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ONE Nicholas Street, Suite 1204, Ottawa, Ontario, Canada K1N 7B7

Tel: (613) 562-4002. Fax: (613) 562-0007. e-mail: piac@piac.ca. <http://www.piac.ca>

Michael Buonaguro
Counsel for VECC
(416) 767-1666

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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. – Port Colborne (CNPI – PC)
Application for 2009 Electricity Distribution Rates
Board File No. EB-2008-0224

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. Identified below are a number of interrogatories that were not fully answered and/or require follow-up:

Response to VECC #5 – Given that CNP-PC is now authorized to proceed with smart metering does the Applicant propose to revised its proposed smart meter rate adder (Exhibit 9/Tab 1/Schedule 1, page 10)?

Response to VECC #8 – The total number of new services added (2008 year to date) exceeds the increase in customer count that CNP is forecasting for 2008 per Exhibit 3,

Tab 2, Schedule 1, page 14. It would be useful for CNP to address this inconsistency prior to parties making their final submissions

Response to VECC #10 b) – CNP has used the \$60.30/MWh all in price for RPP customers as the cost of power. There is a need to confirm whether CNP is actually billing monthly by the IESO for all components of the RPP price for both RPP and non-RPP customers.

Responses to VECC #11 b) & c) – 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
- Indicate what other aspects of the application need to be revised/corrected and provided the updated schedules.

Response to VECC #12 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 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 #28 – The response suggests that the distribution revenue values are based on 2009 usage at 2008 rates. However, the referenced values in the Exhibit 5 reference don't match those provided in response to VECC #6 (which requested 2009 revenues at 2008 rates by class). There is need for further clarification.

Response to VECC #29 c) – It is not clear from the last sentence in the response whether CNP has adjusted the allocation base for A&G costs or not.

Response to VECC #31 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 #31 d).

Response to VECC #31 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 1.60. At a minimum CNP should confirm whether this is correct.

Response to VECC #33 b) – CNP has used the retail transmission connection revenues by class from the 2006 EDR to allocate LV costs. CNP should provide an updated allocation based on 2009 billing parameters and rates.

Response to VECC #33 c) - The response does not include the allocation of revenues by customer class based on 2009 billing determinants and 2008 rates (excluding LV charges, Smart Meter adders, etc.) – as originally requested.

Responses to VECC #33 d) & f) – Neither response addressed the issue raised in the question – namely the inconsistency between the reported revenue to cost ratios and the bill impacts reported under the two alternatives.

For the preceding interrogatories clarification is likely best provided by way of written response. However, other parties may have interrogatories/issues best explored via 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.*

By separate memos, 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