



PUBLIC INTEREST ADVOCACY CENTRE
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May 28, 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)
Midland Power Utility Corporation EB-2012-0212
Motion to Review Vary Decision and Order in EB-2012-0182
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 Janigan
Counsel for VECC
Encl.

cc: Midland Power Utility Corporation
Phil Marley

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 Midland Power Utility Corporation 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 a Motion to Review and Vary by Midland Power Utility Corporation pursuant to the Ontario Energy Board's *Rules of Practice and Procedure* for a review of the Board's Decision and Order in proceeding EB-2011-0182.

FINAL SUBMISSIONS

On Behalf of The

Vulnerable Energy Consumers Coalition (VECC)

May 28, 2012

Submission on the Threshold Issue concerning Midland Power Utility Corporation
Motion to Review and Vary the Board's Decision in EB-2011-0182 of April 4, 2012.

1. The Vulnerable Energy Consumers Coalition (VECC) wishes to respond to the submissions of the Applicant, Midland Power Utility Corporation (Midland) with respect to the threshold question set out in Procedural Order No. 1 in the within proceeding. VECC apologizes for, and regrets the lateness of, its submission that was unfortunately due to inadvertence. VECC requests that its submission herein be considered as part of the record in the within proceeding. VECC also submits that any unfairness to the motion applicant Midland can be remedied by a small extension of time for Midland to file its response.
2. As a result of the lateness of its submission, VECC has been able to review the submission of the Board staff with respect to the threshold issue and the merits of the motion, and concurs with the analysis rebutting the errors of fact and law alleged by Midland in its threshold argument. However, VECC would wish to emphasize the following point.
3. Midland really seeks to recast the record of PILs recoveries and allowance as unfair, although it seems clear that the Board proceeded in a prudent fashion given the information it had before it to fashion just and reasonable rates. While knowledge gained in the passage of time and experience is useful for regulators on a prospective basis, it must play very little role in adjusting past decisions to meet discovered facts. VECC suggests that Midland has failed to meet the threshold test to allow its motion to proceed.
4. Accordingly, VECC requests that the Board decline to find that the within motion meets the threshold requirement to continue to the argument stage.

All of which is respectfully submitted this 28th day of May 2012.