PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DEFENSE DE L'INTERET PUBLIC

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November 26, 2014

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)
Final Submissions: EB-2014-0073
Festival Hydro Inc.
2015 Electricity Distribution Rate Application

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: Festival – Debbie Reece
dreece@festivalhydro.com

EB-2014-0073

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 Festival Hydro 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 23, 2014

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

Festival Hydro Inc. EB-2014-0073

1 Introduction

1.1 Festival Hydro Inc. ("Festival") filed an application (the "Application") with the Board on April 25, 2014 for rates to be effective January 1, 2015. A Settlement Conference took place on September 29 and 20, 2014. All issues were settled with the exception of the following matters:

- The level of Festival Hydro's operations, maintenance and administration ("OM&A") expenses for 2015 to be factored into the 2015 revenue requirement and recovered in distribution rates;
- The proportion of Working Capital to be used to determine the Working Capital Allowance ("WCA");
- The value of the rate base, with the major issue being the inclusion, or not, of costs related to the new Transformer Station and a related by-pass agreement;
- The request for additional funding through an incremental capital module to recover additional costs related to a new Transformer Station ("TS"), including amounts related to depreciation treatment and the proposed establishment of a new deferral account to record incremental OM&A costs; and
- The proposed fixed-variable split for General Service Greater greater than 50kW class ("GS>50");

1.2 A hearing on the outstanding issues began on November 13 and concluded on November 14, 2014.

1.3 The updated revenue requirement request of Festival is set out below:

Particulars	Application	Interrogatory Responses
OM&A Expenses	$5,112,027	$5,139,182
Amortization/Depreciation	$2,522,288	$2,109,893
Property Taxes	$19,225	$19,223
Income Taxes (Grossed up)	$262,844	$173,291
Other Expenses	$13,000	$13,000
Return		
Deemed Interest Expense	$1,579,125	$1,545,250
Return on Deemed Equity	$2,362,501	$2,357,345
Service Revenue Requirement (before Revenues)	$11,871,010	$11,357,184
Revenue Offsets	$755,699	$755,699
Base Revenue Requirement	$11,115,311	$10,601,485
Distribution revenue	$11,115,311	$10,601,485
Other revenue	$755,699	$755,699
Total revenue		

1.4 Our argument is organized to answer the three unsettled questions?

- Is the average PP&E rate base for 2015 correctly stated?
- Is the working capital component of rate base correctly calculated?
- Is the requested level of OM&A sufficient or excessive?
- Is the treatment of the newly built transformer station correct?

1.5 VECC has had an opportunity to review the submissions of Energy Probe in this proceeding. While our arguments differ in their detail and some of our proposal for addressing issues differs we are in general agreement with those arguments. We are specifically support the detailed arguments of Energy Probe with respect to inappropriateness of applying 13% working capital percentage to this Utility.

RATE BASE

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. Festival proposes to uses 13%, but provided no evidence to support to use 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]

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

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 Festival Hydro. As such we can only speculate as to the whether the default value is coincident with the working capital requirements of Festival Hydro.

2.4 What was presented 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 show that 13% is in excess of a reasonable percentage requirement for a monthly billing utility. No studies that have been produced in any Board proceeding which shows that monthly billing utilities require such an amount.

2.5 There is expert opinion associated with the above referenced lead-lag studies that the studies upon which the 13% default value was based contained a flawed methodology by using customer rather than revenue weighting in the determination.

2.6 In VECC's submission, a Board-provided default value for an important regulatory finding should not prevail when it is outside a zone of reasonableness with material consequences. In the absence of evidence to the contrary, the default value applies. But where considerable doubt exists as to the veracity of the evidence used to determine the default value, the Board must apply the ordinary principles of reasonableness, allowing for a WCA percentage, sufficient but no more so, to meet the Company's requirement.

2.7 In their submission Board Staff quote the Board's decision from EB-2013-0147. "*The Board finds that using a consistent WCA default value in cases where lead/lag studies have not been conducted to be a better approach than attempting to use simplified methods to derive a utility-specific WCA value for each case from other lead/lag studies which may not reflect the unique circumstances of such utility*." Of course, the difficulty with this is that the default value is derived from lead/lag studies of which also certainly do not reflect the unique circumstances of Festival Hydro. It is difficult to understand why it is better to use old studies, using older data which includes bi-monthly billing utilities and is based on a faulty methodology than apply precisely the same approach using more recent studies which have addressed the methodological shortcomings and specifically address the difference between monthly and bi-monthly billing utilities. Where it is clear that there is something wrong with the default value, inexactitude associated with deriving the precise utility value should not prevent the Board from providing a more reasonable figure that does not unnecessarily burden ratepayers.

2.8 Board Staff's submissions on this matter appear to believe it is reasonable to continue to overcharge ratepayers for costs that Festival is not incurring. In fact, Festival has no understanding of its working capital requirement need[2].

2.9 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. In this proceeding the results of more recent lead-lag studies presented in Board proceedings were discussed.

2.10 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.[3]

2.11 In VECC's submission a working capital percentage of 13% far exceeds the reasonable need of Festival Hydro. Reducing this to 10% would save ratepayers $165,000 in costs annually. When asked by VECC as to impact on

[2] Vol.2, pg. 14
[3] 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).

of such a change Mr. Semsedini replied: "I *think it's outside of what the Board has identified as the number. I mean, realistically, numbers can be reduced to zero, and all that means is companies are going to have to find additional means of financing. That working capital allowance would increase costs in other areas. So within the model, the number is 13, and that's what we've used.*[4]"

3 2014 and 2014 Capital Additions/Capital Expenditures

3.1 As shown in the table below it is clear that Festival shows a record of underspending its capital budget[5].

Actual spend vs budget (per year and over system planning forecast)

Year		Budget	Actual		Spending overage
					to Budget
2009		$3,352,000	$3,823,284		14%
2010		$2,992,000	$2,989,043		0%
2011		$3,350,400	$3,010,362		-10%
2012		$3,370,800	$3,021,956		-10%
2013		$3,388,400	$2,953,866		-12%
Average		$3,290,720	$3,159,702		-4%

3.2 It is also clear from a review of the capital spending to date that Festival is likely to continue its pattern of overestimating its capital budget. Below is the capital spending as of the end of September 2014.[6]

[4] Vol. 2, pg. 20
[5] 2-Staff-13 (response 36)
[6] Abridged from J2.1

Appendix 2-AA Capital Projects Table			
Projects	**2014 Bridge Year**	**2014 Year to date**	**2015 Test Year**
System Access			
Capital Additions	200,000	62,610	204,000
New Upgraded Services	115,000	83,386	117,500
Project Total	**315,000**	**145,996**	**321,500**
General Plant			
Computer Equipment	290,000	160,295	245,000
Land and Buildings	80,000	8,966	90,000
Electric Vehicle			70,000
Miscellaneous	90,000	8,867	95,000
Project Total	**460,000**	**178,128**	**500,000**
System Renewal			
Transformers	$200,000	$130,797	$205,000
Distribution Meters	$190,000	$29,255	$175,000
Brunswick Street (Romeo to Queen)	$145,000	$190,958	
Mornington St. Rebuild (Delamere to Quinlan)	$255,000	$150,302	
Elgin St (Ontario to West End & Warner)	$130,000	$108,245	
Chuch St. N. & Egan St.	$110,000	$45,701	
CN Road, Princess St., Albert St.	$100,000	$92,887	
Dunedin Drive Rebuild (Turnberry to Burgess)	$65,000	$38,919	
M.S. #8 Ph 2	$180,000	$108,393	
M8 Feeder Rebuild (Ontario to Douro)			$125,000
Trinity Street (Brunswick to Regent)			$90,000
King Street (Albert to Douro)			$60,000
Elgin Street (Church to James)			$90,000
Jones Street (James to Church & Peel)			$60,000
John Street (High St to Sparling)			$75,000
Jarvis Street & Lloyd Eisler St.			$150,000
M.S. #9 Conversion Ph 1			$230,000
Miscellaneous	313,000	196,639	230,000
Project Total	1,688,000	1,092,096	1,490,000
System Service			
Switchgear Replacement	110,000		110,000
Line Re-insulation	150,000	85,811	150,000
Miscellaneous	50,000	21,121	50,000
Project Total	310,000	106,932	310,000
Total	**2,773,000**	**1,523,152**	**2,621,500**

3.3 This table shows that by the last quarter of 2014 Festival Hydro had spent just over half of its budget (55%). In response to questioning Mr. Semsedini indicated that they expected the budget to come in plus or minus 5%[7].

3.4 Festival's actual capital additions in 2010 were 6.5% lower than Board approved as shown in the table below[8].

Description	2010 Board Approved	2010 Actual	2011 Actual	2012 Actual	2013 Actual	2014 Bridge	2015 Test
Gross Fixed Distribution Assets	75,147,744	76,016,189	78,713,156	85,296,155	90,202,207	92,825,207	94,415,106
Accumulated Depreciation	- 42,856,088	- 43,943,624	- 46,584,221	- 49,899,308	- 51,982,714	- 53,883,694	- 41,002,344
TS NBV	-	-	-	-	15,283,645	14,946,801	-
Net Book Value	32,291,656	32,072,565	32,128,935	35,396,847	53,503,138	53,888,314	53,412,762
Average Net Book Value	32,291,656	32,134,062	32,100,750	33,762,891	44,449,993	53,695,726	53,650,538
Working Capital	52,239,484	51,550,386	56,638,330	60,406,497	67,121,958	70,345,773	72,695,856
Working Capital Rate %	15%	15%	15%	15%	15%	15%	13%
Working Capital Allowance	7,835,923	7,732,558	8,495,750	9,060,975	10,068,294	10,551,866	9,450,461
Rate Base	40,127,579	39,866,620	40,596,500	42,823,866	54,518,286	64,247,592	63,100,999

3.5 In VECC's submission the evidence suggest that the 2014 and 2015 capital additions should be reduced by 5%. This conclusion is based on current and past spending trends.

3.6 Specifically, Festival should remove the $70,000 for an electric vehicle and charging station. In VECC's submission, utilities are not in the business of "market growth" or social change. Their role is to deliver electricity safely, reliability and at the lowest cost possible. The only other explicit role they have been given is to advocate for power reduction and conservation. An electric vehicle demonstration project is about market transformation. That is not Festival's role nor should it be the ratepayers' burden to pay for provincial demonstration projects.

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

[7] Vol.2, pg. 13
[8] Exhibit 2, Tab 2, Schedule 1, page 1

4 OM&A

	Last Rebasing Year (2010 Board-Approved)	Last Rebasing Year (2010 Actuals)	2011 Actuals	2012 Actuals	2013 Draft Actuals	2014 Bridge Year	2015 Test Year *
Operations	$ 658,190	$ 574,450	$ 616,923	$ 660,638	$ 748,926	$ 783,503	$ 924,800
Maintenance	$ 787,807	$ 872,068	$ 922,897	$ 1,541,600	$ 1,279,121	$ 1,205,307	$ 1,217,987
Billing and Collecting	$ 1,005,013	$ 866,998	$ 936,527	$ 893,996	$ 1,210,565	$ 1,195,792	$ 1,212,817
Community Relations	$ 42,930	$ 16,223	$ 15,232	$ 11,931	$ 6,777	$ 10,965	$ 11,249
Administrative and General	$ 1,486,736	$ 1,710,120	$ 1,511,205	$ 1,631,338	$ 1,705,519	$ 1,820,837	$ 1,804,553
Total	**$ 3,980,676**	**$ 4,039,859**	**$ 4,002,784**	**$ 4,739,503**	**$ 4,950,908**	**$ 5,016,404**	**$ 5,171,406**
%Change (year over year)			-0.9%	18.4%	4.5%	1.3%	3.1%

Source: Appendix 2-JA Exhibit 4, Tab 2, Schedule 1.

*Includes $19,225 in property tax and $13,000 in "other expenses". Administrative & General category increase by $27,155 as per –OEB-Staff-39. No change is made for the proposed update of hearing costs of $17,000 change. % change of year adjusted.

4.1 For year on year comparability VECC has used the Appendix 2-JA exhibit. This differs from the OM&A numbers quoted by other parties by the inclusion of property tax and "other expenses" included in the Revenue Requirement Work Form.

4.2 The facts are that Festival's rates are among the highest of its peers and its returns consistently exceed the Board target. Festival is seeking a 29% increase in OM&A as compared to what the Board last approved. Some of that increase is due to customer growth, but it is clear as shown by the table below that Festival is not keeping costs in check.

4.3 The table below shows the scaled increase in the OM&A costs[9]

[9] Exhibit 4, Tab 2, Schedule 1, Attachment 3

	Last Rebasing Year - 2010- Board Approved	Last Rebasing Year - 2010- Actual	2011 Actuals	2012 Actuals	2013 Actuals	2014 Bridge Year	2015 Bridge Year
Reporting Basis	CGAAP	CGAAP	CGAAP	CGAAP	CGAAP	CGAAP	MIFRS
Number of Customers	19,828	19,647	19,832	20,069	20,210	20,381	20,554
Total Recoverable OM&A from Appendix 2-JB	$ 3,980,676	$ 4,039,859	$ 4,002,784	$ 4,739,503	$ 4,950,908	$ 5,016,404	$ 5,144,251
OM&A cost per customer	$ 200.76	$ 205.62	$ 201.83	$ 236.16	$ 244.97		$ 250.28
Number of FTEs	45	47	45	47	47	45	45
Customers/FTEs	441	418	441	427	430	453	457
OM&A Cost per FTE	$ 88,459.47	$ 85,954.45	$ 88,950.76	$ 100,840.50	$ 105,338.48	$ 111,475.65	$ 114,316.69

4.4 VECC's OM&A numbers do not include the November 10 "update" Festival filed to its Application which included an increase in regulatory costs. The update suggests an increase in 2015 regulatory costs from $103,100 to $120,200. The $17,000 annual increase was referred to by Mr. Stoll, counsel for Festival, referred to

> *The numbers from Festival had not included a provision for an oral hearing, and also during the technical conference there was a small discussion regarding the intervenor -- the projected intervenor cost, so I think there was -- that adjustment was captured as well in the update*[10].

4.5 VECC submits this is not an update. It was not a part of the Settlement Agreement. It is, in fact, an attempt, by the Applicant in the late stage of the proceeding to introduce new evidence and purported costs. It is untested and as a matter of fairness should be excluded from these proceedings. In any event, the Applicant's explanation that it had not contemplated technical conferences or hearings as part of its applications is either implausible or ill conceived. If they were not included then the Applicant presumed it would fully settle the case and took the risk that it would not. In any event, they are not updates in the true meaning of this word, any more than information that the Utility may have, but has chosen not to share, with respect to lower 2014 or 2015 costs than originally forecast.

[10] Vol. 1, pg.8

4.6 VECC often performs and “expected growth” analysis in order to determine the overall reasonableness of an Applicant’s OM&A proposal. We have presented a table showing the results of that analysis below.

Expected OM&A	Adjustment Factor	2010 BA	2010 Actuals
Starting Point		**3,980,676**	**4,039,859**
CPI Adjustment 2010-2014 (inclusive)*	8.60%	342,338	347,428
Smart Meter Adjustment**		136,000	136,000
Capitalization Adjustment***		148,417	148,417
Customer growth	5.30%	210,976	214,113
Transformer Station incremental costs		146,000	146,000
Adjustment for Growth & Incremental Costs		**4,964,407**	**5,031,817**
Stretch factor 0.20% x 3 + 0.45%	1.05%	41,797	42,419
Productivity Offset .72 x2	1.44%	57,322	58,174
Total Reductions		**99,119**	**100,592**
Expected OM&A		**4,865,288**	**4,931,225**
Applicant 2015 Proposed OM&A	**5,144,251**		
Resulting Reduction to Proposed		**278,963**	**213,026**

*2010 (2.35%)/ 2011(2.30%) 2012 (0.83%) 2013 (1.24%) (2014 TD – 1.88%) simple addition (not compounded) = 8.6% . Inflation from 4-VECC-26 ; 1-EP-3; 1-VECC-1

** Smart Meter incremental costs Vol. 2. Pg. 24.

*** IFRS-Capitalization Adjustment from Undertaking JT1.32

**** Stretch and Productivity factors in effect for 2011/2012 for 2013 stretch factor was 0.45 and no productivity factor was applied – from Notes to Financial Statements

4.7 Based on the expected increase in OM&A Festival should reduce its costs by between $279k and 213K. Even if the Board were to ignore the productivity savings that should occur during the IRM period, the Utility would still have OM&A costs 100K to 180K to high.

Specific Adjustment

4.8 In VECC's submission there is wide latitude for reductions in Festival's OM&A. We have outlined some below. These are not exhaustive, but examples of the ways Festival could reduce expenditures without affecting service.

4.9 EDA fees are $30,761. The EDA's role is, as noted by Festival, at least in part to lobby for the LDC corporation.[11] As such these are shareholder costs and in our submission, not eligible for recovery from the general body of ratepayers.

4.10 VECC also supports the submission of Energy Probe that OM&A cost could be reduced by $25,000 to reflect the increase related to billable work.[12]

4.11 In its last rebasing application, Festival Hydro was approved for a tree trimming budget of $170,517. During the intervening IRM period of 4 years, Festival Hydro's actual spending has not reached this approved budget. Festival Hydro is requesting an increase of 14% over 2013 actual costs of

[11] Vol. 2, pg.25
[12] Energy Probe Argument, pg. 14.

$142,753. Actual tree trimming costs to June 30, 2014 are $97,863. Festival also noted that in the previous winter ice-storm resulted in few tree-related problems.[13] In our submission Festival could reduce this budget by 25% without impact to its system and to make its budget in-line with its what is historically actually spends

4.12 Festival proposes to increase it spending on training, travel and conferences by 18% in 2015 as compared to 2011. A further $20,000 could be saved by keeping the budget at the 2011 levels.

	2011	2012	2013	2014	2015
Training for Operations & Maintenance Staff (labour)	31,309	54,596	58,296	59,753	61,247
Training for Executive & Other (labour)	25,041	18,794	15,746	16,140	16,559
Conferences (registrations all staff)	37,880	47,271	32,030	32,542	33,063
Travel (to and from conferences all staff)	20,904	35,678	23,996	24,380	24,770

4.13 Clearly compensation is the largest driver to increased costs. Festival like all other LDCs follows a circular path in granting increases based on the bargaining patterns of other Ontario LDCs. This has created a circular spiral in compensation costs. In 2010 Festival had approved for rates 45 employees at a cost of $3,557,575. In 2015 it forecasts that the same number of employees (in the same categories) will cost $4,487,474[14]. Meaning in 2010 the Board approved "average" employee cost was $79,057 whereas in 2014 the "average" employee cost had risen to $99,721 or by 26%. This is far in excess of inflation over the same period. In VECC's submission the Board has a key role in slowing the upward spiral in compensation costs by ensuring utilities have an incentive to reduce future costs. The only practical way for this to occur is for the Board to reduce the OM&A envelop and provide a message that it expects the utilities will lower the growth in labour costs.

[13] 4-Staff-26
[14] Exhibit 4, Tab 3, Schedule 2 Appendix 2-K

5 THE TRANSFORMER STATION

5.1 There are three issues with respect to the new transformer station:

- the prudence of bypassing Hydro One facilities at a cost of $1.2 million;
- the accounting treatment of the bypass agreement;
- true-up of the ICM rate rider for actual construction cost;
- recovery of the depreciation for 2014 and part of 2013; and
- recovery of OM&A costs beginning December 2013 and for the year of 2014.

The Bypass Agreement

5.2 In August of 2012 Festival filed an ICM application (EB-2012-0124) for the building of two transformers at a new station. In April of 2013 the Board approved the application. Subsequent to the approval Festival began discussions with Hydro One to move part of its load off existing Hydro One stations to its new station. This was done in part to improve reliability.[15] The primary reason for the change was the changes in the Festival's load forecast and load profile[16].

5.3 As a result Festival entered into a Permanent Bypass Compensation Agreement with Hydro One Networks Inc. ("Hydro One"). The agreement is in accordance with Section 6.7.7 of the Transmission System Code ("TSC") and allows bypass capacity from the existing Hydro One station at an estimate 20 MW for compensation in the amount of $1,230,026. Festival Hydro expects to make the payment in December 2014.

5.4 Through the permanent by-pass agreement, customers would receive an annual net benefit of $475,000 through a reduction of transmission connection charges. The estimate calculation assumptions for those savings are shown below:

[15] Technical Conference, pgs. 46-48
[16] Vol. 2 pgs. 43-44

- current Wholesale (2013) 1,042,640 kW @ $1.98 = $2,064,427,
- the Forecast Wholesale (2015) 802,640 kW @ $1.98 = $1,589,227
- reduction 240,000 kW = $ 475,200

5.5 Two questions arise from the fact that the Board has not approved the incremental cost of the bypass agreement. The first is whether the decision to bypass the existing transformation service is prudent. On the presumption that it is, the second question arises as to how this incremental cost should be treated for ratemaking purposes. Prior to this Application, Festival did not approach the Board to seek an adjustment to its ICM rate rider, a variance account, or approval of the bypass agreement.

5.6 It is clear that the bypass agreement is in the interest of the ratepayers of Festival Hydro. The bypass allows approximately $475,000 in transmission related costs paid by Festival customers to be avoided annually. This means that within the first three years these ratepayers will have recouped any cost related to bypass of the Hydro One Transformation Assets. However, the test the Board must apply is in the "public interest" This is a broader standard and requires the Board to consider the body of provincial ratepayers. As noted by Board Staff in their argument, notwithstanding the hearsay testimony of Ms. Reece, no evidence was presented with respect to the treatment of Hydro One`s now underutilized asset[17]. Therefore no conclusions can be drawn as to the overall efficiency of this particular bypass arrangement.

5.7 In this case, Festival has approval to build its transformer station. It also and provided evidence of ancillary reliability benefits of moving some of its load to its new station and bypassing Hydro One's station. In VECC's submission the associated by-pass costs are reasonably incurred and should be approved for recovery.

[17] Vol. 2, pg. 38

5.8 Festival proposes to treat the cost of the bypass agreement as an intangible asset. If the amount is approved for recovery the alternative method would be to record the cost in a deferral account and recover the amount over a specified period. At the Technical Conference, VECC asked that Festival show the cost difference in these methods of recovery. Based on a three year recovery (which would match the benefit in avoided transmission costs with the amount to be recovered) the difference is $341,117.[18]

5.9 VECC agrees with the submission of Board Staff that the cost of the bypass should be treated as an expense and not an intangible asset as proposed by Festival. There are a number of reasons for this. Festival has not provided comprehensive evidence that would show that the bypass agreement is in the broader public interest. As such, it puts the Board in the position of needing to minimize the costs to ratepayers in order to best assure the public interest is being served. The deferral account treatment achieves this end.

5.10 The bypass agreement, or even the specter of such an occurrence was not raised as part of the ICM proceeding or anytime subsequent to this proceeding. In our submission, it is therefore inappropriate to post construction redefine an agreement related to the <u>operation</u> of the asset.

5.11 We agree with the submissions of Board Staff that the testimony of Festival's auditor is of little value in the Board's determination. In the first instance, the Board is not bound in its ratemaking treatment by CGAAP, IFRS or USGAAP accounting treatment. Regulatory accounting can, and does diverge from certain aspects otherwise common accounting treatment.

5.12 What is proposed by Festival may be a widely accepted accounting treatment, but really is a matter of opinion. This means that competent accountants with different perspectives might take different views as to the appropriate

[18] Undertaking JT1.15 - the cost NPV of 3 year deferral recovery of $1,860 subtracted from the NPV of a 45 year asset recovery of $343,017.

regulatory treatment of this amount.. Such an opinion depends on the varying facts of the situation. Festival insinuates that other utilities have taken the same approach it proposes. No evidence as to the facts of other circumstances was provided by the Applicant. Therefore no weight can be given to the contention of commonality in treatment.

5.13 The facts are that no opinion on the matter was actually offered by Festival's outside accountant. As noted in the passage quoted by Staff and confirmed by the Chairperson Ms. Long, Mr. Jeffrey's explicitly stated he cannot offer such an opinion as to the regulatory treatment of this matter[19].

5.14 As we have noted previously, in the case such as this where a utility finds that changing circumstances (in this case the failure of the load forecast to come to fruition) then a Utility has an obligation to resolve the manner in a way that minimize the costs. In our view, Festival partly did this by entering into the bypass agreement. It would be incorrect, in our submission to then add to the burden of ratepayers by providing for a profit (return) to be made on the costs arising from these changed circumstances. Ratepayers backstop the risk of a monopoly utility. Had (or when) the load forecast exceeded the original forecast, it would have been the shareholder that would (or will) have profited. In our submission, it is a perverse outcome to also allow the Utility shareholder to benefit when the forecast falls short of their expectations. Doing so rewards the shareholder for failure to meet its own business planning assumptions and objectives.

True-Up of the ICM Rate Rider

5.15 Festival is seeking a true-up of $389,681 to the ICM rate rider to adjust for (1) the actual vs forecast cost of construction; (2) variances due to the extension of the existing rider from the originally contemplated period of 12 months; (3) adjustments for depreciation and CCA due to the deferral of its rate application

[19] Vol. 2 pg.79

to 2015.[20]

5.16 The actual cost of the station was $551,330 less than forecast. VECC agrees the rider should be adjusted to reflect this change. The rider should attempt to recovery the revenue requirement impact of only what was constructed.

5.17 VECC is less supportive of the changes that result from the depreciation and CCA that occur in the period between when the Utility was expected to file for rates and when it ultimately made that filing. Festival on its own volition chose to defer its rate filing. That decision was made by management and, we would argue, they are responsible for any financial risk that falls out from that decision. The argument can be made that Festival is accountable for any revenue deficiency that has subsequently occurred due to its decision to file later than contemplated by the Board.

5.18 While it was noted by Festival that their proposal was similar to that used by Oakville Hydro, this matter was resolved as the part of a settlement. As the Board itself has pointed out to parties such agreements have no precedential value.

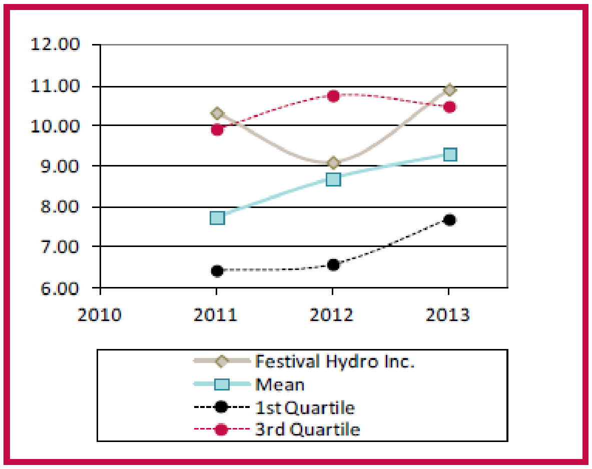
5.19 In VECC's submission, the decision to defer filing a rate application according to the schedule set out by the Board was made knowingly and willingly by Festival Hydro. The table below shows Festival's actual returns and the Board approved target returns for that year.

Year	Actual[21]	Board Approved[22]
2011	11.71%	9.58%
2012	9.75%	9.12%
2013	10.90%	8.93%-8.98%

[20] K2.1
[21] Undertaking J2.2
[22] Board Letters: 2013 – Nov 15, 2012 Feb 14, 2013 / 2012 – March 2, 2012 / 2011 – March 3, 2011

5.20 As the table below shows Festival Hydro return exceed most comparable utilities. There is no reason to believe this trend will not continue into 2014.

FR250: Return on Equity (%)



ROE is defined as:

$$\frac{\text{Net Income}}{\text{Total Equity}}$$

(Including share capital and retained earnings)

This ratio measures profit per dollar of equity. Your LDC has risen to the 3rd quartile in 2013 after being near the mean in 2012.

From: Undertaking JT1.22 2014 Utility Performance Management Survey, page 45

5.21 In VECC's submission Festival is being selective in choosing to highlight and seek costs from 2013 and 2014. Festival rates are higher than average. Its returns are above the Board target rates. No excess revenue or reduced costs as compared to budget or forecast are being proposed to be returned to customers. Festival chose to not have its costs scrutinized by the Board one year earlier. It is not clear to us why it should be given the opportunity to recoup the selective items which benefit the shareholder at the cost to the ratepayer.

Out of period OM&A Costs

5.22 Festival is also seeking to recover $244,815 in out of period OM&A costs related to the operation of the transformer station. These costs are set out in the table below.

O & M Expenses	2013	2014
Training Costs	39,826	$ 3, 000
TS Monitoring Costs	3,750	15,000
TS Communication Costs	16,614	24,500
Property taxes	9,926	21,500
Insurance & property protection	7,395	18,000
SCADA maintenance		5,000
Internal labour & trucking costs	18,003	13,000
Station maintenance	9,301	40,000
Total	**$ 104,815**	**$ 140,000**

From JT1.12

5.23 In VECC's submission these costs are not recoverable. Simply put they are expenses that occurred out of period. There is no principled difference between these costs and any other incremental costs that occurred since the last rate case adjudicated by the Board. In fact, in this case Festival knowing it had incremental operating costs associated with the transformer station chose on its own volition to defer its scheduled cost of service rate application.

5.24 VECC also agrees with Board Staff that no weight can be given to the fact that accounting staff at the Board provided Festival with guidance as to where such costs might be booked. Because Board Staff are informed and knowledgeable they may be asked, and they may offer, opinion as to the reasonableness of recording costs. However, Staff can neither deny nor approve costs. In this case, they simply provided guidance as to where such costs might be booked for subsequent review by Board. A Board decision to deny these costs has no bearing on properness of the guidance provided by Board Staff.

6 The proposed fixed/variable ratio used to determine the distribution rates for GS > 50 kW

6.1 In its initial Application, Festival proposed that the current (2014) fixed variable ratio be maintained in 2015 for the GS>50 class' rates. Based on the revenue requirement allocated to the class this resulted in an increase in the monthly service charge from $227.57 in 2014 to $253.49 for 2015[23].

6.2 In response to interrogatories[24], Festival revised its Application and proposed that the GS>50 monthly service charge for 2015 would be set at the current 2014 value - $227.57.

6.3 In its closing submissions[25] Festival cited a number of reasons for maintaining the GS>50 service charge at its 2014 value as opposed to reducing it to the ceiling value[26] ($64.55) calculated by the cost allocation model including consistency with the 2015 filing requirements which state that "if a distributor's current fixed charge is higher than the calculated ceiling, there is no requirement to lower the fixed charge to the ceiling, nor are distributors expected to raise the fixed charge further above the ceiling.".

6.4 VECC acknowledges that Festival's proposal for the GS>50 rate design is consistent with the Board's filing guidelines and overall rate design policy as set out in the November 2007 Report of the Board – Application of Cost Allocation for Electricity Distributors[27].

6.5 However, given the fact that the 2014 service charge is significantly (i.e., more than three times) higher than the ceiling established by the cost allocation model, VECC submits that the service charge should remain fixed at $227.57 for the duration of Festival's subsequent IRM period.

7 COSTS

7.1 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

7.2 All of which is respectfully submitted this 25th day of November 2014.

[23] Exhibit 8, Tab 1, Schedule 1, page 2
[24] AMPCO #13
[25] Transcript Volume 2, pages 95-98
[26] Settlement Proposal, Appendix 3-2 A, Tab O2
[27] EB-2007-0667, pages 12-13