

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 Veridian Connections Inc. for an order or orders approving or fixing just and reasonable distribution rates and other charges, to be effective May 1, 2012.;

AND IN THE MATTER OF the Board's Decision dated March 22, 2012 (File Number EB-2011-0199).

REPLY SUBMISSION

1. In accordance with Procedural Order No. 1 in this matter, this is the Reply Submission of Veridian Connections Inc. ("Veridian"). It pertains to Board Staff's May 9, 2012 submission, the only submission received filed in this proceeding.

(i) The Merits of the Motion:

2. In its submission, Board Staff noted:

"...in cases in which it was clear in the application or settlement agreement that an adjustment for CDM was not being incorporated into the load forecast specifically because of an expectation that an LRAM application would address the issue, and if this approach was accepted by the Board, then Board staff would agree that an LRAM application is appropriate.

3. Veridian submits that Board Staff's expectation of what needs to be written in a settlement agreement to recover LRAM is more onerous than the Board's expectation.
4. The Board approved Bluewater Power's recent LRAM claim based on the following minimal language in Bluewater Power's settlement agreement:

*"For the sake of clarity, the revised forecast does not reflect in any way specific electricity conservation programs."*¹

5. Since Board Staff's onerous expectation was not adopted by the Board in the Bluewater Power decision, it should not be adopted in this proceeding.
6. In any event, the language in Veridian's settlement agreement was more specific than Bluewater Power's:

3 b. Is the impact of CDM initiatives suitably reflected in the load forecast?

Complete Settlement: Veridian has not included any CDM program impacts in the 2010 load forecast as details regarding Ontario Power Authority programs in the test year were not available at the time that the load forecast was prepared. For the purpose of obtaining complete settlement of all issues, the Parties agree that this treatment is appropriate.

7. Board Staff also submitted that because Veridian's load forecast included implicit CDM impacts, Veridian's situation "is not comparable to that of Bluewater Power's".
8. As explained in Veridian's Notice of Motion and in its Motion filed on May 2, 2012, Veridian proposed a reduction to its LRAM claim to account for the implicit CDM impacts in its load forecast. On an adjusted basis, Veridian's situation is comparable to that of Bluewater Power's.
9. Further, although Board Staff alleged a difference between Veridian's and Bluewater Power's circumstances, it did not provide a rationale as to why that difference justifies different treatment between the two utilities, especially given the fact that Veridian adjusted its LRAM claim to account for implicit CDM impacts. As set out in paragraph

¹ Page 14 of the Bluewater Decision (EB-2011-0153)

#22 of Veridian's May 2, 2012 Motion, the Board has stated that, "*Departures from established decisions should only be made on the basis of reasoned principle.*"

10. Finally, Veridian notes that Board Staff failed to address the submissions made by Veridian in its May 2, 2012 Motion regarding the Board's treatment of Enersource Hydro Mississauga ("Enersource") relative to Veridian. Those submissions are an important part of Veridian's grounds for its motion and further demonstrate the Board's inconsistent treatment of Veridian's LRAM claim.

(ii) The Threshold Issue:

11. Veridian interprets Board Staff's submission on the threshold issue to be that because Veridian's load forecast included implicit CDM impacts, its circumstances differed from those of Bluewater Power's and therefore the Board did not make an identifiable error in treating the two utilities differently.

12. In reply, Veridian submits that:

- a. its circumstances did not differ significantly from those of Bluewater Power;
- b. Veridian proposed to reduce its LRAM claim to remove implicit CDM impacts making its LRAM claim consistent with Bluewater Power's (since there was no evidence on the record in Bluewater Power's proceeding that its load forecast included implicit CDM impacts); and
- c. Board Staff did not provide a rationale based on reasoned principle as to why the difference it identified justifies different treatment of Veridian from Bluewater Power and Enersource.

13. In fact, Board Staff failed to address any of Veridian's submissions about the Board's inconsistent treatment between Veridian's and Enersource's LRAM claims.

14. For all of these reasons, Veridian submits that Board Staff's submissions should not be accepted by the Board as justification for denying Veridian's motion.

All of which is respectfully submitted.

May 11, 2012

A handwritten signature in dark ink, appearing to read "Andrew Taylor", written over a horizontal line.

Veridian Connections Inc.

By its Counsel: Andrew Taylor