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February 24, 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)
Brantford Power Inc. EB-2011-0147
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: Brantford Power Inc.
Mr. George Mychailenko

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 Brantford Power 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 24, 2012

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1 The Application

- 1.1 Brantford Power Inc. (“Brantford 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 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, Brantford 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 Brantford Power applied to the Board in this application for the recovery of \$642,821.54, through one year rate riders effective May 1, 2012 to recover lost revenue from CDM activities. Brantford Power is not applying for carrying charges on the LRAM amounts requested in this application.¹
- 2.2 Brantford Power has not made prior LRAM claims. Brantford Power confirms that the LRAM amounts it is seeking to recover in this application are new amounts not included in past LRAM claims.²
- 2.3 In this application, the LRAM covers lost revenues in the years 2006 to 2011 from the impact of OPA CDM programs implemented in 2006 to 2010, and lost revenues in the years 2006 to 2011 from the impact of Third Tranche CDM programs implemented in 2005 and 2006.³
- 2.4 The OPA 2010 Final CDM Results Summary released September 16, 2011 was used to calculate LRAM amounts. Brantford Power indicates the input assumptions and free ridership rates for the 2010 programs were not provided in the September 16, 2011 Report and these input assumptions will be updated

¹ Response to Board Staff Interrogatory # 8 (g)

² Response to VECC Interrogatory # 1 (a) & (b)

³ Response to Board Staff # 8 (f)

once the 2010 Final OPA CDM Results Detailed Report is released.⁴

2.5 The 2010 Final OPA CDM Results Report was received by the OPA November 15, 2011 and Brantford Power updated its LRAM claim to \$643,351.43, an increase of \$529.89.⁵

2.6 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

2.7 VECC accepts for LRAM purposes, the OPA's verification of the energy savings for Brantford Power's OPA-funded CDM programs using the 2006-2010 Final OPA CDM Results.

2.8 VECC submits Brantford Power has appropriately demonstrated through interrogatory responses that energy savings that have expired are not included in the LRAM claim beginning in 2009.

Third Tranche Funded Programs

2.9 VECC submits that Brantford Power appropriately used the 2011 Prescriptive Measures and Assumptions List Version 1.0 FINAL (April 06, 2011) to calculate LRAM amounts for Third Tranche programs.⁶

Load Forecast

2.10 Brantford Power's load forecast was last approved by the Board in its 2008 COS Application (EB-2007-0698) for rates effective May 1, 2008. Brantford Power indicates its last approved load forecast assumed no CDM improvements had occurred over the past few years and that none were expected in the immediate future. Further, Brantford Power asserts that no CDM savings were accounted for in its approved load forecast.⁷

2.11 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 Appendix C, Burman Energy Report, LRAM Support, Page 3

⁵ Response to VECC Interrogatory # 4 (b)

⁶ Response to VECC Interrogatory # 2 (f)

⁷ Response to VECC Interrogatory # 1 (c)

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.”⁸

- 2.12 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.⁹
- 2.13 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.
- 2.14 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.¹⁰
- 2.15 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.¹¹

2005 to 2008 CDM Programs – Recovery of Lost Revenue in 2008, 2009, 2010 & 2011

- 2.16 In accordance with the Board’s guidelines and recent Decisions, VECC submits that energy savings from the OPA’s CDM programs deployed between 2005 and 2008 are not accruable in 2008, 2009, 2010 & 2011 as these savings should have been incorporated into the 2008 load forecast at the time of rebasing.

2005 to 2007 CDM Programs – Recovery of Lost Revenue in 2006 and 2007

- 2.17 VECC supports the approval of the lost revenues requested by Brantford Power in 2006 and 2007 from the impact of CDM programs implemented in 2005, 2006 and 2007, as these savings occurred prior to rebasing and have not been claimed.

2009 and 2010 CDM Programs – Recovery of Lost Revenue in 2009 and 2010

- 2.18 VECC supports the approval of the lost revenues in 2009 and 2010 requested by Brantford Power related to the effects of CDM programs implemented in 2009

⁸ Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18

⁹ EB-2011-0054 Hydro Ottawa Decision, Page 24

¹⁰ EB-2011-0206 Whitby Hydro Decision, Page 14

¹¹ EB-2011-0174 Hydro Brampton Decision, Page 13

and 2010, as these savings occurred post rebasing and have not been claimed.

2009 and 2010 CDM Programs – Recovery of Lost Revenue in 2011

- 2.19 VECC does not support the approval of 2009 and 2010 program results persisting into 2011.
- 2.20 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."¹²
- 2.21 VECC submits that Brantford Power 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.
- 2.22 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."*
- 2.23 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.
- 2.24 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.
- 2.25 In summary, VECC submits that the LRAM claim approved by the Board should be adjusted to include lost revenue for the years 2006 and 2007 from the impact of CDM programs implemented in 2005, 2006 and 2007, and lost revenue in the years 2009 and 2010 from the impact of CDM programs implemented in 2009 and 2010, for the reasons noted above.

¹² Guidelines for Electricity Distributor Conservation and Demand Management, EB-2008-0037, Page 18

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 24th day of February 2012.