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January 12, 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-2010-0130
Guelph Hydro Electric Systems Inc. – 2011 Electricity Distribution Rate Application

Please find enclosed the submissions of the Vulnerable Energy Consumers Coalition (VECC) in the above noted proceeding.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC
Encl.
cc: Guelph Hydro Electric Systems Inc.

EB-2010-0130

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 Guelph Hydro Electric Systems Inc. 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 12, 2011

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1 The Application

1.1 Guelph Hydro Electric Systems Inc. ("Guelph", "the Applicant," or "the Utility") filed an application ("the Application") with the Ontario Energy Board ("the Board" or "the OEB") on September 17, 2010, 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, Guelph included an Incremental Capital Module with a request for additional revenue to recover the costs of a new transformer station. The following section sets out VECC's final submissions regarding Guelph's request.

2 Incremental Capital Module (New Transformer Station)

2.1 Guelph's Incremental Capital Module is meant to recover the incremental revenue requirement associated with the planned 2011 capital spending on a new Municipal Transformer Station. The incremental capital claimed in the Application is $10.9 M and the associated incremental revenue requirement is $1,068,072[1].

2.2 The Board's Filing Guidelines for applications requesting relief for incremental capital spending require the following[2]:

- An analysis demonstrating that the materiality threshold test has been met and that the amounts will have a significant influence on the operation of the distributor;

[1] VECC #8. Note – In the original Incremental Capital Work Sheet the incremental capital spending was $10.5 M and the revenue requirement was $1,038,509. However, this was corrected during the IR process. See Board Staff #4 a) for corrected Work Sheet.

[2] EB-2007-0673, Supplemental Report of the Board, Appendix B, pages VI - VII

- A description of the underlying causes and timing of the capital expenditures including an indication of whether expenditure levels could trigger a further application before the end of the IR term;
- An analysis of the revenue requirement associated with the capital spending (i.e., the incremental depreciation, OM&A, return on rate base and PILs associated with the incremental capital), and a specific proposal as to the amount of relief sought;
- Justification that amounts being sought are directly related to the claimed cause, which must be clearly non-discretionary and clearly outside of the base upon which current rates were derived. This includes historical plant continuity information for each year of the IR plan term since the last Board-approved Test Year;
- Justification that the amounts to be incurred will be prudent. This means that the distributor's decision to incur the amounts represents the most cost-effective option (not necessarily least initial cost) for ratepayers;
- Evidence that the incremental revenue requested will not be recovered through other means (e.g., it is not, in full or in part, included in base rates or being funded by the expansion of service to include new customers and other load growth); and
- A description of the actions the distributor will take in the event that the Board does not approve the application.

Guelph's compliance with each of these requirements is discussed below.

Materiality Threshold

2.3 As part of the Application, Guelph filed a completed copy of the Board's "Incremental Capital Project Work Sheet" wherein the Incremental Capital Threshold is $7,008,381[3]. Guelph also filed its total planned capital budget for 2011[4] ($20.4 M) and the incremental capital[5] it was claiming for recovery ($10.9 M). Guelph claims that since the incremental capital requested for recovery ($10.9

[3] Appendix 5.4, Sheet E2.1
[4] Appendix 5.1, page 2. Subsequently revised per VECC #1 a)
[5] VECC #1 a)

m) is less than the difference between the total capital budget ($20.4 M) and the Threshold value ($7.0 M) the materiality threshold test has been met[6].

2.4 However, in its Decision regarding Oshawa PUC's request for an Incremental Capital Module, the Board made it clear that meeting the threshold test was more that a matter of simple arithmetic based on a proposed 2011 capital budget[7]. The Board indicated that it must also consider "whether the planned budget exceeds the threshold amount and, if so, whether the threshold amount can reasonably be viewed as the minimum level of non-discretionary capital spending in a given test year. It is only then that the Board's other criteria, such as the non-discretionary nature of the proposed capital projects and consideration of the specific rate relief, come in play".

2.5 In its initial Application Guelph did not specifically address the extent to which the spending set out in its 2011 capital budget was non-discretionary. In response to a Board Staff interrogatory Guelph indicated that none of the projects included in the 2011 Capital Budget are discretionary in nature[8]. VECC notes that the Threshold value is roughly equivalent to the approved capital spending level for 2008 and that the spending by category for 2011 is reasonably consistent with the 2008 approved levels[9]. As a result, VECC submits that the Threshold value be reasonably viewed as being a non-discretionary spending level for Guelph for 2011.

2.6 In response to VECC and Board Staff interrogatories Guelph addressed the impact that the capital expenditure amounts incremental to the threshold would have on the operation of Guelph Hydro[10]. Guelph indicated that, in the short-term, it believed it had sufficient short-term borrowing capacity to carry out its capital plan in the event the rate rider was not approved. However, it indicated that the long term implications may be more significant as it was planning a private debt

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6 Manager's Summary, pages 25-26
7 EB-2008-0205, Part II, pages 11-13
8 Board Staff #13 b)
9 VECC #1 b)
10 VECC #1 c) and Board Staff #6 b)

placement in the near future and that stability and predictability of cash flow are key considerations for credit rating agencies and investors.

2.7 Overall, its appears to VECC that the most significant impact of the planned spending will be its potential to impact future borrowing costs but that the potential affects (if any) are unknown. However, the requested amount is material, not only in that the spending exceeds the Threshold value but that the quantum involved ($10.9 M) is more than half the total 2011 capital budget. In this context, VECC is willing to accept that the proposed spending will have significant impact on the operation of the Utility.

Cause/Timing and Likelihood of Future ICM Applications

2.8 The timing of capital spending is dictated by the planned in-service date for the new Transformer Station of October 2011 which, in turn, is driven by commitments to existing and new customers for additional connections in 2011 that require completion of the Station[11]. Indeed, the evidence indicates that recent load growth in the Study Area has exceeded the capability of the local Hanlon TS and that circuits have been constructed from other stations to address the capacity shortfall. However, the length of the circuits required limits the available capacity[12].

2.9 Guelph notes that since it is scheduled for rebasing in 2012 the capital expenditures will not trigger an further (future) requests for an incremental capital adjustment[13],

2.10 Overall, VECC submits that Guelph has addressed this aspect of the Filing Guidelines.

Revenue Requirement Analysis

2.11 As part of its Application Guelph submitted a completed version of the Board's

[11] Appendix 5.2,page 20
[12] Appendix 5.2, pages 1 and 25
[13] Board Staff #6 a)

IRM3 Incremental Capital Work Form which calculated the 2011 revenue requirement associated with the requested incremental capital recovery. The amount initially requested was $1,038,509[14]. During the interrogatory process this value was revised to $1,068,072[15].

2.12 VECC has two concerns regarding the calculation of the incremental revenue requirement. The first is that in determining the Return on Rate Base Guelph has used the capital structure (4% - Short Term Debt; 49.3% - Long Term Debt and 46.7% - Equity) as approved for its 2008 Rate Application. Since then Guelph has transitioned, through successive IRM applications, to the Board's deemed capital structure for electricity distributors[16]. VECC notes that the transition was completed with the approval of Guelph's 2010 rates.

2.13 Since the 2011 rates reflect the Board's deemed capital structure (4% - Short Term Debt; 56% - Long Term Debt and 40% - Equity), VECC submits that the calculation of the incremental revenue requirement arising from the requested capital adjustment should be calculated using the same capital structure. Using this deemed capital structure the incremental revenue requirement would be $1,026,883[17].

2.14 VECC second concern is with respect to the calculation of the associated depreciation expense and rate base. VECC notes that in the Supplemental Report of the Board, it was determined that the ½ rule would not apply "so as to not build in a deficiency for subsequent years in the term of the plan"[18]. However, in Guelph's case there are no "subsequent years" since Guelph rates will be rebased in 2012[19]. As a result, VECC submits that there is no reason to depart from the Board's standard practice of applying the ½ year rule for the determination of depreciation and rate base.

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[14] Appendix 5.4, Sheet E4.1 and Manager's Summary, page 26
[15] Board Staff #4 a)
[16] Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors, pages 5, 13 and 43
[17] VECC #9 b)
[18] Supplemental Report of the Board, EB-2007-0673, page 31
[19] Board Staff #6 a)

2.15 Guelph proposes to recover the incremental revenue requirement through a variable rate rider. In VECC's view this is appropriate as the costs involved are the result of load growth and, in the Board's Cost Allocation model, the cost of municipal substations are allocated 100% on demand (i.e., variable basis).

Non-Discretionary and Outside Base Rates

2.16 Guelph has confirmed that none of the capital costs related to the new Municipal Sub-Station were included in the rate base approved for 2008[20].

2.17 In VECC's view Guelph has also adequately demonstrated the need for the new Municipal Sub-Station (see Cause/Timing Submissions above) and the fact the need for new transformer capacity is non-discretionary.

Prudency

2.18 VECC's submits that Guelph has adequately demonstrated the prudency of the proposed expenditure. In its study of supply alternatives Guelph considered a number of options including not only different locations for Guelph-owned Sub-Station but also expansion (by Hydro One Networks) of the existing Hanlon TS[21]. The preferred supply alternative (a new TS near Clair Road) is not only the lowest cost option but also has a number of operational advantages over other options[22]. Furthermore, the selection of Wardrop Engineering to assist with the project was made through an RFP process[23].

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[20] Board Staff #13 a)
[21] Appendix 5.2
[22] Appendix 5.2, pages 19-20
[23] Board Staff #14 a) – d)

Incremental Revenue Not Recovered Elsewhere

2.19 One of the requirements for approval of an incremental capital adjustment is that the incremental revenue requested not be recovered through other means (e.g. load growth). This requirement is particularly relevant in circumstances such as Guelph's where the need for the spending is driven by load growth.

2.20 During the interrogatory process both VECC and SEC sought information regarding the incremental revenues associated with load growth underlying the need for the project[24]. In response Guelph provided the area load growth related to the project but took the position that the incremental cost related to connecting new customers would more than offset the initial year's incremental revenue and that only new revenue attributable to the new investment should be considered.

2.21 VECC notes that Guelph has recognized the capital contribution made by the new GS 1,000-4,999 customer but argues that the incremental revenues are immaterial for 2011[25]. However, there is some question as to the level of incremental revenue for 2011. While the response to VECC #4 b) suggests it is less than $6,000, the response to VECC #4 a) puts the value at $10,800 and the economic evaluation provided in response to SEC #2 reports a 2011 revenue for the GS 1,000-4,000 class of $12,632. Guelph may wish to address these discrepancies in its reply submissions.

Action to be Taken if Not Approved

2.22 Guelph has indicated that if the incremental capital request is not approved the project will still proceed and the associated cash flow requirements met through temporary short-term borrowing[26].

Overall

2.23 Overall, VECC submits that the Board should approve Guelph's request for an

[24] VECC #7 b) and SEC #2
[25] VECC #2 b)
[26] Board Staff #6 b)

Incremental Capital Adjustment. However, the Board should direct that the incremental revenue requirement be calculated using Guelph's 2011 deemed capital structure and the ½ year rule as applicable to depreciation and rate base. Also, the Board should consider reducing the incremental revenue requirement approved for rate setting to recognize the incremental 2011 revenue from the new GS 1,000-4,999 customer.

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 12th day of January 2011