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Michael Buonaguro  
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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)**  
**EnWin Utilities Ltd. EB-2011-0165**  
**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: EnWin Utilities Ltd.  
Mr. Andrew J. Sasso

**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 EnWin Utilities Ltd. 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 EnWin Utilities Ltd. (“EnWin”, “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, EnWin 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 EnWin applied to the Board in this application for the recovery of \$2,227,586.68 through one year rate riders effective May 1, 2012 to recover lost revenue from CDM activities. EnWin has not included any carrying charges on the LRAM amounts.
- 2.2 EnWin indicates its only past LRAM claim was in its 2009 Cost of Service (COS) rate proceeding.<sup>1</sup> EnWin confirms the LRAM amounts it is seeking to recover in this application are new amounts not included in the past LRAM claim.<sup>2</sup> VECC is unable to reconcile the prior LRAM claim amount and claim period (2009 to 2011) provided in response to Board Staff Interrogatory # 5 (c) with the material filed in Appendix B to VECC Interrogatory # 1 (a) that shows a claim period of 2005 to 2007 for the prior LRAM claim. VECC asks that EnWin please address this inconsistency in its reply.
- 2.3 In this application, the LRAM covers lost revenues in the years 2006 to 2011 for OPA CDM programs implemented from 2006 to 2010, and lost revenues in the years 2009 to 2011 from Third Tranche CDM programs implemented from 2005 to 2007.<sup>3</sup>

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<sup>1</sup> Response to Board Staff # 5 ©

<sup>2</sup> Response to VECC Interrogatory # 1 (a) & (b)

<sup>3</sup> Response to Board Staff Interrogatory # 5 (f)

- 2.4 VECC notes that a revised LRAM amount of \$2,217,909.28 is shown in response to Board Staff # 5 (f).
- 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.

#### OPA Funded Programs

- 2.6 The OPA Final 2006-2010 CDM Detailed Results, released November 15, 2011 were used to calculate LRAM amounts.
- 2.7 VECC accepts for LRAM purposes, the OPA's verification of the energy savings for EnWin's OPA-funded CDM programs using the 2006-2010 Final OPA CDM Results.
- 2.8 VECC submits EnWin 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.<sup>4</sup>

#### Third Tranche Funded Programs

- 2.9 EnWin provided the source of the input assumptions to calculate the LRAM related to Third Tranche programs in this application and the prior LRAM application.
- 2.10 In response to VECC Interrogatory # 2 (b), EnWin acknowledges that input assumptions for CFLs changed in 2007 and in 2009.
- 2.11 In response to VECC Interrogatory # 2 (d), EnWin indicates the Third Tranche CDM Programs used in prior LRAM Claims used the following input assumptions:  
-OEB Total Resource Cost Guide, Section 5, Assumptions and Measures List September 8, 2005 - cdm\_assumptionsmeasureslist\_141 005 .xls  
-OPA 2009 Mass Market Measures and Assumptions V1.02 April 2009. In addition EnWin indicates the "2009 Mass Market Measures and Assumptions V1.02 April 2009" assumptions were used to calculate the kW and kWh savings. At that time, the following measures, by program, had a 4 year measure life:  
-Energy Conservation Media Campaign - 15W CFL  
-Keep Cool/Torchiere Exchange and Porch light - 15W CFL
- 2.12 VECC submits that the energy savings eligible for LRAM recovery are based on lifetime savings which are based on a certain number of hours used. EnWin has

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<sup>4</sup> Response to VECC Interrogatory # 2 (c)

one prior claim for CFLs (13-15 W) with energy savings that are likely based on different input assumptions including useful life.

- 2.13 VECC submits that it is not appropriate to change the input assumptions midstream without taking into account the lifetime savings already used up. In this case, it is not appropriate to adjust the useful life calculate energy savings without recognizing the prior hours already consumed.
- 2.14 VECC submits that if earlier assumptions were used in EnWin's prior LRAM claim, any LRAM claims related to Third Tranche installed 13-15 W CFLs should be prorated to recognize the prior claim.

### Load Forecast

- 2.15 EnWin's load forecast was last approved by the Board in its 2009 Cost of Service (COS) Application for rates effective May 1, 2009. EnWin's 2009 COS load forecast was deemed to be inclusive of CDM savings, but no specific value was assigned to those savings.<sup>5</sup> In response to VECC Interrogatory # 1 (c), EnWin indicated that in the OEB-approved 2009 COS Settlement Agreement, the Parties agreed to a load forecast which was deemed to include the impact of conservation and demand management.
- 2.16 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>6</sup>
- 2.17 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.<sup>7</sup>
- 2.18 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.

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<sup>5</sup> Response to Board Staff Interrogatory # 5 (e)

<sup>6</sup> Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18

<sup>7</sup> EB-2011-0054 Hydro Ottawa Decision, Page 24

- 2.19 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.<sup>8</sup>
- 2.20 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.<sup>9</sup>

#### 2005 to 2009 CDM Programs – Recovery of Lost Revenue in 2009, 2010 & 2011

- 2.21 In accordance with the Board's guidelines and recent Decisions, VECC submits that energy savings from the CDM programs deployed between 2005 and 2009 are not accruable in 2009, 2010, 2011 and beyond as these savings should have been incorporated into the 2009 load forecast at the time of rebasing.

#### 2006 to 2008 CDM Programs – Recovery of Lost Revenue in 2006, 2007 & 2008

- 2.22 VECC supports the approval of the lost revenues requested by EnWin in 2006, 2007 and 2008 from the impact of CDM programs implemented in 2006 to 2008, as these savings have not been claimed.

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

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

#### 2010 CDM Programs – Recovery of Lost Revenue in 2011

- 2.24 VECC does not support the approval of 2010 program results persisting into 2011.
- 2.25 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."<sup>10</sup>
- 2.26 VECC submits that EnWin 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.

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<sup>8</sup> EB-2011-0206 Whitby Hydro Decision, Page 14

<sup>9</sup> EB-2011-0174 Hydro Brampton Decision, Page 13

<sup>10</sup> Guidelines for Electricity Distributor Conservation and Demand Management, EB-2008-0037, Page 18

- 2.27 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."*

- 2.28 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.
- 2.29 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.
- 2.30 In summary, VECC submits that the LRAM claim approved by the Board should be adjusted to include lost revenue for the years 2006, 2007 and 2008 from the impact of CDM programs implemented in 2006 to 2008, and lost revenue in 2010 from 2010 OPA 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.