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November 14, 2012

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2700
2300 Yonge Street
27th floor
Toronto, ON
M4P 1E4

VIA E-Mail and Mail

Dear Ms. Walli:

Re: Enbridge Gas Rates EB-2011-0354
Hearing Process Costs of Capital

I apologize for the delay in transmission of these submissions. I am at hearing in the Yukon where the internet service is occasionally problematic. VECC has the following submissions to make with respect to the process to be followed at the upcoming hearing following the experts conference and the filing of the joint written statement (JWS):

1. In response to the request for submissions concerning the process requested in Procedural Order 5 herein, we have decided to confine our comments to the conduct of the within proceeding rather than make generic observations on the experts conference process;
2. Counsel for VECC was a full participant in the process that resulted in the filing of the JWS. In VECC's view, the parties to the JWS process used their best efforts to produce a document that might be useful to the Board in adjudicating the issues concerned with the cost of capital of EGDI.
3. While the process was not acrimonious, it was time consuming, and the JWS has been carefully drafted to outline agreements and disagreements on a variety of discussion points not all of which may be relevant, but each point has at a minimum been raised in the evidence of one or both of the experts.
4. While the contents of the JWS perhaps extends the ambit of the expert role too far in the resolution of issues, they do provide the kind of clarity and identification of differences that the Board was likely seeking when it initiated the process.

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5. In VECC's view the JWS obviates the necessity of empanelling the experts together which enables the Board to put aside for now the difficult questions associated with how the experts are cross-examined and the participation of counsel in examining witnesses in chief and by way of cross-examination.

6. VECC makes this suggestion knowing that the experts involved are highly experienced witnesses who are frankly unlikely to expand on their expert opinion in a way that is different than that revealed by ordinary cross-examination.

7. VECC has been appraised of the position of counsel for the co-sponsors of Dr. Booth's evidence and agree there are serious concerns about the possibility of the experts conference procedure, conceived as a useful fact finding aid, becoming a wild card capable of producing an outcome that is not equitable.

8. In summary, VECC believes that the introduction of the JWS into this proceeding will accomplish most of the goals intended for the experts conference without the necessity of their appearance as a joint panel at the hearing.

Thank you.

Yours truly,



Michael Janigan
Counsel for VECC

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