PUBLIC INTEREST ADVOCACY CENTRE

LE CENTRE POUR LA DEFENSE DE L'INTERET PUBLIC

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March 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: EB-2009-0269

Please find enclose the submissions of VECC in the above noted proceeding.

Yours truly

Original Signed by

Michael Buonaguro
Counsel to VECC
Encl.

EB-2009-0261

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 Chatham-Kent Hydro Inc. 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)

March 10, 2010

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Chatham-Kent Hydro Inc. 2010 Rates
Board File Number EB-2009-0261

Submissions of the Vulnerable Energy Consumers' Coalition ("VECC") on the Unsettled Issues

0.0 Introduction

Chatham-Kent Hydro Inc. ("CKHI") filed its application for 2010 rates with the Ontario Energy Board ("the Board") on October 5, 2009. The Board issued Procedural Order No. 1 on November 11, 2009 which provided for written interrogatories on the evidence.

On January 15, 2010, the Board issued Procedural Order No. 3 which scheduled a Settlement Conference commencing on February 4, 2010. The conference was duly convened and, at its conclusion on February 5, 2010, Parties had achieved a partial settlement.

The Partial Settlement Agreement was filed with the Board on March 2, 2010. The document identified three issues that remained unsettled: (i) whether a lead-lag study should be prepared by CKHI at its next cost-of-service rebasing application, (ii) the appropriate return on equity and capital structure for CKHI, and (iii) whether the Ontario Small Business Tax Deduction should be included in its calculation of the 2010 PILS allowance.[1]

Below are VECC's submissions on the unsettled issues.

1.0 Should a lead/lag study be prepared by CK Hydro for its next cost of service, rate rebasing application?

In the current application, CKHI has calculated the 2010 working capital allowance ("WCA") based on 15% of the sum of its 2010 OM&A expenses and its projected 2010 cost of power expenses. VECC notes that the working capital component of CKHI's rate base is $8,985,311, or 15.99% of its rate base of $56,200,288.[2] Using CKHI's weighted average cost of capital of 7.31%,[3] <u>the revenue requirement associated with the WCA alone and not grossed up for taxes</u> amounts to $656,826 in the Test Year:[4] this means that each 1% change in the 15% WCA rule increases the revenue requirement by almost $44,000 – ignoring the added impacts of taxes.[5]

Over the course of a four-year IRM period, each percentage point adds approximately $170,000 to the

[1] Settlement Agreement filed on March 2, 2010, page 4
[2] Settlement Agreement, Appendix K, page 59
[3] Ibid. The WACC incorporates the Board's updated parameters as provided in its February 24, 2010 report.
[4] Using the combined income tax rate of 31% and ignoring the Ontario Small Business Tax Deduction, the grossed up amount would be $951,922.
[5] Taking into account the tax impact, under the same assumptions as used in the previous footnote, the total impact on the 2010 revenue requirement of each percentage point of the 15% WCA is $63,461.

revenue requirement, not including the associated income taxes.[6]

VECC notes that lead-lag studies undertaken by other Ontario electricity distributors have resulted in WCAs that are less than the amount that would be calculated under the “15% rule:” Most recently, in Hydro One Networks’ 2010/2011 application, the working capital amounted to just less than 12% of controllable expenses plus cost of power for each year.[7]

VECC submits that (i) given that a lead-lag study can be undertaken at modest cost, using mainly (or totally) internal resources, and (ii) given that the results of a lead-lag study could reduce the WCA by a few percentage points and therefore materially reduce the return component on the WCA included in the revenue requirement, CKHI should be directed to undertake a lead-lag study and include said study with its next rebasing application. In VECC’s view, the potential benefits to ratepayers will likely more than offset the costs of such a study.

2.0 The Appropriate Return on Equity (“ROE”)

The next issue is the appropriate ROE.

VECC notes that the Board issued its Cost of Capital parameter Updates for 2010 Cost of Service Applications on February 24, 2010:[8] the 2010 values for ROE and deemed Long-Term Debt Rates are 9.85% and 5.87% respectively.

VECC has reviewed a draft of Energy Probe’s submissions on this issue and supports those submissions.

Specifically, VECC submits that, as a matter of principle, costs that will not be incurred by the utility – and for which it is known, *ex ante,* that they will not be incurred – should neither be deemed to be incurred by the utility nor recovered from ratepayers. VECC submits that the discrete and quantified 50 basis point adder included in the 9.85% ROE for transaction and flotation costs is not a cost that will be borne by the utility; as such VECC submits that this phantom cost should not be recovered by the utility from ratepayers.

VECC also notes that during the recent consultation initiated by the Board to review its approach for determining the cost of capital parameters,[9] there was a general consensus among the experts that for electricity distribution utilities, the spread between their borrowing costs and their allowed ROE should be in the order of 200 to 300 basis points.[10] In light of this, VECC submits that the allowable ROE for CKHI’s Test Year should not exceed the upper limit of the experts’ consensus, i.e., 5.87% plus 300 bp or 8.87%.

VECC submits that absent utility-specific evidence to the contrary, approval of the updated ROE of 9.85% would not be reasonable given that such an ROE exceeds the 5.87% deemed long-term debt rate by 398

[6] Including the tax impacts, subject to the assumptions employed in the two preceding footnotes, each one percentage point increase adds about $250,000 to the amount collected from ratepayers over the four-year IRM period.
[7] EB-2009-0096, Exhibit D1-1-4, page 1
[8] EB-2009-0084
[9] Ibid
[10] Ibid, Transcript Volume 1 pages 73, 95, and 137, and Transcript Volume 2, page 122.

bp, or almost 100 bp above the experts' consensus on the appropriate spread. VECC submits that the approved ROE for CKHI for the 2010 Test Year should not exceed 8.87%.

3.0 Applicability of the Ontario Small Business Deduction

VECC has reviewed a draft of Energy Probe's submissions on this issue and adopts those submissions.

4.0 Recovery of Reasonably Incurred Costs

VECC submits that its participation in this proceeding has been focused and responsible. Accordingly, VECC requests an award of costs in the amount of 100% of its reasonably incurred costs and disbursements.

All of which is respectfully submitted on this 10th day of March, 2010

Michael Buonaguro
Counsel to VECC

cc Jim Hogan, Chatham-Kent Hydro Inc.