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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. – Fort Erie
Application for 2009 Electricity Distribution Rates
Board File No. EB-2008-0223

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 19, 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 #5 a) – The total number of new services added (2008 year to date) exceeds the increase in customer count that CNPI is forecasting for 2008 per Exhibit 3, Tab 2, Schedule 1, page 14. It would be useful for CNPI to address this inconsistency prior to parties making their final submissions.

Response to VECC #5b) – The response indicates total new meters for 2008 (year-to-date as of December 12, 2008) to be a small fraction of the new meters installed in both 2006 and 2007, yet the pre-filed evidence (Exhibit 2/Tab 3/Schedule 1/Appendix A, page 12) indicates that spending on new meters in 2008 is forecast to exceed the amount spent in 2006 and be comparable to the spending in 2007. It would be useful to understand how meter numbers and spending can be reconciled before making final submissions.

Response to VECC #6 b) – CNPI has used the \$60.30/MWh all-in price for RPP customers as the cost of power. There is a need to confirm whether CNPI is actually billed monthly by the IESO for all components of the RPP price for both RPP and non-RPP customers.

Response to VECC #7 b) – In the response CNPI has acknowledged there was an error in the original filing. CNPI 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, CNPI:

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

Response to VECC #8 a) – The response indicates a significant difference between the 2004 weather normalized consumption value using CNPI'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 CNPI's use of its 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 CNPI's comments on these differences and resulting inconsistencies prior to parties making their final submissions.

Response to VECC #12 b) – Further elaboration with respect to the inter-corporate cost allocations would be useful prior to making final submissions.

Response to VECC #19 a) – In its response to this IR CNPI has not explained how the revenue to cost ratio can be decreasing when the proportion of revenue responsibility is increasing as originally requested.

Response to VECC #20 b) – In its response to this IR CNPI 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 CNPI 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 #20 d).

Response to VECC #20 d) – CNPI has not responded to the original interrogatory and reduced the revenues by class for the impact of the transformer ownership allowance as requested. VECC estimates that doing so would reduce the revenue to cost ratio for the GS>50 class to 1.583. At a minimum, CNPI should confirm whether this is correct.

Response to VECC #21 a) - The response does not include the allocation of revenues by customer class based on 2009 billing determinants and 2008 rates – as originally requested.

Response to VECC #23 c) – CNPI 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 1.509. At a minimum, CNPI should confirm whether this is correct.

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 a oral hearing phase is required.

Yours truly,

Michael Buonaguro
Counsel for VECC