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FROM: Donna Brady

DATE: November 3, 2014

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Attention	Company	Fax Number
Board Secretary	OEB	416-440-7656

COMMENTS:

We have attached the Final Submission on behalf of the Vulnerable Energy Consumers Coalition (VECC) re: EB 2014-0083 Hydro ONE Brampton.

Thank you.

Donna.
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November 3, 2014

VIA E-MAIL and FAX

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

Dear Ms. Walli:

Re: **EB-2014-0083 - Hydro One Brampton Network Inc.**
2015 Electricity Distribution Rate Application
Final Submissions: Vulnerable Energy Consumers Coalition (VECC)

Please find enclosed the submissions of the Vulnerable Energy Consumers Coalition (VECC) in the above noted proceeding.

Yours truly,

Michael Janigan
Counsel for VECC

cc: Mr. Scott Miller, Hydro One Brampton Inc.
smiller@hydroonebrampton.com
Mr. Michael Engelberg, counsel
mengelberg@HydroOne.com

EB-2014-0083

ONTARIO ENERGY BOARD

IN THE MATTER OF the ***Ontario Energy Board Act, 1998***, **S.O. 1998, c. 15, Sch. B, as amended;**

AND IN THE MATTER OF an Application by Hydro One Brampton Networks Inc. pursuant to section 78 of the *Ontario Energy Board Act* for an Order or Orders approving just and reasonable rates for electricity distribution to be effective January 1, 2015.

FINAL SUBMISSIONS

ON BEHALF OF THE

VULNERABLE ENERGY CONSUMERS COALITION (VECC)

November 3, 2014

Michael Janigan
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Vulnerable Energy Consumers Coalition (VECC)
Final Argument
Hydro One Brampton Networks Inc. EB-2014-0083

1 Introduction

1.1 Hydro One Brampton Network ("HOBNI") filed an application (the "Application") with the Board on April 23, 2014. A Settlement Conference took place on September 15 and 16, 2014. All issues were settled with the exception of three matters:

- The appropriate percentage to be used to calculate the HOBNI's Working Capital Allowance;
- The determination of the correct amount for disposition in Account 1576 and the appropriate disposition period; and
- The load forecast methodology pertaining to weather normalization.

1.2 A hearing on the outstanding issues began on October 22 and concluded on October 24, 2014.

1.3 This argument is organized to answer the three unsettled questions.

2 The appropriate percentage to be used to calculate the HOBNI's Working Capital Allowance

2.1 The Parties were not able to reach a complete settlement on the appropriate percentage of controllable operating and maintenance expenses that should be used for the purpose of calculating the notional amount of working capital to be included in rates. HOBNI proposes to uses 13%. It provided no evidence in support of that figure.

2.2 Instead the Applicant relies upon the Board's filing guidelines. In 2012 the Board adjusted section 2.5.1.4 of the Filing Requirements for Transmission and wrote distributors stating:

> The Board has reviewed the approaches to the calculation of WCA and will not require distributors to file lead/lag studies for 2013 rates, unless they are required to do so as a result of a previous Board decision. However, the Board has reviewed the results of lead/lag studies filed by distributors in cost of service applications and in each of those cases both the applied-for WCA and the final Board-approved WCA have been lower than 15%. The Board has determined that it is not appropriate for a default value for WCA to be set at a higher level than those resulting from lead/lag studies. Based on the results of WCA studies filed with the Board in the past few years, the Board has determined that the default value going forward will be 13% of the sum of cost of power and controllable expenses. This default value will be applicable to 2013 rate applications and beyond. Distributors still have the option of completing and filing a lead/lag study as part of a cost of service rate application for determination by the Board.[1]

2.3 No evidence was presented or tested by the Applicant, Board Staff, or any other party in this proceeding to support the derivation of the 13% rate as it might apply to HOBNI. VECC is unaware of any Board public proceeding in which evidence was offered to establish the percentage to be applied as a default. What is known is that the default value was based on applying the result of lead-lag studies of other utilities completed a number of years ago and prior to April 12, 2012 (the date of the Board's letter). In fact, because its derivation is opaque, if not obscure, all parties, including we respectfully submit, this panel of the Board, can only speculate as to its veracity or the applicability of 13% to the circumstances in this case.

2.4 What was presented by the parties, including the Applicant were the outcomes of post 2011 lead-lag studies prepared for applications which either have been adjudicated by the Board or are in the process of adjudication. These studies demonstrate 13% is much too high a figure for a monthly billing utility. There are no studies that have been produced in Board proceedings for monthly billers that have demonstrated a similar value:

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[1] Board Letter April 12, 2012, "Update to Chapter 2 of the Filing Requirements.."

MR. VILLETT: But we have settled the OM&A matter.
MR. JANIGAN: Okay. Can you point out to me in your exhibit any utility that bills customers monthly that has done a lead/lag study that shows it needs 13 percent or higher working capital allowance?
MR. VILLETT: There are no utilities on that particular table that bill monthly with a working capital above 13 percent [2]

2.5 No evidence was led by any party as to why the 13% is a more applicable proxy for HOBNI than the more recent 7.40% which was derived by its sister company, Hydro One Networks Inc., a utility which does not bill all of its customers monthly.

2.6 For each 100 basis point change in the applicable percentage HOBNI's revenue requirement is adjusted by $435,000.[3] The lowest percentage calculated with a lead-lag study is that of HOBNI's affiliated company Hydro One Networks Inc. That study provided a working capital allowance of 7.40%. The 560 basis point difference means HOBNI's ratepayers are paying as much as an additional $2,436,000. In our submission it is unjust and unreasonable to extract this money from low income and other vulnerable electricity consumers in Ontario.

What are HOBNI's Working Capital Requirements?

2.7 Two recent occurrences lower HOBNI's need for working capital. First, the Utility is a monthly biller. Monthly billing has a clear an unequivocal impact on working capital needs by reducing service lag to 15.21 days from the 30 plus days of a bimonthly utility biller. Second, HOBNI recently changed its policy of collecting accounts after 60 days rather than 90 days in arrears. Again this policy has the result of reducing working capital needs.

2.8 Strictly speaking working capital is defined as the difference between a firm's current assets and its current liabilities. In more general terms, it is a supply of funds to meet current expenses such as payroll, prudently held inventories, debt

[2] Vol. 1, p.48
[3] Vol. 1, pg. 46

management or short term financing and to meet the cost of emergencies. In rate regulation the purpose of a working capital allowance is to compensate investors for use of the funds which they must provide for these day-to-day operations. Ratepayers cannot be obligated to pay a return on an amount that is any more than is necessary to meet the essential short-term requirements of the utility.

2.9 When speaking about the disposition of IFRS PP&E adjustment Mr. Gapic made this statement "[F]ive *years was selected as in part due to the availability of the working capital -- weighted average cost of capital being returned to the company as well.*"[4] Again when asked how a lower working capital allowance would impact the Utility, HOBNI replied "*And we would have to go back and take a look at how that impacts our overall business plan and budgets. And it could mean scaling back on some of the work or programs that we have to do*"[5]. These statements demonstrate either a misunderstanding of the proper role of the working capital allowance or an obfuscation of the inappropriate role it is playing in HOBNI's budgeting process.

2.10 While working capital is not the same as cash flow the two are interrelated. The evidence is that HOBNI does an analysis of its cash flow requirements. The facts are that no evidence has been presented which suggests HOBNI does not have a sufficient cash flow[6].

2.11 HOBNI implies a need for higher working capital in the initial years in order to compensate for an expected increase in the cost of power in the latter years of the rate plan.[7] Even if one accepts the untested and uncorroborated premise that the cost of power will increase (as opposed to decrease) this position admits that the working capital allowance in the initial years is higher than required.

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[4] Volume 1, page 17.
[5] Volume 1, pg.70
[6] See Volume 1, pages 69-74 (SEC)
[7] Volume 1, pg. 37

2.12 In examination in-chief, HOBNI was asked as to its understanding of its actual working capital requirements. The response is revealing: "*Hydro One Brampton has followed the OEB's filing guidelines and elected to use the 13 percent allowance approach. And we did not complete a lead/lag study. Therefore we don't know what our working capital would be under a lead/lag study approach.*" Of course, what HOBNI does know is that the 13% is more than sufficient. Otherwise it would have undertaken a lead-lag study. To do otherwise would be imprudent.

2.1 HOBNI testified that they did not know how the 13% was calculated. Given this fact, and even though it has done no lead-lad study, it apparently is confident that 13% is sufficient. Why? The fact is that it is not difficult to undertake a lead-lag study. It would be, we submit, imprudent for a utility not to understand actually working capital needs. Clearly those utilities <u>more</u> than sufficiently compensated under the current policy have the incentive not undertake a lead-lag study.

Status of the Current Policy

2.2 The Board has stated in some decisions that it is not appropriate to impose a working capital allowance percentage on a utility based on lead-lag studies of other utilities. In the recent case of Fort Frances Power Corporation (EB-2013-0130) it said this: "[T]he *Board does not consider it appropriate to adopt the results of a lead-lag study from another utility without a thorough analysis concluding that the two utilities are comparable.*" Of course, this is precisely how the Board's policy of a blanket 13% was established. The only difference is that it applies the pre-2012 lead lag studies of other utilities to HOBNI. The default override does not require the inquiry as to the applicability of unspecified studies which it has somehow used to derive 13% are applicable to HOBNI.

2.3 With respect, VECC submits that the marshalling of evidence to show that the application of the use of a default value in regulatory applications is incorrect.

Intervenors should not have to meet a higher standard of proof that existed for the establishment of the challenged default value. The object is to get it right, not to mechanically apply a formula which is being winnowed down by updated studies and utility settlement agreements.

2.4 In this proceeding the results of more recent lead-lag studies presented in Board proceedings were discussed. As set out in Energy Probe's letter presented in the course of these proceedings, monthly billing utilities have a working capital need in the range of 9.6% to 6.95%[8]. There appears to be methodological concerns expressed by Navigant the chief producer of these studies for utilities, about the earlier studies that gave rise to the default value. These concerns revolve around the use of customer rather than revenue weightings. VECC notes that requiring in effect, a lead-lag study of a utility to challenge the default value puts ratepayers in Catch 22 position. Ratepayers can't challenge the default value without a lead-lag study, but to even require the regulated utility to produce a lead lag study they need evidence that the default value overstate the working capital demands.

Summary

2.5 VECC notes that the principal task of the Board is to fashion just and reasonable rates. "*Fairness to the ratepayer lies in limiting the rates to that amount which is 'sufficient, but no more than clearly sufficient, to cover total cost actually and prudently incurred.*" J. Bonbright, Principles of Public Utility Rates 240 (1961)".[9]

2.6 In VECC's view the working capital percentage is too high at 13%. The fact that it will be studied in the future does not change the unreasonableness of rates fashioned today. Each 100 basis points cost ratepayers $435,000. How much lower should it be? This VECC submits it is within the ambit of the panel to

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[8] See K1.4 Energy Probe Compendium, page 2 of 233

[9] 1.1 ." J. Bonbright, Principles of Public Utility Rates p. 240 (1961)".as approved in 1.1 *Puerto Rico Maritime Shipping Authority v. Federal Maritime Commission*, 220 U.S. App. D.C. 13 (1982).

consider this question in light of what has been shown in this proceeding. Even if the Board were to err on the side of caution, in our submission it should be no higher than 10%.

2.7 If the Board does not adjust the working capital, it should order that HOBNI have undertaken by a third party a working capital allowance study within the next 12 months and to be applied to no later than January 1, 2016. The results of such a study should be open to the scrutiny of a public proceeding.

3 Determination of the correct amount for disposition in Account 1576 and the appropriate disposition period;

Table 1: 1576 - Accounting Changes under CGAAP

Components:	2013 (Actual)	Forecast 2014 (Bridge)	Cumulative 2014
Depreciation Expense variance	(173,658)	(173,658)	(347,316)
Disallowable capital variance	1,789,454	1,585,573	3,375,027
Loss on early retirement	1,143,080	739,671	1,882,751
Inventory loss recoveries	(74,899)		(74,899)
TOTAL	**2,683,976**	**2,151,586**	**4,835,562**

From Exhibit 9, Tab 4, Schedule 1, pg.3

3.1 The total proposed to be dispersed out of account 1576 is $6,622,303. This is $4,835,562 plus 5 years of return totaling $1,786,740 (pg. 10 +11). The proposed disposition period is 5 years. These numbers will change when the cost of capital changes. Unlike most utilities moving to IFRS HOBNI is proposing to collect monies from its customers.

3.2 If the Utility were to recover the amounts over a three year rather than the proposed five year period the amount to recover would be $5,907,606.[10] In VECC's submission the savings to customers of $714,697 is material.

[10] Undertaking J1.1

3.3 The evidence shows that there is no material bill impact from a shorter recovery period. In the original application to total bill impact for a customer consuming 800 kWh/month varied from 1.80% to 1.88%.[11] As part of the Settlement Agreement this number was reduced to 1.74%.[12] The impact presented at the hearing for a three year period is 1.88%. That is the total rate impact over a three year period is precisely the same as the rate impact initially proposed by the Applicant using a 5 year period.

3.4 In VECC's submission there is no compelling reason not to save ratepayers approximately $715,000 by shortening the disposition period for account 1576.

4 Load Forecast methodology pertaining to weather normalization.

4.1 In its Application HOBNI calculated its weather normalized load forecast using HDD and CDD values that were based on monthly averages for a 10-year period (i.e., January 2004 to December 2013)[13].

4.2 In its initial Application, HOBNI's rationale for doing so was that the average temperature during the summer and winter months is increasing and, therefore, a 10-year average better reflects the current trend in weather patterns than a 20 year average. HOBNI also noted that 10 years is consistent with submissions by other LDCs to the Board[14].

4.3 During the Oral Proceeding[15], HOBNI offered the following reasons for using the 10-year average:

- Matched the period for which historical data was used to develop the load forecast; consistent with the practice used by most other Ontario LDCs;

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[11] Exhibit 1, Tab 9, Schedule 2, page (1.80%)/Appendix 2-W HOBNI_IRR_2015_Chapter 2_W_20140813 (1.88%)
[12] Settlement Agreement Appendix B Update Chapter 2 Appendices.
[13] Exhibit 3, Tab 1, Schedule 1 ,page 7
[14] Exhibit 3, Tab 1, schedule 1, page 8
[15] Volume 1, pages 28-32

- Provided the impact of using a 20-year average and the difference was immaterial;

- Use of average versus trend consistent with practice elsewhere in North America;

- Decline in use of 30-year average as opposed to 10-year average;10-year average more closely approximates actual weather for 2014 than the 20-year trend.

VECC Submissions

4.4 VECC notes that HOBNI's previous cost of service application (EB-2010-0132) for 2011 rates was based on a load forecast using a 30-year average for weather normalization[16]. In its Decision regarding HOBNI's 2011 rates the Board explicitly dealt with the issue of weather normalization and submissions by other parties that a different weather normalization approach be used. What is particularly of note regarding the Decision is that Energy Probe had argued that a shorter period would more accurately reflect recent weather trends but that the Board accepted HOBNI's proposal on the grounds that the impact of the change recommended by Energy Probe was not material[17]:

> "that the change relating to the conversion to kWs and weather normalization that Energy Probe has proposed is not material. The Board therefore accepts the Applicant's proposal."

4.5 HOBNI has provided no evidence as to the impact of using a 30-year average versus a 10-year average definition of "weather normal". However, the evidence in this proceeding does indicate that the impact of using a either a 20 average[18] or 20 year trend[19] to calculated weather normal is less than HOBNI's

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[16] EB-2010-0132, Exhibit 3, Tab 2, Schedule 2, page 3
[17] EB-2010-0132 Decision, Page 9
[18] Energy Probe #15 b)
[19] Energy Probe 56TC

materiality threshold[20].

4.6 VECC submits that accepting HOBNI's proposal to use a 10-year average definition for "weather normal", particularly on the grounds of "materiality" (vis-à-vis the impacts of other approaches) would effectively create a double standard since it would result in:

- HOBNI (and by precedent other LDCs) being permitted by the Board to make changes from past practice and in this case "approved" practice without challenge on grounds that the impacts are immaterial, whereby;
- Other parties' arguments for change (as in the case of EB-2010-0132) are rejected on the grounds of that the impacts are not material.

4.7 VECC submits that, based on the application of HOBNI's materiality threshold, the Board should find that there is no justification for HOBNI's to change from the use of a 30-year[21] average to a 10-year average for purposes of weather normalization. Given this conclusion and the Board Panel's comments at the commencement of the oral proceeding[22], VECC does not propose to address the specific reasons offered by HOBNI. However, VECC is prepared to do so if the Board decides that the materiality threshold is not a determinative factor.

5 Costs

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

5.2 All of which is respectfully submitted this 3rd day of November 2014.

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[20] Exhibit 1, Tab 8, Schedule 1, page 1
[21] VECC notes that the additional historical data required to calculate the 30-year average can be found in the load forecast evidence filed by HOBNI in EB-2010-0132.
[22] Volume 1, page 3