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December 17, 2007

**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)  
EB-2007-0707 Ontario Power Authority  
Approval of the Integrated Power System Plan and Procurement Processes**

Please find enclosed the comments of the Vulnerable Energy Consumers Coalition (VECC) with respect to the proposed Issues List.

Yours truly,

Michael Buonaguro  
Counsel for VECC  
Encl.

cc: Ontario Power Authority

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** sections 25.30 and 25.31 of the  
*Electricity Act, 1998*;

**AND IN THE MATTER OF** an application by the Ontario  
Power Authority for review and approval of the  
Integrated Power System Plan and proposed  
procurement process.

**SUBMISSIONS OF THE VULNERABLE ENERGY CONSUMERS COALITION (VECC)  
ON**

**THE ISSUES TO BE CONSIDERED BY THE ONTARIO ENERGY BOARD IN ITS  
REVIEW OF THE INTEGRATED SYTSEM PLAN AND PROCURMENT PROCESSES**

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## **INTRODUCTION**

1. The Ontario Power Authority (the “OPA”) has filed an application with the Ontario Energy Board (the “Board”) seeking an order of the Board approving the Integrated System Power Plan (the “IPSP”) and certain procurement processes. In its Notice of Application, the Board indicated that it would be approaching the review in two phases. In the first phase the Board would develop an issues list and this list would determine the issues that would be addressed in the subsequent review of the application.
2. The Board instructed the OPA to develop a proposed issues list, structured by reference to the findings the Board has to make, according to the legislation and Ministerial directions. The Board also invited interested parties to comment on the OPA’s proposed issues list.
3. These are the submissions of the Vulnerable Energy Consumers Coalition (VECC) on the draft issues list prepared by the OPA. In considering the draft issues list, VECC’s focus is on the cost effectiveness and robustness of the IPSP with respect to the long term security of supply and the affordability of electricity for Ontario’s vulnerable energy consumers. In preparing its submissions, in accordance with the Board’s directions, VECC has consulted with the Consumers Council of Canada (CCC), a ratepayer representative organization with issues in common with VECC.

## **GENERAL APPROACH**

4. Section 25.30 of the Electricity Act required the Board to review the IPSP for two purposes: a) to ensure it complies with any directions issued by the Minister and b) to ensure it is economically prudent and cost-effective. Given this context, VECC agrees with the submissions of the CCC that the Board cannot use its power of review to change the directions issued by the Minister (e.g., the Supply Mix Directive

and the IPSP Regulation). The Board's role is to ensure the OPA has complied with those directions.

5. While the directions received from the Minister provide the framework within which the OPA must develop the IPSP, there are a number of areas in which the OPA has some discretion. For example, the Supply Mix Directive sets goals for conservation and renewable energy. However, as the Board noted in its December 2006 Filing Guidelines Report, these targets are a minimum that must be achieved and the OPA has discretion to include higher values in the IPSP if appropriate. Similarly, the Minister's directions do not specify the precise mix of conservation programs or renewable energy sources the OPA should plan for, but rather leaves that to the OPA's discretion.
6. VECC submits that in those areas where the OPA exercised discretion, the role of the OEB is to determine whether the choices made by the OPA result in an integrated power system plan that is cost effective and economically prudent. However, VECC emphasizes that this does not mean that the Board's review should completely repeat the planning process undertaken by the OPA. Rather, the review should ensure that the process undertaken by the OPA in developing the IPSP addressed the questions of cost effectiveness and economic prudence in a structured and principled manner that considered the relevant factors.
7. One issue that is critical to the scope of the Board's review is the definitions that are attached to "economic prudence" and "cost effectiveness". In its Application (see Exhibit A, Tab 2, Schedule 2, page 13), the OPA seeks to define "economic prudence" as a characterization of the exercise of judgment. The OPA then argues that the Board should presume prudence unless it can be demonstrated otherwise.
8. VECC does not agree with the definition of economic prudence as put forward by the OPA. In VECC's view, "economic prudence" is an outcome and an economically

prudent plan is one where it can be demonstrated that the Plan's goals can be met given the uncertainties associated with planning and the different contingencies that could arise. In this regard, VECC submits that economic prudence must consider the ability of the plan to respond to future uncertainties without major increases in cost to consumers or risk to overall power system reliability. Examples of relevant risks to be considered include higher/lower load growth, the possible attrition/loss of successful participants Identified through past/current procurement processes, lower/higher DSM response, scheduling delays in the construction of new/retrofit of existing generation and lower/higher fossil fuel prices.

9. Similarly, VECC does not agree that "cost effective" means "lowest cost" as suggested by the OPA (Exhibit A, Tab 2, Schedule 2, page 15). Rather VECC supports the perspective put forward in the Board's Filing Guidelines (pages 8-9) that while least cost considerations are relevant they don't necessarily determine the most "cost effective" plan. Furthermore, VECC agrees with the perspective put forward by the Board in its Filing Guidelines that in areas where the OPA has exercised discretion it should demonstrate that it considered alternatives and demonstrate that the IPSP represents the most cost-effective way (taking into account not only "cost" but other relevant factors) of achieving the goals set out in the Supply Mix Directive.

#### **PROPOSED ISSUES LIST - IPSP**

10. The OPA's proposed issues list focuses on the specific issues set out in the Supply Mix Directive and the IPSP Regulation and effectively deals with that part of the Board's mandate that is concerned with ensuring compliance with the Minister's Directives. However, if the Board is to consider "economic prudence" and "cost effectiveness" in the context set out above, then there are additional issues that the Board will have to address.

11. The Board will need to consider the adequacy of the load forecast developed by the OPA. In VECC's view this does not mean that Board must approve the load forecast. However, if the Board is to make a determination regarding the "economic prudence" of the IPSP, it must be satisfied the load forecast submitted by the OPA and the uncertainty attributed to it present a reasonable range of future outcomes for planning purposes. Therefore, the reasonableness of the load forecast as the basis for planning and developing the IPSP should be an issue for phase two of the proceeding.

12. Also, the OPA uses various screening measures (e.g. LUECs, TRC, etc) to assess the cost of alternative renewable energy resources and conservation programs and determine the least cost alternatives. VECC submits that for the Board to make a determination regarding the cost effectiveness of the overall IPSP it will need to make a determination as to the appropriateness of these measures for screening individual options for inclusion in the overall supply portfolio. Therefore, the appropriateness of the various cost tests used by OPA (in terms of both the underlying concepts and the actual inputs) should be an issue for phase two of the proceeding.

13. Also, consistent with the view that cost effectiveness means more than simply least cost, VECC submits that in considering the OPA's proposed conservation portfolio the Board must also be mindful of related implications in terms of:

- Lost opportunities, i.e., conservation programs that may not necessarily be least cost but where the window (in time) to make any material savings is limited (e.g., new construction).
- Hard to reach sectors, i.e., conservation programs that may not necessarily be least cost but where savings will truly not be achieved without intervention (e.g. low income programs)
- Affordability, i.e., conservation programs are one way of helping consumers offset the impact of rising electricity prices. The IPSP's conservation plan should ensure

all consumers have the opportunity to manage their electricity bills through access to conservation programs. However, in VECC's view, this requirement is particularly important for low income and fixed income consumers.

14. Therefore, the question as to whether the proposed portfolio of conservation programs (and associated targets) adequately addresses lost opportunities, hard to reach sectors and affordability should be an issue for the second phase of the proceeding.
15. Overall, the scope for each issue should be sufficiently broad to allow the Board to test the discretion exercised by the OPA and make a determination as to whether it considered all the relevant factors and did so in a logical and consistent manner.
16. Finally, in recognition of the fact that an IPSP will be produced every three years, the scope of the Board's review should have particular focus on those aspects of the IPSP that require "action" within that time frame.

#### **PROPOSED ISSUES LIST – PROCUREMENT PROCESSES**

17. Section 25.31 of the Electricity Act does not provide any guidance as to the criteria or context within which the OEB is to review and approve the OPA's proposed procurement processes. In its proposed wording regarding this issue, the OPA has used term "appropriate", without any further definition or clarification. In VECC's view, for the proposed procurement processes to be appropriate they must:
  - Ensure timely delivery of required resources as required,
  - Provide for a reasonable sharing of risks between suppliers and consumers,
  - Ensure the contract prices are cost effective, and
  - Be sufficiently transparent that consumers are assured they are receiving fair value.

18.VECC appreciates the opportunity to comment on this important issue and is prepared to speak to issues raised in this submission at the Issues Proceeding scheduled to start on Monday, January 14, 2008.

Respectfully submitted on the 17<sup>th</sup> Day of December, 2007

Michael Buonaguro  
Counsel for VECC