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February 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)
Kingston Hydro Corporation EB-2011-0178
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: Kingston Hydro Corporation
Mr. Randy Murphy

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 Kingston Hydro 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 14, 2012

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1 The Application

- 1.1 Kingston Hydro Corporation (“Kingston Hydro”, “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, Kingston Hydro included a request to recover the impact of lost revenues associated with various conservation and demand management (CDM) activities (i.e. an LRAM recovery) and a proposal for the recovery of incremental expenditures. The following section sets out VECC’s final submission regarding these aspects of the application.

2 Lost Revenue Adjustment Mechanism (LRAM)

- 2.1 Kingston Hydro applied to the Board in this application for the recovery of lost revenue of \$175,754 (\$174,364 plus \$1,391 in carrying charges) through one year rate riders effective May 1, 2012 in relation to CDM program activities.
- 2.2 Kingston Hydro has one historical LRAM claim approved as part of its 2011 Cost of Service (COS) application (EB-2010-0136) for lost revenues during the years 2006 to 2009.¹
- 2.3 Kingston Hydro’s LRAM claim in this application is for revenues lost in 2010 caused by savings achieved in the 2006-2010 period.
- 2.4 The amounts that Kingston Hydro is seeking to recover in this LRAM filing are for new amounts not included in past LRAM recoveries.²
- 2.5 Kingston Hydro relied upon the OPA’s verification of CDM savings as evidence of third party verification for its LRAM claim. Kingston Hydro indicated that once final OPA results are released in Q4 2011 an adjustment would be filed should they differ from the amounts originally filed.³

¹ Response to VECC Interrogatory # 5 (a)

² Response to Board Staff Interrogatory # 5 (b)

³ Exhibit 9, Page 2

- 2.6 Kingston Hydro received 2006-2010 Final OPA CDM Results which contain a list of all programs Kingston Hydro engaged in that are part of this LRAM claim. The results from 2010 were adjusted slightly by the OPA to reflect more kWh and kW savings than originally reported. Since the impact of the additional kWh and kW savings reported by the OPA are very small in comparison to the original LRAM claim, Kingston Hydro has chosen not to increase the amount of its LRAM claim for 2010.⁴ VECC submits Kingston Hydro's approach is reasonable.

Input Assumptions - OPA Programs

- 2.7 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.
- 2.8 VECC accepts for LRAM purposes, the OPA's verification of the energy savings for Kingston Hydro's OPA-funded CDM programs used to calculate the LRAM amounts.
- 2.9 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 2009 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.⁵
- 2.10 VECC accepts Kingston Hydro confirmation that CFLs and LED light exchange measures do not have "Effective Useful Life" sufficient for savings persistence into the 2010 year and as such, Kingston Hydro is not claiming lost revenues for such initiatives or measures.⁶

Load Forecast

- 2.11 Kingston Hydro's last load forecast was approved by the Board in its 2011 COS application (EB-2010-0136).
- 2.12 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

⁴ Response to Board Staff Interrogatory #

⁵ Response to VECC Interrogatory # 6 (a)

⁶ Response to VECC Interrogatory # 6 (d)

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.”⁷

2006 to 2010 CDM Programs – Recovery of Lost Revenue in 2010

- 2.13 In accordance with the Board’s guidelines, VECC submits that energy savings from OPA CDM programs implemented from 2006 to 2010 are accruable in 2010, as these amounts occurred prior to rebasing, are not included in the load forecast underpinning current rates, and have not been claimed.
- 2.14 In summary, VECC submits that the LRAM claim and associated rate riders should be approved by the Board, for the reasons noted above.

3 Incremental Capital Module

- 3.1 Kingston Hydro applied for approval of four 2012 Incremental Capital Projects totaling \$3,500,000. The incremental revenue requirement is calculated at \$268,458 to be recovered under Option A as fixed and variable rate riders.⁸

King St 44 kV Underground Cable Rebuild (M454)	\$1,860,000
Transformer Vault (TV6) Rebuild	\$565,000
Substation No. 15 Circuit Breaker Retrofit	\$560,000
Transformer Vault 11 (TV11) Rebuild	\$515,000
Total	\$3,500,000

- 3.2 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.⁹
- 3.3 **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.¹⁰
- 3.4 Using the Board’s formula, Kingston Hydro calculated its materiality threshold as \$2,490,780 using a price cap index of 0.18%, growth of 0% and a dead band of 20%.¹¹ The price cap index was based on a price escalator of 1.3%, a productivity factor of 0.72% and a stretch factor of 0.40%.

⁷ Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18

⁸ Exhibit , Tab 2, Page 9

⁹ Report of the Board on 3rd Generation Incentive Regulation for Ontario’s Electricity Distributors – July 14, 2008, Section 2.5, Page 24

¹⁰ Chapter 3 of the Filing Requirements for Transmission and Distribution Applications, June 22, 2011, Page 10

¹¹ 2012 ICM Work Form , Sheet

- 3.5 In response to Energy Probe interrogatory # 1 (b) & (c), Kingston Hydro updated the inputs to its materiality threshold calculation. In November 2011 the Board updated the price escalator (inflation index) to be used in the IRM model to 1.7%, resulting in a price cap index for Kingston Hydro of 0.58% (updated from 0.18%). Kingston Hydro confirmed the price cap index will need to be updated to reflect the price escalator when updated data becomes available.¹² The denominator (2010 Audited RRR) for the growth calculation on Sheet E1.1-Threshold Parameters of the 2012 IRM3 Incremental Capital Workform was left blank resulting in a growth factor of 0%. In response to Energy Probe interrogatory # 1 (c), Sheet E1.1 was corrected and a growth factor of -0.15% was calculated. Based on the above updated inputs, a revised threshold CAPEX of \$2,595,875 was calculated on Sheet E2.1-Threshold Test of the Workform.¹³
- 3.6 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.¹⁴
- 3.7 Kingston Hydro's total 2012 capital budget is \$6,025,000 which includes the proposed \$3,500,000 in incremental capital funding.¹⁵
- 3.8 Based on the above formula, Kingston Hydro's revised eligible incremental capital recovery is: $\$6,025,000 - \$2,595,875 = \$3,429,125$.
- 3.9 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.¹⁶ 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.
- 3.10 In response to Board Staff Interrogatory # 5 (a), Kingston Hydro indicates that none of the incremental capital projects are discretionary. In response to VECC Interrogatory # 2 (a), Kingston Hydro confirmed that all of the projects included in the \$2,525,000 2012 Electric Capital Plan are non-discretionary.

¹² Response to Energy Probe Interrogatory #1 (a)

¹³ Response to Energy Probe Interrogatory # 1 (d)

¹⁴ Chapter 3 of the Filing Requirements for Transmission and Distribution Applications, June 22, 2011, Page 10

¹⁵ Exhibit 8, Page 1

¹⁶ EB-2008-0205, Decision Part II, Pages 11-13

- 3.11 In response to Energy Probe Interrogatory # 3 (b), Kingston Hydro provided a table that compared the 2012 forecast capital to 2010 and 2011 actuals. VECC notes that the level of proposed non-discretionary spending in 2012 of \$2,525,000 is less than 2010 settlement (\$3,215,025) and 2010 actuals (\$2,898,889). VECC further notes that the 2011 capital budget (actuals) of \$6,013,586 is roughly equivalent to the proposed capital spending for 2012 of \$6,025,000 including the four incremental capital projects. As stated in the EB-2010-0136 Proceeding, Kingston Hydro had additional funds become available during 2010 due to a payment not being required to be made to Hydro One. These funds were then added to the 2011 capital budget.¹⁷
- 3.12 For the purposes of ICM, VECC submits that the total 2012 capital expenditures forecast can be reasonably viewed as non-discretionary.
- 3.13 VECC submits the materiality criterion has been met and the incremental capital requested by Kingston Hydro for recovery (\$3,500,000) exceeds the Board-defined materiality threshold.
- 3.14 **Need:** Amounts should be directly related to the claimed driver, which must be clearly non-discretionary. The amounts must be clearly outside of the base upon which rates were derived.
- 3.15 In response to VECC interrogatory # 1 (c), Kingston Hydro confirmed that the costs being sought are outside of the base upon which current rates are derived.
- 3.16 In response to Energy Probe Interrogatory # 2, Kingston Hydro confirmed that the labour and/or vehicle costs shown in the cost breakdown for each of the four projects are incremental costs.
- 3.17 Exhibit 6 explains the reasoning, rationale and justification for each of the four projects.
- 3.18 For three of the four projects, asset failure is listed as the driver. For the rebuild of TV#11, inspection is listed as the driver.
- 3.19 Kingston Hydro confirms that the driver “Asset Failure” means that either the whole or parts of the asset have failed in the past and were temporarily remediated to prevent full failure. Kingston Hydro believes a more prudent course of action in the long term is to replace severely deteriorated assets rather than apply temporary fixes leading to cost inefficiency in the long term.¹⁸

¹⁷ Response to Board Staff Interrogatory # 13 (a)

¹⁸ Response to SEC Interrogatory # 3 (a)

King St 44 kV Underground Rebuild (\$1,860,000) - Proposed in-service date June 2012

- 3.20 Kingston Hydro proposes to replace the M454 cable with modern tree retardant cross-linked polyethylene (TR-XLPE) cable in concrete encased ducts to eliminate the combined risk of worker safety in congested manholes, cable failure due to accelerated insulation degradation, oil leaks, and sustained outages due to failing splices. Currently there are 5 splices existing on this line.¹⁹
- 3.21 The M454 cable is a priority for replacement due to the number of splices and the criticality of the service provided to Kingston General Hospital.
- 3.22 VECC submits that Kingston Hydro has appropriately demonstrated that the King St 44 kV Underground Cable Rebuild (M454) project is a priority, incremental and non-discretionary. Waiting until another year or rebasing (2015) to address the issues could expose Kingston Hydro to reliability, safety and environmental risks and is not recommended.

Transformer Vault (TV6) Rebuild (\$565,000) - Proposed in-service date is June 2012

- 3.23 TV6 supplies 120/208V to local retail businesses and has been identified as a top priority for vault replacement due to significant structural (deterioration in the walls) and electrical equipment degradation (obsolete oil switch) and unsafe working conditions (flash hazard, confined space) as supported by an external December 2010 Structural Assessment.²⁰
- 3.24 Kingston Hydro plans to replace the transformer and oil switch with a SF6 Vista Gear switch, the end-of-life transformer as well as the primary cable.
- 3.25 Approximately two to three planned outages requiring operation of an oil switch (that is inoperable when live) is required annually at this facility²¹.
- 3.26 Other recent events at TV6 have included vault fires. A forced outage occurred on May 3rd 2010 due to an equipment fire. A second forced outage closely followed on May 5th 2010 with customers reporting fire and smoke and two additional forced outages took place on July 29th and August 9th of 2011, respectively, where “burning smells” were reported by customers. Kingston Hydro indicates that such failures are unusual and indicate that they may be a result of serious and chronic primary circuit level problems.²²
- 3.27 Kingston Hydro believes the more prudent, safer, and cost-effective approach in the long-term is to replace the deteriorated end-of-life equipment and structure in

¹⁹ Exhibit 6, Page 2

²⁰ Exhibit 6, Page 10

²¹ Response to Board Staff Interrogatory # 5 (d)

²² Response to Board Staff Interrogatory # 5 (d)

TV#6 by rebuilding the vault thus permanently and simultaneously addressing the civil and electric equipment condition problems.²³ T

- 3.28 The TV6 rebuild project is also a priority due to the City of Kingston's decision to move forward with total reconstruction of two blocks of Princess Street, which includes the location of TV6.²⁴
- 3.29 VECC submits that based on the Structural Assessment and planned road reconstruction work, Kingston Hydro has appropriately demonstrated that the TV#6 project is a priority and non-discretionary. Waiting to address the issues could expose Kingston Hydro to reliability and safety risks and is not recommended.

Substation No. 15 Circuit Breakers Retrofit (\$560,000) - Proposed in-service date September 2012

- 3.30 MS#15 serves primarily residential load. This project involves retrofitting (replacing) 5kV circuit breakers and relocating the battery charger and SCADA equipment to a separate control hut enclosure with improved insulation, ventilation and cooling. The breaker's mechanical operating system has been deemed unreliable by the manufacturer (5kV breakers obsolete). A failure of this mechanism would cause the entire breaker to fail to operate, and worst case, remain closed into an electrical fault, causing worker injury as well as significant utility and customer equipment damage.²⁵
- 3.31 Kingston Hydro considers replacement of the deficient 5kV breakers prudent to ensure worker and equipment safety, customer equipment protection and system performance reliability.
- 3.32 Based on the evidence, VECC submits this investment can be reasonably viewed as justified.

Transformer Vault #11 (TV11) Rebuild (\$515,000) – Proposed in-service date June 2012

- 3.33 TV#11 contains an end-of-life transformer, an end-of-life oil switch and a load break centre. A structural assessment performed in December 2010 found that TV11's roof slabs and beams are significantly deteriorated and need replacement. Kingston Hydro plans to replace the oil switch, the transformer as well as the primary PILC cable with TR-XLPE. Due to worker safety requirements, any civil remediation work at this vault leads to extended outages

²³ Response to Board Staff Interrogatory # 5 (d)

²⁴ Response to Board Staff Interrogatory # 5 (c)

²⁵ Exhibit 6, Page 14

in the order of a week, resulting in significant financial losses for customers.²⁶

- 3.34 Approximately two to three planned outages occur a year at TV#11 requiring planned outages to operate the oil switch (which is inoperable when live) resulting in extended outages on the order of 2-3 hours. A vault fire was reported due to failure of a secondary breaker panel circa 2002. Two additional secondary breaker failures occurred in 2006 resulting in cable failures. The risk of additional vault fires remains.²⁷
- 3.35 VECC submits that based on the structural condition assessment, Kingston Hydro has appropriately demonstrated that the work on TV#11 is a priority and non-discretionary.
- 3.36 In summary, VECC submits that the four incremental projects have met the needs criteria and the amounts requested are incremental, non-discretionary and directly related to the claimed drivers which VECC submits are reasonable.
- 3.37 **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.
- 3.38 In response to VECC interrogatory # 3 (b), Kingston Hydro provided a further breakdown of labour, vehicles, materials and contract costs.
- 3.39 In response to Board Staff Interrogatory # 5, Kingston Hydro described the circumstances causing each project to be unusual or unanticipated.
- 3.40 Kingston Hydro submits that each of the four incremental capital expenditure descriptions presents limitations on alternative options. Exhibit 6 explains a variety of circumstances and current working alternatives employed by Kingston Hydro given these existing conditions. Kingston Hydro believes these alternatives are no longer viable and have presented a reasonable and appropriate design response incorporating reasonable costs and resulting in mitigation of future risks, improvement in worker and public safety as well as system reliability factors.²⁸
- 3.41 VECC agrees with Kingston Hydro's assessment of the projects and submits that Kingston Hydro has met the prudence criteria regarding the four incremental capital projects.

²⁶ Exhibit 6, Page 17

²⁷ Response to Board Staff Interrogatory # 5 (d)

²⁸ Response to VECC Interrogatory # 1 (f)

- 3.42 In summary, based on the evidence in this application, VECC submits that the four incremental capital projects have met the Board's materiality, need and prudence criteria and thus should be eligible for recovery through the ICM.

Allocation of Incremental Capital Revenue Requirement

- 3.43 Kingston proposes to allocate the incremental revenue requirement by rate class and under Option A, whereby the revenue requirement is recovered through fixed rate riders and volumetric rate riders. VECC accepts Kingston Hydro's proposed allocation and recovery of the incremental revenue requirement.

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 14th day of February 2012.