EB-2005-0523

Before the Ontario Energy Board

IN THE MATTER OF the Ontario Energy Board Act, 1998,S.O. 1998, c.15, Schedule B;

AND IN THE MATTER OF a proceeding initiated by the Ontario Energy Board to make certain determinations respecting conservation and demand management ("CDM") by Local Distribution Companies ("LDC") activities as described in the Electric Distribution Rates("EDR") Handbook and Total Resource Cost ("TRC") Guide pursuant to sections 19(4) and 78 of the Ontario Energy Board Act, 1998

MOTION RECORD OF THE GREEN ENERGY COALITION

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EB-2005-0523

Before the Ontario Energy Board

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

(To be heard: December 22, 2005)

Written Submissions of the Green Energy Coalition

Introduction:

The three questions posed by the Board in this proceeding all involve a consideration of the tradeoff between the benefits of maximizing energy efficiency and the benefits of reduced regulatory burden. GEC advocates requirements for more CDM effort, better free rider numbers and better allocation analysis all of which would increase net societal benefits. We submit that there is extreme urgency in this regard due to short term and long term supply constraints and that government policy clearly reflects this urgency. Some parties resist these proposals due to concern about regulatory burden or regulatory risk and uncertainty about OPA versus LDC roles. The Board should take this opportunity to reduce uncertainty by clarifying its expectations. GEC acknowledges that raising the bar creates work for the Board and LDCs. GEC submits that these costs are slight compared to the benefits that can be obtained. GEC submits that clear direction from the Board will get results. The Board should not be hesitant to act in the public interest.

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?

Overview:

1. In GEC's submission:

- Current levels of CDM funding are sub-optimal.
- The Board has jurisdiction to act utilizing its authority to regulate rates; to establish standards, targets and criteria for evaluation; and to apply conditions to LDC licences.
- Increased CDM efforts are consistent with government policy and sound economic practice.
- Given the present uncertainty about LDC roles, without clear direction from the Board the SSM and LRAM mechanisms will not encourage optimal levels of CDM. The Board should enunciate its expectations.
- In considering to what extent to require added CDM it is appropriate for the Board to consider the manageability of an alternative CDM proposal and the rate impact.
- For fiscal 2006 it is reasonable to expect LDC CDM spending to be at least 1% of total revenues and for customer end-use efficiency to ramp up to 3% by 2008.
- The Board should create a variance account and mechanism to allow for approval of CDM plans as a second stage of the 2006 rate process.

Current levels of CDM are not optimal:

2. At present LDCs collectively fund CDM from the $163 million of third tranche MARR that was directed by the Minister to be awarded starting in 2005 rates conditional on it being allocated to CDM. The Board has allowed the LDCs up to three years to spend their share of those funds and remain in compliance with the directive. Accordingly, an average of approximately $54 million will be spent annually in 2005, 2006 and 2007, with only a minority of that going to customer side efficiency programs.

3. At the time that the Board heard the applications for these funds, it was readily acknowledged by the LDCs that the cost effectiveness of the initially proposed portfolios was largely unknown, though the programs were all likely to be cost-effective. No attempt was made to determine if the programs were optimal in form, scope of coverage or extent of expected participation.

4. In the context of a rate case it is possible to estimate cost-effectiveness and to analyse the marketplace and it is therefore possible to consider more optimal portfolio design and spending levels. Optimal levels would enable broad participation which can reduce cross-subsidies and would improve economic outcomes. Achieving such levels immediately is constrained by the need for CDM to be manageable by the utilities, and the need to avoid undue adverse rate impacts.

5. The evidence of Chris Neme discloses that there is significant opportunity for added cost-effective CDM, particularly on the customer side of the meter. No evidence has been filed to suggest otherwise. The only live debate is over the roles of the Board, the LDCs and the Conservation Bureau and the manageability of any ramp up in spending.

The Board has jurisdiction to act:

6. The OEB Act (mirrored by section 29.1 of the Electricity Act) provides that LDCs may engage in CDM:

> Restriction on business activity
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> **71.** (1) Subject to subsection 70 (9) and subsection (2) of this section, a transmitter or distributor shall not, except through one or more affiliates, carry on any business activity other than transmitting or distributing electricity. 2004, c. 23, Sched. B, s. 12.
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> Exception
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> (2) Subject to section 80 and such rules as may be prescribed by the regulations, a transmitter or distributor may provide services in accordance with section 29.1 of the Electricity Act, 1998 that would assist the Government of Ontario in achieving its goals in electricity conservation, including services related to,
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> (a) the promotion of electricity conservation and the efficient use of electricity;
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> (b) electricity load management; or
>
> (c) the promotion of cleaner energy sources, including alternative energy sources and renewable energy sources. 2004, c. 23, Sched. B, s. 12.

7. Given that such activity must be funded by rates, the Board must regulate the prudence of expenditure and thus the acceptability of the service being provided. In regulating this activity the Board is governed by Section 1 of the OEB Act:

> Board objectives, electricity
>
> **1.** (1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

> 1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
>
> 2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry. 2004, c. 23, Sched. B, s. 1.

8. While Section 71(1) is merely permissive in regard to the LDC CDM role, the Act is mandatory in its requirement that the Board consider economic efficiency and cost effectiveness in its regulation of the LDCs. The statutory scheme thus makes these considerations a mandatory part of the business of LDCs who are regulated by the Board. In that CDM furthers these various objectives, it is within the Board's jurisdiction to demand effective pursuit of CDM as a means to achieve the statutory objectives.

9. There can be no doubt that the Board has authority to require an LDC to address sub-standard service levels in its fulfilment of its 'wires' obligations. Requiring appropriate levels of CDM should be no different. However, in the recent York Region decision the Board distinguished between the Board's authority to order specific CDM services and its authority to address recovery of amounts invested in CDM initiatives. In regard to the latter the Board noted:

> What this means is that the Board reviews CDM expenditures for prudence and cost effectiveness. In carrying out that review, the Board clearly has legal authority to consider whether alternative CDM programs should be considered - whether they involve higher or lower expenditures than those proposed by an LDC. (Decision, EB-2005-0315, p.11)

10. Assuming that the Board in that case was correct that it lacks explicit authority to require specific CDM actions (a conclusion that we differ with), it is clear that the Board has authority to insist on prudence in the spending of those budgets. That being so, it is desirable to provide direction in that regard in advance of the spending (i.e. when rates are being set) just as it is desirable to provide the LDCs with direction as to the acceptability of supply side capital budgets in advance.

11. Because CDM is an alternative to supply the Board has jurisdiction to find that CDM budgets are too high or too low. If they are too high they may be imprudent relative to competing supply alternatives or may be ill advised due to rate impacts or fairness concerns. If they are too low they may also be unacceptable because the failure to obtain cost-effective CDM leads to higher than optimal supply side spending. LDC rates for supply services (both distribution as well as transmission and commodity costs to the extent charged through in rates) are regulated by the Board and must be prudent. If

an LDC foregoes cost-effective CDM that would serve customer needs at lower total cost, it has, by default, increased distribution, transmission and commodity supply costs needlessly and raising rates to fund such an increase may be considered imprudent. As a practical matter, the OEB should pro-actively direct LDCs in regard to its expectations for CDM rather than regulate by penalizing them for imprudent supply or CDM investment after the fact.

12. In addition to the Board's general rate setting authority interpreted in light of Section 1, the Board has jurisdiction by reason of Section 83 of the Act:

> **Standards, targets and criteria**
>
> **83.** (1) The Board may establish standards, targets and criteria for evaluation of performance by generators to whom section 78.1 applies, transmitters, distributors and retailers. 1998, c. 15, Sched. B, s. 83 (1); 2004, c. 23, Sched. B, s. 27 (1).
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> **Regard for standards, targets**
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> (2) The Board may have regard to the standards, targets and criteria referred to in subsection (1) in exercising its powers and performing its duties under this or any other Act in relation to generators to whom section 78.1 applies, transmitters, distributors and retailers, including establishing the conditions of a licence. 1998, c. 15, Sched. B, s. 83 (2); 2004, c. 23, Sched. B, s. 27 (2).

13. Thus the Board can establish targeted CDM levels either by reference to cost-effective spending targets or TRC results or to a standard such as 'all practicable cost effective conservation' (or as in California, 70% of the economic potential), and it can then have regard to these targets or standards when exercising its rate setting powers.

14. Further, if there is any doubt about the Board's jurisdiction in regard to CDM, the Board can require CDM as a licence condition by virtue of section 70 which specifically references the Board's objectives as authority for licence conditions. As noted above, the Board's objectives clearly cover CDM. The Board could give effect to any CDM licence condition by way of codes and guidelines as allowed by section 70.1.

Government policy and the economics are clear:

15. The Board's statutory objectives provide a clear enunciation by the government of the public policy rationale for CDM which can improve the "price, reliability and quality of electricity service", and can foster "economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity".

16. The Government by enacting the OEB Act and by its 'third tranche directive' has clearly indicated that it supports a strong CDM role for the LDCs overseen by the OEB.

17. The Government has set minimum goals and created the Conservation Bureau. The division of responsibilities between the Bureau and the LDCs is evolving but the first annual report of the Conservation Bureau makes clear that the LDC role is not a time limited one. The Bureau has created a Conservation Fund that will fund pilot programs and complement the work of the LDCs:

> "If a pilot proves successful, the initiative will be considered for broader implementation, or for development as an 'in the box' program that can be replicated by LDCs." "The fund will also leverage and complement the work being done by LDCs..." (Our Conservation Challenge, at p. 30)

18. Newmarket Hydro has suggested that rate funded CDM, beyond the 3rd tranche, be limited to the administrative costs of delivering OPA funded CDM programs (Affidavit of Paul Ferguson, para. 25). Had this been the government's intention it would not have moved forward with the $163 million third tranche mechanism. Clearly, the government views LDCs as more than passive delivery agents of the OPA. This is evidenced in the Minister of Energy's May 31, 2004 letter to LDCs (to enable application for deferral accounts) where he noted:

> Over the long-term, the specific nature of LDC initiatives, and related recovery issues, will be at the OEB's discretion. To ensure that the sustainable regulatory framework developed by the OEB is consistent with the government's overall policy objectives in this area, I will be providing the OEB with the government's policy objectives and direction with respect to "smart" metering very shortly. In addition, I would expect the framework to remove barriers to demand-side management, provide incentives to manage distribution systems more efficiently and ensure consumers benefit from reduced energy use. Conservation assets should be included in the rate base.

19. If the government's intention was a limited role for LDCs that has them function as mere conduits of OPA funded CDM it would not be referring to a long term framework that includes placing conservation assets in rate base.

20. Further, the government has set significant provincial minimum conservation goals to be achieved by 2007 but the OPA and its conservation bureau have only received authority to raise charges for two conservation program areas thus far and no charge has yet been levied nor have significant programs been tabled to date. The OPA's 2006 rate case filing is consistent with this limited role for the OPA Conservation Bureau in 2006. (See EB-2005-0489, Ex. B, Tab 2, S. 3 appended) The pace of progress at the OPA is inconsistent with the reduced role for LDC CDM that Newmarket advocates.

21. Moreover, given the current level proposed for 2006 CDM spending on customer efficiency programs in Ontario compared to the levels that are being cost-effectively delivered elsewhere, there is plenty of headroom for both LDC and OPA initiated efforts. (See Affidavit of Chris Neme, figure 1, at page 7) If the OPA suddenly provides large amounts of funding to LDCs the variance account mechanism we discuss below would allow LDCs to meet OEB objectives and enable unspent funds to be returned to ratepayers.

22. Newmarket correctly identifies the possibilities for confusion or duplication and GEC agrees that coordinated action for programs that are province-wide or regional in scope is to be encouraged. Mr. Neme notes how the Coalition of Large Distributors have already begun this effort and the Board should encourage this effort. Further, as the OPA Conservation Bureau becomes more active it will be an enabling vehicle, particularly for smaller LDCs. However, Newmarket's concerns are important to note for another reason -- it is precisely this uncertainty about their role in CDM that has put the brakes on most LDCs' efforts and discouraged their building of CDM delivery capability. This proceeding provides a timely opportunity for the Board to clarify its expectations and thereby reduce this uncertainty.

SSM and LRAM are helpful but insufficient given the uncertainties facing the LDCs -- direction from the Board is needed:

23. The evidence demonstrates that added spending can be highly cost-effective. The fact that most LDC's are not proposing added CDM spending in 2006 rate applications evidences the insufficiency of the current incentives to foster optimal spending given the uncertainty faced by the LDCs at this time. While the LRAM eliminates the LDCs' financial disincentive to deliver CDM, and the current SSM provides some positive incentive, it is clear that the utilities appear uncertain about their role as CDM delivery entities.

24. Where LDCs are uncertain about their long term role or see a limited LDC role, not surprisingly, in the absence of clear direction, they will resist ramping up staffing and CDM efforts. As noted above, Newmarket Hydro provides an example of an LDC that sees a severely limited role for LDC CDM. It notes:

> Newmarket Hydro Ltd. (NHL) CDM program is designed around a "one time" allocation of dollars according to the Minister of Energy's Directive...The dollars are being spent on a strategy of education, awareness and introducing CDM expert companies to NHL customers. The expectation is that NHL customers will recognize the value of CDM and embrace it, such that the conservation culture continues long after NHL's CDM dollars are exhausted. NHL expects that its programs will be continued and supplemented into the future by the OPA and Ministry of Energy. NHL is planning to embed only the costs of administering these provincial initiatives at the local level in rates."[1]

[1] Newmarket Hydro response to GEC interrogatory # 1

25. Newmarket is clearly not building capacity to champion conservation beyond a time limited effort, nor is it focussing on the most successful program strategies that have been proven elsewhere.

26. Newmarket is not alone. When Horizon Utilities was asked if it has any fuel switching programs its response was no, "Horizon Utilities does not have any third tranche CDM spending approved for such programs."[2] This response was mirrored in other responses from several utilities. We are left to speculate as to whether the lack of approval is a cause or a result of LDC disinterest in further programs. In either case the Board should clarify its view of the proper goal for LDC CDM.

27. Mr. Neme suggests that a statement of fundamental policy direction from the Board should specify that LDCs should pursue all CDM resources that are cheaper than supply. GEC agrees that clarification of the Board's expectations is critical to success and the Board should indicate that it expects LDC's to pursue all cost effective CDM as soon as practicable.

The level, manageability and rate impact of increased CDM:

28. An optimal level of CDM would be a level that over a reasonable period of years would address all cost-effective efficiency potential that is not otherwise occurring in the marketplace due to market barriers that can be overcome by good program design.

29. Guidance on reasonable levels can be found by regard to the experience in other jurisdictions and the experience in Ontario to date and with the assistance of experts, but as a practical matter the optimal level will be a moving target and it will be approached over time to make attainment manageable and to reduce adverse rate impacts.

30. Mr. Neme notes how utilities have managed to cost effectively ramp up spending on customer energy efficiency programs in other jurisdictions within the constraints of acceptable rate impact levels and utility capability and that the opportunity to do so in Ontario may be even greater. He notes:

> Vermont Energy Investment Corp. (VEIC) ramped up to 1.1% of annual revenues in its first 10 months of operation, spending Cdn.$1500 per customer which is ten times more than the top 5 Ontario LDCs plan for 2006 (their 2nd year). VEIC's budget doubled in the following two years.
>
> New York and Long Island Power Authority was spending over $500/Gwh of sales in its first year of DSM, three to four times higher than what the largest Ontario LDCs are proposing for their second year.

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[2] Horizon Utilities response to Pollution Probe interrogatory # 4

> Hydro Quebec, is moving its budget from 0.4% to 1.5% between 2004 and 2006.
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> The enormous savings being realized today in states as diverse as Vermont and California suggest it [achievable electric efficiency potential] is likely very large...Unlike Ontario, both Vermont and California have already made substantial investment in electric DSM over the past decade. This too suggests that -- all other things being equal -- the reservoir of efficiency potential in Ontario should be greater than in those states.

31. Based on the experience elsewhere GEC submits that a reasonable *minimum* expectation for Ontario LDCs would be for *customer efficiency* program portfolios to include spending on cost effective customer conservation programs at a level of 1% of *total* rates (i.e. including upstream costs) in 2006, 2% in 2007 and 3% in 2008. There is no evidence to suggest that such levels would lead to undue rate impacts compared to the alternative impact of supply additions. Indeed, by definition the rate impact will be less than the supply alternative. (OPA CEO Jan Carr has recently suggested that the OPA supply plan will raise rates by 10-15% if only base levels of conservation occur.)

32. Given the late stage of the 2006 rate process, we recognize that LDCs, particularly those that have not joined regional CDM planning and/or co-delivery groups, could be severely challenged by a 1% target in 2006 and the Board may wish to relax somewhat that expectation. We suggest that the 1% target in 2006 be relaxed to include all CDM efforts, not just customer side efforts. However, GEC urges the Board to insist on the requirements of 2% in 2007 and 3% in 2008 minimum spending on a cost effective *customer* energy efficiency programs. This will cause LDCs to make suitable arrangements (either internally, in cooperation with other LDCs, or by way of contracts with outside entities) to ensure that their customers do not lose out.

33. The Board should also indicate that its expectations for an aggressive customer energy efficiency program spending ramp up should not in any way reduce the efforts of the utilities to obtain savings by way of loss reduction efforts or by way of support for dispersed generation and load management.

The Mechanics of Approving Added CDM Spending Plans for 2006

34. In its RP-2004-0188 decision on the 2006 EDR Handbook the Board indicated that any further spending proposals would have to be supported by TRC screening demonstrating cost effectiveness. Given the timing of the 2006 rate cases, GEC proposes that any LDCs that are required to increase spending on 2006 CDM be allowed to file updated CDM plans in the first quarter of 2006 and that the Board’s rate approval process could proceed in the interim on the assumption that the CDM budgets will pass screening. In this manner the rate setting process will not be held up and the LDCs can comply with the pre-screening requirement. If the screening and program approval process is not complete at the time that rates could otherwise be

finalized, the Board could consider a CDM variance account to retain control over the CDM budget pending such approval. This approach would allow time for the LDCs to engage in a consultative effort such as occurs in California (see Tab 9 of materials submitted in response to Board Staff Counsel's requests, California CPUC Decision approving increased DSM spending, pages 2-3, 7, and 11) and would allow for adjustment for any duplication of funding from OPA charges.

Issue 2.1: Should LDCs be required to demonstrate freeridership levels on a program by program basis?

35. In GEC's submission:

- There can be wide variation in freeridership rates for a given measure depending upon program design.

- Standardized rates will discourage efficient delivery, waste resources, reduce energy efficiency and unfairly reward LDCs at the expense of customers.

- A suitable alternative exists that will not entail undue regulatory burden.

- Pre-approval will avoid the spectre of retroactive changes.

- Evidence-based program-specific freeridership rates will encourage more uniformity while allowing innovation.

36. Section 2.1 of the TRC Guide provides standardized freeridership levels for particular measures and sectors. GEC submits that freeridership is dependant upon program design (as the Board's guide acknowledges) and that the variation in the actual freeridership that will be experienced with varying program designs is so great that using standard values would be counterproductive.

37. The examples discussed in the affidavits of Jack Gibbons and Chris Neme illustrate how the current rule could lead to great unfairness and provide no incentive for optimal program design.

38. Further, the fixed rate approach is more than unfair -- it is a positive incentive to avoid the most cost-effective CDM. Consider the following example. Assume that there are 1000 housing starts in a given LDC franchise area. Assume that 5% will be Energy Star homes absent a program encouraging more. If Energy Star homes cost $3000 extra to build, offering a $100 incentive will bring few if any added participants beyond the 50 that were going to do so in any event and the actual free rider rate will be very high, perhaps 100%. However, if $1500 is offered, more builders will participate but the absolute number of true free riders (50) remains constant while the percentage of free riders falls. If 10% of new homes were now high efficiency as a result of the program the proper free rider rate would be 50%. If the Board's free rider assumption is based on programs elsewhere that offer $1500 it will be 50%. Faced with such a fixed rate an LDC could simply offer $100 and see no actual added participants and claim 25 participants (50% of the 50 actual participants who are in fact all free riders). The utility will have preserved its CDM budget but will have fostered no incremental efficiency whereas a utility with the more expensive and effective program will have used up much of its CDM budget but will have doubled the number of Energy Star homes. The LDC that elects to go the ineffective route could use the leftover CDM budget to take this same approach in several program areas enhancing its SSM result.

39. If an LDC can achieve the same SSM reward by pursuing a simple, low program cost, but relatively ineffective program designs, it will be incented to do so. This will discourage efficient delivery, reduce energy efficiency and unfairly reward LDCs at the expense of customers.

40. GEC recognizes the need to streamline the regulation of CDM given the number of LDCs in Ontario. GEC also recognizes the benefit in providing LDCs with some degree of certainty as to the net benefits they can expect to be credited with for a given effort. We submit that these concerns can be met by a pre-approval and precedent based system.

41. Utilities proposing new program designs should be permitted to seek Board pre-approval of inputs in rate applications (or by way of a request for an expedited amendment to the guidelines). Other utilities can then rely upon the Board's determinations when they offer similar programs. LDCs offering identical programs would face no risk. LDCs offering slight variations of a program will have limited risk such that they will not likely require pre-approval.

42. The initial applications of the largest utilities will likely provide precedent for most programs. It is true that the initial rates will be based on less than complete information but these rates will still be far more accurate than the standard rates proposed and can be refined as program evaluations augment the information base. This new information can be used *on a forward going basis* to adjust rates in future.

43. The affidavit evidence of Mike Brophy, Todd Williams and David Heeney all raise concerns about the risk and disincentive created for utilities if retroactive adjustments to free rider rates are experienced. GEC agrees that retroactive adjustments are problematic. Accordingly, for purposes of calculating SSM we generally do not advocate retroactive adjustment. We advocate a pre-clearance process coupled with the ability of LDCs to rely on precedent where they are delivering the same program that has been pre-cleared by another LDC. (It is possible for an LDC to not pre-clear or not rely upon precedent or to carry out a program differently than as pre-approved and in those cases an LDC would have to propose a program-specific rate when it seeks SSM clearance and would face the risk that its assumed rate will be challenged at the time of SSM clearance.)

44. Mssrs. Brophy, Williams and Heeney also raise a concern that efforts to evaluate free ridership will divert resources from program delivery. We submit that failure to consider program specific free rider impacts will result in a far worse loss of opportunity. Poor program designs that experience high actual free ridership waste CDM dollars.

45. We do not suggest that program implementation should await detailed studies. Initial free rider assumptions will be based on best *available* information, including local market data and analysis of similar programs and free rider assumptions for such programs in other jurisdictions. In some

cases, initial free rider rates will need to be based on somewhat limited information and as program evaluations are completed the rates can and should be revised for application to future SSM periods. (We also advocate use of the best available information for LRAM which means that evaluation findings could be utilized in the clearance of LRAM accounts).

46. The regulatory floodgates will not burst open. The reality is that program innovation is likely to emerge from a limited number of LDCs, many of whom are already coordinating program development with other utilities. It is possible that the OEB will find it appropriate to hire an expert to advise the Board and its staff on suitable rates. Given the benefits to be obtained this would be a reasonable investment.

47. A key benefit of this 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. Further, better assumptions will improve reporting, improve cost-effectiveness screening, and ensure that ‘best practices’ are truly *best* practices.

Issue 2.2: 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?

48. In GEC's submission:

- There can be wide variation in the actual incremental impact of jointly delivered programs.
- The present rule will encourage wasteful practices, reduce societal benefits and result in unjustified and unfair SSM and LRAM payments to utilities at customer expense.
- There is a reasonable alternative that will not entail undue regulatory burden.
- Requiring incremental value to be calculated will encourage uniformity while allowing innovation.
- If an incentive beyond the SSM is needed for LDC's to embark upon joint programs, it should not be so large that it is unfair and distorts decision making nor should its structure distort evaluations.

49. Section 2.2 of the TRC Guide provides that LDCs may claim 100% of the benefits associated with a CDM program in which they jointly market and deliver the program with a non-rate regulated third party.

50. GEC submits that this rule, if permitted to stand, will encourage wasteful practices, reduce societal benefits and result in unjustified and unfair SSM and LRAM payments to utilities at customer expense.

51. The mischief that can result from this rule is apparent from a review of the Enbridge Energuide for Houses program (EGH) that was examined in the recent EB-2005-0001 case. The evidence in that case indicates that the federal government pays $1000 toward home audit and measure costs. Enbridge pays $50 and notes other support such as trade fair promotion (and incentives if a furnace happens to be the measure). Enbridge acknowledges only an 8% free rider rate which is to account for customers that would have acted without either Enbridge or NRCan's program efforts. (EB-2005-0001, V.31, p.76) Enbridge seeks 100% attribution of the benefits of its "joint" effort with NRCan, ie. it would claim all the TRC from 92% of participants (EB-2005-0001, V.31, p.84). GEC filed evidence showing that participation rates are comparable in other jurisdictions without utility support and are comparable in Union's service territory, despite the fact that Union does not participate in EGH. (see EB-2005-0001, V.36, p.38, K36.2, and J36.4)

52. Enbridge undoubtably had a larger role in earlier years and deserves some credit for helping to build the program. Enbridge helped fund pilots designed

and conducted by the Green Communities Association that were the model for the current federal program. Mr. Brophy captures the core issue well when he notes:

> 15. The view of intervenors that propose change to the attribution rules fails to consider the *historical origin* of many CDM/DSM programs, including Enbridge's efforts to solicit government support and the numerous non-financial means in which Enbridge supports relevant programs." *(Emphasis added)*

53. The question arises: should a utility be rewarded in perpetuity for historical contributions? Should it be rewarded 100% even if it now has comparatively slight involvement? If so, should Enbridge be rewarded in perpetuity for its help getting provincial water heater standards raised?

54. Enbridge did obtain 100% credit for the early years of the program when its involvement was critical to the existence of the program, but surely that is no longer the case.

55. As difficult as the proposition of 100% credit for minor continuing contribution is in the Enbridge EGH example, it would be even more difficult if an LDC with no historic contribution to a program come forward in 2006 and sought to claim credit for millions of dollars in TRC for a small contribution to an existing successful federal program like EGH. The existing rule would encourage LDCs to do so for they can spend a small sum of money, add little or no effort and freeload on an existing proven program. The present rule is more than unfair, it will waste resources and divert effort from real opportunities.

56. However, LDC's should be encouraged to make meaningful contributions to joint programs that result in meaningful additional savings. At present the Board's rules do not distinguish between effective and illusory contribution. Attribution based on an estimate of incremental TRC due to an LDC's participation would solve this problem. For example, if an LDC increased the EGH customer incentives by 50% above the federal level, or funded community groups to deliver the program where they currently do not, the incremental contribution to results could be significant.

57. Mr. Heeney has suggested that the difficulties for an LDC of arranging joint delivery may not be adequately rewarded if it only obtains a pro-rata share of TRC attribution based on its financial contribution. He suggests that the problem should be overcome by a sweetener. He proposes that the net TRC benefits be allocated to the LDCs based on 1.2 times the split in financial contribution to the program. This would mean that an LDC that pays for 40% of a program would be credited with 48% of the TRC. GEC does not agree that a sweetener is needed because the economies of scope and scale in joint delivery will increase overall portfolio results and SSM. However, if the

Board finds that a 'sweetener' is needed, we would suggest that increasing the SSM rate on shared programs (eg. from 5% to 6%) would provide the same 20% increase proposed by Mr. Heeney without distorting the TRC calculation and the reported TRC result.

58. As with freeridership, a pre-approval system that enables LDCs to rely upon precedent can address this problem without undue regulatory burden or retroactivity.

Recommendations:

1. **The Board should issue a fundamental policy directive that LDCs should pursue and acquire all CDM resources that are cheaper than supply alternatives**. This directive could be constrained only if a utility could compellingly demonstrate that either (1) rate impacts would create significant short-term economic disruption and/or hardship, or (2) increases in spending necessary to acquire maximum possible cost-effective CDM resources cannot be managed effectively or efficiently (i.e. that a slower ramp up is prudent). Utilities should be precluded from making any supply side investments unless they can demonstrate that they have exhausted cost-effective CDM opportunities.

2. **The Board should make clear that failure of an LDC to achieve adequate levels of cost-effective CDM is grounds for a finding that distribution supply investments are imprudent and/or that a lower return on equity is appropriate**. Failure to acquire cost-effective CDM, by definition, raises total costs to consumers by increasing supply costs. Therefore, under-acquiring cost-effective CDM resources amounts to a failure of the utility to fulfill its obligations as a distributor.

3. **The Board should require the electric LDCs to increase spending on total CDM to at least 1% of total (distribution and commodity) revenues in 2006.** If the OEB believes that this is impractical at this point in time for smaller LDCs, it could limit this requirement for 2006 to the largest utilities. In either case, this would be a "floor". Utilities should be free to request even greater levels of efficiency program spending if they should find such spending to be cost-effective and can ramp up efforts efficiently.

4. **The Board should make clear that it expects LDCs to be spending approximately 2% of total revenues on *customer side* efficiency programs in 2007 and 3% in 2008.** Any utility coming forward with lower spending levels would be expected to present a compelling case that the levels requested by the Board would result in rate impacts that create significant short-term economic disruption and/or hardship, or that ramp-up could not be accomplished efficiently. In other words, the burden of proof for doing less should be on the utility.

5. **The Board should make clear that it expects utilities to develop portfolios of efficiency programs that collectively balance and address three goals: (1) short-**

term resource acquisition; (2) long-term market transformation; and (3) equitable access to programs for all customers. Utilities would be expected to demonstrate in future filings how their portfolios address all three of these three goals.

6. **The Board should make clear that it expects the LDCs to continue and expand the collaboration that has begun under the auspices of the Coalition of Large Distributors**. Such collaboration – expanded to include OPA and other LDCs and regulatory stakeholders (with funding) as appropriate – should ensure that there are consistent, province-wide approaches to key lost opportunity markets such as new construction and equipment replacement/purchasing.

7. **The Board should also make clear that there is a role for individual LDCs to develop and implement unique approaches to delivery of some CDM services.** This is particularly true for retrofit programs and community-based enhancements to equipment purchasing programs and new construction.

8. **The Board should create a second phase of the 2006 rate approval process to allow LDCs to file updated CDM plans for inclusion in 2006 rates.** To enable the rate setting process to proceed at this time, rates should include a higher level of CDM expenditure with a CDM variance account to return any portion for which programs are not approved in phase 2.

9. **The Board should require LDCs to develop, present and be prepared to defend evidence-based program-specific free rider assumptions.** Again, collaboration on such assumptions, both between different LDCs and between LDCs and other stakeholders, should be encouraged.

10. **The Board should make clear that utilities can only claim the incremental savings resulting from their CDM efforts.** There is no justification for claiming savings that would have occurred through a government program (or due to any other factor) in the absence of the utility's efforts. If a further 'sweetener' is seen as needed, GEC would suggest that increasing the SSM rate on shared programs (eg. from 5% to 6%) would provide an added incentive without distorting the reported TRC result.

Costs

GEC respectfully requests its costs in this proceeding.

All of which is respectfully submitted this 20th day of December, 2005.

David Poch
Counsel for the Green Energy Coalition
(David Suzuki Foundation, Eneract,
Greenpeace Canada, Sierra Club of Canada)

Additional materials relied upon:

Appendices (Materials from other OEB proceedings referred to)**:**

- EB-2005-0489, Ex. B, Tab 2, S. 3 (OPA 2006 rate case)
- EB-2005-0001, V.31, pp.76 & 84, V.36, p.38, Ex. K36.2, and J36.4 (Enbridge 2006 rate case)

Materials under separate cover (previously filed)**:**

- Affidavit of Mr. Chris Neme
- Materials filed on December 14th in response to Board Staff Counsel's request in regard to Primary CDM Directives and Vermont proceedings.

STRATEGIC OBJECTIVE No. 3

Develop, Coordinate and Stimulate Electricity Conservation and Demand Management

1. The strategic objective for the Conservation Bureau for 2006, as approved by the OPA Board of Directors and Minister of Energy, is to develop, coordinate and stimulate electricity conservation and demand management.

2. To meet this strategic objective, the OPA Board and the Minister of Energy have approved the following broad initiatives for the Conservation Bureau to undertake in 2006:

    - Plan, design and implement comprehensive programs that support demand reduction and electricity conservation, as directed by the Minister of Energy;
    - Foster the development of a culture of conservation across all sectors of the Ontario economy through a three-part initiative consisting of Conservation Awareness, a Conservation Fund, and Research and Tracking;
    - Coordinate and promote conservation programs, and support other organizations such as LDCs and retailers in the identification, design and delivery of demand side management ("DSM") and demand response ("DR") programs and high-efficiency combined heat and power ("CHP");
    - Gather valuable information and experience from other programs and track public opinion on conservation in various markets and segments of the public to monitor the impact of conservation efforts;
    - Produce an Annual Report that identifies conservation potential, reports on progress in achieving conservation goals, and identifies obstacles and opportunities for further conservation results; and
    - Create a public profile for the Chief Energy Conservation Officer ("CECO") so that his comments and suggestions on conservation are seen in the public arena as authoritative and important.

3. Some of these initiatives are discussed separately; others are embedded in one or more programs and will be discussed within that context.

Plan, Design and Implement Programs to Fulfill Ministerial Directives

4. Prior to the approval by the OEB of the OPA's IPSP, and procurement process, the Conservation Bureau's work will include directives from the Minister of Energy. These directives relate to the implementation of specific Province-wide conservation programming, and sector-specific DSM and DR, and CHP initiatives, including district energy projects. After approval of the IPSP, the Conservation Bureau will implement programs as identified in the IPSP.

5. Costs of procurement contracts entered into to meet the requirements of directives will be funded through charges. The general operating costs of the Conservation Bureau will be funded in the same manner as all other OPA operating costs as approved by the OEB.

6. To date the Minister has issued the following directives that relate to the work of the Conservation Bureau:

    - Procure 250 MW or more of DSM and/or DR across the Province, with particular focus on the cities of Toronto, Mississauga, Brampton and Oakville (June 2005). Part of the 250 MW may include procurement of 20 MW of DM/DR in the Newmarket area to improve the reliability of electricity supply in York Region, depending on receipt by the OPA of OEB approval for this initiative;
    - Procure up to 1 000 MW of CHP including industrial co-generation and district energy projects (June 2005);
    - Procure up to 100 MW of reductions in overall electricity energy consumption and demand by residents of low-income and social housing through implementation of a low-income program; the program is expected to have a comprehensive package of energy efficiency measures to achieve longer-term reductions in electricity peak demand, including the reduction in the use of inefficient appliances (October 2005); and
    - Procure up to 100 MW of reductions to the residential/commercial/industrial sectors (primarily in the residential and small commercial sectors) by taking energy-inefficient appliances out of service and encouraging the adoption of efficient lighting technologies and lighting design. The program will include a comprehensive outreach and education component to address the inculcation

of a conservation culture amongst all electricity users regarding energy efficient lighting (October 2005).

7. To ensure that the requirements of the procurement are met, the Conservation Bureau will:

- Work with the OPA's Generation Development group to develop and implement effective procurement processes and contracts;
- Encourage participation of the residential, commercial, institutional, industrial and agricultural sectors in procurement processes;
- Implement DSM, DR and CHP programs that are well planned and coordinated among the delivery organizations;
- Develop and implement appropriate monitoring and evaluation processes to ensure that the procurement meets the specified DM/DR/CHP targets; and
- Ensure that the initiatives are prudently managed and are producing measurable results.

Foster the Development of a Conservation Culture

8. The Conservation Bureau will foster the development of a conservation culture through three major initiatives:

- Conservation Awareness;
- Conservation Fund; and
- Research and Tracking.

Conservation Awareness

9. The Conservation Awareness initiative supports the development of a conservation culture for Ontario through education and communications. The program will be comprised of multi-media campaigns using trade or industry-specific media or general interest local or Province-wide media. Because of the size of the initiative, there will be an emphasis on lower cost leveraged initiatives with stakeholders and LDCs, and on mounting targeted special events. One outcome of the initiative will be that the CECO becomes known as a trusted source of valuable information on

conservation. The budget for this program for 2006 is $1.55 million. Of this amount, $50,000 will be directed to consulting services related to planning and evaluation.

Conservation Fund

10. The Conservation Bureau has established a fund to support sector-specific conservation, education, and electricity reduction pilots. Largely led by sector stakeholders, such as industry associations, these pilots will be a proving ground for conservation projects which have a strong potential for replication across one or more sectors, and for delivering reductions in demand and consumption. If a pilot proves successful, the pilot will be considered for broader implementation, or for development as an 'in the box' program that can be replicated by LDCs. The budget for this fund for 2006 is $1.55 million. Of this amount, $50,000 will be directed to consulting services related to planning and evaluation of the Fund's performance. This Conservation Fund is built on the Ministry of Energy's previous Conservation Partnerships Program.

11. The OPA has established a Grant Funding Policy that will govern the granting of the funds from the Conservation Fund. This policy also establishes a Grant Review Committee that will make decisions about grants from the Conservation Fund (see Attachment 1, for the Grant Funding Policy).

12. To implement the Conservation Fund in 2006, the Conservation Bureau will:

- Develop program guidelines, an application guide, and selection criteria that are easily accessible to the public;
- Develop a formal approvals process for fund applications;
- Identify sectors and sector needs that may be appropriate for funding;
- Coordinate with relevant stakeholders to develop initiatives for applications to the Fund that will address these needs;
- Coordinate the applications approval process;
- Develop and implement a project tracking and evaluation system for approved projects; and
- Ensure that the Fund complements, coordinates with, and leverages similar programs undertaken by others.

Research and Tracking

13. The Conservation Bureau will track and disseminate information on developments and best practices in conservation programs and education, specifically in Ontario, and in other jurisdictions. In addition, through surveys a baseline will be developed for various markets and then used to track the impact of various conservation activities. The research on developments and best practices will be carried out either on a single or multi-sectoral basis and will be funded through sectoral program operating budgets (see below). The survey costs are captured in the Corporate Affairs budget.

Coordinate, Promote and Support DM, DR, and CHP Programs and Report Annually

14. The Conservation Bureau is organized along sectoral lines comprised of:

- Residential;
- Commercial and Institutional; and
- Industrial and Agricultural.

15. A Director is responsible for each of the three sectors and reports to the CECO. The coordination and promotion of conservation programs for each sector is necessary. This involves two distinct sets of activities:

  - Program design – An ongoing process of stakeholder discussions, market research, development of program concepts and metrics, and design and implementation of program pilots. Piloting will be done through funding from the Conservation Fund and the remaining activities will be funded through each of the sector program areas; and
  - Program procurement – A periodic process for delivering specific programs which includes tendering/contracting, management, tracking and monitoring of performance.

16. The Planning, Coordination and Reporting function is responsible for the business planning of the Conservation Bureau, facilitation of the activities of the Conservation

Bureau and preparation of the Annual CECO Report. Expenditures related to the preparation of the Conservation Bureau's 2006 Annual Report for translation, printing, design, and stakeholder discussions on obstacles and targets will largely be paid for through the OPA Corporate Affairs group. There will be additional consulting costs of $150,000 for strategic planning, and for preparation of the Annual Report. Costs for the latter may include technical support and writing services related to the analysis of obstacles to conservation, CDM opportunities and achievement of conservation targets.

17. A budget of $250,000 for 2006 for each of the three sectors – residential, commercial and institutional, and industrial and agricultural has been allocated, totalling $750,000. This amount is divided equally to approximate the electricity consumption levels in Ontario by each of these sectors. These funds will be used for consulting services. They will involve specialized studies and research necessary to inform the development of program concepts leading to procured programming.

Residential

18. This program area will focus on facilitating coordination among LDCs and retailers on residential DSM, DR and CHP programs. It will also involve developing Province-wide programs for the residential sector in which LDCs may participate. Residential programs will include initiatives to retire inefficient appliances, to encourage the adoption of energy efficient lighting and lighting design, and to educate residential consumers on energy efficient lighting.

19. The community challenge initiatives continue the work already commenced in the following areas:

- Certificates of Recognition for Energy Conservation – acknowledge those who are taking action to conserve energy in Ontario;

- Electricity Conservation Challenge – stimulate and recognize energy conservation in the institutional sector across Ontario;
- Public outreach – support DSM/DR and CHP activities by attending key events and making speeches including those at launches of new initiatives, to community leaders, clubs and associations;
- Community awareness – maintain the Conservation Bureau site on the OPA website to inform and educate Ontarians about the Conservation Bureau and its programs, and key conservation issues; and
- Coordinate conservation messages with the IESO – coordinate conservation messages to ensure that IESO Advisory and Warning messages are not compromised or confused.

20. These initiatives together with the Conservation Awareness Program will contribute to the CECO's profile as a trusted source of valuable information on conservation.

21. The budget for the community challenge initiatives will come from the residential sector budget. The costs associated with the media and government relations, are captured in the Corporate Affairs budget.

<u>Commercial and Industrial</u>

22. This program area will focus on facilitating coordination of commercial and institutional DSM/DR/CHP programs across Ontario. It will also involve developing Province-wide programs for the commercial and institutional sectors in which LDCs may participate. Programs include the retirement of inefficient commercial appliances, adoption of energy efficient lighting and lighting design, and education of commercial and institutional consumers on energy efficient lighting.

23. Programs for low-income and social housing sectors fall within this function. Support for energy management firms ("EMFs"), aggregators, and other suppliers of products

and services of DSM/DR and CHP in an effort to strengthen Ontario's conservation industry, will also be provided.

Industrial and Agricultural

24. This program area will focus on facilitating coordination of industrial and agricultural DSM/DR/CHP programs across Ontario. It will also involve developing Province-wide programs for the industrial and agricultural sectors in which LDCs may participate. Program design will include, the retirement of inefficient appliances, to encourage the adoption of energy efficient lighting and lighting design, and to educate industrial and agricultural consumers on energy efficient lighting.

25. The employee engagement initiatives in this sector will include developing strong relations with the 100 largest industrial electricity consumers as well as representatives from industry associations to build more capacity for energy management activities.

Planning, Coordination and Reporting

26. As indicated above this function is responsible for business planning of the Conservation Bureau, coordinating certain multi-sectoral activities of the Bureau, and fulfilling the Bureau's reporting requirements. Business planning will include the coordination of the development of the Conservation Bureau's proposals for 2007, the development of its strategic objectives and how they will be achieved as part of the OPA's 2007 to 2009 Business Plan, and its input to the OPA's IPSP.

27. Coordination of multi-sectoral activities will include:

- Gather and report information and experience from other programs, including best practices; and
- Provide guidance to the OPA Corporate Affairs group on surveys needed for tracking public opinion and the impact of particular conservation activities.

28. Reporting requirements will include:

- Prepare the Conservation Bureau's part of the OPA Annual Submission to the OEB; and
- Prepare the Annual CECO Report to the OPA Board of Directors and the Minister of Energy; the report will identify conservation potential, report on progress, identify obstacles to conservation and further CDM opportunities, and describe proposals of the Conservation Bureau for the following fiscal year.

<u>2006 Budget by Initiative for Strategic Initiative No. 3</u>

29. In summary, the Conservation Bureau's 2006 budget breakdown by major initiative is as follows:

Conservation Bureau
2006 Budget by Initiative
($'000)

	2006
Base Costs	1,874
<u>Project Initiative</u>	
Program Areas	750
Conservation Fund	1,550
Conservation Awareness	1,550
Strategic Planning/Annual CECO Report	150
Total	**5,874**

30. This budget was derived based on the Conservation Bureau's experience in 2005 and on careful analysis of projected activities and associated costs for 2006.

31. The base costs for the Conservation Bureau of $1.87 million includes salaries, benefit and pension costs, and $25,000 for General Program Costs.

32. The Program Area budget reflects the cost for professional and consulting fees of $250,000 for each of the three sectors. There is an additional, $150,000 in consulting required for strategic planning and for preparing the Annual CECO Report.

33. The 2006 budget for the Conservation Bureau by major expense is as follows:

Conservation Bureau
2006 Budget by Major Expense Category
($'000)

2006 Budget by Major Expense Category	2006
Compensation and Benefits	1,849
Professional & Consulting Fees	1,000
Conservation / Technology Funds	1,500
Conservation Awareness	1,500
General Program Costs	25
Total Expense	**5,874**

ONTARIO ENERGY BOARD

FILE NO.:	**EB-2005-0001** **EB-2005-0437**	
VOLUME:	**31**	
DATE:	**October 11, 2005**	
BEFORE:	**Pamela Nowina**	**Presiding Member**
	Paul Sommerville	**Member**
	Cynthia Chaplin	**Member**

have been of recent, that the numbers suggest that Energy Star for new homes is hired to implement them.

MR. POCH: Let's look at the incremental costs for -- let's move on to EnerGuide for homes, which is further done on your list. There is a question about incremental costs. You have $1,200 in your filing; is that correct? And Mr. Neme proposes to raise it to either $2,708 or 2,758, depending on if there is a set-back thermostat?

MR. JEDEMANN: That's correct.

MR. POCH: You disagreed with that number, as well, that proposed change.

Can you tell me where that $1,200 comes from?

MR. JEDEMANN: One moment, please.

[Witness panel confers]

MR. JEDEMANN: We don't disagree with the 27 and 2708. The company is in support of that number.

MR. POCH: All right, thank you, which gets us to a bigger-picture question, which is the EnerGuide for houses free riders. Let me pause and say for the -- maybe to streamline this discussion, there are concerns with, in some programs, free ridership and there is some concerns in some cases with attribution. I don't want to get hung up on the distinction here.

What we're getting at here is the percentage of the eventual TRC that is due to the efforts of others that would have occurred because of the efforts of others, be it the customer or the federal government, what have you.

You may choose to characterize that as free ridership or attribution. I don't really care for today's purposes. But can we -- for the purpose of our discussion, let's understand that what Mr. Neme -- I think it is perfectly clear from his evidence what he's talking about here is the difference between the 8 percent valuation for free ridership, and then the 90 percent which he says, with this particular program design, would be appropriate, either as a free ridership rate or a combined free ridership and attribution rate.

I want to discuss that difference with you. Are we clear?

MR. JEDEMANN: Yes.

MR. POCH: All right. Let's just look at the facts here. The federal government has a home audit program where they subsidize experts coming in to people's homes and evaluating the potential for energy savings; correct?

MR. JEDEMANN: Correct.

MR. POCH: In the guide for homes program. I understand that the Greenway Community Association, which is a network of local community groups, designed a reward program, a pilot for a reward program, where the customer could eventually get rewarded if they followed through and embarked upon some improvements and had a second audit, and that there were two pilots conducted in Toronto and Peterborough and that EGDI and Toronto Atmospheric Fund helped fund those pilots and developed those -- that model for a reward program; correct?

MR. JEDEMANN: I missed part of that. I'm sorry.

MR. POCH: Initially there was just an initial audit program that the federal government was subsidizing it in part. And that the Green Communities Association developed these pilots for a reward program that incented the customers to follow through with actual improvements, based on the first audit, and that EGDI and Toronto Atmospheric Fund funded one or more pilots to demonstrate whether that reward program would work; correct?

MR. JEDEMANN: I can't comment on what took place three, four years ago here. I went in this position at that time and don't have that background.

MR. POCH: On my words, you can take it that EGDI took part in that about five years ago. Following which the federal government agreed to generalize this reward program and that is where we're at today, that the federal government is paying rewards to people who have had an EnerGuide for homes audit then make improvements and have a second audit to demonstrate the improvement; correct?

MR. JEDEMANN: Correct.

MR. POCH: And today, well prior to last week at least, the federal government had been paying about on average about $900 to such homes, based on the improvements. They increased it I think $100 so it is up to about a thousand dollars subject to whatever changes may come from the recent announcements; correct?

MR. JEDEMANN: Correct.

MR. POCH: And that EGDI today is providing about $50 towards the audit and reward process -- I think it is actually aimed at the audits; is that correct?

MR. JEDEMANN: In exact monetary funds, correct.

MR. POCH: And that this is delivered by third parties such as the Green Communities Association and other private sector auditing firms?

MR. JEDEMANN: That's correct.

MR. POCH: Do I understand the 8 percent value you used, are you proposing that a further -- there be a further reduction beyond that 8 percent for -- out of a concern for attribution? Or that's counts for both free ridership and any concern about attribution?

MR. BROPHY: I believe the 8 percent -- subject to check -- represents a free-ridership amount.

MR. POCH: Right.

MR. BROPHY: So without the EnerGuide for Homes audit program, there would be a certain amount of people that would go and do audits anyways. So that doesn't include other attributions or at least it shouldn't.

MR. POCH: You're proposing there be no further reduction in the savings you're going to claim, based on attribution because, as I understand it, you view Enbridge's role as central, and I choose that word pause that is the word you've selected.

MR. JEDEMANN: Over and above the $50 that Enbridge would contribute to participant in the EnerGuide for Homes, Enbridge participates in many other ways promoting its program. Homeowners can take advantage of a $200 high-efficiency furnace rebate. So people who undertake a

B audit can put a furnace in to achieve higher ratings for their home, enjoy one of the rebates from our high-efficiency furnace program.

We also leverage a lot of our own internal resources, whether we participate at the City of Ottawa at their environmental affairs, where the utility would be present promoting these NRCan programs. We run bill inserts. We run ads in pipeline, in our prime energy. I can go on and on.

MR. POCH: Just answer my question. You're not proposing to reduce your claim for any attribution to the federal government effort? You're claiming all of the savings, apart from the free ridership, that is the savings that would have occurred in the absence of any program whatsoever, yours or anybody else’s; correct?

MR. BROPHY: That's correct.

MR. RYCKMAN: Just to touch on what Mr. Jedemann was saying, the way the line of questioning developed, you talked about the financial contribution of NRCan versus the financial contribution of Enbridge, and I think that totally ignores the non-direct financial things that Enbridge brings to that relationship.

MR. POCH: I'm going to ask you not to repeat what Mr. Jedemann has already said. I was going to have a follow-up question on that which is: Do you have any evidence that the accomplishments of the EnerGuide program, in Enbridge's territory, is greater because of your -- these other efforts you make, than it is in other jurisdictions?

[Witness panel confers]

MR. BROPHY: We've had indications from NRCan that they are very happy with our past participation and involvement in this program and leading to the success it is, and they are very happy and would like us to continue, because I think that they don't think that that program would be a success without Enbridge.

MR. POCH: The program is delivered across the country?

MR. BROPHY: I believe it is, yes.

MR. POCH: All right. And in answer to my question, do you have any evidence that they're doing better where Enbridge is involved than anywhere else?

MR. BROPHY: I'm not sure of what the spillover benefits. The fact that it started --

MR. POCH: I take that as a no, you don't have any evidence?

MR. JEDEMANN: I can add that NRCan --

MR. POCH: Can I have an answer to my question first?

MR. O'LEARY: Madam Chair, he was attempting -- Mr. Jedemann was attempting to answer the question.

MS. NOWINA: Yes. Mr. Poch, please let him answer the question.

MR. JEDEMANN: If I can add. NRCan looks to the utility to assist it with delivering these programs to its customer base, to residential homeowners out there. Whether it's our tankless program where they feel that we can help deliver those programs to the marketplace, whether it's their recent announcement last week where NRCan strongly feels that we can help assist them with getting their programs to market. So I can add that to it, that NRCan believes we're a very strong cog in the wheel here that helps deliver their programs to the marketplace.

MR. POCH: Apart from that anecdotal report, you don't have any actual analysis.

MR. JEDEMANN: I don't have an analysis here with me, no.

MR. POCH: This program exists and shows positive results in areas where Enbridge and other utilities aren't involved?

MR. BROPHY: I haven't done an assessment of programs outside of Enbridge's portfolio.

MR. POCH: Let's presume for the sake of argument this program does show results in other jurisdictions where the utilities aren't doing these activities that you've just spoken of. I'm wondering, in that situation, how you can say that there is -- should be no attribution of benefits to the federal government's efforts here, particularly when they're making such a significant financial contribution to customers.

MR. BROPHY: Perhaps I could try and make this simple, if that's possible. If I use an example, which hopefully simplifies, that's my intent. Say we had Enbridge and another LDC, like Toronto Hydro or whomever. And we have a program that has a certain amount of benefits. I think we've already agreed that we take those benefits and between those parties you decide who is going to take credit for what.

That's not any different than our relationship with NRCan, in that NRCan has clearly indicated to us that we should be taking those benefits and bringing them forward in our results to the Ontario Energy Board. It is not any different than any other arrangement that we would have.

MR. POCH: Mr. Brophy, do you agree with me in the case of Toronto Hydro they're regulated by this Board. They have an interest. They have an incentive. They have an interest in getting credit for their fair share. You both have that interest. We can be assured that the tally is not more than 100 percent. It's somewhat easy to see that it can be a self-regulating process; fair?

MR. BROPHY: In both cases, the tallies do not exceed 100 percent.

MR. POCH: And NRCan is not accountable to this Board, are they?

MR. BROPHY: Not that I'm aware of.

MR. POCH: And they're not subject to an incentive, are they?

MR. BROPHY: They have goals on greenhouse gas emissions.

MR. POCH: I'm sure they do. They're not a shareholder-owned corporation that's replying to incentives though, are they?

MR. BROPHY: I think that NRCan does have incentives to forward with successful programs under the OEB. I know the OEB doesn't provide incentives to them.

MR. POCH: You're not suggesting that NRCan has some kind of a shareholder incentive, something analogous to a shareholder incentive in place? They are obviously in the business of trying to get savings, we don't disagree there, but there is no analogy to what you and Toronto Hydro are working with.

MR. BROPHY: I don't want to put words in NRCan's mouth. But NRCan has reasons for pursuing these programs.

MR. POCH: Sure they do.

MR. BROPHY: And you could roughly equate that to an incentive for them to be successful. So there's saving greenhouse gas emissions and partnering with people like -- or companies like Enbridge, they're doing that for a purpose, and assumably there's some benefit to them for doing that.

MR. POCH: Right, but they're not in the situation that Toronto Hydro is in your example where, if they let you take credit for 100 percent, they're somehow disadvantaged. They can still go to their Minister and say: Through our various programs and partnerships, we've achieved this much towards the Kyoto target, which is what their interest is; correct?

MR. RYCKMAN: The thing we know is NRCan sees value in us -- in working with us on this program.

MR. POCH: I don't disagree.

MR. RYCKMAN: There are lots of things we bring to the party in that sense. In terms of this free ridership rate, 8 versus 90 percent, if it's a 90 percent free ridership rate, then the probability of the company continuing with that type of program, with that free ridership rate, is negligible. It wouldn't be in our interest to continue with that program, but we know that NRCan sees our role as being pivotal in that program.

MR. POCH: Mr. Ryckman, we will get to the second question, which is where do you go if it's 90 percent rate. Mr. Neme is not suggesting that you carry on in the way you have been carrying on with a 90 percent rate either, but --

MR. RYCKMAN: But the 90 percent is a subjective assessment of one party.

MR. POCH: Yes, it is, and based on the expertise and information available. And I'm just contrasting it with the 0.0 percent that you're assuming for attribution in this rather striking example.

I'm just trying to understand -- let me back up.

Are you suggesting that if Enbridge stopped its involvement in this program, that there wouldn't be any participants in EnerGuide for homes in the Enbridge territory, and there wouldn't be any savings?

MR. BROPHY: I know that NRCan has indicated strongly that they would like us to continue to be a participant in this program.

MR. POCH: You said that five times. I've got that, but I'm asking a different question.

MR. BROPHY: I think it would be a terrible mistake to do an experiment where you force Enbridge to retract from supporting a very successful program just to see if it's going to fail, and all of those benefits disappear to Canadians and ratepayers. I don't understand that.

MR. POCH: That's not my proposal either. I'm asking you, in your opinion, if Enbridge did stop today its involvement in this program, would that mean, in your opinion, that there would be no participants and no savings, net savings, arising -- no net participants, net of free riders, and no savings from EnerGuide, the EnerGuide program in the Enbridge service territory?

[Witness panel confers]

MR. BROPHY: Mr. Ryckman was just saying that --

MR. POCH: Could you speak into the mike? I'm sorry.

MR. BROPHY: Sorry. We haven't done an experiment where we've just pulled out of a successful program for the sake of seeing what would happen. So I can't really comment on what would happen.

But there are many of our successful programs that we've now run for several years, and it is likely that, you know, if we were to withdraw for a year, that there might be some residual impact still occurring from that. The long-term impacts, I really -- I don't know.

MR. POCH: Mr. Brophy, let me comfort you by saying I'm not suggesting there wouldn't be an impact from your withdrawal, but can we agree there would still be a significant number of participants and savings due to the federal government's efforts?

MR. BROPHY: I can't confirm that.

MS. NOWINA: Mr. Brophy, can I just interrupt to make sure I understand a fact in this case while we're talking about the EnerGuide?

So do the estimates of the company for the -- what is the company -- what percentage is the company attributing to Enbridge for the EnerGuide benefits?

MR. BROPHY: The company is taking the net savings, credit for the net savings, net of 8 percent. So we're taking 92 percent.

MS. NOWINA: The difference between 8 percent and 100 percent, so 92 percent of those savings?

MR. BROPHY: That's correct. That's consistent with -- well, actually, the TRC guide attribution rules would suggest we may even claim more than that, but that's what we put forward and that's what we're willing to take credit for.

MS. NOWINA: Thank you. I just wanted to be clear on that.

MR. POCH: And that 8 percent diminishment from the total gross results from the EnerGuide program, you're saying that is for people that, in the absence of any EnerGuide program, would have gone and done some of these things, anyway. That's what the 8 percent is about; correct?

MR. BROPHY: I believe that includes those people.

MR. POCH: Right. So on the narrow question of attribution, as between sharing the net results between you and the federal government, you're taking 100 percent of that; correct?

MR. BROPHY: For the purposes of claiming results within the context of the Ontario Energy Board, Enbridge is the only LDC that is taking the credit for that at this time.

MR. POCH: And so, therefore, you're taking 100 percent, is that correct, 100 percent attribution?

MR. BROPHY: One hundred percent of the 92 percent.

MR. POCH: Yes, 100 percent attribution; correct?

MR. BROPHY: I believe that's correct.

MR. POCH: All right. Let's flip it around a bit. I think Mr. Neme gave the example where, for example, if you ramped up your involvement in this program - and let's just say, for the sake of argument, you matched the federal dollars - can we agree there is some potential there, at least -- it may not be the route to go, but there is some potential there that you could increase both participation levels - that is, the number of home owners participating in the program - and the level of savings per participant, if it was targeted at the reward, in which case we might have a different debate about the attribution rate?

You might have a little more sympathy from us, but also you would see -- you could -- it would be appropriate to consider a change to the free-rider rate, as well, because a bunch of those savings was additional savings. Any additional savings you spawned and participation you spawned would be after the existing free ridership. So, in other words, they would be more or less free rider free and

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	Paul Sommerville	Member
	Cynthia Chaplin	Member

MR. NEME: There has been a tendency, in the conversation as I have read it, to draw distinctions between free riders -- the issue of free ridership and the issue of attribution. In my mind, they are one in the same thing.

A free rider is someone who would have made the investment in the energy efficiency measure or technology in the absence of the company's intervention in the market. That's true whether they would have done it because the EnerGuide program, the federal EnerGuide program, was there, what others are calling attribution, or even if they would have done it without the EnerGuide program. It doesn't matter. If they would have done it in the absence of the company's intervention in the market, they're a free rider. The company should only be claiming credit for the investments in efficiency that would not have happened had they not intervened in the market.

MR. KLIPPENSTEIN: Is it fair to say that the joint attribution issue is, if you will, a sort of subset of the free rider issue?

MR. NEME: It's a subset of free rider.

MR. KLIPPENSTEIN: In a joint program context?

MR. NEME: In a joint program context. So with that as background, I will note that, as I said earlier, all available evidence that I have seen suggests that, in fact, the company's influence on the EnerGuide program in its service territory today is quite small.

And just by way of example, I will note that yesterday

I saw data for the first time, that NRCan had produced, that showed the percentage of households in different provinces that have, over the first roughly six months of this fiscal year, received B audits. And Ontario's actually quite far down the list. They're slightly below the middle of the pack.

There are other provinces that have much higher EnerGuide penetration rates, including provinces where I'm not sure there are any utility DSM programs promoting EnerGuide. I'm not sure about that for certain, but at least I am unaware of them.

In addition, yesterday Mr. Millyard and I undertook to look at the records of the Green Communities Association, which is accounting for on the order of half of all EnerGuide projects in the province. And we looked at their activity in Enbridge territory and their activity in Union territory and where Union has not had a significant role in promoting the program. And there was no discernible difference between the two.

So for those reasons, I suspect the company is having a modest impact, so that's why I'm not suggesting free ridership is 100 percent. But I believe it is quite modest, and I think that the evidence available supports that conclusion.

MR. KLIPPENSTEIN: The next item that you suggest as a change to the proposed input assumptions, number 12, large new construction free riders, why do you still think that's an appropriate adjustment? This is -- is this also a free

EnerGuide for Houses -- 'A' Evaluations by Fiscal Year

Province	Housing Stock	Number of Evaluations 1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	total	% of Housing Stock
Newfoundland & Labrador	158,000	40	10	405	362	**487**	105	366	346	2121	1.3%
Prince Edward Island	35,000	0	6	3	0	36	75	**297**	121	538	1.5%
Nova Scotia	245,000	0	277	343	417	409	1213	**1512**	1303	5474	2.2%
New Brunswick	197,000	0	12	6	31	91	488	**820**	375	1823	0.9%
Québec	1,684,000	161	209	496	787	1066	2981	**9177**	8105	22982	1.4%
Ontario	2,785,000	614	3182	3123	3204	5416	14916	**20052**	11333	61840	2.2%
Manitoba	302,000	61	548	866	482	931	3886	**4147**	1972	12893	4.3%
Saskatchewan	294,000	14	517	1025	1171	1700	**4631**	3501	1410	13969	4.8%
Alberta	734,000	90	1155	1543	819	2667	**12817**	11989	4189	35269	4.8%
British Columbia	917,000	2606	3004	3640	3627	3370	6258	**6616**	4220	33341	3.6%
Nunavut	2,000	0	0	0	**49**	20	0	0	0	69	3.5%
Northwest Territory	6,000	0	2	0	0	19	**167**	138	33	359	6.0%
Yukon	7,000	86	184	59	138	349	**713**	145	55	1729	24.7%
Canada	7,366,000	3672	9106	11509	11087	16561	48250	**58760**	33462	192407	2.6%

EnerGuide for Houses -- 'B' & 'C' Evaluations (Retrofits) by Fiscal Year

Province	Housing Stock	Number of Evaluations 1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	total	% of A'	Retrofits as % of housing stock 04/05	05/06
Newfoundland & Labrador	158,000	0	3	**61**	21	16	0	36	56	193	9.1%	0.02%	0.04%
Prince Edward Island	35,000	0	0	0	0	0	0	20	**23**	43	8.0%	0.06%	0.07%
Nova Scotia	245,000	0	0	0	0	4	57	292	**386**	739	13.5%	0.12%	0.16%
New Brunswick	197,000	0	0	0	0	1	17	**181**	165	364	20.0%	0.09%	0.08%
Québec	1,684,000	0	2	7	12	38	66	**787**	784	1696	7.4%	0.05%	0.05%
Ontario	2,785,000	5	95	280	194	221	1192	**5731**	4027	11745	19.0%	0.21%	0.14%
Manitoba	302,000	2	14	7	5	40	98	**1698**	1030	2894	22.4%	0.56%	0.34%
Saskatchewan	294,000	0	1	7	18	198	403	**2069**	1113	3809	27.3%	0.70%	0.38%
Alberta	734,000	0	3	88	392	94	230	**4719**	2640	8166	23.2%	0.64%	0.36%
British Columbia	917,000	825	99	57	61	532	650	**2514**	1880	6618	19.8%	0.27%	0.21%
Nunavut	2,000	0	0	0	0	0	0	0	0	0	0.0%	0.00%	0.00%
Northwest Territory	6,000	0	0	0	0	0	1	13	**15**	29	8.1%	0.22%	0.25%
Yukon	7,000	0	8	**100**	6	0	4	19	15	152	8.8%	0.27%	0.21%
Canada	7,366,000	832	225	607	709	1144	2718	**18079**	12134	36448	18.9%	0.25%	0.16%

Undertaking J36.4

Undertaking

Document which summarizes findings with respect to Green Communities Canada delivery of EnerGuide within Ontario.

Answer

Green Communities Canada (GCC) currently performs approximately half of all EnerGuide audits in Ontario. From April 1, 2005 through early October 2005, GCC completed 1573 EnerGuide "B Audits" (i.e. analysis of building efficiency after retrofit measures have been installed) in the province. Analysis of the location of those audits suggests that approximately 650 – or 41% – were Enbridge Gas customers. That percentage is very close to the ratio of Enbridge residential customers (1.44 million) to the number of residential households in Ontario excluding those in multi-family buildings with five or more stories (approximately 3.7 million) – i.e. 39%.

In addition, it is worth noting that the number of GCC "B audits" in Union Gas' territory – approximately 635 – is nearly the same as the Enbridge number despite the fact that Union has far fewer residential customers and does not offer any incentives for the participation in the EnerGuide program.

Finally, in Enbridge's service territory the percentage of "A audits" that are converted to "B audits" (i.e. the percentage that follow through on recommendations and install efficiency measures) is 29%. The comparable percentage for Union's service territory is 26%.

As noted in Mr. Neme's oral evidence, all of these statistics support the view that Enbridge's influence on EnerGuide retrofit participation is minimal.

Witness:	Mr Chris Neme
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