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Michael Buonaguro  
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(416) 767-1666

February 17, 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)**  
**Middlesex Power Distribution Corporation – Main EB-2011-0148**  
**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: Middlesex Power Distribution Corporation  
Mr. Andrya Eagen

**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 Middlesex Power Distribution 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 17, 2012**

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# **Vulnerable Energy Consumers Coalition (VECC)**

## **Final Argument**

### **1 The Application**

- 1.1 Middlesex Power Distribution Corporation (“Middlesex Power”, “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 3<sup>rd</sup> 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, Middlesex Power 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 Middlesex Power applied to the Board in this application for the recovery of \$29,950, including carrying charges, through one year rate riders effective May 1, 2012 to recover lost revenue from CDM activities.
- 2.2 The LRAM claim covers the period between January 1, 2011 and April 30, 2012 for 2006-2009 CDM programs and between January 1, 2010 and April 30, 2012 for 2010 programs.
- 2.3 In EB-2010-0098 the Board approved an LRAM of \$75,714 for 2006-2009 CDM programs for the period between January 1 of the program launch year and December 31, 2010. Middlesex Power confirms that this LRAM claim has not been included in past LRAM recoveries.<sup>1</sup>
- 2.4 The original LRAM claim was calculated based on 2006-2009 Final OPA CDM Results and 2010 Final OPA CDM Results Summary dated September 16, 2011. On November 15, 2011, Middlesex Power received the 2010 Final OPA CDM Detailed Results which resulted in a \$500 increase in the LRAM. VECC agrees with Middlesex Power that this difference is immaterial.
- 2.5 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

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<sup>1</sup> Manager’s Summary, Page 5

assumptions represent the best estimate of the impacts of the programs.

### OPA Funded Programs

- 2.6 VECC accepts for LRAM purposes, the OPA's verification of the energy savings for Middlesex Power's OPA-funded CDM programs using the 2006-2010 Final OPA CDM Results.
- 2.7 VECC submits Middlesex Power has appropriately demonstrated through interrogatory responses that no adjustments to the current LRAM claim are needed in order to reflect measure lives (and unit savings) for OPA measures that have expired. The requested LRAM claim already accounts for any measures that have expired.<sup>2</sup>

### Load Forecast

- 2.8 Middlesex Power's last load forecast was approved by the Board in its 2006 Cost of Service (COS) Application (EB-2005-0351). Middlesex Power indicates the 2006 EDR methodology was based on 2004 historical data and therefore did not include any load forecast adjustment for CDM activities.<sup>3</sup>
- 2.9 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."<sup>4</sup>

### 2010 CDM Programs – Recovery of Lost Revenue in 2010

- 2.10 VECC supports the approval of the lost revenues requested by Middlesex Power in 2010 from 2010 program results in 2010, as these savings occurred post rebasing and have not been claimed.

### 2006 to 2010 CDM Programs – Recovery of Lost Revenue in 2011 to April 30, 2012

- 2.11 VECC does not support the approval of 2006 to 2010 program results persisting into 2011 through to April 30, 2012.
- 2.12 The Board's Guidelines indicate that "LRAM is a retrospective adjustment, which is designed to recover revenues lost from distributor supported CDM activities in

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<sup>2</sup> Response to VECC # 2 (c)

<sup>3</sup> Response to Board Staff Interrogatory # 3 (e)

<sup>4</sup> Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18

a prior year.”<sup>5</sup>

- 2.13 VECC submits that Middlesex Power is calculating estimated lost revenues for 2011 and 2012 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.

- 2.14 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.”*

- 2.15 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 forego 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.
- 2.16 In the absence of OPA input assumptions and verified final results for 2011 and 2012, VECC submits that an LRAM claim in 2011 through to April 30, 2012 is premature and not appropriate.
- 2.17 In summary, VECC submits that the LRAM claim approved by the Board should be adjusted to include lost revenue for the year 2010, from 2010 CDM program results in 2010, for the reasons noted above.

### **3 Recovery of Reasonably Incurred Costs**

- 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.

All of which is respectfully submitted this 17<sup>th</sup> day of February 2012.

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<sup>5</sup> Guidelines for Electricity Distributor Conservation and Demand Management, EB-2008-0037, Page 18