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March 10, 2010

VIA MAIL AND EMAIL

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: Board Staff Discussion Paper re: Rate Protection and the Determination of Direct Benefits under Ontario Regulation 330/09
Board File Number: EB-2009-0349
Vulnerable Energy Consumer Coalition's Follow-Up Comments

As Counsel to the Vulnerable Energy Consumers Coalition (VECC), I am writing, per the Board's Letter of February 5th, to provide VECC's further written comments regarding the above Staff Discussion Paper. VECC participated in the February 26th stakeholder meeting and has reviewed the comments filed earlier by the other parties to the consultation process. The following comments focus on specific issues that have been raised by parties filing written comments and/or participating in the stakeholder meeting. These comments are meant to supplement and therefore do not repeat VECC's earlier comments. In general, VECC's views are unchanged from those set out in its letter of January 11th, 2010.

Inclusion of Reduced Network Transmission and WMSC Charges

In both the written submissions and the comments made during the stakeholder meeting, there was a divided view as to whether reduced Network Transmission and WMSC charges should be considered a "direct benefit" for purposes of

Regulation 330/09. Those suggesting it not be included cited the fact that the charges were not true distribution charges and also noted that the impact, particularly in the case of MicroFIT projects, may be difficult to determine.

The fact that the charges involved are not strictly “distribution costs” does not negate the fact that there is a ‘benefit” in terms of reduced charges which will accrue to the ratepayers of those LDCs who experience see significant amounts of renewable generation connecting in their service area. Furthermore, given the capital spending plans outlined by Hydro One Networks it is evident that the advent of renewable generation is increasing (not decreasing) the transmission system investments required in Ontario. As a result, one can not conclude that any reduction in purchases from the IESO-administered market will lead to reduction in overall provincial transmission or WMSC costs. Rather it will lead to a redistribution of such costs across market participants.

VECC acknowledges the concern raised regarding the difficulty in determining the impact of small MicroFIT projects on transmission and WMSC charges. The issue is of particular concern with respect to transmission charges which are based on demand. In this case, a practical solution may be for the OEB to work with the OPA and a few of the larger/heavily impacted distributors to establish reasonable coincidence factors that could be applied to aggregate monthly energy output of such generation.

In VECC’s view, this is an issue that needs to be addressed and on a timely basis. Unless the Board is prepared to establish a separate process for considering the matter, VECC sees the EB-2009-0349 proceeding as being a reasonable forum in which to address the matter, at least for now. Over the long-term the Board may wish to initiate a more comprehensive consideration of the matter. However, VECC notes that to do so could involve revisiting some fundamental issues such as when gross versus net billing should be applied.

Level of Disaggregation

In its January comments Hydro One Networks proposes using a high-level approach that establishes “direct benefits” based on investments across its entire service area as opposed to the specific investments associated with renewable generation projects. In VECC’s view Hydro One Networks is rather unique amongst distributors when it comes to the application of Regulation 330/09. For most distributors, the number of renewable generation projects will be limited and a project specific or cluster-based approach as suggested by VECC views in its initial comments (see pages 5-6) should be readily applicable.

VECC acknowledges that in Hydro One Networks case this could lead to a number of “clusters” being identified. However, Hydro One Networks has itself acknowledged (January 13th - page 10) that the locations for renewable generation projects are likely to be in remote locations with low density and low load growth. As result, in VECC's view, an approach which mirrors average system load growth is inappropriate. A cluster approach which focuses on the limited areas where renewable generation actually occurs will yield a far better estimate of "direct benefits" while not requiring the level of detail that a project by project analysis would.

Ex-Post vs. Ex-Ante

The question of whether the calculation of "direct benefits" should be done on an ex-ante (i.e., forecast) or ex-post (i.e., actual) basis is also one where the comments submitted offered a difference of opinion. Those in favour of an ex-ante approach referenced the fact that such an approach is consistent with the way rates are set under cost of service. VECC does not find this rationale all that compelling as cost of service proceedings also deal with the clearance of the actual balances in deferral/variance accounts.

VECC has also revisited the wording of Regulation 330/09 and notes that:

- Section 2 defines prescribed customers as "consumers … served by a licensed distributor that has incurred costs to make an eligible investment that has been approved by an order of the Board" (*emphasis added*), which would suggest that an ex-post approach is required.

- Section 3 makes reference to "direct benefits that accrue to prescribed consumers or classes of consumers a result of all or part of the eligible investment made or planned to be made by the distributor" (*emphasis added*), which would suggest that an ex-ante approach is permitted.

When taken together, it is VECC's view that either an ex-post approach or an ex-ante approach with a subsequent Board approved true-up is required in order to meet the requirements of the Regulation.

Determination of Direct Benefits

There was considerable discussion during the stakeholder meeting regarding the potential benefits (to existing ratepayers) attributable to increases in system reliability. VECC addressed this matter in its initial comments regarding Issues #3 and #9 and reiterates its view that benefits have a cost and unless it can be demonstrated that customers would have paid for the benefits in any event, there should be no direct benefit attributed to them.

VECC wishes to thank the Board for this additional opportunity to comment and also for arranging the February 2010 stakeholder meeting. If you have any questions please contact either Bill Harper (348-0193) or myself (767-1666).

Yours truly,

Michael Buonaguro
Counsel for VECC