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### **BY EMAIL and RESS**

March 6, 2012

Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2011-0173 – Hydro Hawkesbury Inc. – 2012 IRM Rate Application**

Please find attached the final submissions of the School Energy Coalition (SEC) in the above-noted proceeding.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

*Originally signed by*

Mark Rubenstein

cc: Applicant and Intervenors (by email)

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### Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

### Re: EB-2011-0173 –Hydro Hawkesbury Inc. – 2012 IRM Rate Application

1. We are counsel for the School Energy Coalition (SEC). These are SEC's final submissions in this matter, restricted in scope to the proposed load forecast adjustment, Incremental Capital Module (ICM) and Z-Factor claim.
2. **Summary** SEC submits that the Board should not allow the Applicant to adjust its load forecast nor should it be allowed to recover through an ICM the replacement of a transformer at its 110kV station. SEC does agree with the Applicant that it should be allowed to recover expenditures for its replacement of its failing 44kV transformer, but the appropriate regulatory mechanism is the ICM, not a Z-Factor.
3. **Load Forecast** The Applicant seeks to adjust its approved load forecast approved in its last cost-of-service application (EB-2009-0186) to reflect its 2010 actual kWh sold. SEC submits that adjusting the load forecast within the IRM term in this way, is inappropriate. During a cost-of-service hearing, the load forecast is approved by the Board after being rigorously tested by Board Staff and intervenors.<sup>1</sup> Ratepayers do not benefit from an adjustment when the actual load is higher than what was approved by the Board, and utilities in turn should not receive an adjustment when the actual load is less than approved. Variations in load from forecast to actual are one of the risks for which the utility is compensated through ROE.

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<sup>1</sup> In the case of Hydro Hawkesbury's 2010 cost-of-service proceeding (EB -2009-0186) detailed interrogatories and submissions on the load forecast were submitted by VECC.

Additionally, SEC notes that the Appellant is seeking to use its 2010 actual kWh and not the 2011 actual numbers which itself would be more reflective of its expected 2012 load.

4. We note that this does not imply that load variations can never be considered during IRM. In the appropriate circumstances, such as loss of an unusually important customer, a variation in load can be considered a Z factor. That is not the situation here. The Applicant prepared a detailed load forecast for 2010, it was reviewed in detailed by the parties and the Board, and a final basis for rates was established by the Board. Absent compelling factors to the contrary, that should be the load on which rates are set until the next rebasing.
5. **Z-Factor for 44kV Transformer** The Applicant seeks a Z-Factor for expenditures associated with its replacement of its 44kV transformer located in Hawkesbury's east end. While the Applicant has not met the requirements for Z-Factor, it would seem on the evidence to have met the requirements of an ICM.
6. To be granted a Z-Factor claim, the Applicant must meet the eligibility requirements set out in the Board's *Amended Filing Guidelines*,<sup>2</sup>, i.e. materiality, prudence and causation. Causation must be related to a specific event and outside management's control. A transformer which due to its age begins to fail, is not outside the scope of management's control nor is it a true Z-factor event. In fact, the Applicant admits that risk management surrounding its 44kv transformer is within management's control, and that its decision to attempt to extend the transformer's life was based in some part to mitigate the rate impact of the cost a replacement.<sup>3</sup>
7. Since the Applicant's last cost-of-service hearing, the 44kV transformer has taken a sharp turn for the worst. The Applicant's management made a reasonable decision in deciding that it must begin the replacement process immediately, primarily due to the level of highly combustible gas in the transformer. By ordering the replacement before it could file its 2012 IRM application, the Applicant seemed to decide that the best course of action for recovery would be by way of Z-Factor instead of an ICM.
8. While the replacement of the 44kV transformer does not meet the requirements of an Z-Factor, SEC submits that the project does meet the requirements of an ICM, that of materiality, prudence and need. SEC submits that since the rate riders have been calculated on the same basis, the Board should convert the Z-Factor claim into an ICM claim and allow recovery.
9. **ICM for 110kV Transformer Station** The Applicant seeks to claim an ICM for costs associated with its replacement of a transformers at its 110kV transformer station located in Hawkesbury's west end, with a 25MVA transformer.

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<sup>2</sup> Supplementary Report, 3<sup>rd</sup> *Generation Incentive Regulation for Ontario's Electricity Distributor* (EB-2007-0673), dated September 18<sup>th</sup>, 2008. Appendix B at p. VII

<sup>3</sup> VECC Interrogatory #2.

10. The Board's *Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors* ("3GIRM Report") requires that ICM expenditures satisfy the eligibility criteria of a) materiality, b) need and c) prudence, in order to be recovered during the IRM period.<sup>4</sup> SEC submits that the Applicant has not met the test for an ICM, specifically the requirement of need.

11. SEC submits that the Board has clearly stated that the need for a specific project under ICM, need to be unusual and outside of the ordinary course of business. The Board in the first application for an ICM in EB-2011-0187, explained the purpose:

In its adoption of the incremental capital module as part of the third generation incentive rate mechanism the Board was providing the regulatory flexibility that is required to accommodate unanticipated events that may occur over an extended IRM term. The rapid policy evolution that is currently being experienced in the electricity distribution sector, such as the requirements under the Green Energy Act (Bill 150) may drive capital spending on an array of initiatives that would not typically be considered in a distributor's traditional planning exercise. This evolving policy environment is an example of the envisioned drivers that justified the provision of the regulatory flexibility that the incremental capital module is intended to create.<sup>5</sup>

12. The Board also stated:

In fact what the Board requires in considering an application under the incremental capital module is a demonstration that the distributor is facing extraordinary and unanticipated capital spending requirements; i.e. something other than the normal course of business.<sup>6</sup>

13. While it would appear that in the medium term the transformer will need to be replaced due to age, at the present time there has been no material change in its condition from the Applicant's last cost-of-service which occurred right after major maintenance was done.<sup>7</sup> In demonstrating need the Applicant must show that the proposed expenditure significantly influences the operation of the utility, is clearly non-discretionary, and fall outside the basis on which rates were derived.<sup>8</sup>

14. A non-discretionary replacement of a transformer station in SEC's view would normally fall within the scope of expenditures that should be recoverable during an IRM period through an ICM. This is because it is expenditure outside the ordinary course of business and is an extraordinary and anticipated capital spending requirement. But in this specific application, the evidence simply does not demonstrate that the replacement cannot wait until the Applicant's next cost-of-service application.

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<sup>4</sup> *Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors*, dated July 14<sup>th</sup> 2008 at page 32-34

<sup>5</sup> Decision (EB-2008-0187), dated May 13<sup>th</sup> 2009 at page 8.

<sup>6</sup> *Ibid.*, at page 8-9.

<sup>7</sup> Ex.1/2/2/p.3 and SEC Interrogatory #6.

<sup>8</sup> *Ibid.*

15. SEC submits that the Applicant has not shown that the change in condition is material enough to be considered outside the basis which rates were derived. This kind of project is in the ordinary course of business of the utility. Nothing has happening since the last rebasing to change that characterization. The evidence provided by the Applicant does not demonstrate that the condition of the transformer is that of near catastrophic failure or is an unacceptable risk to the health and safety the community or any worker. If the Applicant chooses to replace the transformer within the IRM term, the cost should not be recovered from ratepayers until its next cost-of-service proceeding in 2014.
16. **Rate Rider** If the Board does grant an ICM or Z-Factor to the Applicant, SEC submits that for the reasons discussed, the Applicant must adjust its billing determinants to reflect the Board approved load forecast in EB-2009-0186.
17. **Costs:** SEC submits that it has participated in this proceeding in a responsible and focused manner with a view to assisting the Board, and requests that the Board order payment of its reasonably incurred costs of that participation.

All of which is respectfully submitted.

Yours very truly,  
**JAY SHEPHERD P.C.**

*Originally signed by:*

Mark Rubenstein

cc: Applicant and Intervenors (by email)