Before the Ontario Energy Board

In the matter of a hearing respecting Electricity Conservation and Demand Management

(heard: December 22, 2005)

Reply of the Green Energy Coalition

Issue 1: Whether the Board should order an LDC to spend money on CDM programs in an amount that is different from the amount proposed by an LDC in a test year and, if so, under what circumstances?

We will not repeat here the case that has been made as to whether more CDM, and specifically behind-the-customer's-meter energy efficiency, should be undertaken. We only respond to submissions from others on the question of how the OEB could best encourage this.

Board Staff's concerns with GEC's proposed spending guidelines and the OPA role:

Board Staff was concerned that the comparison to spending in other jurisdictions contained in the chart from Mr. Neme's affidavit evidence could lead to an inappropriate spending requirement for LDCs in that other parties such as the OPA could undertake programs as well.

That concern is misplaced for several reasons. First, while GEC and its expert have indeed suggested that the Board issue spending *guidelines*, the GECs short answer to the question of whether the OEB should compel a specific spending level in a given year is that this would not be the optimal way to achieve the desired result. The best way to set the issue on an orderly footing, both in the short term and in the longer term, is to provide a policy direction to all the LDCs which includes the first eight recommendations included in our earlier written submissions. This amounts to a primary directive that includes a minimum spending guideline. In short, the Board should be clear that:

- the expectation is that the utilities continually investigate the opportunities for more cost effective energy efficiency opportunities that address all market sectors

- the overall goal is to acquire all cost effective energy efficiency available

- that cost effectiveness is measured by the TRC test
- that as long as spending is TRC cost-effective, given the cost effective results obtained in other jurisdictions, 2 to 3 percent of *total* utility revenues (including commodity) would not be an unreasonable level to achieve on energy efficiency programs within just 2 to 3 years.

This direction will make it clear to the LDCs that they are expected by the Board to take a leadership position and proceed with acquiring energy efficiency resources, and that significant expansion of energy efficiency programs and spending is expected and appropriate but such a direction does not create a absolute requirement for spending. If the OPA or other entities move forward quickly, then this formulation will allow LDCs to have regard to that fact. An LDC that does not meet the guideline levels should be required to explain the rationale for a different level.

Further, Board staff assumes that the OPA is in a better position both to evaluate what CDM is cost effective and to obtain it. This ignores the fact the use of published avoided cost values empowers any LDC to analyse cost-effectiveness, a technique that is universally utilized wherever CDM is pursued. Board Staff's assumption also ignores the OPA's role (set by regulation) which was noted by counsel for the OPA as being to support the CDM efforts of others including LDCs rather than to supplant such efforts.

LDC concerns about increasing expectations before more experience is gained:

Several parties including the Coalition of large distributors noted the practical difficulties faced by LDCs at this early stage of CDM implementation. GEC is sensitive to this concern. As a practical matter GEC has suggested that only Hydro One, Toronto Hydro, Hydro Ottawa and Powerstream be expected to respond to a direction for enhanced CDM spending in the 2006 rate process (in a second phase of the process, accommodated by a variance account) and that other LDCs would be expected to respond in their 2007 applications. The larger utilities are best positioned to obtain and apply the internal and external resources needed to respond quickly and this would capture the majority of load in the province. Powerstream faces a particularly pressing need to reduce transmission strains.

Board Staff's proposed prudence test:

Board Staff has proposed a prudence (or imprudence) test that flies in the face of the Board's statutory objectives contained in Section 1 of the OEB Act. The Staff test would call upon LDCs to pursue CDM only where it is less expensive (considering only distribution costs) than a competing distribution investment such as a loss reduction effort. In short, Board Staff would limit the LDC's obligation to deliver CDM to programs that lower the *distribution* portion of total rates. This is even more restrictive than the RIM test which typically looks at total rates and which this Board has already rejected in the gas context as the test would preclude most conservation programs due to the failure of the test to include the benefit of customer bill savings. The test is therefore a disservice to customers and to the goals of cost-effectiveness and a vibrant energy sector.

Distribution rates are a small proportion of total avoidable costs. Any test that focusses on distribution rate impacts or competing distribution level investments and that precludes consideration of customer and upstream system benefits will be penny wise and pound foolish and will ignore the primary drivers for Ontario's renewed interest in conservation.

If LDC conservation investment beyond RIM test levels is not mandated or very actively encouraged by the Board it is clear that few LDCs will perform in line with the broader public interest and in accord with government policies favouring conservation and the Board would not be fulfilling its statutory objectives.

Schools proposed utility-specific mechanism:

Mr. Shepherd, in his submissions on behalf of Schools, (Tr. 139) urges the Board to consider a variety of utility-specific factors when considering whether to accept an LDC's annual CDM proposal. School's rejects spending guidelines, pure (mechanically applied) TRC driven determinations and the Staff prudence test. While GEC agrees that the factors that Schools lists are indeed relevant considerations, the process that they envision would be needlessly prolonged. GEC's witness, Mr. Neme proposes that the Board provide general guidance and place the onus on the LDCs to justify deviation from that expectation. In this fashion the utilities will have a benchmark as a basis for initial planning and apart from exceptional cases the Board can avoid a lengthy inquiry into the specifics of each LDC.

If utilities are not living up to the Board's expectations, warnings can be issued requiring improvement (as the Board did with Union Gas in EBRO 486), and the Board's normal powers of regulation can be used as a last resort if necessary, for example by reducing a utility's rate of return, as was done in Vermont PSB Case 5720 (see GEC reply to information requests from Board Staff counsel).

Issue 2:

Should LDCs be required to demonstrate freeridership levels on a program by program basis?

Should an LDC only be entitled to claim incremental benefits associated with its participation in a CDM program with a non-rate regulated third party?

No party seriously disputes the fact that proper free rider rates and allocation factors will lead to better program design, better program results, and fairer incentive rewards.

In GEC's submission the only real concern raised in response to GEC's and Pollution Probe's proposals is a concern about practicality. That concern is met by the tests GEC has proposed. We have not suggested that program implementation should await detailed studies nor that application of free rider rates have retroactive effect. Initial free rider assumptions will be based on best *available* information. With respect to attribution, to date very few if any jointly delivered programs are proposed that involve non-rate regulated partners. In those few cases that may arise, it will not be unworkable to require that estimates of the incremental impact of an LDC's partnership be provided.

A key benefit of an evidence-based program-specific freeridership rate approach will be to encourage more uniformity while still allowing innovation. The ability to avoid separate pre-approval of program design will encourage LDCs to avoid needless deviation from the program designs of other LDCs but innovation will still be rewarded where warranted.

As a practical matter the Board may determine that the TRC guide freeridership values are in fact the best available for 2006. If the Board should decide to utilize the TRC guide values in 2006 it should require results to be updated to reflect evidence based values subsequently available to ensure that program evaluations and future program designs are based on real impacts. In any event, pre-approved evidence based values should be utilized for 2007.

Costs

GEC respectfully requests its costs in this proceeding.

All of which is respectfully submitted this 16th day of January, 2006.

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