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Michael Janigan  
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October 12, 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)**  
**Oshawa PUC Networks Inc. EB-2012-0157**  
**Final 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: Oshawa PUC Networks Inc.  
Philip Martin

**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 Oshawa PUC Networks Inc. for an order or orders approving or fixing just and reasonable distribution rates to be effective January 1, 2013.

**FINAL SUBMISSIONS**

**On Behalf of The**

**Vulnerable Energy Consumers Coalition (VECC)**

**October 11, 2012**

**Public Interest Advocacy Centre**

ONE Nicholas Street  
Suite 1204  
Ottawa, Ontario  
K1N 7B7

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(613) 562-4002 ext. 26

# **Vulnerable Energy Consumers Coalition (VECC)**

## **Final Argument**

### **1 The Application**

- 1.1 Oshawa PUC Networks Inc. (“Oshawa”, “the Applicant”, or “the Utility”) filed an application (“the Application”) with the Ontario Energy Board (“the Board” or “the OEB”), under section 78 of the *Ontario Energy Board Act, 1998* for electricity distribution rates effective January 1, 2013. The Application was filed in accordance with the OEB’s guidelines for 3<sup>rd</sup> Generation Incentive Regulation which provides for a mechanistic and formulaic adjustment to distribution rates between cost of service applications.
- 1.2 As part of its application, Oshawa included the recovery of the impact of lost revenues associated with various conservation and demand management (CDM) activities (i.e. an LRAM recovery). The following section sets out VECC’s final submissions regarding this aspect of the application.

### **2 Lost Revenue Adjustment Mechanism (LRAM) Recovery**

- 2.1 Oshawa currently has LRAM/SSM Recovery Rate Riders for the residential, GS<50 kW, GS 50 to 999 kW and Unmetered Scattered Load rate classes to recover revenue lost in 2010 from conservation programs implemented from 2006 to 2009.<sup>1</sup> These rate riders were part of the settlement agreement in Oshawa’s 2012 cost of service application (EB-2011-0073).
- 2.2 In this application, Oshawa seeks an LRAM claim of \$281,835.83 plus \$6,989.48 in carrying charges<sup>2</sup> and LRAM recovery rate riders to be effective for a one year period from January 1, 2013 through December 31, 2013 to recover revenue lost in 2010 from programs implemented in 2010, and persisting lost revenue in 2011 from programs implemented in 2006 to 2010.
- 2.3 Oshawa is not making an LRAM claim in this application for the 2011-2014 CDM programs.
- 2.4 Oshawa confirmed that only lost revenues for years not claimed previously have been included in this request.<sup>3</sup>
- 2.5 Oshawa confirmed all OPA program kWh savings used in the LRAM recovery calculations were taken from the “2006-2010 Final OPA CDM Results Oshawa

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<sup>1</sup> Board Staff IR#5(f)

<sup>2</sup> Board Staff IR#5 (h)

<sup>3</sup> Board Staff IR#5(c)

PUC Networks Inc. report issued by the OPA”.

- 2.6 Oshawa confirmed the input assumptions for Every Kilowatt Counts (EKC) have changed over the period 2006 to 2010 resulting in a change in lost revenue in this application of \$22,062.<sup>4</sup> Oshawa claims this amount is not significant enough to impact the residential LRAM rate rider in this claim. VECC submits as a matter of principle the LRAM amount in the final rate order should be adjusted to reflect this change on lost revenue.
- 2.7 In response to VECC Interrogatory #5(c), Oshawa adjusted the Third Tranche LRAM claim to reflect a measure that has expired (Christmas Light Retrofit 2006 program) resulting in a lost revenue impact of \$146.11. Oshawa proposes to not make an adjustment to its claim as the change does not impact the rate rider. Again, VECC submits as a matter of principle the claim amount should be adjusted however, given the amount is immaterial, VECC agrees.

#### 2010 CDM Programs – Recovery of Lost Revenue in 2010

- 2.8 Oshawa indicates its 2012 cost of service rebasing application EB-2011-0073 was done prior to the final 2010 OPA CDM results for Oshawa becoming available. Oshawa further indicates that for the reasons presented in its 2012 rate application and its discussion during the Technical Conference (VECC Technical Conference Question 13), Oshawa has included its LRAM request for 2010 programs in 2010 in this 2013 IRM application.<sup>5</sup>
- 2.9 Section 3.4.2, Deadline for filing LRAM and SSM applications, of Chapter 3 of the Filing Requirements for Transmission and Distribution Applications dated June 22, 2011 states:
- “Distributors intending to file an LRAM or SSM application for CDM Programs funded through distribution rates, or an LRAM application for CDM Programs funded by the OPA between 2005 and 2010, shall do so as part of their 2012 rate application filings, either cost-of-service or IRM. If a distributor does not file for the recovery of LRAM or SSM amounts in its 2012 rate application, it will forego the opportunity to recover LRAM or SSM for this legacy period of CDM activity.
- 2.10 The recent Board Filing Requirements For Electricity Transmission and Distribution Applications revised on June 28, 2012 states on Page 38:
- “The Board expects LRAM claims for pre-2011 CDM activities to have been completed with the 2012 rate applications, outside of persisting historical CDM impacts realized after 2010 for those distributors whose load forecast has not

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<sup>4</sup> VECC IR#

<sup>5</sup> Application, Page 7

been updated as part of a cost of service application. SSM is not applicable for savings persisting from the legacy period.”

- 2.11 In Oshawa’s 2012 rate application (EB-2011-0073) at Exhibit 8, Page 13, Lines 9-10, Oshawa noted that “As the 2010 OPA final program results are not yet available, only the 2010 CDM savings from previously confirmed programs have been included.
- 2.12 In VECC Technical Conference Question #13 (Reference Exhibit 8, Pages 11-14 Tables 14 and 15 VECC IR #31 e), VECC asked when the OPA’s Final Results will be incorporated into the LRAM claim. Oshawa response on October 26, 2011 is that the OPA are unable to confirm when final results will be received and that Oshawa will complete the above requests promptly upon receipt.
- 2.13 Oshawa filed its proposed settlement agreement that included settlement on Oshawa’s LRAM rate riders with the Board December 5, 2012. VECC notes the OPA’s 2006-2010 OPA CDM results were available in mid to late November 2011 for most LDCs, leaving little time for Oshawa to adjust its claim.
- 2.14 VECC submits Oshawa’s request for the Board to approve lost revenues in 2010 from 2010 OPA CDM program results is appropriate as these savings occurred prior to the updated load forecast in the 2012 rebasing year, the revenues have not been claimed in previous applications, the calculation is appropriately based on Oshawa’s 2006-2010 OPA CDM Final results and Oshawa has provided a reasonable rationale as to why these savings were not claimed as part of its 2012 COS application.

#### 2006 to 2010 CDM Programs – Recovery of Persisting Lost Revenue in 2011

- 2.15 Historically, LRAM amounts were determined as set out in the Board’s Guidelines for Electricity Distributor Conservation and Demand Management, dated March 28, 2008 (EB-2008-0037). The 2008 CDM Guidelines directed distributors to calculate the energy savings by customer class and value those energy savings using the Distributor’s Board-approved variable distribution charge applicable to the customer rate class. The 2008 CDM Guidelines also noted that lost revenues are only accruable until new rates (based on a new revenue requirement and load forecast) are set by the Board, as the savings would be assumed to be incorporated in the load forecast at that time. Board Decisions in 2012 reflect this aspect of the Guideline unless there was explicit language within a distributor’s cost of service decision that CDM impacts were not included in the load forecast.
- 2.16 With the implementation of the CDM Code and OPA-Contracted Province-Wide CDM programs, and the inclusion by some distributors of a portion of their CDM target in their load forecast, the Board introduced a new set of LRAM principles that are built on the foundation of those developed in the 2008 CDM Guidelines.

The new LRAM principles are intended to keep distributors whole for the 2011-2014 CDM term.<sup>6</sup>

2.17 The new Board Guideline states

“If making an application for LRAM in association with CDM programs delivered before 2011, distributors should note that, as mentioned above, it is the Board’s expectation that these LRAM applications are only for persisting historical impacts realized after 2010. LRAM for these programs is determined by calculating the energy savings by customer class and valuing those energy savings using the distributor’s Board-approved variable distribution charge appropriate to the class. Distributors should include the kW and kWh impacts of each program and for each class, both gross and net of free riders. Distributors are also expected to file an independent third party review of the LRAM claim.”<sup>7</sup>

2.18 In this application, Oshawa’s LRAM claim includes lost revenue in 2011 from programs implemented from 2006 to 2010.

2.19 Oshawa’s rates were rebased in 2008 and 2012. Oshawa filed its 2008 Cost of Service application on October 4, 2007 and the Board’s Decision was issued March 19, 2008, prior to the Board’s March 28, 2008 CDM guideline. VECC submits Oshawa would not have predicted any savings from CDM programs to be included in the load forecast portion of its 2008 rebasing application. On this basis, VECC submits Oshawa’s historical persisting revenue from pre-2011 CDM programs are eligible for recovery post 2010 (in 2011) the IRM year prior to Oshawa’s 2012 rebasing year (where Oshawa’s load forecast was updated), provided the Board’s guidelines are met.

2.20 The Board’s June 28, 2012 Filing Requirements states in part on Page 38 that in support of its application for persisting lost revenues from pre-2011 CDM programs, Distributors must file the following:

“A statement indicating that the distributor has used the most recent input assumptions available at the time of the program evaluation when calculating its LRAM amount;

“A statement indicating that the distributor has relied on the most recent and appropriate final evaluation report from the OPA in support of its LRAM calculation;”

“A third party report that provides a review and verification of the LRAM

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<sup>6</sup> Guidelines for Electricity Distributor Conservation and Demand Management EB-2012-0003, April 26, 2012, Page 11

calculations, including:

- Confirmation of the use of correct input assumptions and LRAM calculation
- Verified participation amounts
- The net and gross kW and kWh impacts of each program and for each class, both gross and net of free riders, separated by year
- Verification of any carrying charges requested.

2.21 Oshawa indicates that assumptions concerning kWh savings and technology life for the 3<sup>rd</sup> tranche funded programs were those in the OPA 2011 Prescriptive Measures and Assumptions report dated March 2011 and the OPA 2011 Quasi-Prescriptive Measures and Assumptions report dated December 2010. Assumptions concerning kWh savings for OPA programs were those in the 2006-2010 Final OPA CDM Results for Oshawa PUC Networks Inc. report.

2.22 In response to VECC IR#2(e) regarding why Oshawa did not retain a 3<sup>rd</sup> party to verify its CDM results, Oshawa responded as follows:

“Oshawa is claiming LRAM principally for OPA programs and relies on the analyses, evaluations and assessments performed by the OPA. The non-OPA programs (3<sup>rd</sup> tranche) for which LRAM is being claimed are continuing from 2006 to 2007 and have previously been approved. In Oshawa’s opinion the amounts do not warrant another third party review.”

2.23 VECC submits that while the savings for pre-2011 CDM programs have been approved for previous years their persistence through to the end of 2011 has not been reviewed and confirmed. VECC submits that in the absence of OPA input assumptions and verified final results for 2011 and a verified 3<sup>rd</sup> party review, an LRAM claim in 2011 is premature and inappropriate and not in accordance with the Board’s Guidelines.

2.24 VECC submits that Oshawa is calculating estimated lost revenues for 2011 based on the OPA’s verified results available at the timing of this application (2006 to 2010), which do not reflect 2011 results. Accordingly, VECC does not support the approval of persisting revenues in 2011 for CDM Programs implemented in 2006 to 2010. VECC submits that the LRAM claim approved by the Board in this application should be adjusted to exclude the proposed lost revenue in 2011 for CDM programs implemented between 2006 and 2010, for the reasons noted above.

**3      Recovery of Reasonably Incurred Costs**

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

All of which is respectfully submitted this 11<sup>th</sup> day of October 2012.