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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)
EB-2010-0280
Low Income Related Customer Service Standards

We are writing with respect to the Board's notice Dated June 29, 2011 which invites stakeholders to provide comments with respect to the utility submissions filed in accordance with that same notice. In particular, stakeholders were invited to comment on the submissions made by the gas distributors and provide their own input with respect to two specific questions posed by the Board as follows:

- 1. Are current low-income customer service standards, along with the proposed modifications and enhancements, sufficient to ensure reasonable consistency across the province and appropriate levels of service for low-income customers such that a less prescriptive approach to Board oversight is warranted?*

At page 2 of their submissions Enbridge states and submits that:

Enbridge does not distinguish between customers based on income level when addressing arrears management issues. The Company does not support creating and implementing different customer service policies and practices for low-income customers.

Similarly at page 3 of its submission Union submits that:

It is Union's view that special low-income rules are not required and that the customer service standards proposed by Union in its February 17, 2011 submission in combination with the modifications to Union's arrears management policies, proposed in this submission, address the Board's concerns related to low-income customers. Union does not support separate rules for low-income customers.

And at page 1 of its submissions the City of Kitchener submits that:

In short, such modified standards for low-income customers may provide reasonable consistency across the province, but they would not be appropriate, in our view.

Accordingly it appears from the submissions of Union, Enbridge and Kitchener that the utilities do not support any different customer service rules or standards specific to customers that meet an eligibility test based on income. Rather, we surmise from their respective submissions, the utilities believe that the existing customer service rules and standards that they each have in place for all their customers, regardless of income level, provide sufficient flexibility for the utility to create tailored solutions for its customers as needed.

VECC presumes that the centerpiece of these submissions is the proposed amendment to the GDAR under s. 8.3.1 which allows gas distributors to waive enforcement of their customer service policies in favour of their customers. Under such a rule a distributor can, at its discretion, replicate any concession that a separate rule or standard for eligible low income customers might provide, and can do so not only for low income customers, but for any customer.

As noted in our July 15, 2011 submissions with respect to section 8.3.1 VECC supports the ability of the utilities to waive enforcement of their customer service policies in favour of their customers. In doing so VECC acknowledged the value of allowing distributors the flexibility to provide tailored solutions to all of their customers. However, as we also noted in our July 15, 2011 submissions, VECC believes that a framework for the exercise of that discretion is necessary to ensure that all customers will have equitable access to waivers of a distributors' customer service standards and rules.

In the context of low income customers in particular, VECC submits, it is crucial to, at a minimum, provide rules for the identification of eligible low income customers as defined by the Board in order to trigger an obligation on the part of the utility to explore solutions for a particular low income customer, whether those solutions are automatically made available to the customer as a result of a prescriptive set of customer service standards for low income customers (similar to what now exists for electricity customers), or whether those solutions are created by the utility on a case by case basis in view of the specific circumstances of the customer beyond their low income eligibility.

VECC observes that page 2 of the Board's June 29, 2011 notice states as follows:

The objective of this consultation is to ensure there are customer service standards applicable to eligible low-income customers that are fair, transparent, reasonably consistent and enforceable by the Board. **The amendments to the GDAR in this regard are expected to provide greater protection and certainty for low-income customers** while allowing rate-regulated gas distributors an appropriate measure of flexibility to account for their specific operational considerations. (emphasis added)

Accordingly, VECC submits, and consistent with the Board's adoption of low income specific customer service standards for electricity distributors that are available to customers that meet an income based eligibility threshold, it is necessary to, at a minimum, prescribe an eligibility threshold for low income natural gas customers (presumably identical to the threshold set out for electricity distributors). In VECC's view this is the first step in providing the required certainty, in that customers that meet the threshold can be assured that they will be afforded greater protection than what is generally available, in the same way that eligible low income electricity customers are automatically granted the greater protection afforded under the low income customer service standards.

The real issue for debate, VECC respectfully submits, is how far the Board should go in determining the specifics of that greater protection. Whether it is

- a) (at one extreme) necessary to specify the particular "low income customer related" concessions to the general customer service standards that will apply, as is the case for electricity distributors, or whether
- b) (at the other extreme) it is sufficient to simply specify that eligible low income customers will be automatically be considered by the utility for a "tailored solution".

Naturally, VECC presumes, the greatest certainty for low income customers comes from a prescriptive list of concessions that are triggered upon a customer meeting the eligibility threshold. To that end a full subset of low income related standards and rules, similar to those implemented for the electricity distributors, would not be inappropriate, particularly when such separate low income related rules would continue to be subject to the ability of the utility to waive such rules in favour of the customer under s. 8.3.1 of the GDAR, maintaining flexibility on the part of the distributor to go beyond the prescriptive low income standards to continue to tailor solutions for individual customers where appropriate.

VECC, in reviewing the submissions of the utilities, notes that in several instances the utilities have agreed to amend their existing policies or standards to meet the customer service level in the Low-Income Code Provisions for Electricity Distributors. By way of example, both Union and Enbridge have agreed to amend their existing policies for all customers to require a disconnection suspension for 21 days from the date of notice to the utility that a social service agency is assessing the customer.

Assuming that in each case the actual amendment strictly follows (or goes beyond the protection afforded in) the operation of the Low-Income Code Provisions for Electricity Distributors, such amendments may adequately address issues that would therefore not have to be addressed by a further and separate Low Income Rule.¹

There are some examples, however, where the utilities propose to retain a full discretion as to whether they will, ultimately, provide greater protection to low income customers than what may be provided for in their “regular” Customer Service Policies and Practices, whereas the Board’s Low Income Code Provisions for Electricity Distributors would, in the same circumstance, automatically provide some enhanced protection. For example, Union proposes to maintain ultimate discretion over the time period of any repayment arrangements, and notes that it usually does not agree to repayment schedules that exceed 2 months. By contrast, under the Board’s Low Income Code Provisions for Electricity Distributors, the time periods for eligible low income customers to repay arrears are extended to 8, 12, or 16 months depending on the amounts owing, from the minimum periods of 5 and 10 months stipulated for ineligible customers.

While VECC agrees that the utility should retain the flexibility to enter into arrears schedules for longer periods than the minimum prescribed, VECC does not understand why eligible low income natural gas customers should not be afforded, by matter of rule, the same minimum repayment terms that an eligible low income electricity customer would benefit from. VECC is very concerned that eligible low income natural gas customers should be afforded the same level of customer service that eligible low income electricity customers receive, and believes that there is a real risk that they will not, in at least some instances.

Extending this concern to the full suite of the Board’s Low Income Code Provisions for Electricity Distributors, VECC submits that there is no reason why all (rather than only some, as proposed by the utilities) of the minimum customer service standards and rules that apply to eligible low income electricity consumers should not also apply to eligible low income natural gas customers. VECC believes that doing so would not hamper the flexibility that the utilities enjoy with either their eligible low income or their ineligible customers, as they would continue to retain the discretion to waive their rules in favour of their customers in any event.

¹ Assuming we understand the companies’ proposals correctly, they are simply taking the Board’s Low Income Code Provisions for Electricity Distributors, in some instances, and applying those rules to all customers, obviating the need to separately set out a Low Income rule by extending the same treatment to all customers. VECC notes that is uncertain whether the Union and Enbridge proposals in this specific example simply meet or propose to go beyond the Board’s Low Income Code Provisions for Electricity Distributors in the specific example, as it appears they are proposing to provide for a disconnection suspension of 21 days from the date they are notified of an agency assessment, whether or not, for example, the agency provides the notice or whether the customer has already been identified as an Eligible Low Income customer.

In summary, VECC believes that there should be a consistent Customer Service Policy that requires the identification of eligible low income customers (under the relevant circumstances, i.e. arrears) and provides specific customer service rules for those customers, similar in nature to those set out for eligible low income electricity customers.

In particular instances, to the extent that the utilities are proposing changes to their general rules which meet the standards applicable to eligible low income electricity customers the need for a separate low income rule may be obviated.

However VECC does not believe it is sufficient to allow the balance of the concerns with respect to minimum “concessions” in relation to eligible low income customers to remain purely discretionary. To do so would only beg the question, in every case where that discretion is not exercised in favour of the low income customers in at least the manner that would have been automatically provided for in the context of electricity service, as to why the customer did not benefit from the utility’s discretion.

2. *If so, should the Board adopt the same approach as that proposed for customer service standards in general (i.e., require each rate-regulated gas distributor to develop, publish, and adhere to low-income related customer service standards for certain prescribed areas of customer service, including a complaint process with recourse to the Board)?*

In VECC's view, because it is critical to make available to customers the ability to be classified as an eligible low income customer and provide specific protections in relation to that designation, it is important to set out and publish the eligibility process and the related standards eligibility triggers.

With respect to the issue of a complaints process, VECC notes that the more the protection of low income customers is left to the discretion of the utility, the more robust the complaints process will have to be. If, for example, the Board were to leave the treatment of eligible low income customers entirely to the discretion of the utilities, as it appears they are requesting, it becomes much more likely that complaints about the basis upon which that discretion was exercised will arise.

Accordingly VECC respectfully submits that to the extent the Board may be persuaded to allow the utilities a discretion to determine the customer service they provide to eligible low income customers, either generally or on a case by case basis, a clear and accessible complaints process will need to be established for customers to bring forward complaints about the exercise of that judgment to their detriment, particularly in situations where, had the same situation arisen in the context of an electricity distributor, some minimum level of relief would have been automatic.²

Yours truly,

Michael Buonaguro
Counsel for VECC

² VECC points out that in such a scenario the reason for denying protection to the eligible low income consumer will necessarily relate to a factor that is, in the context of the equivalent electricity scenario, irrelevant.