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FROM: Donna Brady

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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 2014-0055.

Thank you.

Donna.
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November 3, 2014

VIA Email 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-2014-0055 - Algoma Power 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. Douglas R. Bradbury, Director Regulatory Affairs
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EB-2014-0055

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 Algoma Power 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

Algoma Power Inc. EB-2014-0055

1 Introduction

1.1 Algoma Power Inc. ("API") filed an application (the "Application") with the Board on May 12, 2014. A Settlement Conference took place on September 8, 9, 2014. All issues were settled with the exception of three issues:

- Is the Applicant's proposal to seek recovery of the RRRP funding variance from the 2002 to 2007 period appropriate?
- Are the proposed revenue-to-cost ratios appropriate?
- Are the proposed fixed/variable splits appropriate?

1.2 On October 16, 2014 the Board issued Procedural Order No.3 which set API's rates interim as of January 1, 2015. The Board reserved its decision with respect to the Settlement Agreement.

1.3 This argument is organized by response to the unsettled questions.

2 Is the applicant's proposal to seek recovery of the RRRP funding variance from the 2002 to 2007 period appropriate?

2.1 From 2003 to 2007 Hydro One Networks Inc. ("Hydro One") made Rural or Remote Electricity Rate Protection ("RRRP") payments of \$194,484 monthly to API's predecessor Great Lakes Power Limited ("GLPL/API") for a total annual payment of \$2,333,808. The annual payment was in accordance with directions of the Board. The amount was to be credited to API's eligible customers. The credit took the form of a pro-rated monthly credit of \$28.50 per residential customer.

- 2.2 API is seeking to recover an amount of \$173,534 via the RRRP fund administered by Hydro One Networks Inc. ("Hydro One"). API explained that the variance arises from two occurrences during the period in question. These were:

Days Pro-rated Variance

This is the difference between the monthly amount calculated to be credited to customers of \$28.50 as based on a 30 day month period and the amount actually credited which was prorated to account for the difference from 30 days of some months. This factor gives rise to a variance of \$188,001.

Customer Count Variance

The second variance arises from changes in the number of customers over the period. This difference results in a negative value of \$14,467.

Table 9.8.1.1 below summarizes the variances from the two sources¹:

		RRRP Payments			RRRP Credits	
	Days	from HONI	Days	# Cust	to Customers	Variance
2002	245	\$1,555,872	245	6,845	\$1,593,145	\$37,273
2003	365	\$2,333,808	365	6,866	\$2,380,612	\$46,804
2004	366	\$2,333,808	366	6,820	\$2,371,430	\$37,622
2005	365	\$2,333,808	365	6,789	\$2,354,144	\$20,336
2006	365	\$2,333,808	365	6,784	\$2,352,208	\$18,400
2007	243	\$1,555,872	243	6,797	\$1,568,972	\$13,100
		\$12,446,976			\$12,620,510	\$173,534

- 2.3 In VECC's submission API should not collect from the RRRP fund the amounts in question. The proposal fails for a number of reasons as set out below.

- 2.4 The RRRP amount to be credited to API's customers is set by the Board. The amount is received by Hydro One from IESO funds collected from all customers

¹ Exhibit 9, Tab 8, Schedule 1, pg.2

through the Wholesale Market Services Charge. Hydro One administers the global amount collected and distributes it to distributors named in Ontario Regulation 442/01("O Reg 442/01"). The amount set by the Board during the period in question for GLPL/API was \$2,333,808².

- 2.5 The Utility was only authorized to credit \$28.50. A fact confirmed by API's witness who stated that the amount of \$2,333,808 was derived by multiplying the number of customers by the credit amount used by Hydro One of 28.50³. At the time GLPL/API billed its customers on a bi-monthly basis. GLPL/API made an error in the amount it should have credited customers by using a prorated monthly credit which varied between \$29.45 and \$28.50 rather than a fixed monthly credit of \$28.50.

- 2.6 API explained:⁴

The variance recorded by API relates to a billing system allocation of the monthly \$28.50 credit per customer that existed for RRRP funding in that same time frame. The billing system located the monthly credit on a 30 day basis, which left the utility short since more funding was credited to the customer than what was received by API (or GLP at the time). Therefore, for a 31 day billing period the billing system would allocate a benefit of \$29.45 per customer ($31/30 * \$28.50 = \29.45). Over a year for 6,824 customers this is a shortfall of approximately \$30,000 per year.

- 2.7 It was not explained how the billing system pro-rated the credit for the month of February. Variances with respect to customer numbers were calculated based on the yearly average as opposed to the more accurate monthly average⁵. Customer numbers, which declined over the period, provide an offsetting credit to the amount requested.
- 2.8 In VECC's submission, the amounts sought are not accurately calculated because the yearly average under forecasts the decline in customer numbers as compared to a monthly basis calculation.

² See for example EB-2007-0744

³ Energy Probe Compendium, page 17, Hearing Vol. 1, pg. 13-14.

⁴ Exhibit 9, Tab 8, Schedule 1

⁵ Hearing Transcript, pages 85-86

- 2.9 The relief sought is *"confirmation from the Board to recover this compensation."*⁶ The conclusion that this is sufficient relief appears based on one e-mail from Hydro One stating *"We cannot change our payment to you from the RRRP without direction from the OEB. We have not received any direction about payments for the variance account balance"*⁷ The response indicates that Hydro One is under the impression that there exists an approved regulatory account for the purpose of tracking variances (as is the case for Hydro One). This, of course is not the case for API. Hydro One is not a party to this proceeding and therefore its views of the relief required as based on the facts presented in this proceeding are unknown.

No Deferral or Variance Accounts

- 2.10 API and its predecessors did not apply for the appropriate variance account(s). The Board has not now or in the past established a deferral/ variance account to record variances from either the change in customer numbers or any billing adjustments⁸. API and its predecessors are sufficiently sophisticated (or should be) to understand that the regulatory process requires a deferral or variance account(s) approved by the Board prior to or at the time of, the event if the related costs are to be recovered in future periods.

No retroactive rate making

- 2.11 In our submission, without the appropriate regulatory account in place at or prior to the event, the Board cannot, as a matter of law, order Hydro One or the IESO to make a payment for the past amounts claimed by API. Such a payment ultimately is funded by Ontario ratepayers who cannot be charged retroactively for the errors of this Utility. While as a practical matter the monies under dispute are unlikely to alter the Wholesale Market Service Charge, the principle remains the same. Customers, even those not served by API, cannot be charged prospectively for past errors or other matters without the requisite regulatory prior approval.

⁶ Hearing Transcript, page 11

⁷ Undertaking J1.5

⁸ Technical Conference, August 20, 2014, page 57

The matter has been dealt with

2.12 The matter was raised by the Applicant in EB-2009-0278. API does not explain how the matter was raised, but did state that the Board chose to remain silent on the issue⁹. The facts as presented by the Applicant are that the Board was aware of this issue. The Board was silent on the matter. API did not explain why it took no steps to seek clarification from the Board on the matter at the time of that Decision. Whatever the merits of API's case, it clearly slept on any right to exercise a remedy, and the Board would be justified in applying the doctrine of laches to dispense with the claim (see para 2.13, below). In any event, VECC submits that its opportunity to recoup these amounts expired as the end result of the EB-2009-0278 proceeding.

Too late

2.13 The period over which the variance occurred was 2003 to 2007. In the 11 years in which this matter has been outstanding there have been four different amendments to O Reg 442/01. As noted by API, since 2007 the problem has not occurred due to the fact that the subsidy is now calculated based on a difference in the revenue requirement. API is simply too late to be claiming for purported variance that occurred 7 years ago.

GLPL/API was not authorized to alter the credit amount of \$28.50 per month

2.14 It is clear that GLPL/API was not authorized to alter the credit amount of \$28.50 and notwithstanding its billing system. In our submission, GLP had an obligation to regularly true-up the variances in the monthly fixed credit such that bill pro-ration would not systematically over or under charge its customers. Clearly it did not do this.

2.15 Similarly, API and its predecessor were not authorized to deviate from applying fixed monthly charge. Under cross-examination, it became clear that the pro-ration billing error applies equally to the fixed monthly billing charge as it does to

⁹ Ibid page 58

the RRRP credit¹⁰. The fact that other utilities may or not apply the pro-ration does not necessarily mean they do not make the appropriate true-up. In any event, what other utilities might or might not do is irrelevant to this proceeding where the Board is capable of deriving the clear meaning from the Regulation and Board orders.

- 2.16 VECC supports the argument of Energy Probe that if the Board accepts API's argument with respect to the pro-ration of the credit, it must logically apply the same reasoning to the fixed monthly charge. We are in agreement with the argument that should API succeed in its attempt to recover the \$173,534 variance it must calculate and adjust for any over collection of the fixed charge during the same period. Energy Probe has suggested this amount to be in the order of \$280,000. In our submission, this is likely a conservative estimate. In addition, API should have to correct the annual customer numbers to reflect more accurate monthly averages.
- 2.17 For the reasons articulated above, VECC submits the Board should order API to eliminate the pro-ration of the monthly fixed charge in the 2015 rate schedule, or provide assurances and the methodology by which the pro-ration is trued-up on an annual basis.
- 2.18 The facts are that GLPL/API was authorized to credit its customers \$2,333,808 no more and no less. The facts are that GLPL erred when it translated this amount into a credit to customers on its bills. The facts are that the same error has been made applying the Board approved fixed distribution charge, but that the results are in the opposite—customers were overcharged. The result is that API's shareholders have likely gained more than they have lost due to the inaccuracy of the billing system in applying monthly fixed charges.

¹⁰ Hearing Transcript pages 53-54

3 Are the proposed revenue-to-cost ratios appropriate?

3.1 For its Application, Algoma Power used the Board's Cost Allocation Model, Version 3.1 and, per the Board's direction in EB-2010-0219, developed its own weighting factors for Services, Billing & Collecting, Metering Capital and Meter Reading¹¹. In addition, in the current Cost Allocation model, Algoma Power has input the necessary data to permit the model to determine customer density, an input that was overlooked in the previous cost of service review¹².

3.2 The resulting status quo ratios for the various customer classes are set out in Attachment B, Appendix 2-P of the Settlement Proposal and repeated below.

Class	Previously Approved Ratios	Status Quo Ratios	Proposed Ratios	Policy Range
	Most Recent Year: 2011	(7C + 7E) / (7A)	(7D + 7E) / (7A)	
	%	%	%	%
Residential - R1	114.10	111.63	111.63	85 - 115
Residential - R2	59.80	111.71	111.71	80 - 120
Seasonal	115.00	54.97	54.97	80 - 115
Street Lighting	43.00	25.04	25.04	70 - 120

3.3 Both Algoma's initial Application¹³ and its proposal as filed with the Settlement Proposal¹⁴ called for the revenue to cost ratios for all four customer classes to remain at their status quo values for the test year (2015) and for the IRM year

¹¹ Exhibit 7, Tab 1, Schedule 2, pages 1-3

¹² Exhibit 7, Tab 1, Schedule 2, page 7, line 22

¹³ Exhibit 7, Tab 1, Schedule 3, page 3

¹⁴ Settlement Proposal, Attachment B, Appendix 2-P, Part D

3.4 Algoma acknowledged that the proposal called for revenue to cost ratios outside the Board's policy ranges and offered the following reasons¹⁵:

- The large swings in the revenue to cost ratios from the previous cost of service filing¹⁶,
- The heavy emphasis that the Cost Allocation model, as applied to Algoma Power, places on density and customer count,
- The configuration of Algoma's system and the fact that, in several cases, its conductors could better be viewed as sub-transmission,
- The changing load profile for the Seasonal class as higher volume customers transfer to R1¹⁷,
- The lack of a Board approved revenue to cost ratio range for the Seasonal class,
- Concerns about the existing Seasonal rate levels and customer comparisons to R1 rates, and
- Bills impacts and customer ability to pay.

3.5 However, during the oral proceeding and in its Argument-in-Chief¹⁸, Algoma Power indicated that it was not proposing to maintain these ratios throughout the IRM period, but rather was requesting a "year's grace" so that it can improve the cost allocation as it applies to Algoma's circumstances over the coming year and return with a new proposal for revenue to cost ratios as part of its 2016 Rate Application¹⁹ which would see the revenue to cost ratios gradually move so as to be aligned with the Board's policy ranges²⁰. Algoma Power has further indicated that it is willing to involve both Board Staff and intervenor representatives in this review²¹.

VECC Submissions

3.6 VECC has a number of concerns with respect to Algoma Power's rationale for not making any changes in its revenue to cost ratios for 2015. First, with respect to the large swings in the revenue to cost ratios since the previous cost of service filing, Algoma Power has acknowledged that these are primarily due to an error in

¹⁵ Exhibit 7, Tab 1, Schedule 2, pages 6-11 and Staff #32

¹⁶ Volume 1, page 35

¹⁷ Volume #1, pages 127-128

¹⁸ Page 6

¹⁹ Volume #1, pages 37-38

²⁰ Volume #1, page 93

²¹ Argument-in-Chief, page 6

the previously filed cost allocation model which did not include the necessary density inputs²².

- 3.7 Second, with respect to the heavy emphasis the cost allocation model places on density and customer count, VECC considers such emphasis to be fully consistent with the fact that Algoma Power's eligibility for RRRP funding is predicated on its abnormally low density as compared to other Ontario distributors²³.
- 3.8 Third, with respect to the issue of classifying lines as primary or sub-transmission, Algoma Power acknowledges that this functional change can be accommodated in the current cost allocation model. However, Algoma appears to have only come to the realization that this may be applicable to its service territory after having prepared the current application, and finding that there was problem with the revenue to cost ratios for those customer classes who do not received RRRP funding²⁴.
- 3.9 Fourth, with respect to the load profile used for the Seasonal class, VECC notes that virtually all of the costs currently allocated to the Seasonal class are customer-related²⁵. As a result, altering the load profile for the Seasonal class is unlikely to have a material impact on the revenue to cost ratios for this class unless there is a significant reclassification of primary lines as sub-transmission
- 3.10 Fifth, with respect to the lack of an "approved" policy range for Seasonal revenue to cost ratios, VECC notes that Algoma Power also applied the R1 - Residential range to its Seasonal class in its previous cost of service application and made no proposal to change for purposes of the current application²⁶.
- 3.11 Sixth, with respect to bill comparisons between adjacent Seasonal and Residential customers, Algoma Power has agreed that the difference is primarily due to RRRP

²² Volume #1, pages 67-68

²³ Volume #1, page 70

²⁴ Volume #1, pages 69-70

²⁵ The Cost Allocation model filed with the Settlement Proposal show that out of \$3.7 M in total costs allocated to Seasonal (per Sheet 01) roughly \$3.6 M is customer-related (per Sheet 02, Scenario 3 - prior to the PLCC adjustment)

²⁶ Volume #1, page 72

funding being provided to R1 customers which is a matter of government policy and not cost allocation²⁷.

3.12 Finally, with respect to bill impacts and ability to pay, Algoma has acknowledged that ability to pay is not a governing principle in cost allocation as applied by the Board²⁸. Furthermore, while the bill impacts for Street Lighting are approaching the 10% level where bill impact mitigation becomes an issue the total bill impacts for the Seasonal class are estimated to be in the range of -0.33% to 1.63%²⁹, well below the 10% level.

3.13 VECC acknowledges that there may be improvements that could be made to the current cost allocation as it applies to Algoma Power. In this regard, VECC supports Algoma Power's proposal to undertake a review of its cost allocation and to file of the results with its 2016 rate application. However, in VECC's view this should not preclude minor adjustments in the revenue to cost ratios for 2015. Similarly, it should not preclude the Board establishing a preliminary pattern for future revenue to cost ratios during the IRM period subject to revision based on future filings by Algoma and Board decisions.

3.14 VECC notes that the issue with respect to revenue to cost ratios being outside the Board's policy ranges applies to the Seasonal and Street Lighting classes where the current status quo ratios are 54.97% and 25.04% respectively, well below the lower limit for each class' policy range (85% and 70% respectively). During the oral proceeding, Algoma Power raised the concern about rate volatility if the ratios for these classes were increased in 2015 such that the results of the cost allocation review triggered the need for a subsequent reduction in 2016³⁰. However, given the current status quo ratios, there is considerable scope for reductions in the cost to be allocated to each class before the status quo ratios achieve the lower end of the target range for each class let alone start to exceed 100%. In addition, Algoma Power in response to a direct question from the

²⁷ Volume #1, pages 73-74

²⁸ Volume #1, page 123

²⁹ Settlement Proposal, page 10

³⁰ Volume #1, pages 38-39

Presiding Member has acknowledged that it has no evidence that a movement towards the Board's policy band would be subsequently be reversed³¹.

3.15 In its oral proceeding undertaking responses, Algoma Power has noted that the revenue to cost ratio for Street Lighting can only increase from 25.04% to 25.34% before the 10% total bill impact is reached. In contrast, the revenue to cost ratio for Seasonal could increase from 54.97% to 60.21% before the 10% total bill impact is reached.

3.16 VECC submits that for 2015 the Board should direct Algoma Power to implement revenue to cost ratios for Street Lighting and Seasonal of 25.04% (i.e. status quo) and 60% respectively.

3.17 VECC is also concerned about the IRM period beyond 2015 and what will be the default if the Board does not provide direction at this time. During the oral proceeding Algoma Power indicated that if "all goes well"³² it would be back in 2016 with a new cost allocation proposal. However, it is VECC's view that the Board should make provision now for the possibility that this does not occur. As a result, VECC submits that the Board should direct Algoma Power to, in the absence of any further direction from the Board in future proceedings:

- Increase the revenue to cost ratio for Seasonal to 66%, 72%, 78% and 85% in each of the respective IRM years 2016-2019.
- Increase the revenue to cost ratio for Street Lighting in each year of the IRM period, subject to a 10% total bill impact (based on the 2015 test year filing).

Given that the status quo revenue to cost ratios for the R1 and R2 classes are virtually the same, any revenue surplus generated by these increases should be used to reduce revenue to cost ratios for the R1 and R2 classes to the same value.

³¹ Volume #1, pages 130-131

³² Volume #1, page 59

4 Are the proposed fixed/variable splits appropriate?

- 4.1 Algoma Power proposes to escalate the fixed and variable charges for the R1 class by the RRRP Adjustment Factor, thereby maintaining the current fixed-variable split³³. However, for each of the other customer classes, Algoma Power's proposal is slightly different.
- 4.2 For the R2 class, Algoma Power is proposing to hold the monthly service charge at \$596.12, the amount agreed to in the EB-2009-0278 Settlement Agreement³⁴ and maintained throughout the subsequent IRM period.
- 4.3 For the Seasonal class, Algoma Power is proposing to maintain the service charge at the 2014 approved amount of \$26.75. Similarly, for the Street Lighting class, Algoma Power is proposing to maintain the service charge at the approved 2014 level of \$0.98.

Fixed-Variable Split

- 4.4 Algoma claims that its rate design proposals are consistent with the approach used in the previous cost of service application (EB-2009-0278) and with the approach used throughout the intervening incentive rate-setting period³⁵.
- 4.5 VECC has no concerns regarding Algoma Power's rate design as proposed for the R1 and R2 customer classes. With respect to the R1 class, Algoma Power is maintaining the current fixed-variable split and the resulting service charge is well within the policy range established by the Board³⁶.
- 4.6 With respect to the R2 class, Algoma Power states that the intent of the EB-2009-0278 Settlement Agreement was to hold the service charge constant at the then approved rate of \$596.12. In the current Application, Algoma Power notes that it is simply maintaining this design philosophy. However, it is important to understand

³³ Argument-in-Chief, page 7

³⁴ Exhibit 8, Tab 2, Schedule 1, page 3

³⁵ Argument-in-Chief, page 7

³⁶ Exhibit K1.3, Tab 9

the context in which the \$596.12 service charge was agreed to. In the EB-2009-0278 Settlement Agreement³⁷ the related issue was worded as follows: "Should the fixed monthly charge for the Residential – R2 class of customers be moved to the minimum system with PLCC Adjustment?" At the time of the EB-2009-0278 Settlement the value for the Minimum System with PLCC Adjustment applicable to the R2 class was \$248.68 which would have meant a significant reduction in the monthly service charge. So the issue at the time was not whether the service charge should go higher, as suggested by Algoma Power³⁸, but rather should it be decreased.

- 4.7 In the current Settlement Agreement, the Minimum System with PLCC Adjustment applicable to the R2 class is \$344.53. As such, continuing to maintain the R2 service charge at \$596.12 is consistent with the previous Settlement Agreement and Board policy³⁹.
- 4.8 However, VECC does have issues with Algoma Power's proposals for its Seasonal and Street Lighting classes.
- 4.9 In the EB-2009-0278 Settlement Agreement the service charge for the Seasonal class was set at \$26.07 an increase from the then existing rate of \$24⁴⁰. During the subsequent IRM period this value was increased annually by the IRM adjustment factor reaching \$26.75 in 2014. As result, VECC does not agree that keeping the service charge at \$26.75 for 2015 is consistent with either the previous Settlement Agreement or the approach used during the intervening IRM years. Also, VECC notes that holding the service charge at \$26.75 and increasing the variable charge by 12%⁴¹ produces a result whereby low volume Seasonal customers actually see a total bill decrease while higher volume customers see a total bill increase⁴². VECC submits that for the Seasonal class the Board should

³⁷ Page 12

³⁸ Volume #1, page 78

³⁹ Application of Cost Allocation for Electricity Distributors (EB-2007-0667), November 2007, pages 12-13

⁴⁰ Exhibit K1.3, Tab 14

⁴¹ Volume #1, pages 81-82

⁴² Settlement Proposal, page 10

direct Algoma Power to maintain the current fixed-variable split in setting 2015 rates.

- 4.10 Similarly, for Street Lighting, the EB-2009-0278 Settlement Agreement called for in introduction of a \$0.96 service charge on the basis that this was the minimum value for the fixed charge as determined by the Cost Allocation's O2 Sheet⁴³. During the subsequent IRM period this value was increased annually based on the IRM adjustment factor reaching \$0.98 in 2014. VECC submits that the Board should direct Algoma Power to maintain the class' fixed-variable split for 2015 which would yield a similar result.

Algoma Power's Pro-Rated Service Charge

- 4.11 During the course of the proceeding it was revealed that Algoma Power actually bills its customers on the basis of a 30-day billing period (i.e. charges a daily service charge calculated by dividing the approved monthly charge by 30 days)⁴⁴. The result is that over the course of a year, customers are effectively charged more than 12 times the approved monthly service charge. Algoma Power claims that this is permissible because other utilities do it as well⁴⁵. VECC disagrees.
- 4.12 VECC submits that the Board should direct Algoma Power to correctly translate its monthly service charge into a daily rate by multiplying the approved monthly charge by 12 and then dividing by 365⁴⁶. Furthermore, VECC submits that the Board should investigate the practices of the other utilities noted by Algoma Power, and direct them to do the same for their 2015 rates. The Board should also consider, as a generic issue, whether utilities using such practices and, as a result, billing their customers more than the approved rates should be required to compensate their customers.

⁴³ Exhibit K1.3, Tab 14

⁴⁴ Volume #1, pages 54-55

⁴⁵ Volume #1, page 55

⁴⁶ Except in a leap year such as 2016 when the product would be divided by 366.

5 Conclusion

- 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.
