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February 10, 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)
PUC Distribution Inc. EB-2011-0194
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: PUC Distribution Inc.
Mr. Robert Kent

EB-2011-0101

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 PUC Distribution Inc. 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 10, 2012

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1 The Application

1.1 PUC Distribution Inc. ("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, PUC included the recovery of the impact of lost revenues associated with various conservation and demand management (CDM) activities (i.e. an LRAM/SSM 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 PUC is applying to the Board in this application for the recovery of $623,790 ($594,958 plus $28,832 in carrying charges) through one year rate riders effective May 1, 2012 to recover lost revenue from CDM activities. PUC is also applying for approval of an SSM in the amount of $53,663 for a total recovery of $677,543.

2.2 Lost revenues included in the LRAM for the years between January 1, 2005 and April 30 2012, are for Third Tranche CDM programs implemented in 2005, 2006, 2007and 2008; and Ontario Power Authority (OPA) programs implemented in 2006, 2007, 2008, 2009 and 2010.

2.3 PUC confirms that it has not submitted any prior LRAM claims and there have been no recoveries to date.[1]

2.4 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.

[1] Response to Board Staff Interrogatory # 5 (c)

Input Assumptions

OPA Funded Programs

2.5 PUC indicates that the 2006-2009 Final OPA CDM Results and 2010 Final CDM Results Summary were used as sources of inputs for OPA-evaluated programs.[2]

2.6 VECC accepts for LRAM purposes, the OPA verification of the energy savings for PUC's OPA-funded CDM programs using the 2006-2009 Final OPA CDM Results.

2.7 VECC notes that 2010 Final OPA CDM Results Summary Report for PUC Distribution Inc., OPA Release September 19 2011, was used to calculate the LRAM[3], which does not contain input assumptions for each CDM program at the measure level. VECC submits that if PUC has received the 2010 Final OPA CDM Detailed Results from the OPA, it should advise of the impact on the LRAM claim in its reply submissions.

2.8 VECC notes that 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 46.3 kWh should be used to calculate the 2009 net annual energy savings, however the impact on lost revenue in 2009 is immaterial.[4]

2.9 VECC submits PUC has confirmed through interrogatory responses that energy savings that have expired are not included in the LRAM claim.

Third Tranche Programs

2.10 PUC's LRAM/SSM Third Party Review provides the source of information used for the calculation of the LRAM/SSM claim for each program by year.[5]

2.11 VECC notes that the IndEco Third Party Report indicates that the OPA's 2006-2009 Final OPA CDM Results have been used to calculate the LRAM amounts for the Third Tranche 2006 and 2007 Every Kilowatt Counts (EKC) Programs.

2.12 VECC submits that the above programs are listed as Third Tranche funded programs and the LRAM should be based on the best available input assumptions at the time of the Third Party independent review, i.e. 2011 OPA Prescriptive Measures & Assumptions List., OPA Release March 7, 2011, not the

[2] Exhibit 7, IndEco Report, TRC Inputs, Page 4
[3] Exhibit 7, IndEco Report, References, Page 15
[4] Exhibit 7, IndEco Report, Appendix A, Page 31
[5] Exhibit 7, IndEco Report, Table 1, Page 6

2006-2009 OPA Final CDM Results.

2.13 The 2006-2009 OPA Final CDM Report uses assumptions in place at the time the program was delivered, i.e. input assumptions in place in 2006. However, for all Third Tranche programs the Board's Guidelines and the above referenced Horizon Decision stipulate that best available input assumptions at the time of the third party review should be used. VECC notes that for the remaining Third Tranche Residential 2006 Partnerships Programs, PUC has appropriately used inputs from the 2011 OPA Measures and Assumptions List in the LRAM calculation.

2.14 If the 2006 and 2007 EKC programs are PUC funded Third Tranche programs, the best available input assumptions should apply and therefore the 2011 OPA Prescriptive Measures & Assumptions List, OPA Release March 7, 2011 should be used for this component of the claim.

2.15 Specifically, the input assumptions for CFLs should be annual savings of approximately 44 kWh and 30% free ridership rather than 104.4 kWh annual savings and 10% free ridership. The same is true for all other PUC funded Mass Market Measures. For example, for Seasonal Light Emitting Diodes (LEDs), annual savings of 13.7 kWh compared to 30 kWh should be used.

2.16 VECC notes that the OPA changed its EKC input assumptions in 2007 to be very close to those in the current 2011 OPA Prescriptive Measures & Assumptions List.

2.17 VECC submits that in fairness to ratepayers, PUC should be required to make amendments to its LRAM claim and associated rate riders for the residential class, to reflect the use of 2011 OPA Prescriptive Measures & Assumptions List in its energy savings calculations.

Load Forecast

2.18 PUC's load forecast was last approved by the Board as part of the 2008 Cost of Service Rate Application. PUC indicates that the impact of CDM savings have not been accounted for in its 2008 load Forecast.[6]

2.19 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

[6] Response to VECC Interrogatory # 1 (c)

incorporated in the load forecast at that time."[7]

2.20 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.[8]

2.21 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.

2.22 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.[9]

2.23 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.[10]

<u>2005 to 2008 CDM Programs – Recovery of Lost Revenue in 2008 to April 30, 2012</u>

2.24 In accordance with the Board's guidelines and recent Decisions, VECC submits that energy savings from PUC's CDM programs deployed between 2005 and 2008 are not accruable in 2008 through April 30, 2012, as savings should have been incorporated in the 2008 load forecast at the time of rebasing.

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

2.25 VECC supports the approval of lost revenues in 2005, 2006 & 2007 from the impact of CDM programs implemented in 2005 to 2007, as these savings have not been claimed.

<u>2009 to 2010 CDM Programs – Recovery of Lost Revenue in 2009 & 2010</u>

2.26 VECC supports the approval of lost revenues in 2009 & 2010 associated with 2009 and 2010 CDM programs, as these savings occurred post rebasing (during an IRM year) and have not been claimed.

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

2009 & 2010 CDM Programs – Recovery of Lost Revenue in 2011 to April 30, 2012

2.27 VECC does not support the approval of 2009 and 2010 program results persisting into 2011 and January 1, 2012 to April 30, 2012.

2.28 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."[11]

2.29 VECC submits that 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.

2.30 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."

2.31 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.

2.32 In the absence of OPA input assumptions and verified final results for 2011 and 2012, VECC submits that an LRAM claim in 2011 and 2012 is premature and not appropriate.

2.33 In summary, VECC submits that the LRAM claim and associated rate riders approved by the Board should be adjusted to include: lost revenue in the years 2005, 2006 and 2007 from the impact of CDM programs implemented in 2005 to 2007; lost revenue in 2009 from 2009 CDM program results; and lost revenue in 2010 from 2009 persistent savings in 2010 and 2010 CDM program results, for

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

the reasons noted above.

SSM

2.34 VECC supports PUC's SSM claim of $53,663.

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 10th day of February 2012.