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April 18, 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: EB-2010-0142
NOTICE OF APPLICATION AND HEARING FOR AN ELECTRICITY DISTRIBUTION RATE CHANGE
Toronto Hydro-Electric System Limited

Please find enclosed the submissions of VECC in the above noted proceeding.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC
Encl.

EB-2010-0142

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, (Schedule B) to the *Energy Competition Act, 1998*, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Toronto Hydro-Electric System Limited for an Order or Orders approving or fixing just and reasonable distribution rates and other charges to be effective May 1, 2011.

SUBMISSIONS OF THE VULNERABLE ENERGY CONSUMERS COALITION (VECC)

1. These are the submissions of VECC with respect to the unsettled issues.

IRM (relating to Issue 1.5)

2. VECC has had the opportunity to review and adopts the submissions of CCC with respect to the timing of an IRM application by THESL and the appropriateness of 2011 as a base year for an application by THESL for an IRM rate adjustment for 2012.

3. In summary, VECC agrees that THESL should be required to file for 2012 rates on the basis of the Board's IRM regime, with 2011 as a base year. In the event THESL operates outside the 300 basis point off ramp as described in the Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors dated July 14, 2008 at pages 37-39, it can apply for relief.

4. It may be argued that the Board has created a new policy that allows distributors that have not operated outside the IRM off ramp the opportunity to, nevertheless, seek an exception to the IRM regime. However, as illustrated through the decisions in EB-2010-0139 (Norfolk), EB-2010-0131 (Horizon), and EB-2010-0133 (Hydro Ottawa), the circumstances under which the Board may actually allow an early cost of service application to proceed are extremely narrow. The decisions in those three applications limit early rebasing, to date, to the example of Horizon, wherein the Board cited a previous Board Decision, which implied that Horizon was to seek relief for lost load in the context of a full cost of service application rather than a Z-factor application, as creating an expectation in Horizon that it could file for early rebasing.[1]

[1] EB-2010-0133, Decision dated December 15, 2010, pages 6-7.

Emerging Requirements (relating to Issues 4.1, 4.2, 9.1, 9.2 and 9.3)

5. VECC does not object to the costs associated with the Greening the Fleet initiative and the Electric Vehicle Project. VECC presumes that the Electric Vehicle Project is and will continue to be limited to the gathering of information for the purpose of examining the impact of Electric Vehicle related load to the distribution system; in VECC's view the project, to the extent it goes beyond such a purpose, would be inappropriate as a cost charged to distribution rates.

Deferral and Variance Accounts (relating to Issue 6.1)

6. VECC has reviewed and adopts the submissions of SEC on this issue, specifically SEC's submissions with respect to the IFRS deferral account.

Suite Metering (relating to Issues 7.2 and 7.3)

7. VECC agrees generally with the conclusion of THESL that it would be inappropriate to create a separate rate class for suite metered customers, based on the information available to inform the cost allocation study that was performed by BDR.

Cost Allocation (relating to Issues 7.1 and 7.4)

Issue 7.1: Is Toronto Hydro's cost allocation appropriate?

8. Per the Settlement Agreement:

   > **Partial Settlement.** For the purposes of settlement of the issues in this proceeding, the parties agree to the cost allocation proposed by Toronto Hydro, with one exception: the Intervenors do not agree with the methodology used by Toronto Hydro to account for the transformer allowance. It is agreed that the transformer allowance methodology should be determined after an oral hearing on that issue.

9. Accordingly the issue before the Board is how the transformer ownership allowance ("TOA") should be treated in the cost allocation methodology used to determine the "existing" revenue to cost ratios. THESL's ratios are the "starting point" (Transcript, Vol. #1, page 154) for the consideration of any need to change the ratios as part of the cost of service rate application.

10. THESL's methodology (Exhibit L1/Tab 2/Schedule 1, page 22) includes the cost of the TOA in Worksheet I3, and in Worksheet O1 it is directly

allocated to the specific customer classes receiving the discount. Since it is included on the "cost" side the (foregone) revenue associated with the TOA are include in the revenues for the respective customer classes (Transcript Vol. #1, pages 141-143).

11. The alternative approach is that provided in response to VECC #38 h) (Exhibit R1/Tab 11/Schedule 38, Appendix B (corrected January 13, 2011)). Under this approach the costs of the transformer ownership discount are not included in the cost allocation model and the revenues for each class are net of the transformer discount.

12. In VECC's respectful submission there are three reasons why the alternative approach should be used instead of the one currently used by THESL.

The OEB's Filing Guidelines

13. The Board's June 2010 Filing Guidelines for Transmission and Distribution Applications (Chapter 2, page 25) states:

The applicant will calculate distribution revenue from each customer class net of any transformer ownership allowance. In particular, if some customers in the GS>50 kW class provide their own transformers, revenue from the class should be calculated using the approved rate for the customers that the distributor provides with a transformer, and the approved rate less the transformer ownership allowance for those customers that provide their own transformer.

If relying on the Informational Filing, the applicant should note that there were limitations in the cost allocation model distributed by the Board with respect to the treatment of the transformer ownership allowance. If using that model, the applicant must:

- *Remove the "cost" associated with transformer ownership allowance from the revenue requirement (Worksheet I3);*
- *Subtract the "revenue" associated with the transformer ownership allowance from the approved revenue of the affected rates class(es) (worksheet I6, row 29)*

14. THESL' approach is not consistent with the Board's guidelines. However, the alternative as set out in VECC #38 h) is.

TOA changes should not impact CA results

15. The CA model allocates the transformer costs incurred by the Utility to the various customer classes and, in those circumstances where some

customers own their own transformers, takes this into account in the allocation process.

16. The purpose of the TOA is to recognize those situations where some of the customers within a class own their own transformer but others do not. In such situations, the TOA ensures that the “transformer costs” allocated to the class are recovered only from those customers using utility-owned transformers. This is done by establishing an appropriate value for the TOA, determining the cost of providing the allowance to all customers who own their own transformer and then including this cost in the rates to be charge to all customers in the class.

17. Therefore, in principle, the TOA is meant to redistribute the costs between customers within a class; it should not impact on the calculation of the overall revenue to cost ratios determined for each class. However, under the THESL approach the level of the TOA does impact on the revenue to cost ratios (see JH1.3) and in the words of the THESL’s witness the change in revenue to cost ratios could be “huge” (Transcript Vol. #1, page 146). By contrast, under the methodology in the Board’s guidelines and advanced by VECC the level of the TOA has no impact on resulting revenue to cost ratios.

The Choice of Methodology and Starting Point is Relevant

18. THESL’s position is that their proposed revenue to cost ratios for 2011 would stand regardless of the starting point (Transcript Vol. #1, page 155). THESL suggests that while the choice of methodology impacts on the starting point it does not impact on the end point – i.e. the proposed revenue to cost ratios for 2011, and therefore does not impact on the proposed rates (Transcript Vol. #1, pages 154-155).

19. With this comment they seem to suggest that this issue is not material to the setting of rates.

20. There are two problems with THESL’s position, in VECC’s submission.

21. First, it presupposes that THESL’s position regarding the appropriate revenue to ratios for 2011 will be adopted by the Board (Transcript Vol. 1 page 155). As noted under Issue 7.3, VECC has a different position regarding the appropriate revenue to cost ratios for 2011 and this position is based on the Board’s recommended ranges for revenue to cost ratios by customer class and whether the starting point for a particular customer class falls inside the range. Under this perspective the starting point is important, particularly if the choice of the methodology results in the revenue to cost ratio for a customer class being inside or outside the Board’s recommended range.

22. Second, THESL’s proposed revenue to cost ratios for each class were developed in accordance with an allocation of revenue requirement to customer classes that included the TOA as a cost and designed so as to yield the overall proposed revenue requirement for the Utility. THESL’s same ratios will not yield THESL’s overall proposed revenue requirement if applied to a revenue requirement allocation to customer classes that excludes the TOA. The attached schedule illustrates this point by showing the using THESL’s proposed ratios in accordance with the revenue requirement allocation from VECC #38 h) (the alternative approach to treating the TOA) would result in an overall revenue shortfall of $1.1 M. Clearly, unless THESL is willing to forego this revenue it would have to change its revenue to cost ratio proposal.

23. As a result, VECC respectfully submits, the “starting point” does matter. Accordingly VECC respectfully submits that the Board should require that THESL use the “alternative” approach to the TOA as set out in the Board’s Guidelines and as proposed by VECC, rather than the approach advanced by THESL in their application.

IMPACT OF APPLYING THES' PROPOSED R/C RATIOS
UNDER DIFFERENT COST ALLOCATION METHODOLOGIES FOR TOA

	THES Proposed R/C Ratio	Start -- THES Allocated Costs	Allocated Revenue Requirement	Start -- VECC Allocated Costs	Allocated Revenue Requirement
Residential	92.0	$283,551,774	$260,867,632	$283,552,075	$260,867,909
GS<50	100.0	$81,174,996	$81,174,996	$81,174,882	$81,174,882
GS 50-1000	114.6	$148,871,295	$170,606,504	$145,827,158	$167,117,923
GS >1000	111.0	$46,412,429	$51,517,796	$41,071,789	$45,589,686
LU	104.0	$24,767,490	$25,758,190	$21,672,238	$22,539,128
Street L.	77.7	$19,649,760	$15,267,864	$19,649,760	$15,267,864
USL	86.1	$5,218,423	$4,493,062	$5,218,423	$4,493,062
Total		$609,646,167	$609,686,044	$598,166,326	$597,050,453

Sources: THES Proposed R/C Ratios - Exhibit L1/Tab 1/Schedule 1, page 3
THES Allocated Costs - Exhibit L1/Tab 2/Schedule 1, page 22
VECC Allocated Costs - Exhibit R1/Tab 11, Schedule 38, Appendix B

Notes:
1) Allocated Revenue Requirement - In each case this is calculated based on the Allocated costs and THES' proposed Revenue to Cost Ratios
2) The difference in total allocated costs as between THES and VECC columns is the value of the Transformer Ownership Allowance Discount -- $11,479,841 per Exhibit R1/Tab 11/Schedule 38, App. A

Issue #7.3: Are the proposed revenue to cost ratios for each class appropriate?

24. The following table sets out THESL's proposed revenue to cost ratios for 2011 and contrasts them with the "starting point" ratios as defined by THESL's cost allocation treatment of the TOA, the alternative treatment in VECC #38 h) and the OEB's recommended range for each class.

	THESL Proposed Ratios	**THESL Starting Point**	**VECC #38 h) Starting Point**	**OEB Range**
Residential	92.0%	88.07%	87.41%	85-115
GS<50	100.0%	99.01%	97.18%	80-180
GS 50-1,000	114.6%.	120.45%	120.62%	80-180
GS 1,000-5,000	111.0%	115.03%	127.49%	80-180
LU	104.0%	105.45%	118.18%	85-115
Street Light	77.7%	88.57%	68.23%	70-120
USL	86.1%	80.98%	74.46%	80-120

25. In response to VECC #38 g), THESL provides its rationale for moving the ratios closer to 100% even for those that are currently within the Board's recommended range:

> As explained at Exhibit L1, Tab 1, Schedule 1, page 4, lines 1-21, THESLL has continued to move the revenue to cost ratios incrementally towards unity on the principal that each class should being paying the full amount of costs that they incur. THESL acknowledges that the cost allocation model involves judgment and estimation which may make the resulting revenue to cost ratios less than precise; however, THESL is comfortable enough with the model results to continue to move the revenue to cost ratios for all classes incrementally closer to full recovery. THESL believes the resulting changes are fair for all rate classes – both those shown to be under recovering, and those shown to be over recovering.

26. There are two reasons why THESL' proposal should be rejected in favour of one that moves the customer class ratios to boundaries set by the Board's recommended ranges and adjusts other class ratios only as required to reconcile with the overall approved revenue requirement.

27. First, THESL's approach is inconsistent with the "Application of Cost Allocation for Electricity Distributors" Report (EB-2007-0667). In this report the Board adopted a range approach to revenue to cost ratios (page 4) which represent ranges of tolerance around revenue to cost ratios of one. There were effectively two reasons for this:

a. it was recognized that as a practical matter there may be little difference between a ratio near one and the theoretical ideal of one, and
b. there were a number of influencing factors that suggested the further work was need to improve the accuracy of the "model".

28. The Board indicated (page 7) that distributors should endeavour to move their revenue to cost ratios closer to one <u>if this is supported by improved cost allocations</u> (emphasis added).

29. Clearly, THESL's proposal is to move the ratios closer to one than required by the OEB's range approach. However, this move is not supported by improved cost allocation for several reasons:

    a. THESL has confirmed that they have not done anything to improve their cost allocations from previous uses of the model (Transcript Vol. #2, page 16)
    b. THESL continues to rely on 2006 information to define the load profiles for its Residential and GS<50 classes (the two classes attracting the largest portions of the revenue requirement (Transcript Vol. #1, page 150 and Exhibit JH1.4); accordingly one can conclude that the data used in the 2011 cost allocation is "dated" relative to that used in previous applications and therefore the cost allocation results are less reliable.
    c. There are new issues arising regarding the appropriateness of the allocation of OM&A and General Plant costs in those cases, such as THESL's, where there is a direct allocation of costs to customer classes. THESL has acknowledged (Exhibit R1/Tab 11/Schedule 38 f)) that the allocation base for General and Administration costs and General Plant cost excludes any directly allocated costs. This issue was noted in the recent HON Dx proceeding (EB-2009-0096 - VECC Argument, pages 39-40) and HON was directed to address the issue in its next cost of service application (EB-2009-0096 Decision, pages 63-64).

30. Second, the proposed movement in the revenue to cost ratios closer to one than required under the Board's Guidelines is inconsistent with the positions of THESL and its consultants (BDR) regarding cost allocation and the treatment of suite metered Residential customers.

31. In its report (Exhibit L1/Tab 3/Schedule 1, page 24) BDR stated:

> In drawing conclusions from the analysis, BDR notes that, as with any cost allocation study, the results must be considered as indicative, rather than precise. Although the basics of cost allocation methodology are widely accepted, cost allocation has been

described as more of an art than a science. This is because judgment is called for in methodology decisions and in estimation of values for which complete data do not exist. The OEB has recognized THESL's issues by approving a range of revenue to cost ratios as acceptable for rate-setting, rather than requiring distributors to aggressively adjust the revenue levels of customer classes on the basis of the cost allocation study.

32. THESL indicated that it agreed with THESL's statements (Transcript Vol. #1, pages 51 and 81) which are at odds with a plan to move the ratios closer to 100% than required by the Board's policy.

33. BDC's observations are (Exhibit L1/Tab 3/Schedule 1, pages 25-26) that if two classes were formed (i.e., suite metered and non-suite metered Residential customers) it would not necessarily lead to a change in rates for either group since the resulting revenue to cost ratios (120% and 85% respectively) are generally within the band the Board has approved. However, this observation does not apply in circumstances where the Residential ratio is being moved closer to 100%; doing so when the suite metered customers are already at 120% within the class would move them outside the acceptable range.

Consistency across Utilities

34. VECC notes that it is currently in the submission phase on the issue of revenue to cost ratios in at least two other cost of service applications; EB-2010-0125, Brant County Power's ("BCP") 2011 Cost of Service application, and EB-2010-0131, Horizon's 2011 Cost of Service application. The identical issue concerning the appropriateness of adjusting revenue to cost ratios for classes that are already within the Board's approved revenue to cost ratio ranges will be argued in each of those two applications.

35. The differing situations between the utilities with respect to their proposals highlights a concern that VECC has with respect to the possibility of differing results across utilities with respect to the resolution of this issue, in particular as a result of differing approaches by different utilities.

36. In BCP's application, by way of example, the residential rate class is currently below a reported revenue to cost ratio of 1.0, but within the approved range; despite this fact, BCP has proposed to move the residential class up to a revenue to cost ratio of 100%.[2]

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[2] EB-2010-0125, Final Submissions of VECC, April 15, 2011, paragraphs 2.1-2.2.

37. Similarly, in Horizon's application, the utility has asserted that it has made a similar decision to move the residential rate class, currently above a revenue to cost ratio of 1.0 but within the Board's approved range, down to a revenue to cost ratio of 104%.[3]

38. Accordingly, as an advocate for the interests of customers that exist within the residential rate class, VECC, in theory, has an interest in supporting the Horizon proposal and opposing the BCP proposal, based solely on the rate impacts of their respective "policy decisions", even though those decisions are based on identical presuppositions with respect to the appropriateness of generally moving classes towards a revenue to cost ratio of 1.0 when those classes are already within the Board's approved ranges.

39. However the Board will also be aware that VECC has consistently advocated, as it does in this case, that the principled approach to revenue to cost ratios, based on the Board's applicable cost allocation policy, is to refrain from moving ratios for classes that are already within the Board's approved ranges absent specific improvements to the cost allocation information that underpins the ratios.

40. VECC is concerned, however, that the Board may in one case agree with the assertion that a utility has a discretion to move ratios that are already within the range towards 1.0, as is proposed in THESL, creating a rate increase for the residential rate class, while at the same time agree with the VECC position in other cases, like Horizon, and deny a rate decrease to the same rate class in another franchise area. Such a concern, VECC would suggest, exists for several rate classes depending on the utility, as it is not only the residential rate class that routinely appears on either side of a revenue to cost ratio of 1.0.

41. Accordingly VECC respectfully requests that the Board consider a uniform approach to this issue so as to avoid inconsistent results across utilities. In VECC's view this is not an issue that should produce different results across different utilities based largely on the utility's opinion as to the appropriateness and utility of moving revenue to cost ratios that are already within Board approved ranges.

42. Consistent with VECC's position in this application, VECC respectfully submits that the appropriate and consistent position that the Board should adopt is a policy that refrains approving movements in cost ratios for classes that are already within Board approved ranges absent specific improved cost allocations, except to absorb shifts in ratios for classes that require movement to the outer bounds of the Board's approved ranges. Consistent application of such a policy would essentially eliminate much of

[3] EB-2010-0131 Exhibit 7 Tab 1 Schedule 1 page 3

the controversy with respect to revenue to cost ratios, as it would eliminate the supposition that utilities have an absolute discretion to move (or not move) ratios towards 1.0 based on considerations that have, in VECC's view, nothing to do with the accuracy of the cost allocation underpinning the resulting revenue to cost ratios.

Recovery of Reasonably Incurred Costs

43. 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 18th day of April 2011