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January 14, 2012

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)
CWH Hydro Ltd. EB-2011-0160
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: Centre Wellington Hydro Inc.
Ms. Florence Thiessen

EB-2011-0160

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 Centre Wellington Hydro Ltd. 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)

January 13, 2012

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1 The Application

1.1 Centre Wellington Hydro Ltd. ("CWH", "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, CWH included the recovery of the costs for upgrades to existing transformer stations 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 Incremental Capital Module

2.1 CWH requests approval of incremental capital funding for the upgrade and replacement of distribution stations including installation of a new Supervisory Control and Data Acquisition (SCADA) system which is forecasted to take place over a five year period commencing in 2012 with a total estimated cost of $6,094,000, of which $1,363,400 is forecast for 2012.

2.2 CWH retained Costello Associates Inc. (Costello) to perform a substation asset condition assessment on six municipal substations in January 2011 based on visual inspections and limited maintenance records. Costello prioritized the work at the six substations based on public and worker safety, reliability (asset condition), environmental protection, staff resources and capital funding.

2.3 For 2012, the priorities identified are to rehabilitate Fergus MS-2 ($1,199,400) and install fully functional SCADA for CWH's six municipal substations ($164,000).[1] CWH has included an incremental capital funding request for these two projects in this application.

2.4 For incremental capital expenditures to be considered for recovery prior to rebasing, the Board's Guidelines indicate the amounts must satisfy the following

[1] Managers's Summary, Section Page 5

eligibility criteria: materiality, need and prudence.[2]

2.5 **Materiality:** 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.[3]

2.6 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. [4]

2.7 CWH's indicates its total non-discretionary 2012 capital budget is $2,178,300 which includes the proposed $1,363,400 in incremental capital funding. In response to interrogatories, CWH updated the materiality threshold from $851,349 to $719,913.[5]

2.8 Based on the above formula, CWH's revised eligible incremental capital recovery is: $2,178,300 - $719,913 = $1,458,387.

2.9 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.[6] 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.

2.10 In response to VECC Interrogatory # 1, CWH provided a table that compared the 2012 proposed capital spending to the 2009 approved capital spending. VECC notes that the level of proposed non-discretionary spending in 2012 is roughly equivalent to the approved capital spending for 2009.

2.11 CWH also provided a proposed list of capital projects for 2012 that indicates that all projects are non-discretionary. For the purposes of ICM, VECC submits that the total 2012 capital expenditures forecast can be reasonably viewed as non-

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[2] Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors – July 14, 2008, Section 2.5, Page 24
[3] Chapter 3 of the Filing Requirements for Transmission and Distribution Applications, June 22, 2011, Page 10
[4] Chapter 3 of the Filing Requirements for Transmission and Distribution Applications, June 22, 2011, Page 10
[5] Response to VECC Interrogatory # 1
[6] EB-2008-0205, Decision Part II, Pages 11-13

discretionary.

2.12 VECC submits the materiality criterion has been met and the incremental capital requested by CWH for recovery ($1,363,400) exceeds the Board-defined materiality threshold ($719,913).

2.13 VECC notes that the incremental capital amount is material, not only in that the spending exceeds the Threshold value but the quantum involved, $1,363,400 is approximately 63% of the total 2012 budget.

2.14 **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.

Fergus MS-2 Substation Project

2.15 The Fergus MS-2 substation was installed in 1962 and sits almost directly on the banks of the Grand River and at the time of the condition assessment had no secondary oil containment. CWH has since installed an oil containment system. CWH proposes a major rehabilitation to completely replace all 4 kV equipment with modern switchgear and reclosers and to install secondary oil containment for the existing power transformer.[7]

2.16 The need to rehabilitate Fergus MS-2 is due to drivers such as public and worker safety, reliability and environmental protection issues. CWH feels that the condition of the station is such that it is prudent to rehabilitate as soon as the project can be designed, contracts tendered and physical work scheduled.

2.17 Costello's report indicates that three of the six municipal substations were found to have serious potential issues related to safety, reliability, environmental protection and age. The three other municipal substations were also found to have safety issues relating to grounding, natural connections and fencing.[8]

2.18 In response to VECC interrogatory # 6 (a), CWH provided a summary of the substation asset condition assessment analysis that provided an overall ranking for each substation. The table shows that Fergus MS-2 has the lowest score (45) followed by Fergus MS-1 (50) and Elora MS-1 (53).

2.19 The Fergus MS-2 substation is located just above the Grand River and there is no oil containment in place around the power transformer. There is also a padmount transformer installed within the station yard that provides secondary service to the adjacent municipal office building. In the event of a major short circuit at the station, there is a risk of transferring high voltage from the station

[7] Tab 4, Incremental Capital Module, Third Party Report, Page 3
[8] Tab 4, Incremental Capital Module, Third Party Report, Page 1

grid to the office building.[9]

2.20 In response to SEC interrogatory # 1 (c), CWH indicated that it is highly probable that oil would be released into the Grand River (due to proximity and grading towards the bank from the station) in the event of an oils spill due to a catastrophic transformer failure or a more moderate leak.

2.21 With respect to the probability of a major short circuit causing a transfer of high voltage from the station to the office building, CWH responded that if a short circuit fault occurred within the station and was dissipated out through the ground gradient which the secondary neutral is directly connected to it is probable that voltage would be transferred to the supplied office building. CWH notes that the actual voltage level would be dependent on varying conditions such as fault voltage level and duration.[10]

2.22 VECC submits that based on the asset condition assessment, CWH has appropriately demonstrated that the work on Fergus MS-2 is non-discretional. Waiting until the next cost of service application in 2013 to address the issues described above could expose CWH to safety, reliability and environmental risks and is not recommended.

SCADA Project

2.23 CWH indicates the SCADA project is required to collect operating data, improve operational efficiency and improve reliability.[11]

2.24 Four of the six CWH existing substations are designed with fuses or hydraulic reclosers which do not provide any functionality for SCADA. The other two substations equipped with circuit breakers are obsolete and should be replaced. The proposed modernization of the substations provides for complete SCADA interoperability.[12]

2.25 CWH decided while prioritizing the projects that SCADA should occur in conjunction with the rehabilitation of the first station upgrade so the first station would have full monitoring of critical station alarms and newly installed, would be fully automated to take full advantage of the new equipment immediately. CWH submitted that postponing or rescheduling the implementation of SCADA will ultimately lengthen the completion of required station upgrades.

[9] Tab 4, Incremental Capital Module, Third Party Report, Appendix 1, Page 5
[10] Response to SEC Interrogatory # 1 (d)
[11] Tab 4, Incremental Capital Module, Third Party Report, Page 4
[12] Tab 4, Incremental Capital Module, Third Party Report, Page 2

2.26 Firstly, VECC does not agree the SCADA project needs to occur in conjunction with work on the first station upgrade. VECC submits that CWH has the discretion to implement the SCADA project in a different time period as it is not critical to the rehabilitation of the substation and therefore it is not essential that the work be done in 2012. Secondly, VECC submits that the capital amount requested ($163,875) is not directly related to the critical claimed drivers for the rehabilitation work, i.e. public and worker safety and environmental protection issues. Based on these considerations, VECC submits that the SCADA project is not non-discretionary. The project does not meet the need criteria and should be found ineligible for funding in 2012 under the incremental capital model.

2.27 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.

2.28 The scheduled in-service date for the Fergus MS-2 work is October – December 2012. CWH submits that starting the five year capital plan in 2012 has the effect of smoothing the expenditures over several years to mitigate rate shock for its customers.

2.29 In response to interrogatories regarding options CWH explored to arrive at the most cost-effective option for ratepayers, CWH indicated that public/worker safety and reliability were critical factors in the decision to rehabilitate the existing substations. The budget provided to CWH was based on typical Ontario LDC design practises for similar stations. A total station replacement with the budgetary cost of $2.2M was considered but through the station condition assessment, it was determined that the lower cost of rehabilitation would meet the necessary improvements needed. The proposed capital program makes use of the existing major components that are in acceptable working condition, to minimize capital expenditures.[13]

2.30 CWH further indicates that budget amounts are based on current costs of similar projects of scale and scope within the industry that had gone through a competitive bid process and that it is CWH's intention to request competitive bids to complete station upgrades.[14]

2.31 In considering the above, VECC submits that CWH has met the prudence criteria regarding the Fergus MS-2 project.

2.32 In summary, based on the evidence in this application, VECC submits that only the Fergus MS-2 project has met the Board's materiality, need and prudency criteria and thus rehabilitation of the Fergus MS-2 should be eligible for recovery through the ICM. In VECC's view, the SCADA project did not meet the need

[13] Response to Board Staff Interrogatory # 12 (b) & VECC Interrogatory # 3 (b)
[14] Response to Board Staff Interrogatory # 12 (g)

criteria and thus should not be eligible for funding.

3 Lost Revenue Adjustment Mechanism (LRAM Recovery) & Shared Savings Mechanism (SSM)

3.1 CWH is applying to the Board in this application for the recovery of $103,372.23 through one year rate riders effective May 1, 2012 to recover lost revenue for the years 2006 to 2010 from CDM activities implemented between 2005 and 2010.

3.2 The LRAM claim in this application covers the impacts of 2005 to 2007 Third Tranche programs and 2006 to 2010 OPA CDM programs. The SSM claim covers Third Tranche programs run from 2005 to 2007.[15]

3.3 At the time of this application, CWH used the 2006-2009 Final OPA CDM Results and estimated data for 2010 to calculate the LRAM claim. In interrogatory responses, CWH updated the LRAM claim to reflect the use of 2006-2010 Final OPA CDM Results released on November 15, 2011.[16]

3.4 The Table below shows the updated LRAM claim by customer:[17]

Rate Class	Original LRAM	SSM	Total	Updated LRAM	SSM	Updated Total
Third Tranche Programs						
Residential	$7,694.91	$1,735.28	$9,430.19	$7,694.91	$1,735.28	$9,430.19
GS 50 to 2,999 kW		-$225.76	-$225.76		-$225.76	-$225.76
OPA Programs						
Residential	$68,649.47		$68,649.47	$71,209.35		$71,209.35
GS < 50 kW	$17,641.60		$17,641.60	$19,175.55		$19,175.55
GS 50 to 2,999 kW	$9,386.24		$9,386.24	$8,888.86		$8,888.86
Total	**$103,372.23**	**$1,509.52**	**$104,881.75**	**$106,968.67**	**$1,509.52**	**$108,478.20**

3.5 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.

OPA Funded Programs

3.6 VECC accepts for LRAM purposes, the OPA verification of the energy savings for CWH's OPA-funded CDM programs using the 2006-2010 Final OPA CDM

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15 Response to Board Staff Interrogatory # 14 (c) & (d)
16 Response to VECC Interrogatory # 10 (a)
17 Response to VECC Interrogatory # 10 (c)

results released by the OPA on November 15, 2011.

3.7 VECC notes that at line 613 of the OPA's 2006-2010 Final CDM results[18], 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 2009 net annual energy savings, however the impact on lost revenue in 2009 is immaterial.

3.8 VECC submits CWH has appropriately demonstrated through interrogatory responses 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.

Load Forecast

3.9 As part of CWH's 2009 Cost of Service (COS) Application (EB-2008-0225), the load forecast was updated for rates effective May 1, 2009.[19] CWH indicated there were no CDM savings in Centre Wellington's last approved load forecast.

3.10 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."[20]

3.11 In the recent Hydro Ottawa Decision (EB-2011-0054), the Board disallowed a true-up of the effects of CDM. The Board noted firstly, that the Board's CDM Guidelines do not consider symmetry with respect to LRAM; and secondly, that there have been expectations related to LRAM including no-true up of the effects of CDM activities embedded in a rebasing year.[21]

3.12 VECC notes that in other recent Decisions, the Board disallowed LRAM claims in the rebasing year and beyond for CDM programs implemented prior to (and including) the rebasing year.

[18] 2006-2009 Final OPA CDM Results
[19] Response to Board Staff Interrogatory #15 (d)
[20] Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18
[21] EB-2011-0054 Hydro Ottawa Decision, Page 24

3.13 In the Whitby Hydro Decision (EB-2011-0206), the Board disallowed the LRAM claim for the rebasing year as the Board is of the view that it is not appropriate to vary from the stated policy which states that lost revenues are only accruable until new rates are set by the Board, as the CDM savings would be assumed to be incorporated in the load forecast at that time.[22] In the Hydro One Brampton Decision (EB-2011-0174), the Board found the request for LRAM in 2011 (its rebasing year) inconsistent with the Guidelines and agreed these savings should have been incorporated into the 2011 load forecast at the time of rebasing.[23]

<u>2005 to 2009 CDM Programs – Recovery of Lost Revenue in 2009 and Beyond</u>

3.14 In accordance with the Board's guidelines and recent Decisions, VECC submits that energy savings from CDM programs deployed between 2005 and 2009 are not accruable in 2009 and beyond as savings should have been incorporated in the 2009 load forecast at the time of rebasing.

<u>2005 to 2008 CDM Programs – Recovery of Lost Revenue in 2006, 2007 & 2008</u>

3.15 VECC supports the approval of the lost revenues requested by CWH for CDM programs implemented in 2005 to 2008 for the years 2006 to 2008 as CWH did not collect this revenue while under IRM in the years prior to rebasing.

<u>2010 CDM Programs – Recovery of Lost Revenue in 2010</u>

3.16 VECC supports the approval of lost revenue in 2010 for CDM Programs implemented in 2010 while CWH is under IRM.

<u>2010 CDM Programs – Recovery of Lost Revenue in 2011</u>

3.17 VECC does not support the approval of lost revenue in 2011 for CDM Programs implemented in 2010.

3.18 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."[24]

3.19 VECC submits that CWH 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.

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

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[22] EB-2011-0206 Whitby Hydro Decision, Page 14
[23] EB-2011-0174 Hydro Brampton Decision, Page 13
[24] Guidelines for Electricity Distributor Conservation and Demand Management, EB-2008-0037, Page 18

"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."

3.21 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.

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

3.23 In summary, VECC submits that the LRAM claim approved by the Board should be adjusted to exclude the proposed lost revenue in 2009 and beyond for CDM programs implemented between 2005 and 2009, as well as the proposed lost revenue for 2010 CDM programs in 2011, for the reasons noted above.

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 13th day of January 2012.