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January 25, 2017

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-2016-0061–Canadian Niagara Power Inc.
Submission of Vulnerable Energy Consumers Coalition (VECC)

As per Decision and Procedural Order No. 3 please find attached the Submission of Vulnerable Energy Consumers Coalition (VECC) with respect to the above-noted proceeding. We have also directed a copy of the same to the Applicant as well as all parties via email.

Yours truly,

Michael Janigan
Counsel for VECC

CNPI - Gregory Beharriell - regulatoryaffairs@fortisontario.com
All Parties – via email

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2017 Electricity Distribution Rates

Canadian Niagara Power Inc.

(CNPI)

EB-2016-0061

Vulnerable Energy Consumers Coalition

(VECC)

Submission

January 25, 2017

Introduction

1. As has been noted in the Argument- in- Chief (AIC) of Canadian Niagara Power Inc. ("CNPI", "the Company") filed by the Applicant's counsel, following acceptance of the Settlement Agreement herein, there remains several unsettled issues that were addressed in the oral hearing.

2. These issues involve the regulatory treatment of pension and OPEB costs in rates pending the results of the current generic proceeding setting the policy for the same, the amount of OM&A to be recognized in rates and the effective date for the rates to be set by this proceeding.

3. VECC's submissions will contend that the treatment of the pension and OPEB costs on a cash or accrual basis should be accompanied by a variance account in accordance with the terms suggested herein, a reduction of the OM&A that CNPI seeks to have included in rates by reference to an envelope approach, and an effective date that reflects the filing diligence of the Company.

Treatment of Pension and OPEB costs

4. In light of the pending result of the Board's generic proceeding (EB-2015-040) that will ultimately determine the regulatory approach to these costs, it would appear to make sense to have a variance account receive and provide resolution of the same in accordance with the results of the generic proceeding.

5. We have reviewed the final argument of Energy Probe (EP) and are in agreement with the suggested treatment therein. In EP's view a variance account would record the difference between the forecast amount to be recovered on an accrual basis and the forecast amount to be recovered on a cash basis. In that way, either method of recording Pension and OPEB expenses in the test year will result in a true-up when the generic proceeding is decided and the methodology is chosen.
6. CNPI supports the continuation of the accrual method of accounting in rates for these expenses. Given the fact that the Board is reviewing these methodologies, it would be unreasonable to simply continue the existing methodology based on past practice without putting in place a variance account to protect both ratepayers and the shareholder.

7. We have also noted, as set out in Board Staff 's submission, that by staying with the status quo, CNPI stands to pocket in 2017 rates a net excess amount relative to the amounts actually paid of $431,000 for pension contributions, and for OPEBs, a sum of $257,000.

OM&A Budget

8. The evidence of CNPI is that it is seeking the amount of $10, 574,723 for OM&A expenses for 2017. This amount represents an increase of 7.76%% over the 2016 year-end forecast.[1] The 2017 request provides a 19.3% increase over 2013 actuals.

9. CNPI in its AIC (p.7) makes several claims to justify the proposed 2017 budget. These include that it has satisfied the objectives of the RRFE, as it provides value to ratepayers and it has undertaken programs to improve its productivity.

10. It is instructive to first look at the objective measurement of CNPI's efforts and the resultant effects upon the OM&A request. This involves looking at the expected results based on the effects of inflation and customer growth that would increase costs and the required productivity based on the appropriate stretch factor for the distributor cohort.

11. VECC is indebted to the assistance of Energy Probe that has compiled data that incorporates the CNPI evidence and the expectations associated with inflation, customer growth and productivity.[2] That exhibit shows that when 2013 OM&A actuals are used and reasonable adjustments are made for inflation, customer growth, and stretch factor-based productivity, the requested 2017 CNPI request should be reduced by over $800,000. It would appear that, on its face, the CNPI position is not supported by the use of ordinary yardsticks for measurement of expectations for growth in expenses.

12. One may also observe the budgetary over-estimation that seems apparent from the results associated with the 2013-2016 period of OM&A expenses. The Board-allowed 2013 amount of $9,835,961 was never reached in actual spending in any of the four years of the current rate period. In fact, CNPI has updated the 2016 Bridge year forecast so that it is now reduced from

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[1] See Response to Undertaking J1.1 January 10, 2017 Appendix 2-L for the updated 2016 forecast figure.
[2] Set out in SEC compendium K1.2 p. 15

$10,130,816 to $9,813,000 (as shown in the updated Appendix 2-L). Yet there is no corresponding reduction in the 2017 OM&A request of $10,574,723. These facts do not inspire confidence in the realism of the CNPI request. It also means that the percentage increase requested over the 2016 bridge year figure is 8.59%, considerably in excess of the 1.57% increase using the escalators provided in Exhibit K1.2.

13. CNPI endeavors to explain the need for increased OM&A as arising from a number of sources. These include the expenditures referenced in the Cost Driver Table set out at Exhibit 4 Tab2 Schedule 2 page 1 and discussed at Tab 5 of CNPI's hearing materials.

14. The largest part of those expenditures is listed as "Miscellaneous" which according to the Exhibit 4 Tab 2 Sch. 2 p.1 page can be attributable to "inflationary and related upwards pressures on expenses". These expenditures are further described in 4 VECC 26 (a) as follows:

> "There is not one significant driver/item within the miscellaneous balance in each of the respective years other than that CNPI estimates the large majority of this balance is due to the general inflationary increases of expenses on a year-over-year basis."

15. As these kinds of pressures on OM&A are presumably to be absorbed by the expected normal inflators used in Exhibit K-1.2, p.15, including allowances for economy- wide inflation and customer growth, there seems little in this bundle of expenditures that would compel any change to the "envelope" approach that is set out in the EP calculations in K1.2.t.

16. Other cost drivers such as the Emerald Ash Borer (EAB) program take what would appear to be a fairly reasonable expectation of CNPI's continual conduct of lines inspection for nearby dead trees and fashion an additional $100,000 commitment in rates for 2017 and throughout the term of the IRM .

17. This targeting by CNPI of problems associated with trees near power lines ravaged by the insect appears to be somewhat of a recent phenomenon given that the EAB program expenditure shows up for the first time in the test year. This is despite the evidence of CNPI's consultant

(January 2015, Pineridge Report, Appendix M), the borer insect showed up in nearby Michigan in 2002, and has cut a swath through ash trees throughout the continent including CNPI's Ontario region. Trees die within 2-3 years of infestation and 40% of the 6590 ash trees identified in the assessment. CNPI officials seem to have been previously somewhat incurious about the infestation problem and other utility examples of remedial action[3]:

> MR. AIKEN: Okay. Now, have you had any discussions with other electricity distributors with respect to their costs and how they have dealt with the emerald ash borer? And I am thinking specifically of utilities like Integris (sic), London Hydro, Brantford. For example, Integris (sic) dealt with this problem, you know, five to ten years ago.
>
> MR. HAN: No.
>
> MR. AIKEN: Why not? Why wouldn't you ask them, you know, gain some of their expertise on how to the deal with this and what they did?
>
> MR. HAN: We do not know. They dealt with it -- somebody already dealt with this problem. I thought this was new. We are actually the first few to deal with this issue, because this thing has migrated from the Atlantic they exist, it didn't come in until recently, so I didn't realize this, ten years ago they already got this problem.
>
> MR. AIKEN: So you didn't realize that this problem came in from Michigan through southern Ontario?
>
> MR. HAN: I don't know where the -- I thought it was from the Atlantic, but somehow they get over here. I am not sure where -- exactly where they are coming from.

18. The program is apparently designed to work in tandem with the tree removal project operations of municipalities. CNPI does not actually unilaterally remove the trees[4]:

[3] Tr. Vol. 1, pp.86-87
[4] Tr. Vol. 1 pp.84-85

MR. AIKEN: Okay. Now what is the time frame over which you expect to spend at this level? Are we talking five years, ten years? Like, how long is this program or this...

MR. HAN: As you -- as earlier you saw, the -- this EAB problem is a -- we are in a defensive or reactive mode right now, because we are not actually going or cutting the trees, we are serving the customer who wants to cut those dead trees, but the dead trees, there is a process. They have to be dead first, and then the municipal want to go there to cut them, second. Then we will get in. That's why the issue was in 2013, but we didn't really react until now.

19. While the EAB program is presented as a necessary response to an urgent and newly arising crisis, VECC notes that nothing was spent following the submission of the Pineridge report in January 2015, and the program could very well depend on the municipalities commitment to continue[5]:

MR.HAN… So this is the program we prepare ourselves to do, and based on the past experience of cutting down trees, but not particular on these type of trees. So one, the municipal stop doing this program, and we are going to stop, because we are more of a responsive party rather than an active person to go there and do things.

20. There also exists a tree trimming program funded in the amount of $478,000 per year [6]paid to an outside contractor. One might ordinarily expect that the tree trimming exercise includes some inspection for dead or infested trees near power lines:

MR. HAN: Pineridge currently is our vegetation management contractor, and they are considered a contractor familiar with the trees and are expert in certain aspect of the trees. And the report, you know, none of us are tree experts, so we want some input from the tree expert to say what is the issue and what is the potential cost to us.

MR. JANIGAN: Okay. Is the tree trimming amount that you allocate to Pineridge through the competitive contract, is that -- does any of that money go into trim ash trees?

MR. HAN: I would imagine yes.

[5] Tr. Vol p. 86
[6] Tr. Vol. 1 p.84

MR. JANIGAN: So they don't simply ignore a tree that is an ash tree and subject to another part of their contract or another contract.

MR. HAN: No, the program designed was by region and by streets, and they go there. They do not really look at what tree it is. They just cut it to the standards.

21. In the result, as the response to 4-Staff-59 discloses, as shown in the table below, that the EAB program is only expected to result in the removal of 25 infected trees per year with the rest of the costs arising from advice and assistance to customers and repairing any asset damage. It is not evident why this is not simply part of ongoing vegetation management expense.

	Number of Trees	Internal Labour/Tree		Contracted Services	Materials	2017 Total Cost
		Hours	$/Hour			
Completion of risk assessment	N/A			$ 5,000		$ 5,000
Removal of infested trees on CNPI owned rights-of-ways and land*	25			$ 1,100		$ 27,500
Assisting customers and stakeholders - Creation of electrically safe work zones (Including but not limited to switching, installation of isolating devices, grounding, etc.)	35	6	$ 100			$ 21,000
Assisting customers and stakeholders - Additional ash tree trimming in support of clearances for the purpose of removal	25	6	$ 100			$ 15,000
Asset repairs as a result of ash tree failure	20	6	$ 100		$ 15,000	$ 27,000
						$ 95,500

22. Unfortunately, the improvement in outage data from tree contact that might be expected by the evident commitment to tree-trimming by CNPI has not eventuated. On Page 29 of VECC Compendium, Exhibit K1.4, the SAIDI statistics for outages because of tree contact set out in 2-Staff-8 show no trend towards increased reliability. CNPI witness, Mr. Beharriel observed[7]:

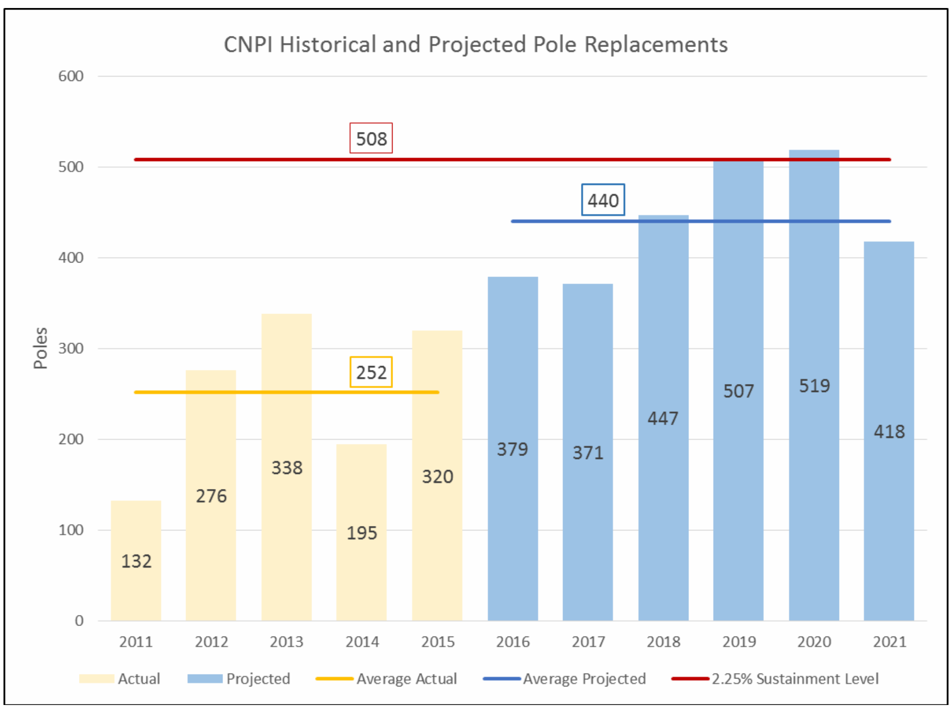
MR. BEHARRIELL: I would say tree trimming is an going maintenance activity that is necessary to maintain appropriate clearance to the trees. It's -- I mean, if you stop doing it reliability would get worse, but we are not doing our annual tree-trimming to improve reliability, we are doing it to maintain reliability and for safety.

[7] Tr. Vol. 1 p.124

23. If the expectation of CNPI is continued stasis of existing standards for avoiding outages, it seems too hard to justify escalating a reasonable OM&A envelope such has been set out in the EP-generated document in K1.2.

24. VECC also contends for the envelope approach in part because of its view that there appear to be expenditures that will be undertaken by CNPI during the term where the pacing is questionable, or have forecasted effects upon revenue requirement that seem to be doubtful .

25. For example, VECC questions the necessity of the aggressive pole replacement ramp up in advance of its complete testing review of the poles. In the response to Board Staff 4-Staff-61, there appears to be an escalation in the numbers of poles to be replaced from the 132 poles replaced in 2011 to 519 poles forecast for replacement in 2019 [8] (out of a total of 22,900 wooden poles in service).



[8] The average number of pole to be replaced per year in the 2011 to 2015 period was 252 poles per year. It is projected to be 440 poles for the application rate period. (4-Staff-6 (i))

26. However, the testing program appears to be an essential element of CNPI's strategy:

> MR. JANIGAN: What evidence do you have concerning the reliability of the poles that you are facing an imminent problem that you need to drastically modify your prior maintenance and replacement program? What was the evidence?
>
> MR. HAN: We do have broken poles, rotten poles, and reported by our own staff, reported by customers, and occasionally we see the poles on the ground. So to answer your question, without the poles laying on the ground we don't know. That's why we do this testing, because historically what we do is based on inspection, but those inspections are done, visual inspections, sound and board, there is some experience in there, but it's not very scientific, so this is the new -- the pole-testing program was -- presumably there is a lot more science than just kicking the ball at the bottom of the pole.[9]

27. While the lining up of pole replacements to coincide with expected obsolescence is not unreasonable, the rapid program escalation in a high rates utility is not prudent unless the past practice has been negligent, and safety and more outages are threatened. CNPI , not surprisingly, does not allege that that was the case[10]:

> MR.HAN…Now, when we say we go out there to replace a pole, does that pole really fail tomorrow? No. Are we waiting for the pole ready to fail before we replace it? That's not prudent. So that's my general answer to you. I do not have a three-, five-year, five life cycles to prove it is -- what's going to happen, because we only have electricity over 100 years. That's only barely two cycles.

[9] Transcript Vol1 , p. 127
[10] Transcript Vol.1, p.129

MR. JANIGAN: But would you say that between 2011 and 2015 in this diagram you effectively were adopting a strategy of waiting for a pole to fail?

MR. HAN: From 2000 what?

MR. JANIGAN: '11 to 2015. Was it the company's strategy just waiting for a pole to fail that -- and now you have ramped up --

MR. HAN: No.

28. The increase in the cost of the disconnections claimed by CNPI occurring without an increase in actual disconnections is, to say the least, counter-intuitive. The CNPI evidence discloses that there has been an implementation of an automated message notice system,[11] and the start of the OESP program that seem to belie the forecast budgets for billing and collections and bad debts. Actual disconnections with resultant issues of negotiating reinstatement and payment plans for arrears are usually the big ticket items here, but for some reason the new reminder and notice system now attracts more costs ostensibly because of more delinquencies. It is not too critical a comment to suggest that this may be partially the result of CNPI's standing as having one of the highest distribution rates in the province.

29. In VECC's view, there is little evidence to dispute the proposition that the previously described envelope approach with objective assumptions for inflation, growth and productivity should strictly govern the fixing of the 2017 OM&A amount in rates.

30. The conclusion in the above paragraph is reinforced by the previous observation in paragraph 11 herein that the most recent 2016 Forecast of OM&A filed in this proceeding has still not exceeded the 2013 Board Allowed. This result has not curbed CNPI's 2017 OM&A request which now, as noted in paragraph 5 herein, constitutes a 7.6% over the bridge year and a 19.3% increase over 2013 actuals. This CNPI approach casts doubt about the realism of their forecast, and highlights the need for balancing of customer interests with those operational needs associated with the test year request- a request that likely overshoots the mark.

[11] 4-Staff-60, p.3

Renegotiation of Long Term Debt

31. The AIC notes that the issue of the significance of the likely renegotiation of the long term debt of $30 million currently bearing interest at the rate of 7.02% and notes that come due in August 2018. If renegotiated at the Board's current long term debt rate of 3.72 %, the result may generate close to $1M in annual savings for CNPI.

32. While the final figure for interest on this debt cannot be predicted with exactitude, it is likely to produce a significant positive financial effect by the reduction of CNPI's revenue requirement.

33. CNPI has chosen to file a Cost of Service application for 2017 and be subject to a Price Cap mechanism for the remainder of the term. The IRM regime does not ordinarily foresee mid-term amendments to correct for cost reductions or increases. This is to provide incentives for the regulated company to initiate efficiencies. However, while falling short of representing an off -ramp, the potential interest rate reduction in this case is significant, and certainly difficult to reconcile with CNPI's request for a 2017 OM&A envelope that is almost 20% greater than its 2013 actuals.

34. It is reasonable to expect that in fashioning the 2017 rates based on the Company's Revenue Requirement, the Board Panel can look to how the regulated companies' past, present and forecast future performances compares with expectations set by previous applications, the governing legislation and policy guidelines such as the RRFE. As well, how CNPI's ratepayers are faring both in comparison to customers of other regulated distributors and by reference to the Company's own metrics should be considered. In crafting the final result, the OEB must look to whether changes to the revenue requirement will adversely impact the regulated company's application and DSP.

35. We will subsequently discuss CNPI's performance and the need for adjustments to their OM&A request to reflect statutory and policy-driven expectations and the reasonable rates that must flow from the same. However, VECC submits that, in lieu of a mechanism for specific accounting for the likely result of the renegotiation of the long term debt interest rate, the Board must conclude that any reasonable re-balancing of customer interests with those of the shareholder could be accommodated without impairment to CNPI's operational effectiveness. As well, regulatory efforts to provide incentives for more efficient performance by reflecting those expectations in the ultimate revenue requirement have considerable flexibility to do so, in part due to the likely financial windfall from the 2018 LTD renegotiation.

CNPI Performance

36. Whether CNPI's utility performance is measured by its own internal metrics or by comparison with other distributors, the observed results are not encouraging. It seems difficult to reconcile these results with the expectation in the RRFE that the utility produce outcomes that show "continuous improvement in productivity and cost performance is achieved. [12]

37. CNPI's January 10, 2017 update of Appendix 2-L setting out the recoverable OM&A cost per customer is instructive as to the apparent corporate inertia when it comes to reducing customer costs. Here the OM&A per customer increases from $310.11 in 2013 Actuals to $367.42 in the Test year forecast – approximately an 18.5% increase within that time window.

38. This is not the only warning sign of non-compliance with RRFE objectives. Exhibit K1.4 the VECC compendium sets out on page 12, CNPIs response to 1-EP-3 that shows an increase in total costs per km. of line rising approximately 20.5% since 2011. This is a

[12] "Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach" Report of the Board, October 18, 2012, p. 2

metric that would seem to be more likely to show improvement with Company efficiency efforts given the profile of its served areas.[13]

2010	2011	2012	2013	2014	2015	2016	2017
$19,893	$20,204	$18,790	$20,275	$21,202	$21,726	$23,088	$25,009

39. The comparison with other utilities is also not favourable to CNPI: As Ex. K1.3, the SEC Compendium illustrates, CNPI has higher distribution rates than 64 out of 67 Ontario electric distribution utilities (at page 5) and ranks 61st out of 72 in the 2016 PEG Report's 2016 results at (page 3). This places the Company in the 4th cohort of distributors with a stretch factor relevant to the same.

40. As well, the productivity initiatives identified by CNPI appear to not have much influence on the bottom line for customers[14]:

> MR. SHEPHERD: So I have a follow-up on that as well. I had the same thing. It looks like it is zero productivity, right? The net of the additional cost drivers and the productivity benefits is zero.
> MR. BEHARRIELL: That's what we have assumed for the purpose of presenting O&M costs 2018 forward, yes.
> MR. SHEPHERD: But then you have things like these additional programs that you are saying are additional cost drivers. And they're not offset by productivity benefits, right? You have a list of additional cost drivers that you are saying are pushing your costs up and you are adding those.
> MR. BEHARRIELL: Yes, we are.
> MR. SHEPHERD: But I thought you said they are offset by productivity improvements.
> MR. BEHARRIELL: That is our forecast for 2018 forward.
> MR. SHEPHERD: Okay. So 2016 and 2017, that is not true?

[13] Ex. 1, Tab 7
[14] TC p. 79

> MR. BEHARRIELL: For 2016 and 2017 we have identified additional programs, such as the emerald ash borer, missed metering, et cetera, pole testing, that are additional cost drivers for various reasons that are not offset by productivity improvements.[15]

41. The PEG Report's findings, analyses and ranking of CNPI were posted by the Board on August 4th, 2016. At that time, they were not apparently subject to challenge by CNPI-a challenge that did not arise until an analysis that was apparently done following adjustments necessitated by the settlement agreement[16] . At the hearing, CNPI sought to produce new evidence that there was a failure by PEG to consider the added revenue earned by the Company which in their view, should have been used to improve CNPI's cost performance in the model.

42. While CNPI did not seek to have the Company moved into the 3rd cohort as a result of this new spin on the data, the presentation of the same was meant to show a rosier picture of company efficiency than set out in the pre-filed evidence.

43. VECC does not wish to wade into the CNPI last minute computations and debate an amendment to the PEG results proposed, but submits that it is simply too late in the day for the adequate testing of the adjusted data submitted by CNPI in the hearing materials and the use of their adjusted model in this proceeding. One might have expected a more intensive effort to correct what is thought by CNPI to be a mistake in the PEG model:

> MR. JANIGAN: … Just following up on some questions directed to you by Mr. Aiken, did you seek -- when you found out about this problem about additional revenue and formulated your adjusted model, did you seek any recalibration of the measurements associated with CNPI?
> MR. BEHARRIELL: Can you clarify what you mean by that?

[15] One must note that the savings associated with the renegotiation of the long-term debt arise in 2018.
[16] Tr. Vol. p.60

MR. JANIGAN: Well, did you contact PEG for example and bring them to the attention of the problems with this model, or the Board itself?

MR. BEHARRIELL: No, we did not.

MR. JANIGAN: The PEG model and the results are supposed to enable an objective comparison between utilities. Wouldn't it be prudent for CNPI to bring this to the attention of the model makers and the model users?

MR. BEHARRIELL: I mean, I think we have done that today, you know, in the context of -- I said earlier that we are not submitting that CNPI should be moved into the third cohort, but this is an issue that's very recently come to our attention with the model.

Whether we at some point in the near future decided to bring that forward as evidence, I mean we have to look at the cost and the effort to do that versus the potential impact of moving from one cohort to the next, if that would even happen.

Also I understand from the PEG documentation that the Board has scheduled regular refreshes of the model and that might be also an appropriate opportunity to bring that forward.

MR. JANIGAN: Well, surely it would have been opportune for us to find out what their views would have been on the subject, and whether or not your particular situation is unique among utilities. If it is not, then the adjusted model is basically to no effect; wouldn't you agree?

MR. BEHARRIELL: I think we presented the model for the purpose of showing that there is an issue with it.

MR. JANIGAN: I understand that. But we generally use these models in the rate proceedings, not -- you know, you don't change things in the rate proceeding to adjust the model. You understand that.

MR. BEHARRIELL: Yes, I understand what you are getting at.[17]

[17] Transcript, Vol. 1 pp113-114

44. VECC suggests that any challenge to the validity of the PEG model should be accompanied in evidence, at the very least, by a response form the makers of the model itself. The timing of the challenge and the absence of the same is perhaps explained by CNPI's approach to the benchmarking study:

> MR. BEHARRIELL: When we looked at the PEG report, they specifically mention that in 2012, a lot of distributors looked like they were improving. There were data quality issues, I believe, related to certain Smart Metering costs associated with that model.
>
> So again, there are flaws in the model, and while we accept the results of the model for core and group assignment for IRM benchmarking, we don't believe that the model is an appropriate tool to run our business by.
>
> MR. SHEPHERD: So how do you use the model in doing budgeting? Like, do you use it as sort of a target in any way?
>
> MR. BEHARRIELL: No, we do not.[18]

45. In VECC's view, the Board must be satisfied that the outcomes envisioned and required by the RRFE have been achieved. This is not a case where a distributor has requested amounts that reflect short term cost increases and higher rates in return for the necessary investments and operational upgrades that will produce better results for customers in the future. To VECC, it appears that CNPI is content with less than mediocre productivity results. At the same time, the Company demands an increase in its OM&A that is in keeping with the pattern of augmentation in the test year beyond a reasonable envelope model without any assurance of any near term betterment of customer outcomes.

46. VECC submits that the performance metrics and current CNPI budgetary approach militate for a result that is in strict conformance with the reasonable yardsticks for annual change referenced earlier. This would generate an OM&A reduction of some $700,000-$800000 while being a target that is reasonably achievable by the Company**.**

[18] TC pp33,34

Effective Date

It would appear that although CNPI filed the application on April 29, 2016, the rates application information filed at that time was deficient and these deficiencies were not remedied until mid-July[19]. In VECC's view, if the missing or incorrect information involved more than incidental omissions and corrections, then the Board might wish to recognize the cause of the delay in its selection of an implementation date. However, VECC also notes that the Board Staff submission filed herein suggests sufficient CNPI compliance to merit a January 1 date.

Costs

VECC submits that its intervention was responsible and of assistance to the Board in determining the application. VECC accordingly requests 100% of its costs of participation

Respectfully submitted this 25th day of January 2017.

[19] It would also appear that the request from the Board for changes to the application came approximately two months after its filing.