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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-2010-0104
Oakville Hydro Electricity Distribution 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: Ms. Lesley Gallinger
Oakville Hydro Electricity Distribution Inc.

EB-2010-0104

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 Oakville Hydro Electricity Distribution 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 Oakville Hydro Electricity Distribution Inc. ("Oakville", "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, Oakville included an adjustment to the customer class revenue to cost ratios and a request for additional revenue to recover the costs of a new transformer station. The following sections sets out VECC's final submissions regarding these two aspects of the Application.

2 Revenue to Cost Ratio Adjustments

2.1 As a result of the interrogatory process Oakville has made a number of revisions to the Revenue-Cost Ratio Adjustment Work Form including:

- Corrections to the customer count and volumetric data use in Sheet B1.1[1].
- Corrections to the Allocation of Miscellaneous Revenues as set out in Sheet C1.2[2].
- Completion of Sheet C1.3 dealing with the transformer ownership allowance[3], and
- A request that Staff correct Sheet C1.1 so as to also provide for an adjustment to the revenue to cost ratio for GS<50[4].

2.2 VECC submits that once these changes have been made the Revenue-Cost Ratio Adjustment Work Form will have been completed appropriately and the

[1] VECC #1 and OEB Staff #4
[2] VECC #3 and OEB Staff #5
[3] OEB Staff #6
[4] VECC #2

adjustments will be in accordance with the Board's EB-2009-0271 Decision.

3 Incremental Capital Module (New Transformer Station)

3.1 Oakville's Incremental Capital Module is meant to recover the incremental revenue requirement associated with the planned 2011 capital spending on a new Transformer Station. The incremental capital claimed in the Application is $19.9 M[5] and the associated incremental revenue requirement is $1,887,890[6].

3.2 The Board's Filing Guidelines for applications requesting relief for incremental capital spending require the following[7]:

- 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;
- 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;

[5] This value represents the $20,488,489 capital cost for transformer station less $569,357 in amortization and represents the year increment in rate base. See Incremental Capital Project Worksheet Model, Incremental Capital Summary Sheet.
[6] Manager's Summary, page 20
[7] EB-2007-0673, Supplemental Report of the Board, Appendix B, pages VI - VII

- 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.

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

Materiality Threshold

3.3 As part of the Application, Oakville filed a completed copy of the Board's "Incremental Capital Project Work Sheet" wherein the Incremental Capital Threshold is $13,633,026[8]. Oakville also filed its total planned capital budget for 2011[9] ($32.2 M) and the incremental capital[10] it was claiming for recovery ($20,488,489 prior to adjustments for 2011 amortization). Oakville claims that, since the total capital spending for the year is greater than the threshold value, the threshold criteria has been met and it should be eligible for an incremental capital module for the $20.5 M[11].

3.4 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[12]. 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,

[8] Manager's Summary, page 11
[9] Manager's Summary, page 12
[10] Manager's Summary, pages 18 & 20.
[11] Manager's Summary, pages 11-12
[12] EB-2008-0205, Part II, pages 11-13

come in play".

3.5 In its initial Application Oakville 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 and VECC interrogatories, Oakville has indicated that none of the projects included in the 2011 Capital Budget are discretionary in nature[13]. VECC notes that the Threshold value is less than the approved capital spending for 2010 and that the spending by category for 2011 is reasonably consistent with the 2008 approved levels[14]. As a result, VECC submits that the Threshold value be reasonably viewed as being a non-discretionary spending level for Oakville for 2011.

3.6 However, in VECC's view, Oakville has improperly applied the threshold value in determining the capital spending eligible for inclusion in the Incremental Capital Adjustment calculations. In the Supplemental Report of the Board (EB-2007-0673) the Board stated that "the incremental capital for which the Board may provide rate relief is the new capital sought in excess of the materiality threshold"[15]. Since the total projected (non-discretionary) capital spending for 2011 is $32,228,000 and the threshold value is $13,633,026, the maximum that would eligible for rate relief is the difference of $18,594,974. VECC submits that the amount of capital spending to be included in the Incremental Capital module for rate relief should not exceed this amount. VECC estimates that the depreciation associated with this would be approximately $516,738[16] such that the year capital value to be included in Incremental Capital Work Form (Sheet E4.1) would be $18,078,237 as opposed to $19,919,131.

3.7 As a result of the interrogatory process it appears that a couple of revisions are required to the estimated spending associated with the new Transformer Station. First, the response to SEC #3 presents a revised capital cost of $21,360,209 (as

[13] Board Staff #23 b) and VECC #5 c) & d)
[14] VECC #5 a) & b)
[15] Page 31
[16] Calculated on a pro-rata basis using the original capital spending and depreciation values.

opposed to the original value of $20,488,489). Second, based on the response to OEB Staff #24, this value will likely need revision in order to reflect the Board's prescribed rates for calculating capitalized interest expense. However, given the application of the threshold as outlined in the preceding paragraph these adjustments will not affect the amount of eligible capital.

3.8 Oakville has addressed the impact that this spending will have and notes that, without the capital adjustment module, it will face a significant negative cash flow[17]. VECC acknowledges that the requested amount is material, not only in that the spending exceeds the Threshold value but that the quantum involved (approximately $20 M) is well 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

3.9 The timing of capital spending is dictated by the planned in-service date for the new Transformer Station of late 2011 which, in turn, is driven by the forecasted need for new capacity by 2012[18]. Since the time of Oakville's initial study problems with other Hydro One Networks' stations have led to increased concerns and capacity shortfall for Oakville[19]. Oakville also contends that customer/load losses due to economic conditions and/or CDM do not change the fundamental need for new transformer capacity[20].

3.10 Oakville does not expect expenditure levels to trigger further (future) requests for an incremental capital adjustment[21],

3.11 Overall, VECC submits that Oakville has addressed this aspect of the Filing Guidelines.

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[17] OEB Staff #9 b)
[18] Manager's Summary, page 14 and Board Staff #10 C)
[19] Manager's Summary, page 14
[20] Board Staff #13 b) & c)
[21] Board Staff #9 a)

Revenue Requirement Analysis

3.12 As part of its Application Oakville submitted a completed version of the Board's IRM3 Incremental Capital Work Form which calculated the 2011 revenue requirement associated with the requested incremental capital recovery. The amount requested is $1,887,890[22].

3.13 VECC has only one issue regarding the revenue requirement calculation. As discussed above, the total capital spending should be reduced to $18,594,974 (for a year rate base adjustment of $18,078,237).

3.14 Oakville 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 costs of such transformer stations are allocated 100% on demand (i.e., variable basis).

Non-Discretionary and Outside Base Rates

3.15 Oakville has confirmed that none of the capital costs related to the Transformer Station were included in the rate base approved for 2010[23].

3.16 In VECC's view Oakville has also adequately demonstrated the need for the new Transformer Station and the fact that is non-discretionary[24].

Prudency

3.17 VECC's submits that Oakville has adequately demonstrated the prudency of the proposed expenditure. In its study of supply alternatives Oakville considered a number of options including self-build, co-ownership with Milton and two different Hydro One ownership options[25]. The Oakville "owned" option was the lowest

[22] Manager's Summary, page 20
[23] Board Staff #23 a) and SEC #12
[24] Transformer Station Supply Options Study, pages 2-13. OEB Staff #10, OEB Staff #13 b) & c), OEB Staff #16, OEB Staff #21 and OEB Staff #22 b)
[25] Manager's Summary, page 16

cost[26]. Furthermore, Oakville used an RFP process to obtain professional engineering services for the proposed station[27].

Incremental Revenue Not Recovered Elsewhere

3.18 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 Oakville's where the need for the spending is driven by load growth.

3.19 During the interrogatory process both VECC and SEC sought information regarding the incremental revenues associated with load growth underlying the need for the project[28]. In response Oakville indicated that the normalized incremental revenues during its IRM term would be $337,605 per annum. Oakville's position is that these revenues should not be factored into the determination of the incremental capital adjustment as they will be used to reduce the capital contributions from developers.

Action to be Taken if Not Approved

3.20 Oakville has indicated that if the incremental capital request is not approved the project will still proceed and result in significant cash flow such that it will be forced to consider submitting a cost-of-service rate application prior to it scheduled 2014 rebasing date[29].

Overall

3.21 Overall, VECC submits that the Board should approve Oakville's request for an Incremental Capital Adjustment. However, the Board should direct that the incremental revenue requirement be calculated based on the reduced incremental capital spending of $18,594,974 (prior to adjustment for annual depreciation) as

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[26] Options Study, page 30; Manager's Summary, page 19 and OEB Staff #22 a)
[27] OEB Staff #25 a) & b)
[28] VECC #7 and SEC #9
[29] Board Staff #9 b)

oppose to $20,488,489.

4 Recovery of Reasonably Incurred Costs

4.1 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