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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)
COLLUS Power Corporation EB-2011-0161
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: COLLUS Power Corporation
Mr. Tim Fryer

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 COLLUS Power 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 COLLUS Power Corporation (“COLLUS”, “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, COLLUS 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 COLLUS applied to the Board in this application for the recovery of \$66,095 through one year rate riders effective May 1, 2012 to recover lost revenue from CDM activities. COLLUS has not included any carrying charges on the LRAM amounts.
- 2.2 The LRAM claim in this application covers the revenue impacts from 2006 to 2010 OPA CDM programs, for the years 2010 and 2011.
- 2.3 COLLUS has one prior LRAM claim. In its 2011 IRM application (EB-2010-0220), the Board approved an LRAM of \$201,133.¹ COLLUS confirms that it has not received any of the lost revenues being requested in this application.²
- 2.4 In response to Board Staff Interrogatory # 9 (f), COLLUS provided its Independent Third Party Review report from Burman Consultants Group Inc. as Appendix D, and adjusted its LRAM request to \$126,532.51.
- 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 assumptions represent the best estimate of the impacts of the programs.

¹ Response to Board Staff Interrogatory # 9 (c)

² Response to Board Staff Interrogatory # 9 (d)

OPA Funded Programs

- 2.6 COLLUS used 2006-2010 Final OPA CDM Program Results to calculate the LRAM claim.³
- 2.7 VECC accepts for LRAM purposes, the OPA's verification of the energy savings for COLLUS's OPA-funded CDM programs using the 2006-2010 Final OPA CDM Results.
- 2.8 VECC submits COLLUS 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

- 2.9 COLLUS' last load forecast was approved by the Board in its 2009 Cost of Service (COS) Application for rates effective May 1, 2009. COLLUS indicates that the impact of CDM savings was not reflected in the approved load forecast used to support the approved 2009 rates.⁴
- 2.10 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."⁵
- 2.11 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.⁶
- 2.12 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.

³ Appendix 1, Attachment D

⁴ Manager's Summary, Page 6

⁵ Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18

⁶ EB-2011-0054 Hydro Ottawa Decision, Page 24

- 2.13 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.⁷
- 2.14 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.⁸

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

- 2.15 In accordance with the Board's guidelines and recent Decisions, VECC submits that energy savings from the OPA's CDM programs deployed between 2006 and 2009 are not accruable in 2010, 2011 and beyond as these savings should have been incorporated into the 2009 load forecast at the time of rebasing.

2010 CDM Programs – Recovery of Lost Revenue in 2010

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

2010 CDM Programs – Recovery of Lost Revenue in 2011

- 2.17 VECC does not support the approval of 2010 program results persisting into 2011.
- 2.18 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."⁹
- 2.19 VECC submits that COLLUS 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.
- 2.20 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

⁷ EB-2011-0206 Whitby Hydro Decision, Page 14

⁸ EB-2011-0174 Hydro Brampton Decision, Page 13

⁹ Guidelines for Electricity Distributor Conservation and Demand Management, EB-2008-0037, Page 18

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.”

- 2.21 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 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.
- 2.22 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.
- 2.23 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 17th day of February 2012.