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January 26, 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-2010-0079
ENWIN Utilities Ltd. – 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: Mr. Andrew Sasso
ENWIN Utilities Ltd.

EB-2010-0079

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 ENWIN Utilities Ltd. 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 26, 2011

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1 The Application

1.1 ENWIN Utilities Ltd. ("ENWIN") 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 ENWIN included an adjustment to the customer class revenue to cost ratios and a request that the stretch factor not be applied. The following sections set out VECC's final submissions regarding these two aspects of the Application.

2 Revenue To Cost Ratios

2.1 VECC has reviewed the revenue to cost ratio adjustments proposed by ENWIN and submits that they are in accordance with the Board's EB-2008-0227 Decision. However, in VECC's view, ENWIN has not correctly completed the Revenue-Cost Ratio Adjustment Workform.

2.2 VECC notes that the purpose of the Worksheets C1.3 and C1.4 is to derive the revenues that are actually contributed by each customer class towards covering an utility's costs (i.e. net of any Transformer Ownership discounts) such that the revenues by class used in Sheet C1.5 (which include also allocated Revenue Offsets per Sheet C1.2) for the revenue to cost ratio adjustment reflect the total service revenue requirement allocation to customer class. The reason for excluding the transformer owner allowance discount is that the Cost Allocation model used to derive the revenue to cost ratios uses revenues by class net of this discount and the cost of the discount is not included in the Service Revenue Requirement allocation. In order to accomplish, this the transformer ownership discount must be input as a positive value.

2.3 However, in Worksheet C1.3, ENWIN has input the Transformer Ownership Allowance as a negative value. ENWIN explains that this was done because the allowance is a "negative number" on ENWIN's approved Tariff of Rates and Charges[1]. The effect of this is that rather than reducing the revenues at existing rates as reported in Sheet B1.3 in order to allow for the foregone revenues due to the transformer ownership discount, the resulting revenues are higher ($50,384,514 per Sheet C1.4 versus $48,975,019 per Sheet B1.3).

2.4 As the Board is aware, VECC has intervened in a number of the 2011 IRM-based rate applications that involve revenue to cost ratio adjustments. VECC notes that in all other applications the transformer discount has either been input in the original application as a positive value or, where originally negative, the Applicant has agreed (as a result of the IR process) that the input value should be positive.

2.5 VECC submits that ENWIN should be directed to accordingly correct its Revenue-Cost Ratio Adjustment Workform.

3 Elimination of the Stretch Factor

3.1 In its July 2008 Report on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors the Board determined[2] that the annual price adjustment would be based the growth in inflation minus an X-factor which would have two components – a productivity factor and a stretch factor. The productivity factor would be the same for all distributors whereas the stretch factor would vary based on their efficiency as determined through comparative cost analysis. For its 2011 rates, ENWIN proposes that the Board not apply stretch factor to its Application.

3.2 ENWIN offers four reasons for the Stretch Factor not being applied[3]:

- Stretch Factor Methodology
- Applicant's Extraordinary Circumstances

[1] VEC #1 a)
[2] Pages 12-21
[3] Manager's Summary, pages 5-9

- Applicant's Characteristics
- Uneven Playing Field

3.3 In VECC's view three of these reasons (the first and last two) all center around the Board's Decision to apply a "stretch factor" to all distributors that would vary based on past cost performance. ENWIN's issues regarding the "Stretch Factor Methodology" appear to centre on the fact that the assessment of past cost performance includes years before as well as years after "rebasing"[4]. ENWIN's issues regarding "Applicant's Characteristics" relate to the Group it has been assigned to for purposes of benchmarking costs[5]. Finally, ENWIN's issue regarding "Uneven Playing Field" relates to the fact that the comparison of cost performance involves both utilities who have been re-based (and therefore had their costs fully vetted and those who have not been re-based and, as a result, may be over or under spending[6].

3.4 With regard to all of these points, VECC submits that Board's 3rd Generation Incentive Regulation Plan (EB-2007-0673) was developed after receiving input from external consultants hired by the Board (Pacific Economics Group) and receiving extensive input from Ontario stakeholders. Indeed, on the issue of the Stretch Factor, the Board initiated a further round of consultation in order to get additional input, before issuing its Supplemental Report of the Board in September 2008. In VECC's view, ENWIN is seeking revisit issues that were explored and decided in EB-2007-0673. Furthermore, the Stretch Factor is just one part of an overall IRM framework. In this regard, VECC submits that ENWIN is seeking to selectively revisit parts of the framework.

3.5 With regard to the "Applicant's Extraordinary Circumstances", ENWIN claims that the local economic decline has led to consumption and demand decreases. ENWIN acknowledges the Board's off-ramp methodology but argues that a more

[4] Manager's Summary, page 6 and VECC #1 c)
[5] Manager's Summary, pages 7-8
[6] Manager's Summary, pages 8-9

efficient method would be to eliminate the Stretch Factor[7]. During the interrogatory process both Board Staff[8] and VECC[9] sought information to determine the actual (regulatory) ROE for 2009. ENWIN did not provide the information necessary to make such a determination. Furthermore, ENWIN stated that it was not requesting an IRM off-ramp.

3.6 VECC submits that, based on the current record there is no evidence to suggest that ENWIN should be treated any differently than the other distributors in Ontario making 2011 rate applications under the Board's 3rd Generation Incentive Regulation Plan.

3.7 Overall, VECC submits that there is no provision in the Board's current Plan for "waiving" the Stretch Factor and to do so in ENWIN's case would completely undermine the IRM approach that the Board has put in place.

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 26th day of January 2011

[7] Manager's Summary, page 7
[8] Board Staff #6
[9] VECC #3