



December 12, 2011

Ms. Kirsten Walli
Ontario Energy Board
PO Box 2319
27th Floor, 2300 Yonge Street
Toronto, Ontario M4P 1E4

**Re: Chatham-Kent Hydro 2012 3rd Generation IRM Rate Application Reply Submission
Board File No.: EB-2011-0163**

Dear Ms. Walli,

Please find enclosed the response of Chatham-Kent Hydro ("CKH") in the above-noted application, as permitted by the Notice of Application and Hearing dated October 5, 2011.

If you have any further questions, please do not hesitate to contact me at (519) 352-6300 x558 or via email at davidferguson@ckenergy.com.

Sincerely,

[Original Signed By]

David C. Ferguson
Director of Regulatory Affairs & Risk Management
(519) 352-6300 x558
Email: davidferguson@ckenergy.com

CC: Dan Charron, President
Chris Cowell, Chief Financial and Regulatory Officer



Reply Submission

2012 IRM3 Application

EB-2011-0163

December 12, 2011

Background

On September 16, 2011, CKH submitted an application (the “Application”) for its proposed distribution and transmission rates under the 3rd Generation Incentive Regulation Mechanism (“IRM”), to be effective May 1, 2012. On October 14, 2011, the evidence relating to CKH’s Lost Revenue Adjustment Mechanism (“LRAM”) claim was updated based upon the release of the final 2010 OPA CDM program results, which had not been available when the original evidence was prepared.

Subsequently, on November 1, 2011, the Application evidence was updated to exclude the disposition of CKH’s Account 1562 Deferred PILs account balance. This withdrawal in favour of a separate proceeding was consistent with the Board’s EB-2008-0381 decision, and was granted by the Board in its letter to CKH dated November 2, 2011¹.

Vulnerable Energy Consumers Coalition (“VECC”) requested, and was granted, intervenor status.

VECC and Board Staff submitted interrogatories in respect of the Application, and full responses to the interrogatories were filed by CKH on November 17, 2011.

On December 1, 2011, VECC and Board Staff filed submissions on the following matters:

- 1) Revenue-to-Cost Ratios (“R/C Ratios”)
- 2) Account 1521 Special Purpose Charge (“SPC”)
- 3) Account 1588 RSVA Power and RSVA Power, Sub-Account Global Adjustment (“RSVA Power”)
- 4) LRAM Claim

1) R/C Ratios

In the Application, CKH proposed R/C Ratio adjustments for 2012, which were based on the percentages agreed in the Settlement Agreement of February 14, 2011².

Board Staff and VECC have submitted that the proposed R/C Ratio adjustments are in accordance with the Settlement Agreement. Board Staff further submits that the R/C Ratios are in accordance with the Board’s Decision in the 2011 IRM proceeding. VECC further submits that the R/C Ratio Workform has been completed appropriately.

CKH concurs with Board Staff and VECC that the proposed R/C Ratio adjustments for 2012 are appropriate.

¹ EB-2011-0163

² EB-2010-0074

2) Account 1521 SPC

On April 9, 2010, the Board issued a letter and invoice to all licensed electricity distributors outlining SPC assessments and SPC unit rates for each distributor. Subsequently, the Board established variance Account 1521 SPC to capture any differences between the amount remitted to the Ministry of Finance for the SPC assessment and the amount recovered from customers.

CKH's SPC assessment was \$317,637. CKH collected SPC amounts from customers until April 30, 2011. The total amount collected was \$286,901, inclusive of \$89,175 collected in 2011. The forecasted balance for proposed disposition in Account 1521 SPC inclusive of carrying charges to April 30, 2012, amounted to \$33,166. As noted by Board Staff, this residual balance arises from volume variances.

Board Staff notes that usual practice is to dispose of audited variance account balances. Inherently, the forecasted carrying charges and 2011 activity in the table provided by CKH in its interrogatory response³ are not yet audited. However, Board Staff submits that the Board should authorize the disposition of this Account 1521 SPC balance for December 31, 2010, because the account balance does not require a prudence review, and electricity distributors are required by regulation to apply for disposition of this account by April 30, 2012 in any event.

VECC made no submissions in this regard.

CKH concurs with Board Staff and respectfully submits that the Board should authorize the disposition of the Account 1521 SPC balance of \$33,166.

3) RSVA Power

In response to a Board staff interrogatory⁴ regarding Account 1588 Power, CKH investigated Article 220 of the Board's Accounting Procedures Handbook ("APH"). CKH confirmed in its interrogatory response that its Account 1588 Power balance is composed solely of CKH's sub-account global adjustment balance. CKH further indicated that it has initiated an internal review to determine whether the 2009 and 2010 balances in Account 1588 are in accordance with Article 220 of the APH. In order to allow sufficient time for the completion of the detailed reconciliations and analysis associated with this internal review, and to maintain the current 2012 IRM procedural timeframe, CKH proposed to dispose of its Account 1588 Power balance as part of its 2013 IRM application.

In its submission, Board Staff noted that it considers that the internal review undertaken by CKH to be important to ensure the correctness of the sub-accounts of Account 1588, since the sub-account balances are allocated to different customer groups based on cost causality. Board Staff submitted that the Board should grant CKH's request to withdraw the disposition of Account 1588 at this time and to defer the disposition as part of its 2013 IRM application.

³ Interrogatory response to Board Staff 3 (Attachment 3)

⁴ Interrogatory response to Board Staff 2

VECC made no submissions in this regard.

CKH concurs with Board Staff and respectfully submits that the Board should authorize the deferral of the disposition of its Account 1588 Power until the 2013 IRM application.

4) LRAM Claim

2009 & 2010 CDM Program Eligibility for LRAM Claim

In the Application, CKH originally included an LRAM claim in the amount of \$234,951 for the years 2009 and 2010, from January 1 of the respective program launch year through April 30, 2012. This LRAM claim represented an estimate because preliminary 2010 OPA CDM results were not available when the original evidence was prepared. CKH subsequently filed updated evidence supporting an LRAM / SSM claim of \$187,448, based on the release of the final 2010 OPA CDM program results.

Prior to the current claim, CKH previously had one Board-approved LRAM claim, which was included in its 2010 Cost of Service application ("2010 COS")⁵. This LRAM claim was for Third-Tranche and OPA programs delivered in the years 2006, 2007 and 2008. Lost revenue for these programs was claimed until the end of 2009.

Board Staff Submission

Board Staff notes that the CDM Guidelines⁶ suggest that once a new load forecast is approved, it is to be considered final in all respects, and that the overriding regulatory principle at play is rate certainty. Board Staff is of the view that CKH had the opportunity to adjust its 2010 COS load forecast for planned CDM program deployment of new programs deployed in the years leading up to and including the test year using "reasonable proxies". Board Staff notes that the rule against retroactive rate-making precludes retroactive adjustments related to the period for which rates were declared final, and to the extent actual savings were not reflected in the final approved forecast, they should be absorbed by CKH.

Board Staff recognizes that in the past, LRAM applications may have been approved for persistence of programs after a new load forecast has been approved in a cost of service application, and that the Board may want to consider the issue of consistency in its decision. Otherwise, Board Staff submits that it does not support the recovery of the requested persisting lost revenues from 2009 CDM programs in 2010, the lost revenues from 2010 CDM programs, or the lost revenues from 2009 and 2010 CDM programs from January 1, 2011 to April 30, 2012. Board Staff does support the recovery of lost revenue for 2009 CDM programs in 2009, since CKH was under IRM during that period.

⁵ EB-2009-0261 (Exhibit 10)

⁶ EB-2008-0037 (Section 5.2: Calculation of LRAM, Guidelines for Electricity Distributor Conservation and Demand Management)

Board Staff further invited CKH to provide the following information in its reply submission:

- (i) the lost revenue associated with 2009 CDM programs in 2009; and;
- (ii) whether an adjustment for CDM was incorporated into its load forecast for the 2010 Cost of Service Application (“2010 COS”) or settlement agreement.

VECC Submission

VECC has made no submissions in this regard.

CKH Response

Board Staff supports the recovery of 2009 CDM programs in 2009, and has invited CKH to provide the lost revenues associated with such programs. CKH notes that its 2010 COS was not effective until May 1, 2010, and therefore submits that the appropriate period in response to this request is January 1, 2009 through April 30, 2010. CKH has segregated its LRAM claim accordingly in Table 1 below, and notes that the portion of the LRAM claim for the period from January 1, 2009 through April 30, 2010 amounts to \$57,387.

Table 1 – Breakdown of 2009 & 2010 CDM Program LRAM Amounts

Programs	Jan 1, 2009 to Apr 30, 2009	May 1, 2009 to Apr 30, 2010	May 1, 2010 To Apr 30, 2011	May 1, 2011 to Apr 30, 2012	Total
2009 programs	\$11,871	\$39,092	\$46,007	\$45,780	\$142,750
2010 programs	\$0	\$6,424	\$19,219	\$19,055	\$44,698
Period Total	\$11,871	\$45,516	\$65,226	\$64,835	\$187,448
Cumulative Total	\$11,871	\$57,387	\$122,613	\$187,448	

Board Staff has further invited CKH to address whether an adjustment for CDM was incorporated into its load forecast for the 2010 COS or the associated settlement agreement.

As background, the CKH 2010 COS and load forecast was filed with the Board in October 2009. A Partial Settlement Agreement was reached in March 2010, and subsequently the Board issued its Decision and Order in April 2010. Comparatively, the OPA’s preliminary 2006-2009 CDM program results were not released until August 2010. The OPA’s final 2006-2009 program results were released in January 2011.

CKH confirms that its pre-settlement 2010 COS load forecast included a normalization adjustment for 2006-2008 CDM programs based on a study conducted by the EnerSpectrum Group⁷. The purpose of this normalization adjustment was to recognize that the 2002-2008 data set used in the load forecast regression analysis included only the impact of CDM in the latter years of the data set. However, CKH confirms that the adjusted 2010 COS load forecast did not include proxy estimates or prognostication of

⁷ EB-2009-0261(Exhibit 10, Tab 1, Schedule 1, Appendix A)

CDM programs for the 2009 or 2010 program year. As noted in the Application, the 2009 and 2010 CDM program years are the basis for CKH's LRAM claim.

CKH acknowledges that lost revenues associated with historic CDM programs should be incorporated into load forecasts. However, CKH submits that such load forecast adjustments should be based on known information. CKH respectfully submits that it is not reasonable to suggest that lost revenues should not be recovered when the associated savings evaluations were not yet known and available for incorporation into the load forecast. CKH should not be penalized because of uncertainties regarding the 2009 and 2010 CDM programs that existed at the time of its 2010 COS. CKH submits that it is important that there be no duplication of recovery on account of CDM (as may be the case where there have been CDM-related adjustments to a Board-approved load forecast plus recovery of LRAM related to the subject matter of the adjustments), but that is not the case here. CKH submits that the Board "has continued to endorse the principle of LRAM, which is that distributors are to be kept whole for revenue that they have forgone as a direct consequence of implementing CDM programs."⁸ The CKH application is consistent with that principle.

The principle of using known information is consistent with CKH not having attempted to include an estimate of 2011 and 2012 CDM program results into its current LRAM claim for the rate year commencing May 1, 2012.

Finally, it is the view of Board Staff that rate certainty should take precedence over the LRAM revenue neutrality concept. CKH submits that the very existence of LRAM is indicative that the principal of revenue neutrality takes precedence over rate certainty in the context of lost revenues resulting from CDM activities.

CKH therefore submits that its proposed LRAM claim of \$187,448 should be accepted by the Board.

Recovery Period for LRAM

Board Staff Submission

Board Staff submitted that it does not support the recovery of lost revenues from 2010 CDM programs, or the lost revenues from 2009 and 2010 CDM programs from January 1, 2011 to April 30, 2012. In the view of Board Staff, these amounts should have been built in CKH's approved 2010 COS load forecast.

VECC Submission

VECC submits that CKH's use of the OPA's Measures and Assumptions list and the OPA verified results currently available to calculate estimated lost revenues for 2009 and 2010 CDM Programs in 2011 and 2012 is not appropriate. VECC indicates that in the absence of verified final results for 2011 and 2012, CKH's LRAM claim should be adjusted to cover the only the period from January 1, 2009 to December

⁸ EB-2010-0067 (Burlington Hydro 3rd Generation IRM application), at p.9 of the Board's March 17, 2011 Decision

31, 2010 for 2009 and 2010 OPA programs. In an interrogatory response⁹, CKH indicated that the portion of its LRAM claim for this period would be \$100,933, including carrying charges.

VECC submits that the Board should approve an LRAM claim of \$100,993. In the event that the Board approves the full claim amount to April 30, 2012 amounting to \$187,448, VECC submits that CKH should file an updated LRAM application to recover or refund any variance between the requested amounts and verified amounts for January 1, 2011 to April 30, 2012 based on the most recent OPA Measures and Assumptions list.

CKH Response

CKH acknowledges that LRAM is intended as a retrospective mechanism. However, the lost revenue being claimed by CKH relates to 2009 and 2010 CDM programs which have already been implemented and for which savings to April 30, 2012 are known. CKH is not forecasting or using proxies to estimate the number of measures that were installed in 2009 and 2010 – rather, it is reporting the actual known savings impact of these measures on revenues to April 30, 2012.

Lost revenues are known for 2009 and 2010 CDM programs because this information is available now and is identified as final by the OPA, who commissioned program-specific evaluations and reported savings from the measures installed over each year of the life of these programs. Other information required for calculating lost revenues, such as CKH distribution rates, has also been set and will not change. Consequently, there is no reason to presume that this portion of the LRAM claim will ever change, and therefore there is no reason why it should be excluded, and there is no reason that a variance application should be required.

In contrast, lost revenues from 2011 CDM programs will not be known until such time as the OPA releases its final results, presumably in late 2012. Accordingly, CKH has made no attempt to include 2011 CDM program results into its current LRAM claim for the rate year commencing May 1, 2012.

CKH would also like to take the opportunity to highlight the contrasting positions of the Board Staff and VECC. Board Staff is advocating the use of proxy estimates to finalize LRAM claims, whereas, VECC is suggesting that LRAM should only be recovered based on final verified results.

CKH therefore submits that the Board should approve its proposed LRAM claim of \$187,448 in its entirety.

All of which is respectfully submitted.

⁹ Interrogatory response to Board Staff 4