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March 25, 2008

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)
Notice of Intervention: EB-2007-0753
Norfolk Power Distribution Inc. – 2008 Electricity Distribution Rate Application

Please find enclosed the final submissions of the Vulnerable Energy Consumers Coalition (VECC) in the above-noted proceeding.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC
Encl.

EB-2007-0753

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sch. B, as amended;

AND IN THE MATTER OF an Application by Norfolk Power Distribution Inc. pursuant to section 78 of the *Ontario Energy Board Act* for an Order or Orders approving just and reasonable rates for the delivery and distribution of electricity.

FINAL SUBMISSIONS

On Behalf of The

VULNERABLE ENERGY CONSUMERS COALITION (VECC)

March 25, 2008

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Vulnerable Energy Consumers Coalition (VECC)
Final Argument

1 The Application

1.1 On November 16, 2007 Norfolk Power Distribution Inc. ("Norfolk") submitted an Application to the Ontario Energy Board for approval of its proposed 2008 distribution rates. This application is based on a projected 2008 Distribution revenue requirement[1] of $12,800,353 which, after an allowance of $464,000 for revenue from other sources, leaves $12,336,352 to be recovered through distribution rates. Excluded from this amount is the LV Charge rate adder ($371,652)[2] and the "cost" of the transformer ownership allowance[3] ($122,492).

1.2 Distribution revenues for 2008 at current rates (including the smart meter and LV rate adders and prior to the transformer allowance) would produce base revenues of $9,684,306[4] yielding a difference of $3,146,190[5] or 32.5%.

1.3 Also included in the Application is a request to clear the balances in a number of deferral and variance accounts.

1.4 The following sections contain VECC's final submissions regarding the various aspects of Norfolk's Application.

[1] Exhibit 9, Tab 1, Schedule 1, page 1
[2] Exhibit 9, Tab 1, Schedule 1, page 8
[3] Exhibit 9, Tab 1, Schedule 1, page 7 (403,334 x $0.3037)
[4] VECC #4 c)
[5] $12,336,352+$371,652+$122,492-$9,684,306=$3,146,190

2 Rate Base and Capital Spending

Capital Spending

2.1 Norfolk's capital spending for 2007 and 2008 is driven primarily by:[6]:

- Customer Demand Projects,
- Renewal Projects,
- Stations Spending, and
- Smart Meters.

2.2 Spending levels for Customer Service Work for Residential and Commercial customers are fairly constant over the 2006-2008 period, while increased spending on Subdivision work is attributed to increased activity in Simcoe and Port Dover[7]. VECC has no submissions on this part of the capital spending budget.

2.3 Renewal spending varies widely from year to year[8]. One of the reasons cited for the variances between 2006 to 2007 spending was a change in 2007 priorities as resources were shifted to Customer Demand (as opposed to Renewal) projects[9]. However, given this need to prioritize resources and reduce Renewal Spending in 2007, VECC questions whether Norfolk will be able to resource the increased spending projected for both Customer Demand and Renewal projects in 2008[10], particularly in light of the proposed spending on Smart Meters as well[11]. Subject to further clarification, VECC submits that the total 2008 spending on Renewal and Customer Demand projects should be "capped" at \$3.3 M[12] (versus the \$3.5 M proposed).

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[6] Exhibit 2, Tab 3, Schedule 3, page 2 and page 12
[7] VECC #9 e)
[8] VECC #9 h)
[9] VECC #9 h)
[10] VECC #9 e) & h)
[11] Exhibit 2, Tab 3, Schedule 3, pages 11-12
[12] This represents the total 2007 spending on these areas plus an allowance for slightly over 3% for inflation.

2.4 Station spending also varies considerably from year to year, with both 2007 and 2008 levels being substantially higher than 2006[13]. The considerable increase in 2007 is attributed to Norfolk's commitment to enhance reliability and, in some cases, to make certain stations safe[14]. However, no explanation was provided for the 2008 over 2007 variances.

2.5 Norfolk has indicated that it carries out various asset condition assessments[15]. However, these assessments do not cover all of Norfolk's major assets as seen by the lack of studies regarding Stations[16]. VECC finds this troubling for a number of reasons. First, there seems to be no prioritization of where "studies" should be done. Although Stations are Norfolk's stated top priority in terms of capital spending[17], it is not one of the areas where assessments are currently being performed. Second, this means that Norfolk is not in a position to develop an asset management plan and, indeed, acknowledges that it does not have one[18]. Finally, it appears that, lacking information on asset condition, Norfolk's "strategy" relies heavily on age of assets[19] as the determinant for renewal work. In VECC's view age is poor indicator of asset condition and Norfolk should develop an asset management plan based on a more comprehensive asset condition assessment.

2.6 Roughly 40% of Norfolk's 2008 capital spending is related to Smart Meters[20]. VECC's views on the 2008 treatment of Norfolk's Smart Meter related costs are set out in the Smart Meter section of this submission. However, in summary, it is VECC's position that Smart Meter capital should not be included in Norfolk's rate base but rather the impact recorded in Variance/Deferral Account #1555.

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[13] VECC #9 m)
[14] VECC #9 n)
[15] VECC #9 o)
[16] OEB Staff #9
[17] OEB Staff #6 b)
[18] OEB Staff # 6 b)
[19] OEB Staff #8 d) and #9
[20] VECC #8 and 10 f)

Rate Base

2.7 Norfolk has acknowledged the need to reduce its rate base by $120,000 to exclude a deposit payment on a transformer that will not be in-service in 2008[21].

2.8 Rate Base consists of Net Fixed Assets plus an allowance for working capital. In determining working capital Norfolk has used 15% of OM&A plus Cost of Power. Furthermore, Norfolk has used $59.2 / MWh to determine the Cost of Power[22]. No explanation was provided as to the source of this value. However, VECC notes that the most recent forecast available from Navigant suggests that the 2008 value for HOEP will be just over $54 / MWh[23]. VECC submits that Norfolk should be directed to reduce the purchased cost of power component of its working capital calculation accordingly.

2.9 VECC is also concerned that Norfolk has not adjusted its forecast costs for either wholesale or retail transmission charges from the IESO and Haldimand/Hydro One Networks respectively, despite the known reduction in wholesale transmission charges and the anticipated reductions in retail transmission service charges from its host distributors[24]. VECC submits that Norfolk should be directed to reduce the transmission service costs included in its working capital calculation[25]. In particular the wholesale portion (i.e., that billed by the IESO) should be reduced for all of 2008. Furthermore, in anticipation of the fact that Hydro One's revised retail transmission rates[26] will likely be in effect for part of the year, VECC submits it would be reasonable to incorporate into this portion of Norfolk's retail transmission service charges half of known wholesale reductions. This would result in the

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[21] OEB Staff # 6 d)
[22] VECC #15 c)
[23] www.oeb.gov.on.ca/documents/cases/EB-2004-0205/rpp-nci_wholesaleelectricitypriceforecastreport_20071012.pdf - page 2. Where HOEP for 2008 is projected to be in the order of $0.054 / kWh.
[24] VECC #15 b)
[25] Per Exhibit 2, Tab 4, Schedule 1, page 4
[26] Norfolk is also incurs Retail Transmission charges from Haldimand County but information on the timing of its RTR adjustments is not available.

following adjustments[27]:

- Retail Network Transmission costs would be reduced by 10% to reflect half the anticipated change in Hydro One Networks' retail rates for Network Service.
- Retail Connection Transmission costs should be reduced by 5% to reflect half the anticipated change in the Hydro One Networks' retail rates for Transformation and Line Connection.

2.10 Finally, VECC notes that the volumetric increase associated with the Cost of Power and Transmission charges (1.5% in 2007 and 8% in 2008[28]) is inconsistent with the 6.1% increase in total customer usage over the 2006 to 2008 period set out in Exhibit 3, Tab 2, Schedule 1, page 5. VECC submits that Norfolk should be directed to align these two increases (subject to any changes in loss factors).

3 <u>Load Forecast and Revenue Offsets</u>

Load Forecast

3.1 Norfolk has used 2004 weather normalized load data developed by Hydro One Networks to establish a weather-normalized average customer use for each weather-sensitive customer class. It has then developed its load forecast by multiplying this average (per customer) use for each customer class by the forecast 2008 customer count (by class)[29]. For unmetered loads (Street Lighting, Sentinel Lighting and USL), 2006 connection numbers were used[30]. Finally, for the GS > 50 kW class, the 2007 and 2008 usage values were derived based on 2006 average [31] and further adjusted for 2008 to reflect the addition of a new (significantly larger) customer in 2008.[32]

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[27] Based on comparison of the currently approved Hydro One Networks' rates (EB-2007-0542, April 30, 2007) and the proposed rates (EB-200700781, Hydro One Application, Exhibit G2, Tab 4, Schedule 1, page 5)
[28] OEB Staff #11
[29] OEB Staff #26
[30] Exhibit 3, Tab 2, Schedule 1,page 2
[31] Board Staff #26
[32] OEB Staff #29 c)

3.2 VECC's only comment is with respect to Norfolk's calculation of average use for GS>50 kW for 2007. It is not at all clear to VECC why it is appropriate to adjust the actual 2006 average use by the 2004 weather normalization factor. Norfolk may wish to address this in its reply submissions[33].

Other Revenues

3.3 In response to VECC #17 b) Norfolk indicated that SSS Admin revenues (and costs) were cleared monthly to the balance sheet and therefore there was no revenue offset provided for the revenue requirement. However, VECC's reading of Article 490 of the APH (pages 22-23) suggests the receipts from SSS Admin charges are to be recorded as Other Distribution Revenue. Indeed, this is the standard practice amongst the other distributor who have filed for 2008 rates using a cost of service application. VECC submits that Norfolk should be directed use the same approach and include SSS Admin revenue as an offset to its Distribution Revenue Requirement.

4 <u>Operating Costs</u>

OM&A – General

4.1 In response to Board Staff information request #23 (b) Norfolk has provided an explanation of the $1,146,216 change in OM&A costs from 2006 to 2008. Furthermore, Staff Submissions have identified the OM&A expense areas accounting for the majority of the cost increase[34]. VECC has a number of concerns regarding these increases and the supporting explanations provided.

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[33] VECC #18 b)
[34] OEB Staff Submissions, page 4

4.2 For 2007, the increase[35] in a number of the accounts is attributed to an increased allocation of IT expenses (e.g., Customer Billing, Collecting and G&A Salaries and Expenses). However, nowhere in the Application does Norfolk explain why IT costs themselves are increasing overall.

4.3 In the case of Customer Billing, the response to OEB Staff #23 suggests the year over year change for 2006 to 2007 is $166,138. However, the original Application only shows a variance of $86,816[36]. There are similar discrepancies for Collection (#5320) and Collection Charges (#5330).

4.4 Also, some of the variance explanations for 2007 would appear to be one-time expenses that should not re-occur in 2008 but according to Norfolk do. Examples include Forestry Audit (#5135) and OEB mandated re-verification of TS Equipment (#5112).

4.5 Overall, VECC submits that Norfolk has not adequately explained the significant increase in OM&A between 2006 and 2008 of over 20% (excluding Smart Meters). In VECC's view, the requested increase of $748,214 should be reduced by at least 20% (i.e., $150,000).

4.6 As noted earlier, VECC's submissions on Smart Meters are provided in a separate section of this submission. However, to summarize, it is VECC's view that the OM&A costs associated with Smart Meters should be removed from the revenue requirement and recorded in Variance/Deferral Account #1556.

4.7 With respect to the $28,855 of (non-OEB) Regulatory Expense in 2008, VECC notes that Norfolk does not expect similar costs to be incurred over the next 2 years[37]. In VECC's view it would be appropriate for Norfolk to spread these costs (primarily associated with the current Application) over 3 years. The 2008 rates are meant to position Norfolk for the OEB's 3GIRM framework which is expected to last for a number of years. As result, principles of inter-generational equity and

[35] OEB Staff #23 b)
[36] Exhibit 4, Tab 2, Schedule 1, page 4
[37] OEB Staff #23 c)

matching would suggest that the costs should be amortized over the 3GIRM period. Furthermore, if the costs for 2008 are not amortized then the 2008 prices/revenue requirement which will form the base for future incentive adjustments will include (and even escalate) costs that will not exist in future years.

Taxes

4.8 In response to VECC #24 a), Norfolk states that the Application should not be updated to reflect the new federal tax rates for 2008 as the impact is less than the 1% materiality limit set by the Board. VECC disagrees. The 1% materiality limit defines when a written explanation is required as part of the standard filing[38]. In VECC's view, the values used in an Application should always reflect the best information available.

4.9 Also, VECC submits that Norfolk's CCA calculations for 2008 should be updated to reflect the fact that there are computer equipment/software investments taking place in that year[39].

5 <u>Cost of Capital/Capital Structure</u>

5.1 VECC notes that the Capital Structure proposed in Norfolk's Application[40] reflects the direction of the Board in its Report on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors.

5.2 With respect to the cost of debt, VECC shares Board Staff's concerns regarding the calculation of the 6.7% average cost of long-term debt. Indeed, the calculation of the 6.7% as set out in VECC #28 c) appears to be too high as it:

- Does not include the 4th TD Bank loan with a 2008 principle of $1,957,000 at

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[38] November 2006 Filing Guidelines, page 18
[39] VECC #24 b) & c)
[40] Application, Exhibit 6, Tab 1, Schedule 1, page 1 and Staff #35 & #36

an average cost of 6.17%, and

- Includes $3,044 in amortization expenses related to the Haldimand loan.

Failing any further clarification, the Board should direct Norfolk to recalculate its average cost of long-term debt taking into account these two factors.

6 Deferral and Variance Accounts

New Deferral Accounts Requested

6.1 Norfolk has requested a new deferral/variance account related to Future Capital Expenditures and Projects[41]. While the Application itself states that the account is for capital works during non-rebasing years (i.e., post 2008), Norfolk's response to Staff #38 h) would appear to suggest that the account is also meant to address over/under forecasting of 2008 capital costs. VECC submits that there is no basis/rationale for providing such an account for 2008 spending. Such spending should be addressed in the Application itself.

6.2 With respect to the post-2008 expenditures, the issues being addressed by this account are not unique to Norfolk but are issues/costs that could impact all electricity distributors in the Province as part of the 3GIRM. However, it is not clear – at this point in time – whether a deferral/variance account will be required. In VECC's view it is pre-mature to approve such a deferral/variance account at this point in time. Should the need arise, the Board can authorize its creation and use on an industry wide basis and establish a common set of rules for use of the accounts at that time. VECC submits that for issues such as those identified above this is the best way to approach the matter, as opposed to on a piece-meal utility by utility basis.

[41] Exhibit 1, Tab 1, Schedule 8, page 2

Balances in Existing Accounts (excluding 1572)

6.3 VECC notes the rather extensive submissions and concerns by Board Staff regarding the balance in the various accounts Norfolk is apply to dispose of. In VECC's view any questions regarding the appropriateness of the balances (including interest calculations) need to be resolved before they are disposed of.

Account #1572 (Extra-Ordinary Event Costs)

6.4 In its Application, Norfolk is seeking recovery of operating expenses associated with two storms that occurred in 2007. VECC has a number of concerns regarding this request:

- First, only one of the two storms for which cost recovery is requested meets the materiality criteria set by the OEB. The costs of the June 2007 storm[42] were $37,970.63, while based on 0.2% of fixed assets (for 2007) the materiality limit is roughly $80,000.
- There has been no independent verification of the costs claim nor are the costs even based on 2007 audited results.
- There is no discussion in the Application as to the historical level of storm costs nor the amount of expenditures on storm-related activity during the balance of the year.

6.5 In VECC's view, the recovery of these costs should not be approved at this time.

Rate Adders

6.6 There is an inconsistency in the number of Streetlight customers used in Exhibit 3 and Exhibit 5 of the Application. In response to the Board Staff query Norfolk indicates that 3,850 is the correct number of streetlights for 2006 (as opposed to 3,050)[43]. However, in response to a SEC query, Norfolk states that the correct number of streetlight customers for 2008 is 3,091 (as opposed to 3892)[44]. Norfolk

[42] OEB Staff #43

should provide and use the correct values through out its rate finalization.

7 Smart Meters

Regulatory Treatment

7.1 Norfolk has indicated that it plans to deploy 18,021 smart meters in 2008[45]. Accordingly, it has included in its 2008 capital spending the capital costs of this initiative[46]. Similarly in its OM&A costs, NORFOLK has included the operating expenses associated with the smart meters[47]. The overall impact on the 2008 revenue requirement is $654,159[48]. However, to date, Norfolk has not been authorized to undertake smart metering activities[49].

7.2 As a result, VECC believes it is premature for the Board to approve a revenue requirement that assumes a significant deployment of Smart Meters by Norfolk in 2008. Rather, VECC submits, Norfolk should continue to use Accounts #1555 and #1556 to record any Smart Meter expenses and the Board should approve a Smart Meter rate adder for 2008 – the revenues from which would also be tracked in Account #1555.

Smart Meter Costs

7.3 The 2008 capital spending on Smart Meters includes investments in computer hardware and software[50]. VECC submits that, in its determination of the Smart Meter rate adder, the Board should direct Norfolk to calculate the applicable PILs assuming these expenditures attract the appropriate CCA rates (i.e., should not all

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[43] OEB Staff #28
[44] SEC #6
[45] VECC #10 f)
[46] OEB Staff #24
[47] OEB Staff #24
[48] SEC #8
[49] VECC #10 f) and OEB Staff #51
[50] VECC #24

be assigned to Class 47).

Rate Adder

7.4 Consistent with the regulatory treatment of smart meters recommended above, VECC submits that the Board should approve a Smart Meter Rate adder and continued use of the related deferral/variance accounts for 2008. In VECC's view this approach will hold the utility harmless for smart meter costs, while recognizing that it has not yet received approval to proceed with smart meter deployment.

7.5 If the Board adopts VECC's recommended approach, the remaining question is to establish an appropriate level for the smart meter rate adder. The major advantage to the rate adder approach is that while the level of adder is important in terms of its impact on customer's bills and Norfolk's cash flow, at the end of day the Smart Meter Deferral/Variance accounts ensure that both Norfolk and customers are held harmless.

7.6 In the evidence provided to date[51], Norfolk has set out the 2008 costs (OM&A and capital-related) associated with Smart Meters. Norfolk should be directed to derive a Smart Meter Rate Adder for 2008 that incorporates these costs as well as the credit current balance in Account #1555[52].

7.7 In VECC's view the setting of appropriate Smart Meter rate adder should be a two step process. First, the correct rate adder should be established assuming all Norfolk's smart meters are deployed in 2008. Then, this value should be discounted to recognize the uncertainty associated with Norfolk actually being authorized and able to complete deployment of its smart meters by the end of 2008. As to the appropriate "discount factor" while it is a matter of judgement VECC submits that the rate adder should be set at somewhere between 50% and 75% of the annual cost associated with full deployment in 2008.

[51] SEC #8
[52] Exhibit 5, Tab 1, Schedule 2, page 1

8 Cost Allocation

8.1 Norfolk has provided the Revenue to Cost ratios (RCR) resulting from its 2006 Cost Allocation informational filing[53]. Based on these results and the Board's November 2007 Guidelines, the customer classes requiring rebalancing are the Street Lighting and Sentinel Light classes where the RCR's are below the Guidelines. Furthermore, any additional revenues obtained from these classes due to rate rebalancing should be used to reduce the RCR's for the Residential and GS > 50 kW classes.

8.2 In its Application, WNP proposed to rebalance the revenue requirement allocation between classes so as to address all of the aforementioned issues[54]. However, VECC has concerns with the "proposed" Revenue to Cost ratio for the GS > 50 kW class. Instead of moving the ratio closer to 100%, the proposal is to move the ratio from 102.5% to 98.8%. Aggravating this situation further is the fact that if cost of the transformer allowance had been allocated directly to the GS > 50 kW class[55] then that class' RCR would have been below 100% and no rebalancing (in terms of rate reduction) would have been indicated[56].

8.3 In VECC's view this is not appropriate. The revenue allocation to the Residential and GS >50 kW customers should be revised such that all additional revenues derived from increasing the RCRs for Street Lights, Sentinel Lights, and USL is applied to reducing Residential rates.

8.4 Finally, despite the interrogatory process[57], VECC is unable to determine how Norfolk derived the customer class revenue allocation associated with the proposed RCRs. In particular, VECC is unable to determine why an allocation of $7,414,481 to the Residential class is consistent with an RCR of 100%[58]. VECC invites Norfolk to address this in its Reply Submissions. However, the revenue

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[53] Exhibit 8, Tab 1, Schedule 2, page 2
[54] Exhibit 8, Tab 1, Schedule 2, page 4
[55] As proposed by Norfolk and a number of other distributors in their 2008 re-basing applications
[56] VECC #29 f)
[57] VECC #29
[58] VECC #24 e)

allocation to the Residential class is slightly less than what it would be based on current rates and, as a result, is moving in the right direction.

8.5 VECC notes that in determining its revenue allocation by customer class Norfolk has used revenue at current (2007) rates that include the smart meter rate adder. Should the Board adopt VECC's recommendation for a separate smart meter rate adder then the revenue allocation would have to start with revenues at current rates excluding the smart meter rate adder.

9 Rate Design

9.1 Norfolk is proposing a monthly residential fixed charge of $23.57. This value is well in excess of the value calculated by its Cost Allocation Informational filing of $16.04 based on the Minimum System method[59] which (in the Cost Allocation filing) defines the upper end of the range for service charges. In VECC's view residential service charge should be maintained at its current 2007 level of $18.22 (excluding the smart meter rate adder of $0.26).

10 Recovery of Reasonably Incurred Costs

10.1 VECC submits that its participation in this proceeding has been focused and responsible. Accordingly, VECC requests an award of costs in the amount of 100% of its reasonably-incurred fees and disbursements.

Respectfully Submitted on the 25th Day of March 2008

Michael Buonaguro
Counsel for VECC

[59] Despite requests by both VECC and OEB Staff, Norfolk did not file a copy of its Cost Allocation filing. These results were extracted from the actual filing which is on the public record at the OEB.