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January 10, 2011

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)
Final Submissions: EB-2010-0099 Midland Power Utility Corporation. – 2011
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.
cc: Midland Power Utility Corporation
PHIL MARLEY, CMA President & CEO
E-mail: pmarley@midlandpuc.on.ca

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 Midland Power Utility Corporation pursuant to section 78 of the *Ontario Energy Board Act* for an Order or Orders approving just and reasonable rates for electricity distribution to be effective May 1, 2011.

FINAL SUBMISSIONS

On Behalf of The

VULNERABLE ENERGY CONSUMERS COALITION (VECC)

January 10, 2011

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Vulnerable Energy Consumers Coalition (VECC) Final Argument

1 The Application

- 1.1 Midland Power Utility Corporation Midland “the Applicant,” or “the Utility”) filed an application (“the Application”) with the Ontario Energy Board (“the Board” or “the OEB”), under section 78 of the Ontario Energy Board Act, 1998 for electricity distribution rates effective May 1, 2011. The Application was filed in accordance with the OEB’s guidelines for 3rd Generation Incentive Regulation, which provide for a formulaic adjustment to distribution rates and related charges.
- 1.2 As part of its Application Midland included a request to recover the impact of lost revenues associated with various conservation and demand management (CDM) activities (i.e., an LRAM recovery). Midland is also seeking a Shared Savings Mechanism recovery.
- 1.3 The following section sets out VECC’s final submissions regarding these aspects of the Application.

2 Lost Revenue Adjustment Mechanism (LRAM) and Shared Savings Mechanism (SSM) Recovery

LRAM –Third tranche CDM

- 2.1 VECC is concerned about the position of Midland with regard to the use of Best Available Input assumptions as required by the Board’s TRC Guidelines Section 7.3 and the Board’s Letter of January 29, 2009 regarding its adoption of the OPA Measures and Assumptions List as the Best Available Input assumptions.
- 2.2 Midland’s (revised) interpretation of the Guidelines (VECC IRR#3) is that the direction to apply the Best Available Input Assumptions at the time of the independent third party review only applies to the savings for measures installed in 2005-2008 that produce kwh and kw savings persisting beyond January 2009 or new measures implemented after January 2009.
- 2.3 Midland has therefore revised its kwh savings and to use the OEB input assumptions for the savings for 3rd tranche CDM for the period 2005-2008 and the OPA values for the period for the same measures persisting beyond 2008.
- 2.4 VECC disagrees strongly with Midland’s interpretation of the Boards Direction and notes that several other utilities have adopted this position.
- 2.5 For LRAM the Guidelines and Policy Letter of January 27, 2009 specify that

LRAM

The input assumptions used for the calculation of LRAM should be the best available at the time of the third party assessment [emphasis added] referred to in section 7.5.

For example, if any input assumptions change in 2007, those changes should apply for LRAM purposes from the beginning of 2007 onwards until changed again.....

- 2.6 VECC suggests that one reason for the Board's direction was to create a level playing field and a consistent approach to making LRAM claims as accurate as possible so that:
- ratepayers do not pay for savings that were not realized and
 - incorporation of CDM into Load forecasts does not result in overstated loads.
- 2.7 VECC notes that since Fall 2006 OPA changed its input assumptions for CFLs and other mass market measures for all of its Every Kilowatt Counts campaigns. Specifically the savings for 15w CFLs was reduced from 104kwh to 43kwh the value subsequently incorporated into the OPA measures list. Midland has now increased the savings for CFLs to the original OPA and OEB value.
- 2.8 VECC submits that for LRAM claims the use of best available assumptions should apply retroactively to prior years. The Board Guidelines adopted the "go forward" approach for SSM, but not for LRAM.
- 2.9 By reversing its position and revising its LRAM claim, Midland has gone against the independent third party review by Burman Consulting that consulted with Board staff and conducted its review and prepared the LRAM claim consistent with VECC's interpretation of the Board's direction.
- "For all programs/projects, the most recently published OPA assumptions and measures list were used in LRAM calculations [emphasis added] in accordance with OEB's direction letter, Conservation and Demand Management ("CDM") Input Assumptions Board File No.: EB-2008-0352, January 27, 2009 and consistent with recent Decision and Order EB-2009-0192 for Horizon Utilities Corporation that directed LRAM calculations use the most current available input assumptions for all CDM programs. (Appendix A1 Page 16 Burman Report)"
- 2.10 The inconsistent use of input assumptions in the revised claim, particularly for Mass Market CDM Measures has led to revised inflated Kilowatt hour savings and LRAM claim for Third tranche CDM programs.
- 2.11 VECC urges the Board to reject Midland's revised LRAM claim and direct that for all Mass Market Measures (CFLs etc) the OPA Mass Market Measures and Assumptions List Annual Energy Savings (kwh) values be used, as was the case for the original claim verified by Burman.
- 2.12 VECC cannot verify that the original "as filed" LRAM claim is accurate, since Midland chose to revise the claim rather than answering our IRs. However Burman Consulting is an experienced and competent third party reviewer of LRAM/SSM

claims and hence in default of requiring more time and effort by Midland it should request Board staff to clarify/confirm free-ridership assumptions for the CFL giveaways (the OPA has provided estimates 10%-30% for its programs by EKC campaign for each year. These values should be used for similar non-OPA programs during the same year.)

- 2.13 Accordingly, subject to the confirmation of free ridership assumptions that match of those of OPA, the **original** LRAM claim for 3rd tranche CDM should either be modified or accepted:

		As Filed			Updated			Variance
		kWh	kW	\$	kWh	kW	\$	\$
2006								
	Residential Lightbulb Giveaway	244,944	5.67	\$ 4,892.76	591,948	0	\$ 11,824.16	\$ 6,931.40
	GS >50 Lightbulb Giveaway	113,400	23.03	\$ 1,607.45	113,400	23.03	\$ 1,607.45	\$ -
2007								
	Residential Lightbulb Giveaway	244,944	5.67	\$ 4,833.56	591,948	0	\$ 11,681.11	\$ 6,847.55
	GS >50 Lightbulb Giveaway	113,400	23.03	\$ 1,583.82	113,400	23.03	\$ 1,583.82	\$ -
2008								
	Residential Lightbulb Giveaway	244,944	5.67	\$ 4,849.89	591,948	0	\$ 11,720.57	\$ 6,870.68
	GS >50 Lightbulb Giveaway	113,400	23.03	\$ 1,587.60				-\$ 1,587.60
2009								
	Residential Lightbulb Giveaway	244,944	5.67	\$ 5,078.51	244,944	5.67	\$ 5,078.51	\$ -
	GS >50 Lightbulb Giveaway	113,400	23.03	\$ 1,791.72				-\$ 1,791.72
Total LRAM				\$210,203.56			\$227,473.87	\$ 17,270.31

- 2.14 The proposed rate riders should be modified to correspond.

LRAM-OPA CDM Programs

- 2.15 VECC accepts for LRAM purposes, the OPA Verification of OPA-funded CDM programs.

SSM

- 2.16 Because of the non-retroactivity provision in the Guidelines for SSM claims for third tranche and rate-funded CDM, VECC accepts that Midland has used the OEB input assumptions for the years for the SSM claim as filed.

- 2.17 However there is an issue whether these input assumptions were in fact the best available at the time the program was implemented for 2007 and beyond.

- 2.18 This issue relates to fact the fact that OPA revised its input assumptions in fall 2006 for CFLs, SLEDs and other mass market measures, under its Every Kilowatt Counts (There is no SSM available to LDCs for OPA-funded programs).

- 2.19 The SSM claim has been prepared using annual savings of 104 kwh for 15W

CFLs instead of 43 kwh/yr used by OPA in fall 2006 and beyond and subsequently incorporated into its Measures and Assumptions Lists now adopted by the Board. (Response to VECC IRR#4 OPA Results lines 9 and 40 -104kwh vs 43kwh)

- 2.20 The difference is material in the case of Midland, since CFL handouts comprise a major component of the Midland SSM Claim.
- 2.21 Accordingly, since SSM computes the NPV of savings over the life of the measure, in VECC's submission the SSM claim for third tranche residential measures is inflated.
- 2.22 If the Board agrees with VECC's submission that there is a gross inconsistency in the assumptions used between the OPA Results for 2006-2009 EKC campaign savings and the Midland SSM claim, the latter should be revised to use the OPA EKC values for all similar third tranche funded measures. VECC requested this calculation in IRR#1 but Midland did not provide this in its response.

Summary

- 2.23 VECC urges the Board to reject Midland's revised LRAM claim and direct that for all Mass Market Measures the OPA Mass Market Measures and Assumptions List Annual Energy Savings (kwh) values be used for LRAM claims.
- 2.24 With regard to free-ridership the OPA has provided estimates for its programs by campaign and for each year. These values should be used for similar non-OPA programs for the same/similar mass market measures during the same year.
- 2.25 With regard to the Midland SSM claim VECC requests that the Board consider the issue raised above and make an appropriate determination in the best interests of ratepayers.
- 2.26 The precedent value of the Boards determinations in this case cannot be underestimated. Several other utilities are following Midland's approach and the aggregate impact on ratepayers is significant.

3 Recovery of Reasonably Incurred Costs

- 3.1 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 fees and disbursements.

All of which is respectfully submitted this 10th day of January 2011