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January 9, 2009

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: Procedural Order No. 3
Canadian Niagara Power Inc. – Eastern Ontario Power
Application for 2009 Electricity Distribution Rates
Board File No. EB-2008-0222

The following are the submissions of the Vulnerable Energy Consumers Coalition (VECC) on the procedural issues identified in the Board's Procedural Order No. 3 issued December 22, 2008:

a) whether further discovery is required, either in the form of further interrogatories or a technical conference;

VECC has reviewed the interrogatory responses of the Applicant and submits that further discovery is warranted in this case, in some cases due to the lack of a complete response and in other cases due to the response provided giving rise to further issues. In support, VECC offers the following examples with respect to specific first-round IR responses provided by the Applicant.

Response to VECC #1 b) – In the response CNP has acknowledged there was an error in the original filing. CNP indicates that the application would need to be revised and offers the calculation of the retail transmission rates as an example. It would be useful if, prior to parties making their final submissions, CNP

- Provided corrected versions of the tables referenced in the original IR and reconciled any differences, and
- Indicate what other aspects of the application need to be revised/corrected and provided the updated schedules.

Response to VECC #2 a) – The response indicates a significant difference between the 2004 weather normalized consumption value using CNP's versus Hydro One Networks weather normalization methodologies. Since the cost allocation run is based on the Hydro One Networks values this leads to an apparent inconsistency between the CNP's use of its own weather normalization approach for load forecasting while relying on the Hydro One Networks approach for purposes of cost allocation. It would be useful to obtain CNP's comments on these differences and resulting inconsistencies prior to parties making their final submissions

Response to VECC #6 b) – In its response to this IR CNP states that it did not believe the inclusion of transformer ownership allowance in the revenue requirement allocation would significantly impact the final allocation. In order to validate this assumption it would be useful if CNP were to redo the calculation in the Cost Allocation Review Tab of its Rate Design Model excluding the "cost" of the transformer ownership allowance. The required revenue requirement allocation by customer class can be found in the response to VECC #6 d).

Response to VECC #6 d) – CNP has not responded to the request as posed and reduced the revenues by class for the impact of the transformer ownership allowance. VECC estimates that doing so would reduce the revenue to cost ratio for the GS>50 class to 1.523. At a minimum, VECC submits that CNP should confirm whether VECC's estimate is correct.

Response to VECC #7 a) – The response does not include the allocation of revenues by customer class based on 2009 billing determinants and 2008 rates as originally requested. VECC submits that CNP should respond fully to the original IR.

Response to VECC #14 a) – The response states that the tables provided were forecasts prepared under the assumption that CNPI-EOP "rebases in 2009 and again in 2012." VECC is unable to reconcile the distribution revenue forecasted for 2009 in Table 2 (the 2008 forecast) with the information provided in Exhibit 7 of the pre-filed evidence. Further, VECC does not understand the forecast of 2009 net income provided in Table 2 given that it assumed rebasing in 2009 which would imply an adequate return on capital in the test year.

Response to VECC #16 b) – This interrogatory relates to the expected increase of over 12% in two years in the "amount due to affiliated parties." VECC is not satisfied that this rate of increase in payments to affiliates has been justified by the Applicant. VECC believes that it would be useful to understand and test the validity of these increases prior to making submissions on the Application,

Response to VECC #21 a) – CNPI has used the \$60.30/MWh all-in price for RPP customers as the cost of power. VECC submits that there is a need to confirm whether CNP is actually billed monthly by the IESO for all components of the RPP price for both RPP and non-RPP customers.

Response to VECC #22 a) – This IR sought to uncover the reasons for the 79.3% difference between 2006 actual and 2006 Board approved affiliate charges for administrative services attributed to “salary increases and the allocations of additional staffing resources.” The IR requested that CNP provide “the total number of staff engaged in providing this service, total salary costs, and the number of said staff that are allocated to CNPI-Gananoque.” The response indicated that the difference between 2006 actual and 2006 Board approved amounts “is attributable to both increased total costs, including the number of employees and salaries, and the percentage allocated to CNPI-Gananoque.” In the accompanying table, CNPI provided “Total costs allocated including salary and rent” rather than the salary information that was requested. VECC would like to understand the drivers of this component of the increase before making submissions on the Application, given that these costs are almost 50% above the 2006 Board approved amount and considering the large increase in distribution rates proposed.

Based on the preceding, VECC's view is that further discovery is essential in this proceeding, whether by way of a second round of written interrogatories or by way of a Technical Conference. VECC notes that the issues related to affiliate relationships and transactions may benefit from the direct interchange that is available in a technical conference.

If the Board decides to proceed by way of a Technical Conference, then questions from parties should be delivered in advance and any tables the Applicant plans to provide to support its responses should also be provided in advance.

b) *Whether a settlement conference would be appropriate; and*

We have had the opportunity to review the submissions of the applicant, which indicate a willingness to participate in a settlement conference. VECC would gladly participate in a settlement conference if the Board so ordered, and would expect that any Technical Conference and any Settlement conference dates could be scheduled on consecutive dates. VECC believes it is important, even if held consecutively, two distinct phases so that answers to questions as set out above will be properly added to the record in this case; while the applicant is correct in observing that settlement conferences routinely involve clarification questions, they are provided under the auspices of settlement privilege.

VECC reiterates that any Technical Conference aspect, if combined with a Settlement Conference, should include the provision of questions in advance, and certain parts of the answers requiring tables etc. should be provided to the intervenors prior to the Technical Conference so that they may be reviewed in advance.

c) *Whether a written or oral hearing is preferred.*

VECC has identified interrogatories related to the applications by CNP-EOP and CNP-FE regarding affiliate relationships and transactions where the issues may require an oral proceeding depending upon the results of further discovery through interrogatories and/or technical conference. Once further discovery has been completed VECC will be in a better position to comment on whether an oral hearing phase is required.

Yours truly,

Michael Buonaguro
Counsel for VECC