generally notes that it has had difficulty in reconciling much of the evidence and the revised filings with CHE's estimated cost and revenue impacts.

4.12 As such, VECC urges that the Board require CHE to provide any required justification and elaboration for any elements of the draft rate order it files as its proposal to implement the Board's final decision in this proceeding. In this respect, VECC suggests that a thorough process for testing the draft rate order be ordered by the Board.

## 5 Cost of Capital/Capital Structure

5.1 Since CHE does not hold any debt instruments,[31] its long-term rate is deemed. VECC submits that the appropriate deemed rate for use in ratemaking would be the Board's deemed long-term rate for 2010.

## 6 Cost Allocation

6.1 Embrun has prepared a 2010 cost allocation study using 2010 costs and scaling the various loads used in its 2007 study to match the change in load forecast for each customer class between then and 2010[32]. In preparing the 2010 Cost Allocation study Embrun's consultant used 2010 revenues by customer class based on 2009 rates and, as a result, all of the reported revenue to cost ratios are less than 100%[33]. In response to a VECC interrogatory, Embrun produced a table setting out the revenue to cost ratios that would result if the 2010 revenue deficiency was addressed through a uniform rate increase to all customer classes[34]. Key points to note from the results are:

- The revenue to cost ratios for all of Embrun's customer classes are within the Board's Guidelines, except for Street Lighting (at 42.78% vs. 70% minimum) and USL (at 23.56% vs. 70% minimum).
- The Residential (105.58%) and GS>50 (120.51%) are the only other classes with revenue to cost

[31] Exhibit 5/Tab 1/Schedule 2, Attachment 1
[32] Exhibit 7, ERA Report, pages 5-6
[33] Exhibit 7, ERA Report, page 11
[34] VECC Supplemental IR #19 a) – See revision to VECC IR #12 a) - 5th column

ratios in excess of 100%.

*Use of the Cost Allocation Study Results in Setting 2010 Rates*

6.2 For 2010, Embrun is proposing to move the revenue to cost ratios for Street Lighting and USL 50% of the way to the minimum level specified by the Board's guidelines[35]. The excess revenue is used to reduce the revenue to cost ratio for the Residential class[36]. Embrun has also indicated that it will continue to move towards the "floor value" in subsequent IRM applications.

6.3 While VECC generally agrees with the directional shifts that Embrun is proposing for the 2010 revenue to cost ratios, it has concerns regarding the specific values proposed. These concerns arise from the fact that Embrun uses the ratios from its 2006 cost allocation study as the starting point for the revenue to cost ratio[37] adjustments. This means that, to the extent there are changes in load patterns and allocated costs between 2006 and 2010, Embrun's starting point is not consistent with the 2010 ratios that would result from a simple uniform increase in rates for all classes. VECC's other concern is that Embrun calculates its 2010 proposed revenue to cost ratios based on a comparison of customer class distribution revenues vs. allocated base revenue requirement[38] (as opposed to based on total revenues versus the allocation of service revenues by class – as per the Board's cost allocation model).

6.4 One effect of this is that while Embrun claims it is not changing the revenue to cost ratio for GS<50, the 2010 required distribution revenues from the class are $118,777 versus the $115,261 that is consistent with a uniform increase of existing rates[39]. Another effect is that the starting point for both Street Lighting and USL is slightly different such that moving 50% of the way to the lower boundary for each class yields a different result.

6.5 VECC submits that 2010 revenue to cost ratios set out in response to VECC 19 a) (i.e., Updated version of VECC #12 a) & b)) are the appropriate starting point and that the proposed 2010 revenue to cost ratio changes should be determined based on each class' total revenues (including allocated miscellaneous revenues) versus the class' allocated (service) revenue requirement.

---

[35] VECC Supplemental IR #12 c)
[36] Exhibit 8, Tab 2, Schedule 1, page 1
[37] VECC #19 a) – revised response to VECC #12 c)
[38] RateMaker Model, Tab F3, Column G, Rows 92-96
[39] RateMaker Model, Tab F3, Row 12, Columns H & I

## 7 Rate Design

7.1 Embrun's general approach to rate design has been to maintain the existing fixed variable split. The only exceptions were[40]:

- The Residential and GS>50 classes where maintaining the existing fixed variable split produces a fixed charge in excess of the Board's Guidelines. In these cases, the fixed charge was set at the upper end of the Board's Guideline.
- The USL class where maintaining the fixed variable split produces a fixed charge below the Board's Guidelines. In this case, the charge was set at the lower end of the Board's Guidelines.

VECC agrees with Embrun's overall approach to setting the fixed monthly charges for each class.

7.2 Finally, Embrun has agreed[41] that LV charges/revenue should be excluded in the determination of the fixed/variable split. VECC notes that this is consistent with the Board's cost allocation model which also excludes LV costs and submits that this revised approach is appropriate.

## 8 Losses

8.1 In response to a Board Staff interrogatory, Embrun has revised its loss calculation so that it now uses the most recent three year's of data as opposed to five[42]. VECC agrees with this approach.

## 9 Retail Transmission Rates

9.1 In response to a Board Staff interrogatory[43], Embrun has revised its proposed 2010 Retail Transmission Service rates to account for both the historic trends in cost over-recovery and the July 2009 UTR adjustments. VECC submits that the proposed rates should be accepted by the Board.

## 10 Deferral and Variance Accounts

[40] Exhibit 8, Tab 2, Schedule 1, page 2
[41] VECC #20 a0 & b)
[42] Board Staff #21
[43] OEB Staff #23

10.1 On this issue, VECC has reviewed the Board Staff Submissions of February 12, 2010 and supports those submissions.

10.2 VECC has no further submissions with respect to the Application.

All of which is respectfully submitted this 16th day of February 2010