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December 07, 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)
Woodstock Hydro Services Inc. EB-2011-0207
Final Submissions of VECC

Please find enclosed the submissions of VECC in the above-noted proceeding. We have also directed a copy of the same to the Applicant.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC
Encl.

cc: Woodstock Hydro Services Inc.
Ms. Patricia Eitel

EB-2011-0207

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an Application by Woodstock Hydro Services Inc. for an order or orders approving or fixing just and reasonable distribution rates to be effective May 1, 2012.

FINAL SUBMISSIONS

On Behalf of The

Vulnerable Energy Consumers Coalition (VECC)

December 7, 2011

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1 The Application

1.1 Woodstock Hydro Services Inc. ("WHSI", "the Applicant", or "the Utility") 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, 2012. The Application was filed in accordance with the OEB's guidelines for 3rd Generation Incentive Regulation which provides for a mechanistic and formulaic adjustment to distribution rates between cost of service applications.

1.2 As part of its application, WHSI included revenue to cost ratio adjustments, a recovery of the costs of a new transformer station and recovery of the impact of lost revenues associated with various conservation and demand management (CDM) activities (i.e. an LRAM recovery). The following sections set out VECC's final submissions regarding these aspects of the application.

2 Revenue to Cost Ratios

2.1 In the Board's Decision and Order for WHSI's 2011 COS rate application (EB-2010-0145), the Board approved movement of the revenue to cost ratios for the GS>1,000 kW class and Streetlighting class to one-half of the remainder of the way to the applicable Board-approved ranges in 2012, and the remainder of the way in 2013. In order to maintain revenue neutrality the additional revenue will be distributed to the GS 50-999 kW and USL classes at the point at which the revenue to cost ratio for the GS 50-999 kW and USL classes is equal to the revenue to cost ratio for the residential class. Once this occurs the remaining revenue will be distributed to the residential, GS 50 to 999 kW and USL classes in order to reduce the revenue to cost ratio for the three classes to the same level.[1]

2.2 VECC has reviewed the revenue to cost ratio adjustments proposed by WHSI and submits that:

- the revenue to cost ratio adjustments are in accordance with the EB-2010-0145 Settlement Agreement; and

- the Revenue to Cost Ratio Workform has been completed appropriately.

[1] EB-2011-0207 Page 50

3 Incremental Capital Module

3.1 WHSI requests approval of a rate rider in this application to recover incremental costs of $4,427,330 plus taxes in support of a $4.1 million capital contribution to Hydro One Transmission ("Hydro One") for the Commerce Way Transmission Station ("TS") and $327,330 to purchase and install WHSI-owned wholesale metering assets for the Commerce Way TS. This is a shared project where WHSI and HONI would each be allocated 50% of the capacity of the new station.

3.2 The total cost of the project is $24,827,330. WHSI's share is $12,240,230 and HONI's is $12,587,110.[2]

3.3 Commerce Way TS will provide eight 27.6 KV feeders, four allocated to HONI and four to WHSI. The amended ready for service date is December 2012. HONI has committed to providing more clarification to WHSI as to the project status by mid-December 2011 as HONI has identified certain risks.[3]

3.4 For incremental capital expenditures to be considered for recovery prior to rebasing, the Board's Guidelines indicate the amounts must satisfy the following eligibility criteria: materiality, need and prudence.[4]

3.5 <u>Materiality:</u> The amounts must exceed the Board-defined materiality threshold and clearly have a significant influence on the operation of the distributor; otherwise they should be dealt with at rebasing. Distributors are to use a Board-approved formula to calculate a materiality threshold.[5]

3.6 WHSI submits that the Commerce Way TS project exceeds the materiality threshold, is clearly non-discretionary, and that the expenditures have not been included in WHSI's Board approved rate base.[6]

3.7 In response to Board Staff Interrogatory # 1, VECC # 8 and Energy Probe #3 (b), WHSI confirmed an error was made in the calculation of load growth used in the materiality threshold calculation (Appendix E-1 Incremental Capital Module Workform 2012). A load growth of 5.79% should be used in the calculation instead of 0%. With this correction, the revised ICM materiality threshold is $4,154,210.[7]

3.8 VECC submits the threshold calculation should be further updated to reflect the 1.7% price escalator announced by the Board on November 10, 2011. VECC

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[2] Response to VECC Interrogatory # 2
[3] Response to VECC Interrogatory# 3 (b)
[4] Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors – July 14, 2008, Section 2.5, Page 24
[5] Chapter 3 of the Filing Requirements for Transmission and Distribution Applications, June 22, 2011, Page 10
[6] EB-2011-0207 Page 21
[7] Response to Board Staff Interrogatory # 1

supports Energy Probe's updated calculation of the materiality threshold as $4,272,870.[8]

3.9 In response to VECC interrogatory # 7, WHSI filed its forecasted 2012 capital budget of $7,377,996 that includes expenditures of $2,950,666 in addition to the Commerce Way TS project ($4,427,330).

3.10 The Board determined that eligible incremental capital sought for recovery should be new capital in excess of the materiality threshold. A distributor applying for recovery of incremental capital should calculate the eligible incremental capital amount by taking the difference between the 2012 total non-discretionary capital expenditure and the materiality threshold. [9] Based on this formula, WHSI's eligible incremental capital recovery would be: $7,377,996 - $4,272,870 = $3,105,126.

3.11 In its initial application, WHSI does not specifically address the extent to which the spending set out in its 2012 capital budget is non-discretionary.

3.12 The Board`s Decision regarding Oshawa PUC's request for an Incremental Capital Module made it clear that meeting the threshold test was more than a matter of simple arithmetic based on a proposed capital budget.[10] The Board indicated that it must also consider whether the planned budget exceeds the threshold amount and, if so, whether the threshold amount can be easily viewed as a minimum level of non-discretionary 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 into play.

3.13 In response to Board Staff interrogatory # 2, WHSI confirmed that none of the projects included in the 2012 forecasted capital expenditures have been previously included in WHSI's rate base or are discretionary in nature. VECC notes that the level of spending in 2012 is roughly equivalent to the approved capital spending for 2011. For the purposes of ICM, VECC submits that the total 2012 capital expenditures forecast can be reasonably viewed as non-discretionary.

3.14 VECC submits the materiality criterion has been met and the incremental capital requested by WHSI for recovery ($4,427,330) exceeds the Board-defined materiality threshold ($4,272,879).

3.15 WHSI did not specifically address the influence on its operations. VECC notes the requested incremental capital amount is material, not only in that the

[8] Energy Probe Final Submissions
[9] Chapter 3 of the Filing Requirements for Transmission and Distribution Applications, June 22, 2011, Page 10
[10] EB-2008-02-5, Part II, Pages 11-13

spending exceeds the Threshold value but that the quantum involved, $4,427,330 is 60% of the total 2012 budget. In this context, VECC can accept the proposed spending will have a significant impact on the operation of the utility.

3.16 VECC notes that the actual spending by category in 2011 is forecast to be $152,066 less that the 2011 Board approved level and some expenditures planned for 2011 have been deferred to 2012. VECC agrees with the submissions of Energy Probe that this amount should be reduced from the incremental capital amount as WHSI is already recovering the revenue requirement associated with this amount. The revised incremental capital amount is therefore:

2012 CAPEX	$7,377,996
Less 2011 Variance	($ 152,066)
Less Threshold	($4,272,870)
Incremental Capital	$2,953,060

3.17 Need: Amounts should be directly related to the claimed driver, which must be clearly non-discretional. The amounts must be clearly outside of the base upon which rates were derived.

3.18 The need for a transmission station was established in the November 6, 2009 OEB Decision and Order (EB-2009-0079) where HONI received approval to begin construction of the new Commerce Way TS.

3.19 In EB-2009-0079, WHSI's load forecast assessed the need for the project based on load growth, reliability and redundancy in the context of both new and existing load demands as well as the need for adequate power supply.[11] The load forecast assumed load growth based on the announcement of the new Toyota MC Assembly Plant and subsequent influx of supply companies. HONI and WCHI determined a significant investment would be required to meet existing needs and ensure capacity was in place to meet customer requirements.[12]

3.20 Although actual loads have not met forecast loads due to unanticipated plant closures, an economic recession, and the success of conservation and demand management, WHSI continues to believe the combination of redundancy, power quality and capacity for growth justify the investment.[13]

3.21 In response to VECC interrogatory # 4, WHSI provided an updated 2011 forecast which shows that the planned growth rate is expected to resume by 2013. Based on the evidence in this application, VECC submits the investment

[11] Response to VECC Interrogatory #4
[12] Response to VECC Interrogatory #4
[13] Response to VECC Interrogatory #4

can be reasonably viewed as justified.

3.22 Prudence: The amounts to be incurred must be prudent. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.

3.23 WHSI indicates the options have always been clear to ensure continued transmission supply: work cooperatively by sharing transmission station resources or strike out independently and supply and maintain individual transmission resources. While initial investment cost was one factor that WHSI considered in deciding whether to self build, to pursue shared ownership of a TS with another LDC, or provide a capital contribution to HONI, several other business, operational, and qualitative factors were examined.[14]

3.24 WHSI`s initial application provided details on the HONI ownership alternative. In response to VECC Interrogatory # 6, WHSI provided additional information including the business case (costs and benefits) of four options available to WHSI to ensure sufficient capacity to meet future load requirements.

3.25 In the study of alternatives, WHSI considered an LDC consortium, self build, WHSI build and HONI own and operate, against the proposal in this application for HONI to design, build own and operate the TS with a capital contribution from WHSI. The benefits of the chosen alternative include lower risk, the proven and successful track record of HONI, the broader interests served by a shared TS in part from a cost perspective and integration into a broader transmission strategy for the region. VECC submits that WHSI has adequately demonstrated the prudency of the proposed expenditures.

3.26 Based on the evidence in this application, VECC submits that WHSI has met the Board's materiality, need and prudency criteria and the Commerce Way TS and WHSI-owned wholesale metering assets for the Commerce Way TS should be eligible for recovery through the ICM.

Allocation of Costs

3.27 WHSI proposes to allocate the incremental revenue requirement on the basis of distribution revenue. WHSI indicates the rationale is Commerce Way TS project was necessary due to load growth in the WHSI and surrounding area for both residential and general service customers and the benefit of increased capacity and reliability of supply will be shared by all customers and recovered on the basis of distribution revenue.[15]

[14] EB-2011-0207 Page 17

[15] Response to Board Staff Interrogatory # 4 (a)

3.28 In response to Board Staff Interrogatory # 4 (c), WHSI compared the incremental revenue requirement allocated to each class when using distribution revenue as the allocator and rate class share of transmission connection revenues as the allocator.

3.29 VECC does not agree with WHSI`s proposed allocation of the incremental revenue requirement on the basis of distribution revenue. VECC agrees with Energy Probe`s analysis and submits the incremental revenue requirement should be recovered on the same basis as the recovery of transmission connection costs which uses the rate class share of transmission connection revenue.

Rate Rider

3.30 WHSI proposes the rate riders be established based on Option A whereby the revenue requirement is recovered through a fixed rate rider and a volumetric rate rider.

3.31 In VECC`s view a variable rate rider would be more 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).

4 Lost Revenue Adjustment Mechanism (LRAM Recovery)

4.1 WHSI is applying to the Board in this application for the recovery of $106,396.64 through one year rate riders effective May 1, 2012 to recover lost revenue for CDM activities.

4.2 As part of its 2010 Cost of Service Application (EB-2010-0145), the Board approved WHSI's LRAM claim of $602,468.07 to recover the difference between the forecast revenue embedded in rates and the actual revenue loss arising from CDM activities between 2005 and 2009. An SSM claim of $1,384.82 was also approved. Rate riders were approved until April 30, 2014.[16]

4.3 The LRAM claim in this application covers the impacts of 2005 & 2006 Third Tranche programs and 2006 to 2010 OPA CDM programs for 2010 and 2011.

4.4 At the time of this application, neither the 2010 preliminary nor final OPA results were available. For the purposes of this application, the 2009 OPA final LRAM amount of $103,396.64 from the LRAM claim in EB-2010-0145 was used as a placeholder until WHSI receives the final LRAM/SSM audited results from the OPA. WHSI received the final OPA results for the 2010 programs on November 15, 2011 and updated the LRAM claim and rate riders for 2010 activities in

[16] Response to VECC Interrogatory # 11 (a)

response to VECC interrogatory # 12 (a).

4.5 The Table below shows the updated LRAM claim by customer class including carrying costs:

Rate Class	**Original 2010 Lost Revenue (Preliminary)**	**2010 LRAM Final Results**
Residential	$47,084.45	$78,879.53
GS< 50 kW	$17,627.39	$27,552.97
GS 50-999 kW	$27,967.56	$12,228.53
GS>1000 kW	$10,530.99	$4,604.57
USL	$3,186.25	$6,466.73
Total	**$106,396.64**	**$129,732.33**

4.6 In the Board's Decision in the Horizon Application (EB-2009-0192), the Board indicated that distributors are to use the most current input assumptions which have been adopted by the Board when preparing their LRAM recovery as these assumptions represent the best estimate of the impacts of the programs.

<u>OPA Funded Programs</u>

4.7 VECC accepts for LRAM purposes, the OPA verification of the energy savings for WHSI 2006 to 2010 OPA-funded CDM programs using the OPA's Final 2006-2010 CDM program results.

4.8 VECC notes that at line 613 of the OPA's 2006-2010 Final CDM results[17], for the 2009 Final Every Kilowatt Counts Power Savings Event, 101 kWh is used as the input assumption to calculate net annual energy savings for Installed CFLs (Spring Campaign, Participant Spillover). VECC submits that this input assumption value is outdated and 46.32 kWh should be used to calculate the net annual energy savings, however the impact on lost revenue is immaterial.

4.9 VECC is unable to verify that savings for the OPA's 2006 Every Kilowatt Counts Program regarding 13-15 W Energy Star CFL's have been removed from the LRAM claim beginning in 2010. VECC asks that WHSI address this issue in reply submissions and confirm the LRAM claim does not include any measures that have expired in 2010.

<u>3rd Tranche Programs</u>

4.10 For the 3rd Tranche LRAM claim, WHSI has used the latest available information on input assumptions, i.e., the 2011 Prescriptive Measures and Assumptions

[17] VECC Interrogatory Response #12 (d), Attachment A-D, LRAM Application Woodstock 2011r1.xls.

Release Version 1.0 Final, April 6, 2011.

4.11 VECC has reviewed the responses to interrogatories and confirms that the correct input assumptions were applied to the residential 3rd tranche LRAM claims.

Load Forecast

4.12 The Board's Guideline states "The LRAM is determined by calculating the energy savings by customer class and valuing those energy savings using the distributor's Board-approved variable distribution charge appropriate to the class. The calculation does not include any Regulatory Asset Recovery rate riders, as these funds are subject to their own independent true-up process. Lost revenues are only accruable until new rates (based on a new revenue requirement and load forecast) are set by the Board, as the savings would be assumed to be incorporated in the load forecast at that time."[18]

4.13 As part of WHSI's 2011 Cost of Service Application (EB-2010-0145), the load forecast was updated for rates effective May 1, 2011. The load forecast was based on the historical monthly kWh's billed between January 2006 and June 2010.[19]

4.14 VECC submits that the load forecast model utilized by WHSI in its 2011 CoS Application used 4.5 years of historical data that included actual use and therefore included 2005 to 2009 CDM program impacts and partial 2010 CDM program impacts.

4.15 VECC further submits that WHSI's load forecast model would capture not only historical savings but would carry forward projections for future years trends in the historical data regarding increased CDM savings over time that would be implicit in the 2011 forecast. VECC submits that lost revenue in 2011 from 2005 to 2010 CDM programs have already been accounted for in the 2011 load forecast.

4.16 VECC submits that based on the Board's Guidelines, lost revenue in 2011 for WHSI CDM programs are not accruable in 2011. Thus, the LRAM claim should not include any lost revenue in 2011.

4.17 For the purposes of obtaining settlement in EB-2010-0145, the parties agreed that the 2011 Test Year load forecast was to be reduced by one tenth (1/10th) of Woodstock's OEB/OPA directed CDM target of 18.88 kWhs. The Parties agreed that any revenue variance, above or below the CDM target adjustment of 1,888,000 kWhs (i.e. 1/1oth of 18.88 million kWhs) shall be recovered or

[18] Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18
[19] EB-2010-0145, Exhibit 2, Tab 4, Schedule 1, Page 1

reimbursed, as the case may be, through an LRAM application following the Board's standard rules for LRAM.

4.18 VECC expects that the details of this settlement agreement will be reflected in future LRAM claims regarding the impact of 2011 programs in 2011 and beyond.

Recovery Period

4.19 WHSI proposes that the LRAM claim for CDM Programs cover the period January 1, 2010 to December 31, 2011.

4.20 The Board's Guidelines indicate that "LRAM is a retrospective adjustment, which is designed to recover revenues lost from distributor supported CDM activities in a prior year."[20]

4.21 VECC submits that WHSI is calculating estimated lost revenues for 2011 based on the OPA's Measures and Assumptions list and OPA verified results available at the timing of this application, which is not appropriate or in accordance with the Guidelines.

4.22 Page 34 of the Board's Chapter 2 Filing Guidelines for Transmission and Distribution Applications dated June 22, 2011:

"Distributors intending to file an LRAM or SSM application for CDM Programs funded through distribution rates, or an LRAM application for CDM Programs funded by the OPA between 2005 and 2010, shall do so as part of their 2012 rate application filings, either cost-of-service or IRM. If a distributor does not file for the recovery of LRAM or SSM amounts in its 2012 rate application, it will forego the opportunity to recover LRAM or SSM for this legacy period of CDM activity."

4.23 VECC submits that the Board's updated Chapter 2 Guidelines do not specify the LRAM recovery period. VECC interprets the Board's guideline to mean that if a distributor does not file for the recovery of LRAM/SSM for 2005 to 2010 CDM programs, to the end of the program implementation period, i.e. to the end of 2010, it would forgo the opportunity to do so. VECC does not believe the Chapter 2 update is intended to override the requirement that the most current OPA Measures and Assumptions lists, as updated by the OPA from time to time, represent the best estimate of losses associated with a distributor's CDM programs.

4.24 In the absence of OPA input assumptions and verified final results for 2011, VECC submits that the LRAM claim should only cover the period January 1, 2010 to December 31, 2010.

[20] Guidelines for Electricity Distributor Conservation and Demand Management, EB-2008-0037, Page 18

4.25 In the event the Board approves WHSI's LRAM claim to December 31, 2011, VECC submits that WHSI should file an updated LRAM application to recover or refund any variance between the requested amounts and verified amounts for January 1, 2011 to December 31, 2011 based on the most recent OPA Measures and Assumptions List and OPA verified results.

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 order of costs in the amount of 100% of its reasonably-incurred fees and disbursements.

All of which is respectfully submitted this 7th day of December 2011.