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May 13, 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: Procedural Order No. 2
Whitby Hydro Electric Corporation (Whitby)
Application for 2010 Electricity Distribution Rates
Board File No. EB-2009-0274

The following are the submissions of the Vulnerable Energy Consumers Coalition (VECC) on the procedural issues identified in the Board's Procedural Order No. 2 issued May 10, 2010:

a) Whether further discovery is required, either in the form of further interrogatories or a technical conference;

VECC has reviewed the interrogatory responses of the Applicant and submits that further discovery is warranted. In a number of cases the responses to the interrogatories are incomplete while in others the responses provided give rise to additional issues that require clarification/follow-up. Set out below are specific examples of each.

Inadequate Responses

VECC #32 e) and g) – Requested a breakdown of OM&A and Capital Expenditures as between labour costs and spending on material and services by both Whitby Hydro and WHES. The responses did not provide the requested breakdown.

VECC #33, 34, 35 and 36 – Sought clarification as to how the “adjustment for the weighted average cost capital” was determined for inclusion in the cost of various OM&A and Capital services and why the adjustment is only made for certain services. Reference was made to a methodology and discussions with the OEB but no details are provided as to how the percentage mark-ups shown in the responses were established. In attachments provided in response to SEC #3 reference is made to a Transfer Pricing Report which speaks to mark-ups of 10% or 15% for certain categories of expenditures. It is not at all clear how the results of this report link with the responses to the VECC IRs, particularly since the mark-ups provided in the VECC responses do not align with either the 10% or 15% values.

Clarification/Follow-Up Required

VECC #5/Board Staff #14/Energy Probe #11/SEC #34 – All of these responses make reference to the OM&A and Capital costs having been reduced to reflect HST savings. However, VECC has been unable to find any reference to this adjustment in the main Application and HST was not identified as one of the variance factors in response to VECC #27. Further details are needed on the adjustment Whitby has made for HST savings and where/how it has been incorporated into the Application.

SEC #14 – The response makes reference to new borrowing in 2010 to support Whitby’s capital spending program. However, Exhibit 5 of the main Application does not include any new 2010 debt in the calculation of the cost of capital.

Board Staff #2 – The updated Network and Connections costs appear to have been calculated using 2009 actual as oppose to 2010 forecast loads.

VECC submits that, given the nature of the outstanding issues they should be addressed through a second round of IRs as opposed to a Technical Conference. In order to reduce the need for further follow-up and facilitate the preparation of Whitby’s responses a conference call (such as that suggested by Whitby in its letter of May 11th) would be useful.

b) *Whether a settlement conference would be appropriate; and*

VECC is of the view that a Settlement Conference would be appropriate in this case.

c) *Whether a written or oral hearing is preferred.*

In VECC’s view it is premature, particularly in light of the further discovery matters identified above, to determine whether an oral or written hearing would be required to resolve any matters outstanding following the Settlement Conference.

Yours truly,

Michael Buonaguro
Counsel for VECC

cc: Ms. Ramona Abi-Rashed - Whitby