



PUBLIC INTEREST ADVOCACY CENTRE

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May 22, 2014

VIA 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: EB-2014-0155 Kitchener Wilmot Hydro Inc.
Submission of the Vulnerable Energy Consumers Coalition (VECC)**

As per Procedural Order No. 1, we have attached the Submissions of the Vulnerable Energy Consumers Coalition (VECC).

Thank you.

Yours truly,

Michael Janigan
Counsel for VECC

cc: Kitchener-Wilmot – Margaret Nanninga – mnanninga@kwhydro.on.ca
SEC – Mark Rubenstein – via email

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

AND IN THE MATTER OF an Application by Kitchener-
Wilmot Hydro Inc. for an Order or Orders approving just and
reasonable rates and other service charges for the distribution
of electricity to be effective as of January 1, 2014.

AND IN THE MATTER OF Rule 40 of the *Rules of Practice
and Procedure* of the Ontario Energy Board.

SUBMISSIONS OF THE
VULNERABLE ENERGY CONSUMERS COALITION (VECC)

MAY 22, 2014

Michael Janigan

Counsel for VECC

Introduction

1. School Energy Coalition (SEC) has made a motion to review and vary the decision of the Board of March 20, 2014 in EB 2013-0147 with respect to the setting of the Working Capital Allowance (WCA) for the purpose of the making of rates therein. The motion seeks either a setting of the WCA with reference to the evidence on the record of the hearing of the proceeding on January 9, 2014 or a return of the issue to the hearing panel of the EB 2013-0147 Decision.
2. VECC participated in the EB 2013-0147 proceeding and made representations therein as to the necessity of the Board setting a WCA rate that reflected the experience of LDCs to date and the difference in the lower requirements for an LDC that bills monthly rather than bi-monthly. VECC supports the SEC Notice of Motion and the relief sought.

Background of Appeal – Key Facts

3. In VECC's view, the key facts in support of the appeal are as follows:
 - (a) Evidence established that the 2013 Filing Guidelines amended by the Board's letter of April 12, 2012 (Appendix A) set out that a distributor had two approaches to calculating the WCA. It could file a lead-lag study or use the default value of 13%. A distributor who had had been directed by the Board to carry out a lead-lag study or had voluntarily carried out a lead-lag study was not allowed to use the default percentage;
 - (b) Evidence established that the WCA default value of 13% was based on results from electric LDCs that billed bi monthly (Tr. Vol. 1, p.58,59);

- (c) Evidence established that electric LDCs that billed monthly had lower WCA requirements (Tr.Vol1pp 61,62) ;
- (d) Evidence established that the Applicant was moving to implement monthly customer billing , a development that meant a cost of moving residential, GS<50 and MicroFit customers to monthly billing of about \$500,000 added to revenue requirement (page 15 of the Decision and Order);
- (e) The obligation of the Applicant to perform a lead-lag study was disputed by the Applicant KWHI, and resolved by the hearing panel in favour of the Applicant:
- (f) In so doing the hearing panel noted on page 9 :

“On the matter of whether KWHI responded to all relevant Board directions from previous proceedings, the Board accepts KWHI’s interpretation of the Board’s April 12, 2012 letter as being reasonable and therefore does not find that KWHI was required to perform and file a lead-lag study in support of this Application. Based on the finding above, and in recognition of section 2.5.1.3 of the *Filing Requirements for Electricity Distribution Rate Applications*, which establishes the Board’s expectation with respect to the WCA and allows for the default 13% approach in the absence of previous direction by the Board to undertake a lead/lag study; the Board does not find it necessary to consider whether any WCA other than the default 13% used by KWHI is more appropriate in this Application.”

Application of Law to the Facts

4. VECC repeats and adopts the submissions of SEC in relation to the error of law that provides the basis for both the motion exceeding the threshold test for consideration herein and for the granting of the relief sought by the motion.
5. The Guidelines referenced above provide a useful regulatory tool for resolving issues where the factual position of any applicant LDC lines up with the position of the LDC as envisioned by the Guidelines.
6. The Guidelines, as modified by the April 12, 2012, do not replace the normal hearing responsibilities of the Board to propose just and reasonable rates and cannot modify or abrogate the operative legislation pursuant to which this decision was taken.
7. The Board hearing panel clearly believed that the only relevant evidentiary issue to be decided was whether there was an obligation on the part of KWHI to perform a lead-lag study.
8. The Board hearing panel chose not to deal with the evidence as to the unsuitability of the use of the default value in the Guidelines for a monthly billing LDC. It chose to automatically apply the default WCA value. It abjured its responsibility to derive just and reasonable rates given the willingness to add the costs of the change to monthly billing to the bills of KWHI's ratepayers without ensuring the benefits of the change were also available to ratepayers.

9. Given the rather exact description of the sequence of how the hearing panel chose to use the default WCA and the lack of any panel consideration of the evidence of the effect of the change to monthly billing on WCA requirements, it appears that indeed an error of law occurred that requires consideration of the relevant evidence either on appeal or by returning the same to the hearing panel to set the rate based on the evidence.

Relief Sought

10. VECC submits that the Board should grant the relief sought by SEC in its motion.
11. VECC requests 100% of its costs associated with its participation in this matter.

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