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April 13, 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)
Notice of Intervention: EB-2011-0271

Please find enclosed the submissions of VECC in the above-noted proceeding.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC
Encl.

EB-2011-0271

IN THE MATTER OF the *Ontario Energy Board Act,*
1998, S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an application by Halton Hills Hydro Inc. for an order approving just and reasonable rates and other charges for electricity distribution to be effective January 1,2012.

FINAL SUBMISSIONS OF THE VULNERABLE ENERGY CONSUMERS COALITION

(VECC)

1. These are the final submissions of VECC with respect to the unsettled issues.

2. The issues addressed in this submission are:

    a. Operating and Maintenance Costs;

    b. Long-Term Debt;

    c. Green Energy Initiative; and,

    d. PP&E Deferral Account.

Operating and Maintenance Costs

3. For completeness VECC has compiled from the evidence an OM&A table. The OM&A figures are consistent with those used by Halton Hills Hydro Inc. (HHH) in their Argument-in-Chief and used by Energy Probe in its argument. There is a minor variation in 2008 and 2009 OM&A figures because VECC includes costs listed under “Community Relations” that were removed by HHH in their summary tables. It is not clear why these

costs were removed. In any event, the differences are minor and do not affect the substance of our argument.

CGAAP	2008 Board Approved	2008 Actuals	2009 Actuals	2010 Actuals	2011 Actuals (2)	2012 Forecast CGAAP
Operations	784,000	695,529	819,741	892,155	536,089	966,705
Maintenance	821,000	751,353	173,136	275,319	360,051	665,999
Billing and Collections	1,039,000	1,012,516	1,091,868	1,111,430	1,197,615	1,683,690
Community Relations(5)	-----	6,864	2,032	--------	--------	-------
Administrative and General	2,480,000	2,615,659	2,341,417	2,100,978	2,456,346	2,687,646
Total OM&A other than Taxes	**4,085,000**	**5,081,921**	**4,428,194**	**4,379,882**	**4,550,101**	**6,004,040**
Settlement Adjustment (4)						**-123,240**
Taxes (1)	n/a	92,063	89,315	95,553	96,839	106,600
Total OM&A CGAAP Adjustment		**5,173,984**	**4,517,509**	**4,475,435**	**4,646,940**	**5,987,400**
MIFRS Adjustment					**224,809**	**286,621**
Charitable Donations	n/a	29,137	8,232	6,489	30,000	30,000
Total OM&A MIFRS– excluding Charitable Donations					**4,871,749**	**6,274,021**

Notes:

(1) Property Taxes from EP IR #37 – other than 2011 corrected at JT1.10

(2) 2011 CGAAP from JT1.10

(3) All other figures are from EP IR #35 or Board Staff IR # 23

(4) See Appendix A of the Settlement Agreement

(5) Community relations cost (advertising) are included in the detailed figures provided by HHH in EP IR #35 and Board Staff IR # 23, but not in the summary tables.

4. VECC has applied a consistent approach to all the 2012 cost of service applications it has reviewed. Our analysis starts from the position that *ceteris* paribus, or all else being equal, a utility should be able to control OM&A costs to something at, or below, the level of inflation. That is, under the incentive regime instituted by the Board ratepayers should expect service costs to rise by no more than inflation. Otherwise ratepayers gain nothing from the incentive plan and may in fact be better off with annual cost of service rate reviews. This means that VECC's starting point is the 2008 Board approved OM&A.

5. However, the reality is that things do not remain the same. Utilities grow and occasionally shrink. Customer growth is an inherent cost driver. VECC has argued in past cases, and continues to argue in this proceeding, that some increase in costs due to customer growth is reasonable.

6. There are also special circumstances which can put upward (or downward) pressure on costs. These include remedial programs to improve system reliability and performance or new activities being undertaken by the utility. In VECC's view proposals for increased costs due to special circumstances need to be carefully scrutinized. Many arguments for increased costs are based on changing circumstances and not special circumstances with incremental demands. In this application the adage that might best sum this up is: "*more trees trimmed in one year, leads to less conductor replaced in the next".* That is, a change in how funds are spent does not necessarily lead to more spending overall in the IRM years to come.

7. It is also important to ask who should pay for any remedial programs. Ratepayers are taken advantage of by a system of regulation which allows shareholders to improve profits at the expense of deteriorating assets or service during the incentive period.

8. In respect to inflation VECC relies on the CPI or the applicant's forecast of inflation. At VECC IR #16 HHH states that the salary increase for managers due to inflation and merit was between 1 and 3%. The utility uses a 2.9% inflation rate for costs between 2011 and 2012[1]. In VECC's submission the actual inflation rate between 2008 and end of 2011 has varied between nearly 0% and as high as 3.5%. VECC submits an annual notional rate of 2.5% to 3% for the period 2008 through 2012 is a reasonable inflator.

9. Based on the last Board approved 2008 OM&A and applying an inflation factor of between 10% and 12% results in a 2012 GCAAP OM&A adjustment of between $408,500 and $490,200.

10. HHH suggests that its customer growth between 2008 and 2012 is 5%[2]. In VECC's submission the residential customer growth between 2008 and 2010 was 2.0%. The corresponding growth for GS < 50 was 4.2%. Residential customers represent over 90% of customers while GS < 50 represent around 8%. Using these figures to weight customer growth results in an overall actual growth rate between 2008 and 2010 of 2.2%. Between 2010 and 2012 the growth rates for residential are forecast to be 3.5% and for GS < 50 to be 5.5%[3]. The approximate overall weighted customer growth rate between 2008 and 2012 (actual and forecast) is

[1] See Exhibit 4, Tab 2, Schedule 6, page 5

[22] See HHH Argument-in-Chief page 12

[3] Customer growth figures are derived from Appendix D of the Settlement Agreement

therefore approximately 6.3%.

11. Based on these results customer growth would add approximately $257,355 to the 2008 Board OM&A.

12. To these adjustments the question of special circumstances must be examined. HHH suggests in its Argument-in-Chief the special circumstances in this case are: wages and benefits; tree trimming costs, smart meter costs and MIFRS transition costs.

13. VECC submits that tree trimming costs and wages and benefits are standard activities of a utility. The evidence presented by HHH points to changing circumstances in the many activities of the Utility. In VECC's submission the only special circumstances raised were in regard to the implementation of smart meters

14. Much has been in this proceeding about the inordinate increase in tree trimming costs. These costs have multiplied three fold from an average of $102,000 in 2008 through 2010 and rising to over $230,000 in 2012.[4] There is evidence that such an increase in tree trimming is necessary. VECC submits that any remedial action in respect to tree trimming will be offset by lower maintenance costs in the future. To the extent this is not VECC submits that this arises because of a lack of due diligence on the part of the past management of Utility. As such inordinate costs should be borne by HHH's shareholders and not its ratepayers.

15. VECC is approaching this issue on a CGAAP basis and so the issue of IFRS transition costs are not material to our argument. VECC accepts the IFRS transition costs that must be added to the final 2012 CGAAP OM&A.

16. In respect to wages and benefits there is no inherent reason for ratepayers to be expected to fund wage and benefit costs beyond inflation unless there is an accompanying increase in utility efficiency. One proxy for productivity is the number of employees (or FTEEs) required to service customers. At Table 4-12 of the evidence it shows that HHH has improved its customer per FTEE from 443.3 in 2008 to 432.6 in 2012 (based on original filed OM&A). While VECC has a number of concerns as to how the "number of customers" is calculated for this Exhibit, the evidence does show that HHH has been able to operate with fewer employees for the number of customers it serves. As such VECC believes it is reasonable to allow

[4] See J1.6. The actual tree trimming costs are 109K, 76.9k and 120.3k in 2008,2009 and 2010 respectively.

compensation cost to be adjusted to something more than the level of inflation.

17. Using the change in customers served per FTEE between 2008 and 2012 period shown in Table 4-12, VECC submits a reasonable adjustment for productivity increases is 2.3%. This adjustment would increase HHH's 2008 Board Approved OM&A by $94,000.

18. In respect to Smart Meters HHH suggests recovery of incremental costs of $327,710[5]. The increase in costs is related to Supervision, Meter Reading Expenses and Customer Billing (accounts 5305, 5310 and 5315 respectively)[6].

19. The main drivers for the cost increase in Supervision appear to be additional FTEs. This issue is discussed below. Other costs in customer billing are related to incremental IT costs and $76,000 to work in "Communications" In VECC's submission HHH does not require an incremental $300,000 over the next four years to communicate TOU and smart meter issues to its customers. Presumably the Utility has been communicating with its customers in the past years. VECC submits that there is no reason to supplement the traditional budget used to communicate with customers.

20. Between 2008 and 2012, HHH will have increased its net staff complement by five full time equivalent positions; one at Management level and four unionized employees. Of these five positions, two are newly created positions to accommodate HHH's smart meter requirements. One position is for metering succession planning and the other two are to meet customer demand, regulatory and renewable generation obligations[7]

21. In VECC's submission customer growth would account for no more than three new FTEs. In fact if one assumes an increase in productivity, as VECC has, the actual FTE growth should be below three. Therefore, the question to be resolved is what accounts for the incremental 2-3 FTEs in HHH's proposal? The corollary is of course, should these costs be allowed and charged to ratepayers?

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[5] See Exhibit 4, Tab 2, and Schedule 3 which identifies $462,710 in incremental Smart Meter Costs. $135,000 related to MDM/R costs are removed from this as per the Settlement Agreement. The net figure of $327,710 is used by HHH at Table 2 page 14 of their Argument-in-Chief

[6] See Energy Probe IR # 33(e)

[7] See Exhibit 4, Tab 2, Schedule 6 page 2.

22. VECC accepts that one or two additional FTEs are warranted to accommodate the incremental responsibilities related to smart meters and additional regulatory burdens. VECC has used Table 4-16 to find an average of Union and Management salaries and benefits. In our submission an additional $100,000 is a good proximate value for each incremental FTE.

23. VECC submits it is reasonable to add between $100,000 and $200,000 to the 2008 OM&A compensation for the incremental responsibilities of smart metering and in recognition of the increased regulatory burden on the utility.

24. It follows from the argument above that all but $127,000 of the incremental smart meter costs are due to FTEs and compensation. In VECC's submission of the remaining amount at least $50,000 should be removed because the "Communication Costs" proposed by HHH are excessive. Accepting this would result in a remaining adjustment of approximately $77,000 due to IT, TOU and other billing costs arising from the incremental responsibility of smart metering.

25. VECC takes no issue with forecast property tax in 2012 of $106,000. Well it is not entirely clear it appears that the Board approved 2008 OM&A figure provided in the evidence is net of property tax. With this understanding VECC submits that $106,000 should be added to the 2008 Board approved OM&A.

26. VECC takes no issue with the proposed IFRS adjustment for 2012 of $286,621.

27. In summary VECC respectfully submits that HHH should be allowed a CGAAP basis an OM&A figure of between $5,127,810 and $5,309,510. The details of the adjustment are set out in the table below.

Adjustment	Low	High
Inflation 10-12%	$408,500	$490,200
Customer Growth 6.3%	$257,355	$257,355
Productivity Factor 2.3%	$93,955	$93,955
Incremental FTEs due to Smart Meters	$100,000	$200,000
Other Incremental Smart	$77,000	$77,000

Meter Costs		
Property Tax	$106,000	$106,000
Total Adjustments	**$1,042,810**	**$1,224,510**
2008 OM&A	4,085,000	4,085,000
2012 CGAAP OM&A	**5,127,810**	**$5,309,510**

28. On an IFRS bases VECC submits that the appropriate OM&A is between $5,414,431 and $5,596,131.

Long-Term Debt

29. VECC supports the arguments submitted by Energy Probe on long-term debt. That argument is detailed, comprehensive and compelling. For reasons of brevity and cost efficiency we will not repeat those arguments

Green Energy Plan

30. VECC opposes HHH's proposal to install $1.4 million of solar panels. The project is not supported by a proper business plan, detailed cost-benefit analysis or risk assessment. Related to this issue is the fact that HHH failed to produce any evidence assessing this type of project in any of the jurisdiction it has cited. HHH has also failed to demonstrate why the production of power is an appropriate distribution utility function.

31. In respect to the revenue requirement impact of this project, while VECC does not take issue with the analysis of Energy Probe, and notwithstanding statements of a different figure in HHH's Argument-in-Chief, the best evidence is that the project will require ratepayers to pay an additional $92,359 per year[8]. The benefit produced by this project is $35,495 per year[9].

[8] Figure of $92,359 is from Energy Probe IR #55. A figure of $91.467 is found in HHH's argument-in-chief and is found in response to Energy Probe IR #19. Energy Probe' argument suggests a figure of $89,911. The difference in these figures is not material to VECC's argument.

[9] See Energy Probe IR # 55

32. Therefore, based on the HHH's own evidence the project has a significant negative net present value of at least $501,471 and potentially as high or higher than $661,102[10]. HHH's own evidence makes it clear that ratepayers are worse off if this project is undertaken.

33. HHH proposes a number of beneficial externalities of the project, including reduction of carbon and a "demonstration effect". The Board should ignore the suggestion to include these ephemeral effects. HHH did not produce any evidence to quantify such benefits and they failed to show why ratepayers would be willing to exchange real monies for theoretical benefits.

34. In VECC's submissions HHH has been conservative in its consideration of the costs, and very optimistic in terms of the benefits of this project. HHH was asked on a number of occasions to produce a comprehensive cost-benefit analysis[11]. It did not. HHH produced no evidence to support its annual maintenance costs, showed no removal/disposal cost, or any other potential costs arising from pole damage, incremental insurance costs, weather or the like.

35. When asked to produce studies or assessments of like projects it produced one article.[12] On the face of it the article appears be an objective peer reviewed study of the benefits of solar panels. However, on closer examination one finds that both authors are employees of a solar company. Nor does the exhibit state where the article was published. VECC also notes that while there is reference by HHH to a pilot project and to other utilities engaged in similar activities, including a major U.S. utility, no evidence was presented which provided an assessment of those initiatives. Hence it remains unclear how, or if, HHH undertook any rigorous assessment of the costs and risks of this project.

36. Contrary to the suggestion at the hearing, HHH has been asked on a number of occasions to produce technical studies in support of the project. VECC specifically asked HHH to produce its business plan, or if that was not available the executive presentation of the project. The entire response to that question was:

The Green Energy Initiative is a leadership project by HHH, looking for opportunities that combined smart grid technology with renewable energy generation, using existing utility infrastructure. The Green Energy Initiative ties into an already existing initiative by the Town of

[10] See Undertaking J1.4 and J1.5

[11] See for example VECC IR # 9, and 31 and Energy Probe IR #19.

[12] See Undertaking J1.3

Halton Hills through the Green Plan in which the Mayor of Halton Hills is quoted as saying "My concept for a Green Plan imagines Halton Hills to be a Community of leaders - not followers".

37. It is not incumbent on the Board or intervenors to extract the information required to support the proposal. Rather the onus of proof lies with the applicant. In VECC's submission there is no proof that this project is viable, will produce and benefits for HHH's ratepayers or is not inherently risky in terms of cost overruns and other liabilities.

38. In its Argument-in-Chief HHH states that the Green Energy Initiative is more appropriately classified as a distribution project given the broad distribution benefits associated with the project[13]. VECC respectfully disagrees. There is nothing inherent to the distribution system about the project. Solar panels produce power in relationship to sunshine, not the requirements of the distribution system. That the power is generated within the distribution system certainly defers transmission costs, as would any locally produced power project. Other than its ownership of the solar mounts, or poles, there is nothing inherently advantageous in the local distribution utility being in the business of producing this power.

39. The proposal of HHH raises key questions about the role of local distribution companies in the development of a smart grid. Should distribution utilities be allowed to be in the business of producing power. Are they best placed to manage such a business? Is this form of distributed power viable from an engineering standpoint? Is it viable economically? Should externalities be included in the economic assessment of these types projects? If so how does one deal with the difference between those who receive benefits and those who pay for the project? What are these externalities and how should they be priced? What form of regulation is required for this new activity – are deferral accounts necessary? What are the risks to ratepayers? And perhaps most important is this rate case the place to answer these questions?

40. VECC is not critical of HHH for bringing this project forward. The initiative shows an entrepreneurial spirit and corporate culture with a social conscience. Both are to be commended. VECC suggests that HHH and a collaborative of Ontario utilities might develop a comprehensive pilot for this type of initiative. From our standpoint such a project should be supported by a proper cost-benefit analysis which is supported by evidence from other jurisdictions and which critically examines the questions of cost and risk.

[13] See HHH Argument-in-Chief, page 4

41. VECC submits that this project should not be approved on the basis that (1) the evidence shows there is no net benefit to HHH ratepayers; (2) it is not a distribution activity, (3) the projects was not supported by available facts that would show the risks and costs of such an initiative; (4) the initiative creates an inordinate regulatory burden and risk to the ratepayers of HHH; and (5) this type of initiative is more appropriately dealt with in a generic proceeding and on an Ontario-wide basis.

PP&E Account

42. There are two issues with respect to the PP&E deferral account. The first is with respect to the sum of the amount to be credited to ratepayers. HHH has updated this amount to $836,717 down from the previous $1,462,823.

43. VECC supports the arguments of Energy Probe in respect to the amount to be cleared from this account. It is unusual for an applicant to make such a significant change in its application after the close of the hearing. VECC submits that it is incumbent upon HHH to respond to the questions raised by Energy Probe.

44. With respect to the amortization period VECC submits that a 20 year amortization is not in keeping with general regulatory principles. In light of the updated evidence a 20 year amortization period is particularly excessive.

45. A 20 year amortization period is simply impractical. It requires that the HHH, or its successor, and the regulatory, or its successor, continue to monitor for an inordinately long period the outcome of one change in accounting.

46. VECC also submits that HHH has also misinterpreted the regulatory principle of intergenerational inequity. In its Argument-in-Chief HHH states that *"[T]he PPE deferral account is meant to return to ratepayers the increased amounts attributable to the accounting change."* While it is true that future ratepayers will pay higher rates due to the conversion to IFRS it is equally true to say that past ratepayers paid lower rates under CGAAP. Neither accounting methodology is "correct" rather they are relative points of departure at a point in time.

47. Under ideal circumstances rather than increasing rates to only customers in the future one would split the difference between the past and the future. The fairest methodology would charge something to those past customers who benefited from the "lower rates under CGAAP" and charge something more, but less than that proposed, to those customers paying "higher rates under IFRS." It is the "near future" <u>and</u> the "recent past" customers who should split the impact of the change. The amortization period is therefore a

trade-off between past and future. Since it is impractical to go back in time a shorter period of 2-4 years is the more appropriate than the 20 year amortization period proposed by HHH.

48. In VECC's submission the PP&E deferral balances should be disposed of in the period prior to the next rebasing of HHH. VECC presumes that to be four years.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 13th DAY OF JANUARY 2012