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February 08, 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)
Midland Power Utility Corporation EB-2011-0182
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: Midland Power Utility Corporation
Mr. Phil Marley

EB-2011-0182

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 Midland Power Utility Corporation 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)

February 8, 2012

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1 The Application

1.1 Midland Power Utility Corporation ("Midland PUC", "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, Midland PUC included the recovery of the impact of lost revenues associated with various conservation and demand management (CDM) activities (i.e. an LRAM recovery). The following section sets out VECC's final submissions regarding this aspect of the application.

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

2.1 Midland PUC applied to the Board in this application for the recovery of $76,737.50 through one year rate riders effective May 1, 2012, to recover lost revenue from CDM activities. Midland PUC did not apply for carrying charges on the LRAM amounts.[1]

2.2 Midland filed a previous LRAM claim as part of its 2011 IRM Application. Midland PUC was granted recovery of $210,204 in LRAM and $5,353 in SSM for programs that impacted revenues from 2005 to 2009 for both Third Tranche and OPA CDM programs.[2]

2.3 The LRAM claim in this application covers the revenue impacts from:
- 2010 Program Results
- 2010 Program Results persistent into 2011
- 2006-2009 Program Results Persistent into 2010 & 2011.[3]

2.4 Midland PUC has not received any of the lost revenues requested in this application in the past.[4]

[1] Response to Board Staff Interrogatory # 4 (g)
[2] Response to Board Staff Interrogatory # 4 (c)
[3] Response to VECC # 1 (a) & Board Staff Interrogatory # 4 (d)
[4] Response to Board Staff Interrogatory # 4 (d)

2.5 At the time of this application, Midland PUC used the 2006-2009 OPA Final CDM Results and the 2010 OPA Final CDM Results Summary released September 16, 2011 to calculate energy savings, as the final 2010 program evaluation results were not available.[5] Input assumptions and free ridership rates for the 2010 programs were not provided in the 2010 OPA Final CDM Results Summary. Midland PUC received the 2006-2010 Final OPA CDM Detailed Results on November 15, 2011 and updated the LRAM claim to $69,635, a decrease of $7,102.49.[6]

2.6 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.

Input Assumptions - OPA Funded Programs

2.7 VECC accepts for LRAM purposes, the OPA's verification of the energy savings for Midland PUC's OPA-funded CDM programs using the 2006-2010 Final OPA CDM Results.

2.8 VECC notes that at line 613 of the OPA's 2006-2010 Final CDM results, for the 2009 Final Every Kilowatt Counts Power Savings Event, 101.42 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 46.3 kWh should be used to calculate the 2009 net annual energy savings, however the impact on lost revenue in 2009 is immaterial.[7]

2.9 VECC submits Midland PUC has appropriately demonstrated through interrogatory responses that energy savings that have expired are not included in the proposed LRAM claim in 2010 and 2011.

Load Forecast

2.10 Midland PUC's last approved load forecast was part of its 2009 Cost of Service (COS) Application (EB-2008-0236), for rates effective May 1, 2009.

2.11 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

[5] Tab 6, LRAM Report and Schedules, Burman Report, Scope, Page 2
[6] Response to Board Staff Interrogatory # 4 (a) & (b)
[7] Appendix D – OPA Assumptions, Midland PUCHI_Appendix A to IR Responses_20120123

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."[8]

2.12 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.[9]

2.13 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.

2.14 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.[10]

2.15 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.[11]

2006 to 2009 CDM Programs – Recovery of Lost Revenue in 2010 & 2011

2.16 In accordance with the Board's guidelines and recent Decisions, VECC submits that energy savings from Midland PUC's OPA CDM programs deployed between 2006 and 2009 are not accruable in 2010 and 2011.

2010 CDM Programs – Recovery of Lost Revenue in 2010

2.17 VECC supports the approval of lost revenues in 2010 from 2010 CDM program results, as these savings occurred post rebasing (during an IRM year) and have not been claimed.

2010 CDM Programs – Recovery of Lost Revenue in 2011

2.18 VECC does not support the approval of 2010 program results persisting into 2011.

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[8] Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18
[9] EB-2011-0054 Hydro Ottawa Decision, Page 24
[10] EB-2011-0206 Whitby Hydro Decision, Page 14
[11] EB-2011-0174 Hydro Brampton Decision, Page 13

2.19 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."[12]

2.20 VECC submits that Midland PUC 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.

2.21 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."

2.22 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.

2.23 In the absence of OPA input assumptions and verified final results for 2011, VECC submits that an LRAM claim in 2011 is premature and not appropriate. Thus, the LRAM claim for 2010 CDM programs should cover the period January 1, 2010 to December 31, 2010.

2.1 In summary, VECC submits that the LRAM claim and associated rate riders approved by the Board should be adjusted to include lost revenue from 2010 CDM programs in the year 2010, for the reasons noted above.

3 <u>Recovery of Reasonably Incurred Costs</u>

3.1 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.

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

All of which is respectfully submitted this 8th day of February 2012.