

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998 S.O. 1998, C.15, Schedule B (the "Act"); 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*.

**WRITTEN SUBMISSION OF
ONTARIO POWER AUTHORITY**

1. The Ontario Power Authority (the "OPA") is a non-share capital corporation established under Part II.1 of the *Electricity Act, 1998* (the "Act"). Section 25.2(1) outlines the objects of the OPA which include:

- "(b) to conduct independent planning for electricity generation, demand management, conservation and transmission and develop integrated power system plans for Ontario;
- (f) to engage in activities that facilitate load management;
- (g) to engage in activities that promote electricity conservation and the efficient use of electricity;"

The OPA's role in conservation and load management is led by the Conservation Bureau, an office of the OPA headed by the Chief Energy Conservation Officer ("CECO"). The Conservation Bureau is mandated "to provide leadership in planning and co-ordination of measures for electricity conservation and load management in Ontario" (see s.25.11 of the Act).

2. The OPA takes no position on the three issues that are before the Board for decision in this proceeding. However, the OPA believes that it can provide the Board with valuable context to assist it in reaching decisions in this proceeding. The OPA also wishes to comment on some of the matters that have been raised by intervenors that range beyond the three issues that are expressly before the Board.

OPA Statutory Tools

3. The OPA's statutory role in providing leadership and co-ordination of CDM in Ontario does not give it the authority to require LDCs or other parties to undertake particular CDM activities or spend specified amounts of money. The OPA's primary tools for playing this statutory role are the power to enter into procurement contracts to procure demand side resources and the obligation to plan for load management through the Integrated Power System Plan (the "IPSP").
4. The OPA has the power to enter into procurement contracts to procure demand side resources (ss.25.32(1) of the Act). Where the OPA acts in accordance with a directive from the Minister of Energy, no further OEB approval is required (ss.25.20(4), ss.25.32(6) and ss.25.32(7) of the Act; Order and Decision of the OEB in EB-2005-0315). The OPA in 2006 will be acting to procure demand side resources in accordance with a number of directives from the Minister of Energy:
 - 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;
 - 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).
5. Once an OEB approved IPSP is in place, the OPA may act in accordance with an OEB approved procurement process to procure demand side resources and no further OEB approval is required (ss.25.20(4) and ss.25.32(1) of the Act).
6. The OPA will apply to the OEB in 2006 for approval of an IPSP. The Act requires that the IPSP be "designed to assist, through effective management of electricity

supply, transmission, capacity and demand, the achievement by the Government of Ontario ofits goals relating to demand management”.

7. The OPA is required in developing the IPSP to “Identify and develop innovative strategies to accelerate the implementation of conservation, energy efficiency and demand management measures” (O. Reg. 424/04, section 2, paragraph 3). The Minister of Energy may also issue directives that set goals to be achieved during the period covered by the IPSP, including goals related to “the development and implementation of conservation measures, programs and targets on a system-wide basis or in particular service areas” (ss.25.32(d) of the Act).
8. The OPA intends to address in the IPSP the future role of LDCs in CDM.
9. The IPSP will provide the OPA with a long term road map as it goes forward in procuring demand side resources. The OPA will be required to assess “the capability of the IESO-administered markets to, or the likelihood that investment by other persons will” deliver demand side measures before commencing a procurement process (O. Reg. 426/04, section 1).

Interplay Between the Role of the OPA and LDCs

10. The evidence of GEC at pages 11 and 12 of the Affidavit of Chris Neme addresses three items that he suggests the OEB should make clear. The first of these items is the need for province-wide consistency in some CDM programs. The OPA is in agreement with this statement and has the key role to play in ensuring such province-wide consistency. It should be noted though that the definition of CDM programs addressed in this paragraph is broad and in some cases exceeds the mandate of the OPA. For instance, province-wide efficiency standards are not an OPA responsibility, although the CECO has commented in his 2005 Annual Report on the need for improved efficiency standards under the *Energy Efficiency Act* regulations and the Building Code.
11. The third item referred to at pages 11 and 12 of the Affidavit of Chris Neme addresses the circumstances in which a local program may be more appropriate or a supplement to a province-wide CDM program. The OPA believes that the entire Province can benefit from the leadership, innovation and knowledge of the local community that individual utilities can bring to CDM. In order to fulfill its co-ordination role, the OPA intends to undertake a comprehensive study to examine the role of LDCs in delivering CDM programs.
12. The evidence of Newmarket Hydro Limited contained in the Affidavit of Paul D. Ferguson proposes at paragraph 25 that the Board take two actions. It is proposed that the OEB formally recognize and articulate the role of Ontario LDCs “to facilitate the local implementation and delivery of provincial CDM initiatives, including those within the mandate given to the OPA by Minister’s directions”. The OPA recognizes that LDCs will continue to play a vital role in delivering CDM in Ontario. There will no

doubt be circumstances in which an LDC is best positioned to deliver a CDM initiative that the OPA is seeking to procure. However, there will also likely be circumstances where a party other than an LDC is best able to deliver a CDM initiative.

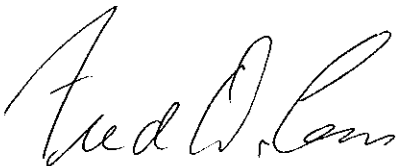
13. The OPA also has concerns with the second proposition contained in paragraph 25 of the Ferguson Affidavit, that "LDCs administrative costs related to the implementation of these OPA programs and services in their service areas will be recognized and recoverable through the Board's ratemaking process". When bidding in OPA procurement processes, non-LDCs will have to incorporate the recovery of any administrative costs into their bid and it is unclear why the LDCs should not be on the same level playing field.

14. The OPA also wishes to address the proposal in the Ferguson Affidavit for "one conservation charge" (paragraph 12(b)). The OPA notes that the current statutory scheme contemplates that payments under procurement contracts entered into by the OPA be recovered as part of the commodity through the global adjustment mechanism (s.78.4 of the *Ontario Energy Board Act, 1998*). The costs incurred by a distributor in undertaking CDM activities are recovered through the distribution component of rates.

Free-Ridership

15. As stated above, the OPA takes no position on this issue. However, the OPA notes that the report contained in the evidence of LIEN at page 10 states that the Board could "request a third party, such as the Conservation Bureau of the OPA, to undertake research that would encourage the refinement of the default free rider estimates". The OPA is willing to undertake such a study, if this would be of assistance to the Board.

All of which is respectfully submitted on December 20, 2005 by



Mr. Fred D. Cass
Counsel for Ontario Power Authority
Aird & Berlis