

Ontario Energy
Board

Commission de l'Énergie
de l'Ontario



EB-2006-0021

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

AND IN THE MATTER OF a generic proceeding initiated by the Ontario Energy Board to address a number of current and common issues related to demand side management activities for natural gas utilities.

BEFORE: Pamela Nowina
Presiding Member and Vice Chair

Paul Vlahos
Member

Ken Quesnelle
Member

DECISION WITH REASONS

August 25, 2006

EXECUTIVE SUMMARY

The Ontario Energy Board (the “Board”) determined the original regulatory framework for gas utility sponsored Demand Side Management (“DSM”) programs through guidelines established in its EBO 169-III Report of the Board dated July 23, 1993. DSM programs are programs which assist utility customers in reducing their natural gas consumption. Since 1995, Union Gas Limited (“Union”) and Enbridge Gas Distribution Inc, (“EGD”) have been filing DSM plans in response to the directives of the Board in the EBO 169-III Report.

In the Board’s EB-2005-0001 decision dealing with EGD’s 2006 rates, the Board announced its intention to convene a generic proceeding to address a number of current and common issues related to DSM activities for natural gas utilities – this decision. In the ensuing Notice of Hearing, the Board stated that the hearing will result in orders under section 36 of the Ontario Energy Board Act. The Board’s findings in this decision, therefore, are orders of the Board pursuant to section 36 of the Act.

At the beginning of the oral hearing the Board was presented several documents which segmented the issues list into four categories. The categories consisted of a list of completely settled issues, a list of partially settled issues to which most intervenors and the utilities agreed, a list of partially settled issues to which all intervenors agreed with the exception of the utilities, and, a list of completely unsettled issues. At the beginning of the oral hearing the Board accepted the completely settled issues as proposed. The oral hearing dealt with the issues contained in the two partial agreements, and other unsettled issues. The oral phase of the hearing, including argument, was concluded on July 28, 2006.

The Board’s decision deals with a large number of issues relating to DSM. Generally, a rules-based and framework approach has been established where

appropriate and practical. Below is a list of the broader matters that have been decided.

- A three-year term for the first DSM plan
- Processes for adjustments during the term of the plan
- Formulaic approaches for DSM targets, budgets, and utility incentives
- Determination of how costs should be allocated to rate classes
- A framework for determining savings
- A framework and process for evaluation and audit
- The role of the gas utilities in electric Conservation and Demand Management activities and initiatives

The Board will issue a Procedural Order to commence the next phase dealing with the determination of the input assumptions after which the gas utilities can file their respective three-year DSM plans.

DECISION –PHASE 1

CHAPTER 1 - INTRODUCTION

The Ontario Energy Board (the “Board”) determined the original regulatory framework for gas utility sponsored Demand Side Management (“DSM”) programs through guidelines established in its EBO 169-III Report of the Board dated July 23, 1993. DSM programs are programs which assist utility customers in reducing their natural gas consumption. Since 1995, the gas utilities have filed DSM plans in response to the directives of the Board in the EBO 169-III Report.

The EBO 169-III Report provided guidelines to assist the utilities in the development and implementation of their respective DSM plans. Although the objectives and principles have evolved somewhat over the years to reflect changing market and industry conditions, they remain essentially unchanged. These DSM plans formed part of the gas utilities rate cases and were reviewed annually.

Over the past decade there have been occasions where rules for DSM programs have been challenged, requiring further interpretation and scrutiny by the Board. In addition, the Board has been required to frequently make decisions on similar DSM issues for the two large gas utilities, Union Gas Limited (“Union”) and Enbridge Gas Distribution (“EGD”), in separate proceedings. This has led to increased regulatory burden for all parties and inconsistent practices by the two utilities. These concerns and the heightened focus on conservation and demand side management for the energy sector as a whole were the impetus for the Board to re-examine the DSM regime as it pertains to these two gas utilities through this generic proceeding.

In the Board's partial decision in EGD's 2006 rates application (EB-2005-0001 / EB-2005-0437), the Board announced its intention to convene a generic proceeding to address a number of current and common issues related to DSM activities for natural gas utilities. In the ensuing Notice of Hearing, the Board stated that the hearing will result in orders under section 36 of the Ontario Energy Board Act, 1998 (the "Act"). The Board's findings in this decision, therefore, should be considered orders pursuant to section 36 of the Act.

The Notice further stated that the following would be among the topics the Board would evaluate in making orders relating to the operation, evaluation and auditing DSM plans starting January 1, 2007:

- timing of the schedule for submitting and reviewing DSM plans,
- determination and use of planning assumptions for generic energy efficiency measures and custom projects,
- DSM budget as a percentage of utility annual revenue,
- structure and screening of programs including differentiating between market transformation, lost opportunity and enabling activities,
- structure and use of LRAM, SSM and DSMVA,
- process and content of program evaluations including the requirement for a third party audit process,
- length of plan, as well as updating the plan and reporting requirements,
- rules respecting free riders and attribution of energy savings, and
- the appropriateness of directing specific DSM measures to low-income consumers.

Other areas of focus will include the requirement for and role of the Consultative committee, filing requirements for the DSM plans and reporting requirements.

As the content of the topic list indicates, the intent of the proceeding was to streamline processes, harmonize practices where appropriate and re-examine the rules of DSM that had developed to date.

It was not the intent to revisit the general principles adopted and conclusions reached in the Report of the Board E.B.O. 169 III regarding the appropriateness of Demand Side Management being utilized by the Utilities in Integrated Resource Planning (IRP).

In the course of the proceeding, the Board received three settlement agreements. The first was a complete settlement on some of the issues. The other two were partial settlements.

The first partial settlement contained issues that were settled as between EGD and Union on the one hand, and most of the intervenors on the other. Some of the issues in this package dealt with the financial issues and this “financial package” was considered by the parties to be un-severable. That is to say that the parties to this partial agreement regarded each of the elements of the package to be crucial to the package as a whole. Were the Board to disapprove of any discrete element of the package, the package as a whole would be withdrawn, and each of the elements would have to be litigated.

The second partial settlement contained proposals that were agreed to by all intervenors but not the utilities.

The Board held an oral hearing that commenced on July 10, 2006. At the beginning of the oral hearing the Board accepted the completely settled issues as proposed. The oral hearing dealt with the issues contained in the two partial agreements, and other unsettled issues. The oral phase of the hearing, including argument, was concluded on July 28, 2006.

The non-utility parties to the hearing were Canadian Manufacturers & Exporters (“CME”), Consumers Council of Canada (“CCC”), Energy Probe, Green Energy Coalition (“GEC”), Industrial Gas Users Association (“IGUA”), London Property Management Association (“LPMA”), Low Income Energy Network (“LIEN”),

Pollution Probe, School Energy Coalition (“SEC”) and Vulnerable Energy Consumer’s Coalition (“VECC”).

The full record of the proceeding is available at the Board’s offices. The Board has considered the full record but has summarized it in this decision to the extent necessary to provide context for its findings.

Chapter 2 deals with details of the completely settled issues. Chapter 3 addresses the issues contained in the “financial package”. Chapter 4 deals with the remaining issues. Chapter 5 deals with the issues respecting a common set of input assumptions, a common guide and with next steps. In that regard, this decision document is referred to as Phase 1. Appendix 1 contains details regarding some of the procedural aspects of the proceeding, including a list of parties’ representatives and witnesses.

CHAPTER 2 - THE SETTLEMENT PROPOSAL

A Settlement Proposal was filed with the Board on July 8, 2006 and was updated on July 11, 2006. The Board heard submissions from the parties and accepted the Settlement Proposal on July 11, 2006.

The Board acknowledges the effort of the participating parties to the Settlement Proposal and is pleased with the significant number of issues that were settled prior to the oral hearing.

Below are the completely settled issues which were accepted by the Board. To provide context to the balance of this decision, the Board sets out below the agreed upon phrasing of the settled issues. The numbering in brackets reflects the numbering that appeared on the Board's approved issues list for the proceeding.

Is a three year plan an appropriate term of a DSM plan? (Issue 1.2)

“Parties agree that 3 years is an appropriate term for a multi-year DSM plan. Parties agree that the issue of whether and, if so, how a multi-year DSM plan should be aligned with a Utility's Incentive Regulation (“IR”) period should be determined by the Board in the context of establishing the IR mechanism and rules, and cannot be determined in this proceeding in the absence of information on the structure and term of the IR regime adopted by the Board.”

How are DSM parameters adjusted inside a multi-year rate making process? (Issue 1.6)

Parties referred this issue to completely settled Issue 1.2.

Should budgets, programs, targets, incentives and other plan components be established on an annual or multi-year basis? (Issue 1.8)

“The approval of multi-year DSM plans will provide the utilities with the certainty of funding for programs which will have forecast life spans of more than one year. DSM plan components will be established at the outset of a multi-year DSM plan with the intention of applying throughout the currency of the multi-plan plan.

As this settlement provides that the budget, SSM mechanism, LRAM, and DSMVA are all developed and measured on an annual basis within a multi-year plan, it is appropriate that amounts be recorded in all DSM variance or deferral accounts on an annual basis (market transformation amounts may be an exception).”

How should the budget be allocated between customer classes in rates? (Issue 1.9)

“Cost allocation in rates shall be on the same basis as budgeted DSM spending by customer class. This allocation should apply to both direct and indirect DSM program costs.”

Should the TRC [Total Resource Cost] test be the only test used to screen measures and/or programs for DSM plans? If no, what other tests should be used and how should these be applied? (Issue 2.1)

“TRC shall be the only formal screen to determine whether a measure or program can be considered for inclusion in the portfolio. EBO 169-III identified numerous other considerations and tests that could be used to determine which measures and programs are actually selected for the portfolio in any given year, and those considerations and tests should continue to apply.”

How should free rider and savings input assumptions be determined? (Issue 3.1)

“Parties agree that input assumptions such as free rider rates, prescriptive measure savings assumptions, incremental equipment costs, measure lives and avoided costs (natural gas, electricity and water) shall be based on research utilizing the best available data at the time a multi-year plan or new program or significant new program design is developed. These assumptions shall be assessed for reasonableness prior to implementation of the plan or program and should be reviewed and updated on a regular basis during the plan period as part of each Utility’s ongoing evaluation and audit processes.”

What certainty is required that the assumptions are set for the duration of the DSM plan? (Issue 3.3)

“The time at which changes in assumptions become effective shall differ depending on the use to which the assumption is being put:

Program Design and Implementation. The Utilities agree to the principle that their DSM programs should be managed with regard to the best available information known to them from time to time. Normal commercial practice requires that a Company should react through changes to program design, implementation and/or mix, to material changes in base data as soon as is feasible given relevant operational considerations.

LRAM. Assumptions used will be best available at the time of an audit. By way of example, if in June of 2008 the audit of the 2007 programs demonstrates a change in assumptions, that change shall apply for LRAM purposes from the beginning of 2007 onwards until changed again.

SSM. Assumptions used from the beginning of any year will be those assumptions in existence in the immediately prior year, adjusted for any changes in the audit of that prior year. By way of example, if in June of 2008 the audit of the 2007 programs demonstrates a change in assumptions, that change shall apply for SSM purposes from the beginning of 2008 onwards until changed again.”

What is the mechanism to determine if an input assumption needs to be reviewed or researched? (Issue 3.4)

“The Utility may of its own initiative or at the request of the Evaluation and Audit Committee (“EAC”) commence a review of or research into assumptions.”

How should the (LRAM) mechanism be structured? (Issue 4.2)

“The parties agree that the LRAM mechanism shall be calculated using the assumptions and savings estimates approved in the plan and adjusted for the audited Evaluation Report results.

For Union, the first year impact will be calculated as 50% of the annual volumetric impact multiplied by the distribution rate for each of the rate classes that the volumetric variance occurred in.

For EGD, the first year impact will be calculated on a monthly basis based on the volumetric impact of measures implemented in that month multiplied by the distribution rate for each of the rate classes that the volumetric variance occurred in.

Both of these processes for the Utilities reflect the status quo.

The LRAM account shall be cleared annually.

For purposes of clearing LRAM, input assumptions will be adjusted on an annual basis, as a result of the evaluation and audit work completed and shall apply from the beginning of the year being audited. See also Issue 3.3.”

What evidence should be submitted to demonstrate that all conditions for clearance have been met? (Issue 4.3)

“Parties agree that the Utilities shall file an Audit report and any other backup needed to support the volumes used in the LRAM calculation. The Audit report will be prepared by an independent auditor to ensure accordance with Board approved rules. The auditor shall provide an opinion on the LRAM proposed and any amendment thereto. The remainder of the auditor’s responsibilities are reflected in Issue 9.3.”

Is a third party audit required to verify LRAM calculation prior to clearance? (Issue 4.4)

“Yes, see issue 4.3 above.”

How should LRAM costs be allocated between customer classes? (Issue 4.5)

“The LRAM shall be recovered in rates on the same basis as the lost revenues were experienced so that the LRAM ends up being a full true-up by rate class.”

Should an incentive mechanism be in place? If yes, (Issue 5.1)

“Yes.”

Is a third party audit required to verify year-end SSM calculation? And if required, what should be the audit principles, scope and timeline? (Issue 5.3)

“Parties agree that an independent auditor shall complete an evaluation audit with the purpose of verifying the claimed financial results and that

the DSM shareholder incentive amounts (being the SSM and the incentive available in respect of market transformation programs) are calculated in accordance with the Board approved methodology. The audit shall provide an opinion on the DSM shareholder incentive amounts proposed and any amendment thereto. The remainder of the auditor's responsibilities are reflected in issue 9.3."

How should SSM costs be allocated between customer classes? (Issue 5.4)

"Parties agree that DSM shareholder incentive amounts shall be allocated to the rate classes in proportion to the net TRC benefits attributable to the respective rate classes."

What evidence is required to clear the DSMVA? (Issue 6.4)

"The utility shall clear DSMVA amounts, subject to review as a component of the DSM audit, to ensure compliance with the Board approved rules. The utility shall include the DSMVA as part of the audit described in issue 9.3. The utility may recover the amounts in the DSMVA from ratepayers provided it has achieved its annual TRC savings target on a pre-audited basis and the DSMVA funds were used to produce TRC savings in excess of that target on a pre-audited basis."

How should DSMVA balances be allocated between customer classes? (Issue 6.5)

"The Utilities shall allocate the DSMVA amounts in rates based on the Utility's DSM spending variance for that year versus budget, by customer class. The actual amount of the variance versus budget targeted to each customer class shall be allocated to that customer class for rate recovery purposes."

Should the DSM consultative be continued? If yes, (Issue 7.1)

“When required or useful, the utility will engage and seek advice from a variety of stakeholders and experts in the development and operation of its DSM program. As the utility is ultimately responsible and accountable for its actions, consultative activities shall be undertaken at its discretion. However, at a minimum, each utility will hold two consultative meetings annually. The purpose of the meetings will be to:

- Review annual results (the Evaluation Report will be sent to the Consultative annually for review) and select the Evaluation and Audit Committee (“EAC”). Three members will be selected using the current process used to select the Audit Sub-Committee; the fourth member will be the utility. In the current process, the members of the Consultative nominate individuals to stand on the committee. Then each member of the Consultative votes for the three members they would like on the committee. The three with the highest number of votes form the committee.
- Review the completed evaluation results.

The Utilities each acknowledge the principle that stakeholder consultation has proved valuable. They each intend to continue to take advantage of the input of the consultative as long as the consultative is adding value and the overall cost of the process is reasonable.”

What role should the Consultative have in the DSM planning, design, approval and audit process? (Issue 7.2)

Settlement on this issue was referred to completely settled Issue 7.1.

How often should the Consultative and LDCs meet? (Issue 7.3)

“A utility shall determine the stakeholders that it will engage based on the goals and objectives of the engagement, subject to the requirement to meet twice annually set out under Issue 7.1 above. See Issue 7.5.”

What is the appropriate amount that should be budgeted for Consultative and Sub-committee expenses? (Issue 7.4)

“The utility shall determine as part of the planning process, the appropriate amount to include in its overall DSM budget for stakeholder engagement, based on anticipated needs.”

How should participation in the Consultative committee be determined? (Issue 7.5)

“The utility shall determine the stakeholders that it will engage based on the goals and objectives of the engagement. All intervenors in the Utility’s most recent rate case shall be entitled to participate in the consultative meetings described in issue 7.1 above.”

Should a percentage of the DSM budget be allocated to research? If yes, (Issue 8.1)

“Parties agree that the Utilities should conduct forward-looking DSM research. The appropriate level of budgets for research shall be determined by each Utility from time to time (depending upon need, market conditions, etc.) and each Utility should include a summary of its forecasted research in its multi-year DSM plan filed with the Board.”

How should it be determined that research is required and when? (Issue 8.2)

“The utility shall determine the research needed to inform program assessment as part of its ongoing operational responsibilities and to ensure the long term viability of its DSM program. In making this

determination, the Utility shall give due consideration to any recommendations of the EAC, the Auditor, and the consultative.”

To reduce duplication, should certain research commitments be combined for both LDCs? (Issue 8.3)

“Each Utility shall be responsible and accountable for its research activities and expenses. The utility is expected to seek and leverage efforts with third parties where appropriate but it is recognized that unique circumstances and objectives may exist that preclude partnering in some instances.”

How often should a DSM market potential study be conducted by the LDCs? (Issue 8.4)

“Market potential studies, or updates to an existing study, must be filed by each Utility together with its multi-year plan. The Utility may, in its discretion, do additional studies of market potential or updates during its plan.”

What is the purpose of evaluation reports and what should they contain? (Issue 9.1)

“EGD and Union are accountable to the Board to develop and implement cost effective DSM programs including the monitoring and evaluation of results. In order to inform stakeholders on the activities and results of the DSM programs undertaken, the utility shall file annually, a clear and concise Evaluation Report that summarizes the savings achieved, budget spent and the evaluations conducted in support of those numbers.

It is the purpose of the evaluation and audit process to review all input assumptions related to the delivery of DSM over the period of the multi-year plan. To assist with that purpose, the parties propose the establishment of an EAC to engage stakeholders in the development of an

evaluation plan and budget and to engage stakeholders in a review of the evaluation results as they become available over the term of the plan.”

Is a third party audit of the evaluation report required? And if required, what should be the audit principles, scope and timeline? (Issue 9.3)

“The parties agree that a third party audit of the Evaluation Report is required. The auditor will be retained by the utility who determines the scope of the audit. It will be the role of the auditor to:

- Provide an opinion on the DSMVA, SSM and LRAM amounts proposed and any amendment thereto
- Verify the financial results in the Evaluation Report to the extent necessary to give that opinion
- Review the reasonableness of any input assumptions material to the provision of that opinion
- Recommend any forward looking evaluation work to be considered

The auditor shall be expected to take such actions by way of investigation, verification or otherwise as are necessary for the auditor to form their opinion. The auditor, although hired by the utility, must be independent and must ultimately serve to protect the interests of stakeholders.”

Should there be an Audit Sub-committee with intervenor participation? And if yes, what role should the Audit Sub-committee have? (Issue 9.4)

“As described in Issue 9.3 above, parties agree that there should be an audit subcommittee entitled EAC. Participation in the EAC will be determined as set out in Issue 7.1.

The EAC will provide formal input into the evaluation plan. In regards to evaluation activities the EAC will continue to have an advisory role in the following:

- Consultation prior to the filing of the DSM plan on evaluation priorities for the next three years (or the duration of the multi-year plan). The utilities will, as part of their implementation plan, review all of the input assumptions over the course of each multi-year plan.
- Review and comment on evaluation study designs. Input on the research methodology used to determine the input assumptions.
- Reviewing the scope and results of evaluation work completed on new programs introduced over the course of the multi-year plan.
- Selection of the independent auditor to audit the Evaluation Report and determine the scope of the audit. The EAC will ensure that all comments on the Evaluation Report from the Consultative are reviewed by the auditor.
- Following the audit, review of the Evaluation Plan annually to confirm scope and priority of identified evaluation projects.
- The EAC will be responsible for meeting the reporting guidelines of the Board (found at Section 2.1.12 of the Natural Gas Reporting & Record Keeping Requirements Rule for Gas Utilities). The EAC will provide a final report within 10 weeks from the later of, the receipt of the Evaluation Report and supporting evaluation studies from the Utility, or the hiring of the auditor. Recommendations of the EAC with respect to DSMVA, LRAM and SSM clearances shall be included in the EAC's final report. The EAC shall not consider any further information subsequent to the Board's filing deadline each year."

What characteristics are required to determine that a program is either a market transformation or lost opportunity program? (Issue 10.1)

"Market Transformation programs are those that (a) seek to make a permanent change in the market for a particular measure, (b) are not

necessarily measured by number of participants and (c) have a long term horizon.

Lost Opportunity programs are those that focus on DSM opportunities that will not be available, or will be substantially more expensive to implement, in a subsequent planning period.”

How should it be determined that utility has achieved any prescribed target? (Issue 10.3)

and

What should be the length of a market transformation and lost opportunity program? (Issue 10.5)

and

What is the appropriate level of funding for a market transformation or lost opportunity program? (Issue 10.6)

Settlement on these issues was referred to completely settled Issue 10.7.

How should a program incorporate the following elements; information and education activities; incentives; research; activities to reduce market barriers such as building codes and energy efficiency appliance standards; and coordination with other entities (e.g. OPA)? (Issue 10.7)

“For each market transformation program the utility should, in its multi-year plan, propose a program description, goals (including measurement method), incentive (including structure and payment), length, level of funding and program elements. Such programs are not amenable to a formulaic approach and therefore should be assessed on their own merits and all of the above components should be suitable given the subject matter and program goals.”

Is it appropriate to use DSM funds for fuel switching to natural gas? (Issue 14.1)

“Fuel switching is an important activity that can help alleviate some of the electricity supply programs faced by the province; however, the utility shall not use DSM funding to promote fuel switching to natural gas. The utility will pursue fuel switching activities as part of its marketing efforts that will be included in its rate case or other suitable application.”

Is it appropriate to use DSM funds for fuel switching away from natural gas? (Issue 14.2)

“Where fuel switching away from natural gas aligns with the Utility’s DSM objectives the Utility may pursue these activities.”

CHAPTER 3- PARTIAL SETTLEMENT (FINANCIAL PACKAGE)

In addition to the completely settled issues, the Board was presented with a list of partially settled issues. Union, EGD, CCC, SEC, Energy Probe, IGUA, LPMA, and VECC (the “Partial Settlement Proponents”) were parties to a complete agreement on a number of issues. Certain of these issues were presented as a package (the “Financial Package”) which the parties presented as being un-severable; i.e. if the Board did not accept the entire package, the Financial Package agreement would be withdrawn. The Financial Package dealt with:

- DSM budgets (Issue 1.3),
- DSM plan targets (Issue 1.4),
- allocation of DSM budgets amongst customer classes (Issue 1.7),
- the DSM incentive mechanism (Issue 5.2),
- the DSM variance account (Issues 6.1, 6.2, 6.3),
- market transformation and lost opportunity program budgets and utility incentives related to them (Issues 10.2, 10.4, 10.8), and
- targeted programs for low income customers (Issues 13.1, 13.2, 13.3).

The Partial Settlement Proponents explained that the individual elements of the Financial Package were tied together, and that to change one element would have repercussions on other elements. On the opening day of the hearing, the Board explained to the parties that it would hear whatever evidence the parties chose to lead; however, if at the conclusion of the hearing the Board determined that it did not wish to accept the Financial Package in its entirety, it would not re-open the hearing to hear fresh evidence on any of the issues. The Partial Settlement Proponents subsequently informed the Board that they would continue to exclusively support the Financial Package, and would not present any evidence to be considered in the event that the Board did not accept the entire Financial Package.

In addition to the Financial Package, the Partial Settlement Proponents reached a partial settlement on a number of other issues that could be considered individually. This chapter deals only with the Financial Package; the remaining partially settled issues will be addressed in Chapter 4.

The chief proponents of the Financial Package in the hearing were the utilities through their witness panels. The other Partial Settlement Proponents did not present witnesses in support of the Financial Package, but did conduct what was described as “friendly” examinations of the utility witnesses on these issues. The parties opposed to the Financial Package cross-examined the utility witnesses and, in some cases, filed their own proposals.

The Board will accept the Financial Package as presented by the Partial Settlement Proponents. As the Board explained when considering the meaning of a partial settlement on July 10, the Board has considered all of the issues in the Financial Package on an issue by issue basis. Taken individually and as a whole, the Board finds all of the proposals contained in the Financial Package to be reasonable.

The Board is pleased that the Financial Package amounts to what is largely a “rules-based” approach. Many of the major elements of the three year DSM plans will essentially be locked in for the term of the plan, and will not require further review by the Board during this period. This should result in significant regulatory savings for the parties, the Board, and, ultimately, for ratepayers.

The Board finds that the Financial Package strikes an appropriate balance between advancing DSM forward through higher budgets and ultimately higher TRC savings targets, while not forcing the utilities to try to spend money that they indicated they would have trouble spending in a cost effective manner. The Board is also satisfied that the Financial Package will not cause undue rate

impacts to ratepayers given the relatively modest nature of the proposals, in light of the overall revenue requirement of the respective utilities.

In addition to the overall comments above, the Board has the following remarks on the individual issues that comprise the Financial Package.

How should the financial budget be determined? (Issue 1.3)

The Partial Settlement makes the following proposal.

“Parties in agreement with this partial settlement accept that a DSM budget cap should be developed using the following formulaic approach in each year of a multi-year DSM plan. For the first year, the budget for EGD will be \$22.0 million, an increase of \$3.1 million or approximately 16% from its 2006 budget. For Union, the 2007 budget will be \$17.0 million an increase of \$3.1 million or approximately 22% from its 2006 budget.

In the second and subsequent years of a multi-year DSM plan, the DSM budget for each year of the plan will be determined by applying an escalation factor of 5.0% for EGD and 10% for Union to the budget developed for the immediately preceding year. The purpose of the application of different escalation factors for EGD and Union is to address the desire by some parties that the difference between the level of spending by EGD and Union be narrowed. The parties agree that this formula results in budgets of \$23.1 million and \$24.3 million for EGD in 2008 and 2009 respectively, and budgets of \$18.7 million and \$20.6 million for Union in 2008 and 2009 respectively.

Parties to this partial settlement agree that the Utilities remain obligated to develop, and spend monies on, cost-effective DSM programs up to the budget amount developed by this methodology.”

The Board is satisfied that the Financial Package proposal reaches an appropriate balance between increasing DSM budgets and approving budgets which can be spent in a cost effective manner. Both Pollution Probe and GEC argued in favour of much higher budgets; however, the Board is not convinced that the utilities could currently spend these amounts cost-effectively.

Should there be plan targets and if so, should they be volumetric or based on TRC values? (Issue 1.4)

The Financial Package agreement makes the following proposal:

“Parties to this partial settlement further agree that there will be an annual TRC target. The parties agree to phase in a formula over the next three years which will set this target, as described below, by averaging the Utility’s actual audited TRC results over the previous three years and applying to this figure an escalation factor equal to 1.5 times the amount by which the utility’s budget is increased. The parties agree to phase in the aforementioned formula over the next three years beginning with an agreed upon target for each utility in 2007 which, for Union will be \$188 million and for EGD \$150 million.

Furthermore, the parties agree that, in the event the avoided costs used by the utility are, at a later date, updated, the actual audited results from previous years used to calculate the target will be adjusted to reflect these updated avoided costs.

Finally, and for greater certainty (and as an example), set out below is the formula by which the target will be set for Union, with 2010 provided for illustrative purposes only:

- 2007 - \$188 million.
- 2008 - The simple average of \$188 million and the actual 2007 audited TRC value as approved by the Board increased by 1.5 times the budget escalation factor (ie. 15%).

- 2009 - The simple average of \$188 million and the actual 2007 and 2008 audited TRC values as approved by the Board increased by 1.5 times the budget escalation factor (ie. 15%).
- 2010 - The simple average of the previous three years actual audited TRC values as approved by the Board increased by 1.5 times the budget escalation factor (ie. 15%).

For EGD, the formula by which the target will be set is as follows, with 2010 provided for illustrative purposes only:

- 2007 - \$150 million
- 2008 - The simple average of \$150 million and the actual 2007 audited TRC value as approved by the Board increased by 1.5 times the budget escalation factor (ie. 7.5%).
- 2009 - The simple average of \$150 million and the actual 2007 and 2008 audited TRC values as approved by the Board increased by 1.5 times the budget escalation factor (ie. 7.5%).
- 2010 - The simple average of the previous three years actual audited TRC values as approved by the Board increased by 1.5 times the budget escalation factor (ie. 7.5%).

The “actual audited TRC values” shall be the total TRC produced for the year in question as determined by the audit in the following year. In setting the target for 2009 and subsequent years, the actual audited TRC value for the immediately preceding year, but not for the prior two years used in the average, will be adjusted to reflect any changes in input assumptions determined in the audit to apply to that year for LRAM purposes. By way of example, if a free rider rate is increased in the 2009 audit carried out in the first half of 2010, under the partial settlement that change would normally apply to SSM for the years 2010 and thereafter, but to LRAM for 2009 as well. In calculating the target for 2010, the three year average will use the TRC values otherwise determined for 2007 and 2008, but for 2009 will use the audited TRC values, adjusted for that change in free rider rate identified in the audit.”

The Board is satisfied that the Financial Package proposal sets reasonable TRC targets for the utilities. The Board notes that the formula used to derive the targets in years two and three of the plan is self adjusting to account for actual performance in the previous year. The Board finds this formula to be preferable to setting the targets for all three years in advance.

The Board notes that the target for Union in year one of the plan will actually be lower than its Board approved target for 2006. The Board heard evidence from Union that the TRC target for 2006 had been set at a level that it will not attain. Union indicated that according to its current projections for 2006, the company will likely achieve TRC savings in the range of \$170 million (on a target of \$216 million). The Board accepts Union's evidence in this regard, and finds that a target of \$188 million in year one of the three-year plan is reasonable.

On what basis should the DSM program spending be targeted amongst customer classes? (Issue 1.7)

The Financial Package agreement makes the following proposal:

“Parties acknowledge that EGD's and Union's rate classes and customer needs are not identical, and hence it is not appropriate to restrict spending based on a rigid formulaic approach by rate class. The Utilities acknowledge and accept the principle that their portfolio of DSM programs should provide customers in all rate classes and sectors with equitable access to DSM program(s) to the extent reasonable, and that this principle must be balanced and consistent with the principle of optimizing cost-effective DSM opportunities. To the extent that a proposed multi-year plan proposes DSM sector (ie. residential, commercial, or industrial) level spending that is significantly different than the historical percentage levels of spending in those sectors, the utility will provide its explanation for this in its proposed multi-year plan. Parties may challenge any such

explanation, or its impacts. The Board will then determine whether to approve the revised spending ratios, and if so, under what conditions.

To the extent that actual sector level spending then varies significantly from the ratios identified in the plan, parties may challenge the appropriateness of the deviation from the plan when the utility seeks approval for the clearance of relevant accounts and the Board can make such order as is appropriate. (Issue 1.7)”

The Board is cognisant of the tension between ensuring that each rate class is allocated an appropriate portion of DSM funds on the one hand, and the benefits of targeting spending to the most cost effective programs regardless of what rate class they fall in on the other. The Board is satisfied that the Financial Package proposal finds the appropriate balance.

What is an appropriate incentive mechanism and how should it be calculated? (Issue 5.2)

The Financial Package agreement makes the following proposal:

“The parties to this agreement agree that an SSM shall be established for the first year of the plan and shall be in effect for each year of each multi-year plan.

Parties agree that the amount of any SSM shall not be included in the Utility’s return on equity (“ROE”) for the purposes of setting rates or in the calculation of any earnings sharing amounts.

The parties agree that for the purposes of this settlement, the TRC indexing target for 2007 for EGD will be \$150 million, and for Union, \$188 million. Targets for subsequent years shall be set in accordance with the formula in Issue 1.4. The cumulative SSM incentive payment to each utility for achieving their respective TRC target will be set by a formula,

and at 100% of TRC target will be \$4.75 million. For the purposes of determining whether each utility has met its 100% TRC target, the input assumptions for the calculation of SSM will not be changed retroactively. For clarity, changes to input assumptions, which are confirmed through audit, apply in the year immediately following the year being audited. For example, input assumptions for purposes of the SSM remain fixed for 2007, and any changes to input assumptions which change as a result of the audit of the 2007 results which is undertaken in early/mid-2008 will apply from the beginning of the 2008 year forward. Also see Issue 3.3.

For both Utilities, the following formula applies for the determination of the SSM curve and resulting cumulative payout. The SSM payout will be calculated based on the results as they apply along the curve and each of the following percentage thresholds do not represent lump sum payments for reaching the threshold but simply serve to structure the SSM curve based on targets and SSM amounts as agreed to by the supporting parties:

Up to 25% of the annual target, a total payout of \$225,000
Up to 50% of the annual target, a total payout of \$675,000
Up to 75% of the annual target, a total payout of \$2,250,000
Up to 100% of the annual target, a total payout of \$4,750,000
Up to 125% of the annual target, a total payout of \$7,250,000
In excess of 125% of the annual target, a total that is capped at no more than \$8,500,000.

The parties agree that the annual 'cap' of \$8.5 million will increase annually by the Ontario CPI as determined in October of the preceding year (i.e., the 2008 cap will increase based on CPI as determined at October of 2007).

See also issue 10.4 for the incentive available to the utilities in respect of market transformation programs”

During the hearing, the utilities provided the formula in calculating SSM, which is reproduced below:

“For achievement of between 0 and up to 25.0% of the annual target, the SSM payout shall equal \$900 for each 1/10 of 1% of target achieved.

For achievement of greater than 25.0% up to 50% of the annual target, the SSM payout shall equal \$225,000 plus \$1,800 for each 1/10 of 1% of target achieved.

For achievement of greater than 50.0% up to 75.0% of the annual target, the SSM payout shall equal \$675,000 plus \$6,300 for each 1/10 of 1% of target achieved above 50.0%, and

For achievement of greater than 75.0% of the annual target, the SSM payout shall equal \$2,250,000 plus \$10,000 for each 1/10 of 1% of target achieved above 75.0% to a maximum of the SSM annual cap.”

There was a complete settlement on issue 5.1, in which all parties agreed that there should be an incentive mechanism. The Financial Package proposal for issue 5.2 presents a formula for determining the exact amount of the SSM payout based on the level of success each utility has achieved in hitting its TRC targets. The Financial Package proposal calls for an escalating incentive scale which starts at the first dollar of TRC net benefits achieved. This proposal marks a change from the current Board approved practice where the utilities are required to reach a certain level of net TRC savings before any incentive is realized. The Board is satisfied that this change to the *status quo* is appropriate. The Board is persuaded by the utilities’ evidence that the proposed structure is more likely to attract management attention to DSM programs. The Board is also comforted by the fact that the incentive payments for performance below 50% of the TRC target is very low. Further,

the \$8.5 million cap on incentive payments for any one year ensures that ratepayers will not have to pay an undue amount if a utility achieves extraordinary success.

Demand Side Management Variance Account (Issues 6.1, 6.2, 6.3)

The Financial Package agreement makes the following proposals:

“Parties agree that the DSMVA shall be continued. The DSMVA shall be used to “true-up” the variance between the spending estimate built into rates for the year and the actual spending in that year. If spending is less than what was built into rates, ratepayers shall be reimbursed. If more is spent than was built into rates, the utility shall be reimbursed up to a maximum of 15% of its DSM budget for the year. All additional funding must be utilized on incremental program expenses only (i.e. cannot be used for additional utility overheads). For greater certainty, program expenses include market transformation programs.”

“There should be no limit on the amount of under spending from budget that should be returned to ratepayers. Parties agree that a Utility may spend and record in the DSMVA for reimbursement to the utility, in any one year, no more than 15% (fifteen per cent) of that Utility’s DSM budget for that year.”

The Board finds the Financial Package proposal to be reasonable. The DSMVA will allow utilities to aggressively pursue programs which prove to be very successful, even where this causes them to exceed the Board approved budget (by up to 15%). It will also ensure that unspent DSM funds are returned to ratepayers.

Market Transformation (Issues 10.2, 10.4, 10.8)

The Financial Package agreement makes the following proposals:

“Every utility DSM plan should include an emphasis on lost opportunity and market transformation programs and activities. For purposes of this agreement, parties agree that this emphasis will consist of a market transformation budget of \$1.0 million per utility per year and is included in the total budget amounts referenced in issue 1.3.”

“Parties agree that each utility is entitled to an incentive payment of up to \$0.5 million in each year of the multi-year plan based on the measured success of market transformation programs. The measurement and calculation methodologies to determine whether this amount has been earned in the year shall be detailed by each utility in its multi-year DSM plan. For clarity, this amount is in addition to any amount earned at issue 5.2. By way of example, a Utility may propose in its DSM plan a program to increase the market share of a particular high efficiency product, and a \$250,000 annual incentive based on the market share of that product at the end of each year, measured by a specific third party market index, being 10% higher than the previous year. If the DSM plan is approved by the Board including that program, the Utility will be entitled to a \$250,000 incentive in each year that it meets the stated market share goal.”

“For each market transformation program the utility should, in its multi-year plan, propose a program description, goals (including measurement method), incentive (including structure and payment), length, level of funding and program elements. Such programs are not amenable to a formulaic approach and therefore should be assessed on their own merits and all of the above components should be suitable given the subject matter and program goals.”

The Board is satisfied with the Financial Package proposal for market transformation. GEC argued for a much larger budget for market transformation and lost opportunity projects. Utility witnesses stated that the utilities could not effectively spend these budgets. The Board notes that the proposal regarding utility incentives for these programs does not achieve the level of certainty that exists for other elements of the Financial Package. While GEC argued for a more concrete incentive mechanism, the witnesses at the hearing were largely in agreement that market transformation programs are not necessarily amenable to fixed and inflexible rules. The Board agrees. The Board therefore accepts the proposal as filed.

Targeted Programs (Issues 13.1, 13.2, 13.3)

The Financial Package agreement makes the following proposals:

“Parties to this settlement accept that low-income customers face barriers to access DSM programs which are unique to this group of customers. Accordingly, parties to this settlement agree that it is appropriate to establish a minimum amount of spending on targeted low-income customer programs in the residential rate classes of both Utilities. It is agreed that each utility will spend out of its DSM budget a minimum of \$1.3 million, or 14% of each respective utility’s residential DSM program budget, whichever is greater. For clarity, a utility may expend more than \$1.3 million or 14% of its residential DSM program budget if the utility considers it appropriate. The Utilities each agree to increase the \$1.3 million spending floor by the budget escalation factor appropriate for the utility (i.e. EGD 5%; Union 10%) in each of the second and third years of a three year plan.

The parties to this settlement further agree that of the \$1.0 million budget for market transformation programs, each utility will expend no less than 14% on targeted low-income market transformation programs.

The Utilities agree that by the establishment of this spending level floor, they will not, as a result, reduce planned DSM spending in other rate classes or sectors which are directed at low-income residents (e.g. social housing multi-unit residential spending) or their spending on fuel switching targeted to low-income customers.”

“Each of the utilities is at liberty to develop appropriate eligibility criteria for low income residential programs, and each utility agrees to consult with VECC in respect of the development of eligibility criteria and low-income program parameters. Parties to this settlement generally accept that criteria presently used by various levels of government for the purposes of determining low income eligibility may be appropriate for use by the utilities.”

The only customer segment proposed to the Board for targeted programs were those for low-income customers. The Board finds the Financial Package proposal to be reasonable. The proposed spending floor should ensure that low-income consumers have access to DSM programs at least in approximate proportion to their percentage of residential revenue. LIEN argued that spending on low-income DSM programs should be equal to 18% of the total residential class DSM budget, assuming the total DSM budget is split proportionately amongst all rate classes. Under Issue 1.7, the Board has already stated its acceptance of budget allocations that are not strictly proportional to customer class revenue. There was conflicting evidence in the hearing as to the estimated proportion of low-income households within the residential sector. LIEN argued that the proportion was 18% while the Partial Settlement proponents argued that 14% was closer to the actual proportion. The Board finds LIEN’s evidence on this matter unconvincing and finds that 14% is supported by the evidence. The Board, therefore, accepts the proposal that each utility will annually spend 14% of the residential DSM budget or \$1.3 million on low-income programs, whichever amount is greater.

CHAPTER 4 - REMAINING NON-SETTLED ISSUES

The previous chapter, Chapter 3, dealt with the settled issues and the partially settled issues that were presented to the Board as a “financial package”. The following chapter, Chapter 5, includes discussion of Issue 3.2 relating to the question of whether there should be a common guide. This chapter, Chapter 4, deals with the remaining non-settled issues that were addressed during the oral hearing.

What should be the timing of the schedule for submitting and reviewing Demand Side Management (“DSM”) plans? (Issue 1.1)

The Board was presented with a partial settlement. All intervenors agreed as follows:

“...DSM plans should be filed at least nine months prior to the plan period to which they relate, to give sufficient time for stakeholders and the Board to consider them, and for Board approval prior to the plan period commencing.”

The utilities believe that filing the DSM plans four months in advance of the initial plan year will allow sufficient time to have the plan in place by the beginning of the following year. The utilities indicated that this would allow them to file final results from the previous year’s audit, rather than interim un-audited results.

For clarity, the timing issue here relates to future DSM plans. The timing of filing for the inaugural three-year plan is dealt with elsewhere in this decision.

The Board notes that a filing date at least nine months in advance would entail the presentation of un-audited performance of the plan’s second year. This may likely involve updates once the results are audited. The Board is of the view that updates should be avoided where possible, as they are generally not conducive

to an efficient review. While the Board anticipates that a four month time frame will likely be adequate to accomplish the review given the rules approach adopted by the Board, there is the possibility that it will not. In that case, the consequence is a start date that may not immediately follow the last day of the previous term of the plan. While this may not be desirable, it would be of little adverse consequence as the previous plan would continue. It is in the Board's view a reasonable risk to take in order to obtain the benefits of an efficient review. The Board therefore accepts the utilities' proposals that subsequent plans be filed four months in advance of their commencement.

What process and rules should be available to amend the DSM plan? (Issue 1.5)

There was no settlement (complete or partial) on this issue.

In a response to an undertaking (J2.2), the utilities referenced the preamble of the Partial Settlement which reads

“For greater clarity, where any settled issue is expressed to continue throughout a multi-year plan, no party to that settlement may seek to re-open that issue with respect to either Utility in any other proceeding prior to the earlier of a) the Board's consideration of the multi-year plan of that Utility, or b) a further hearing on DSM in which the Board has determined that such issue is to be considered “

and stated that

“... it is the position of the utilities that the Board should amend a multi-year plan during the currency of that plan only in exceptional circumstances. It is expected that with the proposed language, all stakeholders will recognize that any application for an amendment must meet a very high onus to demonstrate undue harm. The intent of the above section is not to provide parties with an opportunity to reopen the framework rules established in this proceeding.”

As noted at the oral hearing, no rule can prevent requests for review, or should for that matter. It would not be in the public interest to disallow re-opening of the plan in midstream under any circumstances. At the same time, the purpose of this generic initiative is to avoid unnecessary re-visitation of DSM issues.

Demonstration of “undue harm” was accepted as a reasonable principle by intervenors. The Board concurs that it is a workable principle and useful in the circumstances. There was also support for the proposal by SEC that any party claiming undue harm must first seek leave of the Board before the matter is thoroughly reviewed, and leave should be given only in exceptional circumstances. The Board notes that if a proposed amendment came forward either by way of a motion or by way of application, the Board has the authority and tools to subject the request to the appropriate scrutiny, and to ensure that the intentions of the parties and the Board are respected.

As for the proposal by the utilities that the Board use its cost assessment powers as a further measure to dissuade frivolous requests, this option is always available to the Board and can be used when warranted. This applies equally to intervenors and the utilities.

Should a TRC threshold be established to determine if a measure and/or program is cost effective or should it be based on the cost effectiveness of the portfolio? If so, what should the value be? (Issue 2.2)

The Board was presented with a partial settlement. All parties except SEC agreed as follows:

“The general principle is that all measures and programs should exceed a benefit to cost ratio of 1.0 to be included in the portfolio, but exceptions are reasonable where other benefits are apparent (e.g., pilot programs).”

SEC argued for a screen value of 1.2 rather than 1.0 on the basis that TRC is based on assumptions that change, so it would be appropriate to build in a margin to ensure feasibility. SEC noted that nothing is lost since it appears that

there is much more DSM available than the utilities can handle and thus, instituting a higher threshold programs would be better. SEC noted that the exception related to the screen value for pilot programs would still exist.

In the Board's view, the availability of DSM initiatives that exceed the 1.0 cost-benefit ratio is not a compelling argument for deviating from a widely-practiced threshold of 1.0. A program that yields a benefit cost ratio over 1.0 does provide positive net benefits and it would not be appropriate to knowingly forego such benefits. As for SEC's argument that a higher threshold would avoid the risk of uneconomic programs, this can be addressed by instituting more robust input assumptions. Moreover, the risk of uneconomic programs is offset by the fact that, from a societal perspective, the TRC test does not reflect the positive aspects of mitigating negative externalities that are inherent in gas consuming activities. In fact the risk of undertaking uneconomic programs is self-correcting by the incentive by the utilities to maximize rewards by maximizing TRC benefits. For the above reasons, the Board does not accept SEC's suggestion.

However, the Board notes that the partial settlement refers to pilot programs as an example of programs where an exception to the threshold of 1.0 may be permitted. The implication is that there may be other types of programs. No other examples were provided. The Board prefers more certainty as to the exceptions in these circumstances. The Board therefore finds that the exception to the TRC threshold should be restricted to pilot programs at this time.

How often should avoided gas costs be calculated and should the Local Distribution Companies ("LDCs") use identical avoided costs? (Issue 3.5)

There was no settlement (complete or partial) on this issue.

EGD undertook to explore if the utilities could produce a common set of avoided costs and responded (J2.4) as follows:

“Each Utility will calculate avoided costs for natural gas, electricity and water that reflect the cost structure and service territory of the Utility. In order to ensure consistency, a common methodology will be used to determine the costs. The Utilities will coordinate the timing for selecting commodity costs so that they are comparable.

The avoided costs will be submitted for review as part of the multi-year plan filing and should be in place for the duration of the plan. The commodity portion of the avoided costs will be updated annually.

As avoided costs are long term projections, updating the costs, other than the commodity costs, on a three year cycle should not cause benefits to be significantly under or overstated. Regardless of how often the avoided costs are updated, the same avoided costs will be used to calculate both the target (relative to 2007) and incentive amount, therefore it is anticipated that the relative impact would be minimal.”

Only GEC argued against the utilities’ proposal. It argued that the utilities should use common values for gas commodity, electricity and water. With respect to the avoided distribution system costs (e.g. pipes and storage etc.) which may vary by utility, GEC submitted that the utilities should be required to demonstrate how different these values are so that the Board can determine whether or not the difference is material.

The Board does not accept GEC’s proposals. Avoided gas costs are a significant component of calculating TRC benefits. Gas costs can be different for each utility depending on, among other things, its gas supply management policies and practices.

With respect to system costs, these are certainly unique to each utility and they too are an important part of the TRC benefit calculation. The benefits of

estimating and measuring with more precision the TRC values for DSM programs outweigh, in the Board's view, the costs of the incremental effort to determine and review the different values for gas commodity and system costs.

The Board also notes that the methodology for estimating the values for natural gas commodity, system costs, electricity and water will be common for the two utilities, which will ensure some measure of consistency and efficiency.

The Board accepts the utilities' proposals.

Should the LDCs be entitled to revenue protection? (Issue 4.1)

The Board was presented with a partial settlement on this issue. All parties except CME agreed that the utilities should be entitled to revenue protection.

By accepting the "financial package" settled issues earlier in this decision, the Board has not found merit in CME's argument that the utilities should not be entitled to revenue protection. As long as a utility's fixed costs are not fully recovered through fixed charges (and part of the fixed costs are therefore being recovered through the variable charges), there is an inherent conflict for the utility between sales growth and conservation. The existence of a mechanism to neutralize this conflict through an LRAM mechanism is therefore essential to the success of DSM.

What is the appropriate level of funds that should be budgeted for an evaluation report and audit? (Issue 9.2)

The Board was presented with a partial settlement on this issue. All parties except GEC agreed as follows:

"The Utilities shall ensure that DSM budgets and spending include adequate funding to complete the required annual evaluation and audit activities. The utility is responsible and accountable to ensure that evaluation and auditing activities are concluded in a timely fashion and that the associated costs are reasonable."

GEC argued that 3% of the DSM budget should be allocated to evaluation and audit over the three year period. GEC noted that the utility should have the flexibility to move spending between years to balance the lumpiness of spending. GEC noted that this budget should only be spent if required.

The Board fails to see the rationale or benefit of GEC's suggestion. In fact the Board only sees lost DSM program opportunities as the utilities will not be able to access any unspent portion of a fixed budget reserved for evaluation and audit. The Board does not accept GEC's proposal. The utilities should be spending in evaluation and audit as required and as prudent.

What attribution rules or principles should be applied to jointly delivered DSM programs? (Issue 11.1)

There was no settlement (complete or partial) on this issue.

The issue for the parties was how the framework rules will deal with situations where a utility operates or participates in a program with a non-rate-regulated third party and, where this occurs, how should the determination of the TRC benefits be made. For completeness, the Board also makes a finding on attribution between Board rate-regulated parties.

The utilities advocated the centrality principle, as decided by the Board in EGD's EB-2005-0001 rate case. Under the centrality principle, it would be considered that the utility played a central role if the utility initiated the partnership, initiated the program, funded the program, or implemented the program. In such circumstances the utility would be entitled to 100% of the TRC benefits.

Where the utility's role is not considered central, the utilities differed. EGD advocated a scaled role approach, whereas Union proposed that the attribution of TRC benefits would be measured by free ridership. In Union's view, there is

no material distinction in the two approaches as both would likely produce the same result. The utilities agreed that it should be the same arrangement for both as determined by the Board.

In the view of CCC and GEC, the rule of centrality is not particularly helpful at avoiding the need to analyze each project or proposal.

The Board notes that the utilities did not dispute the suggestion that attribution of benefits for jointly delivered DSM programs must be done on a case-by-case basis. The Board agrees that this is a reasonable approach. The issue is whether the centrality principle should be maintained.

The Board recognizes that it accepted the centrality principle in the EB-2005-0001 rate case when it dealt with EGD's EnerGuide for Houses program. What makes the re-assessment necessary is the fact that this is a generic hearing for the gas distributors and it is appropriate to review the rules *de novo*. In that regard, the Board notes that, pursuant to the settled and approved issues, there is now a delineated role for the evaluation and audit committee in respect of programs pursuant to the settlement agreement and the Board's acceptance of the agreement. Specifically, the attribution rules set by the Board will be used by the evaluation and audit committee to assess and settle the TRC savings attributable to the utility's role, which will ultimately be reviewed by the Board.

As the utilities concede, the centrality rule is not absolute. There can be considerable judgment in determining whether or not the role of the utility is central in a particular program. Attribution on the basis of the utility's participation that is considered incremental to the program on the other hand appears to remove some of the controversy, and it does not preclude full 100% attribution to the utility. However, a drawback is that the incrementality approach may not adequately and fairly capture situations where a program would not have existed at all if it were not for the utilities.

On balance, the Board accepts the centrality principle for purposes of the first multi-year DSM plans, under which the utility would be entitled to 100% of the TRC benefits if it can be demonstrated that it has a central role in a program. That is, as the utilities proposed, if the utility initiated the partnership, initiated the program, funded the program, or implemented the program. The experience to be gained over the next three years will inform as to the suitability of continuing with this approach after that point.

This leaves the difference in approach by the two utilities where centrality is not claimed or demonstrated.

The Board accepts the utilities' position that the distinction between their approaches is without a difference. The utilities' differences reflect different internal practices, as noted by the utilities. The utilities acknowledge that either approach would involve the evaluation of attribution of each program by the evaluation and audit committee, and ultimately by the Board. However the utilities accept that there should only be one common approach, to be determined by the Board.

The Board prefers the free ridership approach advocated by Union as this would be more consistent with the general approach for measuring TRC benefits in other DSM activities implemented by the utilities.

The TRC benefits for program partnerships with Board rate-regulated entities (e.g. electricity distributors) shall be allocated in the manner indicated in the electric TRC Guide, as was canvassed at the oral hearing. That is, a gas distributor partnering with an electricity distributor shall claim all of the benefits associated with the gas savings.

How should existing or future carbon dioxide offset credits be dealt with in DSM plans and programs, if at all? (Issue 11.2)

The Board was presented with a partial agreement on this issue. All intervenors agreed as follows:

“Until the rules are known, a deferral account should be established for each Utility and any dollar amounts representing proceeds from the sale or other dealings in credits should be credited to that account”.

The utilities submitted that until the rules of carbon dioxide offset credits are known, the Board should not make any determination on this issue.

The Board accepts the argument by certain intervenors that there is no harm in ordering a deferral account to capture any future carbon dioxide offset credits. While the matter could wait until the resolution, if any, of the carbon dioxide offset credits matter, the utilities did not present convincing arguments to counter the no harm proposition advanced by many intervenors. The Board is generally reluctant to authorize the establishment of deferral accounts without a more concrete and immediate need. However since this matter is within the scope of DSM, there is an opportunity to deal with it now without the need for further processes. Therefore the Board concludes that the establishment of a deferral account would be a reasonable approach in the circumstances, and so orders.

Should free riders for custom projects be determined on a portfolio average or on a project basis? (Issue 12.1)

There was no settlement (complete or partial) on this issue.

The utilities proposed that the free ridership rate should be determined on a portfolio average basis. The single free ridership rate would apply across a number of technologies and a number of sectors. The utilities proposed a free ridership rate of 30%.

VECC submitted that although the fairest way to address attribution for custom projects would be on a project-by-project basis, a portfolio average approach can be acceptable for administrative efficiency, but with the conditions that there should be emphasis on sector-by-sector as suggested by LPMA.

The Board sees merit in the notion of differentiated free ridership rates by market segment, at least for large and small enterprises. However, this is a significant undertaking. The utilities revealed that at present there are over one thousand custom projects within EGD and a fifth of that within Union. A segmentation analysis would need to be done on a sample basis, statistically justified, and reviewed by the parties and the Board. Ordering such studies for the two utilities for this plan may jeopardize the timetable of filing and implementing the respective DSM plans. The Board also notes the testimony by Union's witness that any differences in free ridership rates through market segmentation may at the end balance out and in fact support a single rate.

For these reasons the Board accepts a portfolio average approach for custom projects. The free ridership rate for custom projects will be determined as part of the process that will determine the input assumptions.

For the next generation multi-year plans, the Board expects the utilities to propose common free ridership rates for custom projects that are differentiated appropriately by market segment and technologies.

Should custom projects have a third party or an internal audit and if so, what would be the audit scope and process of the audit? (Issue 12.2)

The Board received a partial settlement on this issue. All intervenors agreed as follows:

“Custom projects should be audited using the same principles as any other programs. Audit activities should be sufficient for the auditor to form

an opinion on the overall SSM, LRAM and DSMVA amounts proposed in the Evaluation Report.”

EGD proposed that the custom projects be audited as part of its portfolio results based on a significantly appropriate representative sample. The auditor would then confirm the results and these would be included for the purposes of calculating SSM and LRAM, consistent with the completely settled Issue 3.3.

Union proposed that, as custom projects form a large part of Union's DSM portfolio, they should be assessed by a third party, and noted that this is in fact Union's current practice. Union explained that a statistically significant sample of both the largest and smallest subset of projects should be evaluated by a third party evaluator, hired by the utility. The evaluator would not be the auditor because of the particular technical expertise required to review custom projects. The report of the technical expert would form part of the evaluation report, which would be forwarded to the auditor.

The Board notes that the distinction between the Union and EGD proposals is that, in Union's case, the third-party evaluator does the statistical sampling and the initial review of the project before they form part of the evaluation report that is forwarded to the auditor. In EGD's case, that first cut is done in-house but EGD still engages a third party to do an evaluation of the sampling of its custom projects. Although in both cases the results would be forwarded to the auditor for review, the Board is of the view that a common approach should be adopted for the two utilities. The Board prefers Union's current practice where the third-party evaluator does the statistical sampling and the initial review of the project before they form part of the evaluation report that is forwarded to the auditor.

Union proposed the adoption of the rule in the TRC handbook for electric CDM, where the projects selected for assessment should consist of a random selection of 10% of the large custom projects representing at least 10% of the total volume

savings for all custom projects and consist of a minimum number of five projects. The Board adopts this proposal, which shall apply to both utilities.

[With respect to custom projects], how should savings be determined and what documentation is required? (Issue 12.3)

The Board received a partial settlement on this issue. All intervenors agreed as follows:

“Assumptions used should comply with the principles set out under Issue 3.3. Assumptions with respect to measure life should reflect actual expected measure life, so for example should include a factor for the possibility that a measure will not be used for its entire engineering life (due to bankruptcy, change in operations, etc.).”

During the hearing, a complete settlement was considered to have been reached by all parties by truncating the text as follows:

“Assumptions used should comply with the principles set out under Issue 3.3. Assumptions with respect to measure life should reflect actual expected measure life.”

The Board concurs with the settlement.

[With respect to custom projects], should the volumetric savings recorded be actual or forecasted volumes and what documentation is required to verify this result? (Issue 12.4)

In the Partial Settlement, parties referred this issue to Issue 12.3, which in turn was considered to have settled by the parties during the hearing.

The Board approves this settlement.

[With respect to custom projects], how will an appropriate base case be determined? (Issue 12.5)

The Board was presented with a partial settlement on this issue. All intervenors and Union agreed as follows:

“Only the part of the project that the Utility influenced is to be counted for SSM or LRAM purposes.”

The Board notes that only EGD opted out on the basis that it does not know the implications of the word “influence”. The Board is not in a position to provide assistance to EGD in this regard as EGD itself was not clear as to the relief that it is seeking. However, the Board’s findings in this decision taken in their entirety should help alleviate EGD’s concerns. In particular, the Board does not see how the proposed wording would invalidate settled Issue 3.3, which is EGD’s stated concern.

The Board accepts the partial settlement on this issue.

How should the funding levels and targets, if any, for the gas utilities’ electricity to natural gas fuel switching programs be determined? (Issue 14.3)

The Board was presented with a partial settlement on this issue. All intervenors agreed as follows:

“Programs promoting fuel switching to natural gas, which should be funded from the marketing budget of the Utility, should, just as with DSM programs, seek to balance maximization of TRC benefits with minimization of rate impacts.”

Union noted that that all parties agreed that fuel-switching to natural gas is not a DSM activity (and DSM funds should not be used for this purpose) and fuel-switching away from natural gas may be appropriate in certain circumstances and may therefore constitute DSM. Union stated that it is simply seeking

guidance from the Board or approval to bring an application in the future which will address the issue of the appropriate level of funding, as well as the target, if any, associated with fuel-switching, and thus how success ought to be measured.

EGD submitted that in accepting the completely settled issues in this matter, the Board has effectively deferred the issue to a future panel of the Board that will consider it in the context of whatever proceeding any fuel-switching budget is brought forward.

In this Board Panel's view, making findings, providing guidance or even commenting on the substantive matters of fuel switching would not be appropriate. In making this finding, the Panel was mindful of the impact any conclusions may have on a future panel of the Board. Equally important, there was an insufficient evidentiary basis in this proceeding for the consideration of limiting fuel-switching to a TRC test only. Parties that believe that a TRC test should be used for a fuel-switching budget will have the opportunity to raise this issue in future rate proceedings.

What is the appropriate role of gas utilities in electric CDM? (Issue 15.1)

There was no settlement (complete or partial) on this issue.

EGD submitted that it would like to have the flexibility to make its expertise in DSM available in the electric Conservation and Demand Management (CDM) arena. It also stated that it was not planning to engage in CDM consulting. Union stated that it does not plan to engage in electric CDM. However, Union supported EGD's submissions.

SEC stated that on the assumption that the utilities can engage in electric CDM activities under the Undertakings given to the Lieutenant Governor in Council (the "Undertakings"), it supported the idea that the gas utilities be able to do joint

programs with the electric LDCs, as this would tend to lower costs for the gas utilities. SEC cautioned against diverting the gas utilities' attention from gas DSM programs to electric CDM since the latter is, in SEC's view, more lucrative. CCC noted that there is no like thinking by the two utilities on their role regarding DSM activities and that there is no necessary and rational connection between electricity CDM and the utility DSM programs; therefore, there is a need to impose some constraints on the utilities' activities. CCC also questioned the legality of the gas utilities engaging in these activities without proper dispensation under the Undertakings. GEC submitted that gas utilities should only engage in electric CDM when it enhances gas DSM; otherwise, it would be a competing demand on scarce resources and a distraction from their primary focus. VECC supported co-delivery of DSM and CDM measures as it would reduce program costs, but not on the basis of incremental costing and profit sharing. LPMA and VECC suggested that electric CDM should be considered a non-utility activity for revenue requirement purposes of the distribution business.

EGD responded that it does not need an order or dispensation from the Board to engage in electric DSM. It specifically noted that gas DSM itself already generates electricity TRC savings which are included in the SSM calculations. EGD also stated that CDM is consistent with the objectives set out in the Ontario Energy Board Act to promote energy conservation; the Act does not limit the objective to simply natural gas. Further, this matter was canvassed in the EGD's EB-2005-0001 rate case where the Board approved the 50/50 earnings sharing mechanism for the joint participation in the TAPS electric CDM program.

The Board considers that the regulatory construct in Ontario is the concept of a pure distribution utility. This is manifested in the Undertakings and in the Board's rulings for some time. Gas DSM has remained an activity within the corporate structure of the utility and there is no compelling reason to alter this at this time - neither the utilities nor the intervenors instigated or sought a change with respect to gas DSM.

Recent developments in electric CDM may likely bring opportunities for gas utilities to engage or enhance engagement in this area. EGD has some minor engagements with Toronto Hydro Electric Systems Limited (“THESL”). Union does not appear to have any immediate plans to enter the electric CDM field. EGD, however, is interested in possibly expanding its electric CDM role where it is appropriate to do so.

There appears to be strong support if not consensus that the gas utilities should be permitted to engage in electric CDM if such engagement brings about cost efficiencies and the clear focus of the utility’s demand management activities should relate to gas. The concern that attention may be diverted from gas DSM to electric CDM is, in the Board’s view, theoretical at this stage. It is not axiomatic that enhanced engagement in electric CDM by the gas utilities will necessarily result in lost opportunities for gas DSM. The two initiatives can co-exist in an optimal and workable fashion. This is especially the case where demand management involves funding initiatives, not infrastructure, which has been the experience thus far.

The Board therefore is not concerned about the gas utilities in their present corporate structure engaging in electric CDM as long as such activities can be reasonably viewed as complementary and ancillary to gas DSM and do not involve investments in infrastructure. An example of that is EGD’s involvement with THESL in the TAPS program. In fact, the utilization of the demand management expertise residing in the gas utilities should be viewed positively from a public interest perspective given the well known challenges in the Province’s electricity sector. In that regard, engagement by the gas utilities in programs aimed at switching from electricity to gas is encouraged.

The concern arises if the gas utilities undertake stand-alone electric CDM activities. That is, programs that are not or do not appear to be synergetic to or enhancing gas DSM, especially if they involved investments in infrastructure on account of electric CDM. This would alter the regulatory construct of a gas distribution utility which would necessitate a review under the Undertakings and the Board's regulatory policies.

The Board is hampered in its assessment of the appropriate role for gas utilities in these situations. The Board is concerned about granting what might be viewed as blanket approval for the utilities to engage in electric CDM activities without knowing exactly what types of activity this might entail. For example, it is not clear if the gas utilities would bid for participation in the recently announced \$400 million in OPA funding for electric CDM programs. As noted, the Board would not be concerned about gas utility involvement in OPA-funded programs targeted at switching from electricity to gas. The Board's concerns are in connection with stand-alone electric CDM programs where the gas utilities take on a central role.

This leads to the issue of whether relief from the Undertakings is required for the utilities to engage in electric CDM. EGD's current CDM activities with THESL were approved in EGD's most recent rates case. This program, however, is clearly incidental to EGD's DSM activities and it does not entail a separate infrastructure. EGD is free to continue its relationship with THESL regarding the TAPS program, and either gas utility may engage in similar programs with other electric LDCs where the CDM activity is clearly incidental to the utilities' DSM activities, or to engage in electric CDM stand-alone programs aimed at switching from electricity to gas where no dedicated investment in electric infrastructure would be required.

However, it is certainly possible that some other electric CDM activities or programs would require relief from the Undertakings. The Board is not in a position to articulate these engagements. The Board has not heard sufficient evidence to determine what would be an appropriate involvement by the gas utilities in such circumstances. The Board will leave it to the utilities to make such proposals if they so wish when they come forward with their respective DSM plans.

What is the appropriate treatment of costs and revenues for electric CDM? (Issue 15.2)

and

What incentives, if any, should be paid for electric CDM activities? (Issue 15.3)

There was no settlement (complete or partial) on these issues.

The utilities proposed that the costing of electric DSM should be on an incremental basis and the net revenues be split 50/50 between shareholders and ratepayers. This is the current practice for the TAPS program between EGD and THESL which was approved in the EB-2005-0001 rate case decision.

Some intervenors argued for full costing on the basis that it would avoid concerns about cross-subsidy between gas and electricity ratepayers. Full costing would also lower the net revenues to be split, thereby reducing the utilities' incentive to divert resources from DSM to CDM activities that may be more lucrative.

The Board notes that there was no opposition by intervenors to the institution of the 50/50 net revenue split proposal. The Board accepts the proposal as reasonable.

The utilities' proposal to use incremental costing is not acceptable to the Board. Full costing has been the general practice for programs that are not part of the core utility business and the Board sees no reason to deviate from that practice in this case. Full costing avoids cross-subsidization from gas to electricity ratepayers and reduces the incentive to shift resources from gas DSM to electric CDM in pursuit of possibly more lucrative returns in the latter.

Having approved the incentives contained in the "financial package", the Board does not see the need for other incentives necessary or appropriate for gas utilities to engage in electric CDM activities at this time.

CHAPTER 5 – INPUT ASSUMPTIONS, COMMON GUIDE, AND NEXT STEPS

In this chapter the Board addresses Issue 3.2 which is whether there should be a common guide to specify what input assumptions should be used by the utilities, and deals with the next steps of this proceeding.

Prior to and during the oral hearing the Board indicated that the process of listing and valuing input assumptions would not be part of this phase of the proceeding and that the Board wished to hear from parties on the appropriate subsequent process.

Issue 3.2 was phrased as, should there be a common guide (e.g. TRC Guide for Conservation and Demand Management (“CDM”)) to specify what input assumptions should be used by the utilities?

All intervenors agreed as follows:

“No. The input assumptions should be included in each utility’s plan, and should be updated for each Utility during the plan period in accordance with the partial settlement to issue 3.1.”

The utilities endorsed the notion of a common list and common values (where appropriate) of input assumptions for the two utilities in a common document. They suggested that this document would be an appendix to a Guide document which would reflect the Board’s decision and convert elements of the decision into an operational handbook. They argued that this would be consistent with the intent of the proceeding to develop a rules-based framework for DSM. The utilities further suggested that Board Staff could take ownership of the development of the Guide and become the custodian for future updates.

The utilities argued that the creation of a common document has several advantages. Many of the input assumptions are common and they could be updated in their entirety by a Board process every three years. There would be no question as to the input assumptions that the utilities are to use. Assigning Board Staff the responsibility of updating the input assumptions would impart discipline on parties seeking to change the input assumptions. The utilities noted that where there was a need for different input assumptions between EGD and Union, it would not be difficult to effect within the list.

SEC argued that common input assumptions was a non-issue since the process for amending and updating the assumptions is completely settled in issues 3.1, 3.3 and 3.4 and that the existence of a guide is not relevant to the inclusion or determination of input assumptions. GEC endorsed SEC's view and further argued that an input assumptions process may frustrate the settlement on those issues. GEC further suggested that the Board should rely upon the evaluation and audit process to consider input assumptions. Energy Probe endorsed the submissions put forward by GEC and SEC. LPMA submitted that each utility should include its input assumptions as part of its own plan but the utilities should work together to develop common input assumptions where appropriate. Some argued that translating the Board's decision into a guide amounted to a waste of time, and unless the Board drafted the Guide and handed it to parties in a finished version, parties would take the opportunity to re-argue issues in interpreting the Board's decision.

In the Board's view it is clear that TRC input assumptions will have to be determined before any DSM plans can be finalized. The Board also agrees that the process should be conducted under the Board's review as a second phase to the current proceeding. The Board feels that the most appropriate process for creating the input assumptions guide is one similar to that employed to create the CDM Handbook. The Board therefore directs Board Staff to circulate a draft of

an input assumptions guide. Parties will be given an opportunity to comment on the draft and, where they feel it necessary, to make submissions for changes with appropriate support. A Procedural Order will be issued which will set out the details of this process more fully. It is anticipated that this second phase to the proceeding will be completed before the end of 2006.

There are no persuasive reasons in the Board's view not to have a common list of input assumptions and common values with the exceptions of the values as noted in this decision. In fact it appears to the Board that there are efficiencies to be gained by the use of a common set of assumptions. To the extent that there may be differences in how the assumptions might apply to the two utilities or in the values themselves as allowed in the decision, these could be accommodated and highlighted within the generic set. There are only two gas utilities affected and it would not be administratively difficult to do so.

Once the initial list and measures of the input assumptions is determined, the issue then becomes: what is the process for updating these?

The completely settled issue 3.1 stipulates that the input assumptions will be updated on a regular basis during the plan period as part of each utility's ongoing evaluation and audit process. The Board has the ultimate authority to review and approve any changes. It appears to the Board that unless there is joint utility participation, the updates may occur at different times. This would not be efficient and would burden the regulatory process needlessly. The Board therefore concludes that the updating process should be centralized within Board Staff, at least for this first generation of multi-year DSM plans. The Board anticipates that the recommendations that come from the evaluation and audit

committee would, in effect, be the substance of the comments process to be employed for the updating of the list and values of the input assumptions. Any suggested updates to the input assumptions guide arising from the evaluation and audit process should be filed with the Board within one month of the end of the annual audit and evaluation. The suggested updates will be considered by the Board, and the guide will be updated if the Board decides it is necessary. Further Procedural Orders may be issued regarding updates to the guide.

The next issue is whether there should be a handbook.

While the Board sees the merits in having a stand-alone handbook, it has concluded that this initiative should not be undertaken at this time. In making this finding, the Board is cognizant of the time sensitivity and significant effort that will be required to develop the common list and measures of the input assumptions and the Board does not wish parties be distracted by the effort to develop a handbook at this time.

The Board will issue a Procedural Order commencing the next phase that will lead into the determination of the input assumptions. The role of Board Staff will be set out in that procedural order. Further Procedural orders will be issued as required from time to time for the Board to receive and rule in this matter and to cause the filing of the multi-year DSM plans by the utilities.

Intervenors eligible for cost awards shall file their cost claims by September 15, 2006. The utilities may comment on these claims by September 22, 2006. The cost award applicants may respond to the utilities' comments by September 29, 2006. Union and EGD shall pay in equal amounts the intervenor costs to be

awarded by the Board in a subsequent decision, as well as any incidental Board costs.

Dated at Toronto, August 25, 2006

Original Signed By

Pamela Nowina
Presiding Member and Vice Chair

Original Signed By

Paul Vlahos
Member

Original Signed By

Ken Quesnelle
Member

APPENDIX 1

DECISION WITH REASONS

BOARD FILE NO. EB-2006-0021

PROCEDURAL DETAILS, LIST OF PARTIES AND WITNESSES

PROCEDURAL DETAILS, LIST OF PARTIES AND WITNESSES

THE PROCEEDING

On February 15, 2006, the Board issued a Notice of Application that was published.

The Board issued Procedural Order No.1 on March 2, 2006, establishing the procedural schedule for all events prior to the oral hearing. These events included:

- EDGI and Union evidence filed by April 10, 2006;
- Issues conference on April 24, 2006;
- Issues Day on April 28, 2006;
- Technical Conference to replace interrogatories on EDGI and Union's evidence on May 11 and 12, 2006;
- Intervenor (non-utilities) evidence filed by June 1, 2006;
- Technical Conference to replace interrogatories on Intervenor (non-utilities) evidence on June 8, 2006;
- Half day Intervenor Conference on June 19, 2006;
- Settlement Conference beginning June 19, 2006;
- Settlement Proposal by June 28, 2006; and
- Board review of Settlement Proposal on July 6, 2006.

In response to Procedural Order No. 1, the Board received written evidence prepared by the following parties:

- Malcolm Rowan on behalf of Canadian Manufactures and Exporters (“CME”);
- Paul Chernick on behalf of the School Energy Coalition (“SEC”);
- Chris Neme on behalf of the Green Energy Coalition (“GEC”); and
- Roger Colton on behalf of Low Income Energy Network (LIEN”).

On April 28, 2006, the Board issued Procedural Order No. 2, which established the Issues List for the proceeding.

On June 12, 2006, Procedural Order No. 3 was issued as a result of there not being adequate time to complete the questions on CME evidence within the one day Technical Conference. The Board ordered CME to provide written responses to SEC and GEC questions.

Procedural Order No. 4, issued June 28, 2006, provided the parties with an extension to file a Settlement Proposal with the Board.

PARTICIPANTS AND REPRESENTATIVES

Below is a list of participants and their representatives that were active either at the oral hearing or at another stage of the proceeding. A complete list of intervenors is available at the Board’s offices.

Union Gas Limited (“Union”)	Crawford Smith
Enbridge Gas Distribution (“EGD”)	Dennis O’Leary
Board Counsel and Staff	Michael Millar Michael Bell Stephen McComb
Canadian Manufacturers & Exporters (“CME”)	Brian Dingwall

DECISION WITH REASONS

Consumers Council of Canada (“CCC”)	Robert Warren
Energy Probe	Norm Rubin
Green Energy Coalition (“GEC”)	David Poch
Industrial Gas Users Association (“IGUA”)	Vince DeRose
London Property Management Association (“LPMA”)	Randy Aiken
Low Income Energy Network (“LIEN”)	Juli Abouchar
Pollution Probe	Murray Klippenstein
School Energy Coalition (“SEC”)	Jay Shepherd
Vulnerable Energy Consumer’s Coalition (“VECC”)	Michael Buonaguro

WITNESSES

There were 11 witnesses who testified at the oral hearing. The following EGD and Union employees appeared as witnesses at the oral hearing:

EGD

Susan Clinesmith	Manager, Business Markets
Norman Ryckman	Group Manager, Business Intelligence and Support
Michael Brophy	Manager, DSM and Portfolio Strategy
Patricia Squires	Manager, Mass Markets and New Construction Market Development

Union

Chuck Farmer	Director, Market Knowledge and DSM
Tracy Lynch	Manager, DSM

In addition, EGD called the following witness:

Dr. Daniel M. Violette	Principal and Founder, Summit Blue Consulting
------------------------	---

Witnesses called by intervenors at the oral hearing:

Chris Neme (By GEC)	Director of Planning and Evaluation, Vermont Energy Investment Corporation
---------------------	--

Malcolm Rowan (By CME)	President, Rowan and Associates Inc.
------------------------	---

Roger D. Colton (By LIEN)	Consultant, Fisher, Sheehan & Colton
---------------------------	---

In addition, CME called the following witness:

Anthony A. Atkinson	School of Accountancy, University of Waterloo
---------------------	--