EDA
The Voice Of Ontario's Electricity Distributors

February 9, 2007

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O Box 2319
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Via email to boardsec@oeb.gov.on.ca and by courier

Dear Ms. Walli:

Re: Staff Discussion Paper on the Proposed Regulatory Framework for Conservation and Demand Management by Ontario Electricity Distributors in 2007 and Beyond – EB-2006-0266 – Comments of the Electricity Distributors Association

The Electricity Distributors Association ("EDA"), the voice of Ontario's local distribution companies, is pleased to have the opportunity to comments on the OEB's Staff Discussion Paper, EB-2006-0266.

If you have any questions, please contact the EDA's Regulatory and Legislative Analyst Sarah Griffiths at (905) 265-5321 or by email at sgriffiths@eda-on.ca.

Yours truly,

S. Griffiths

Sarah Griffiths
Regulatory and Legislative Analyst

Attach.

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EDA'S RESPONSE TO THE OEB'S STAFF DISCUSSION PAPER: *PROPOSED REGULATORY FRAMEWORK FOR CONSERVATION AND DEMAND MANAGEMENT BY ONTARIO ELECTRICITY DISTRIBUTORS IN 2007 AND BEYOND* (EB-2006-0266)

The Electricity Distributors Association ("EDA"), the voice of Ontario's local distribution companies, is pleased to have the opportunity to comment on the OEB's staff discussion paper on the proposed regulatory framework for CDM by LDCs. This submission was developed in consultation with the EDA membership including the Regulatory Compliance Council and the CDM Caucus.

1) INTRODUCTION

As the primary deliverers of CDM programs to consumers across Ontario, LDCs are committed to continuing to work with the OPA, the provincial government and other agencies to create a 'culture of conservation' across the province.

With the implementation of the $400 million LDC fund, the directives from the Minister of Energy to the OPA for Conservation initiatives, and the key role that CDM will play in the Integrated Power System Plan, it is expected there will be an even greater response to CDM in the near term than has been experienced to date. As a result, it is clear to the EDA and LDCs that there may be significant potential for lost revenues resulting from all CDM activities. Whereas the Board Staff proposal has identified mechanisms for minimizing lost revenue from CDM programs initiated by LDCs and by the OPA in collaboration with LDCs the loss of revenues due to third party CDM programs does not appear to be addressed adequately, particularly during the term of the 2nd Generation IRM period which for some LDCs may last till 2010. Therefore, the EDA and LDCs believe that this issue needs to be addressed sooner rather than later. The EDA therefore, recommends that the simplest and quickest way to address lost revenue in the short term is to ensure that there is an explicit and transparent mechanism that provides revenue protection for LDCs with respect to non-LDC CDM.

The EDA understands the need to put in place a regulatory framework for CDM before the rollout of the LDC CDM Program, and looks forward to a comprehensive review of the Draft Masters Agreement that the OPA will post in the near future. The EDA looks forward to a continued dialogue with the OEB and other stakeholders as we move forward in this process.

2) EDA PROPOSAL FOR REVENUE RECOVERY IN 2ND GENERATION IRM

S4.1.2 REVENUE PROTECTION

Board Staff Proposal: *That the Board continue to make the current form of LRAM available to LDCs to address revenue erosion resulting from LDC CDM activities, regardless of whether the programs are funded by the OPA or through distribution rates.*

Comment:
Although the EDA agrees with the comments of Board staff leading up to its recommendation, the EDA is concerned that the approach recommended by Board staff will not address non-LDC CDM-related lost revenues in the context of 2nd Generation IRM.

However, the EDA is pleased that Board staff acknowledge the issues related to lost revenue, non-LDC delivered CDM and appropriate adjustment mechanisms raised in the report entitled, *Designing an Appropriate Lost Revenue Adjustment Mechanism (LRAM) for Electricity CDM Programs in Ontario*, which was prepared for the EDA by Elenchus Research Associates ("EDA Proposal"). Furthermore, the EDA appreciates that Board staff have contributed to the discussion by recommending a different approach to dealing with the issues as outlined below.

As noted, it is with the CDM programs delivered by third parties that there appears to be an issue and the EDA believes that the Board Staff recommendation requires some clarification. The Discussion Paper states (on page 10) that:

> *Board staff recognizes that an LDC may be affected by CDM programs delivered by other entities within the LDC's service area. However, staff believes that those impacts can continue to be factored into rates through prospective forecasting in the rate setting process.*

It is not clear to the EDA and the LDCs what is intended by the Board Staff proposal "…*impacts can continue to be factored into rates through prospective forecasting in the rate setting process.*" For those LDCs that will continue for more than one year during the term of the 2nd Generation IRM there is no opportunity to adjust rates through prospective forecasting since these utilities will have their rates adjusted by the price cap mechanism that does not rely on or allow for prospective forecasting. The opportunity for prospective forecasting appears only during the rebasing of distribution rates, at which time utilities may include forecasts of CDM programs in their prospective demand forecasts, but for some LDCs this may not occur till 2010. Meanwhile these utilities will continue to be exposed to the risk of revenue loss resulting from third party CDM programs for which the proposed LRAM mechanism would not apply. It therefore follows that the approach recommended by Board staff will not address non-LDC CDM-related lost revenues in the context of 2nd Generation IRM.

The EDA is therefore of the view that the Board staff proposal fails to address the problems raised in the EDA Proposal although Board staff have acknowledged that the problem is real. In practice, the consequence of accepting the Board staff recommendation would be that non-LDC CDM would receive no consideration in 2nd Generation IRM or in the rebasing process. As a consequence, non-LDC CDM would result in a loss of revenue that is ignored by the regulatory regime.

The EDA notes the Minister of Energy's desire to have LDCs work diligently to invigorate the culture of conservation in Ontario. It is in this context that there needs to be some mechanism put in place that will not penalize LDCs for the success of third party CDM programs. One way or other LDCs play a key role in the delivery and promotion of CDM, LDCs cannot be expected to continue to be strong advocates of CDM if that very promotion and advocacy leads to reduced revenue that is not addressed through the regulatory process.

Therefore, it is the EDA's view that the simplest and quickest way to address lost revenue in the short term is to ensure that there is an explicit and transparent mechanism that provides revenue protection for LDCs with respect to non-LDC CDM. This could be done by adopting the Hydro

One proposal for a "Z-type" factor within the formula for 2nd Generation IRM. This approach could be kept simple using the following design.

- Determine a generic estimate of the impact of non-LDC CDM on energy demand (see Appendix 1);
- Estimate the average impact on LDC revenues; and
- Incorporate a factor in the 2nd Generation IRM formula that increases allowed rates by an amount equal to the estimated average reduction in energy demand and throughput due to non-LDC CDM.

While this approach clearly will not compensate each LDC for all its lost revenue, it provides a very simple basis for providing recognition of the expected impact of non-LDC CDM on a prospective basis. It is therefore consistent with the intent of the Board staff recommendation to use a mechanism that will ensure that the required revenue protection actually occurs, and is seen to occur, so that LDCs will know that they will not be financially penalized for the success of non-LDC CDM.

A similar approach could be used to address the impact on revenues of non-LDC CDM in the context of the rebasing proceedings that will establish rates for the first year of 3rd Generation IRM. The adjustment described above could be used to adjust the before-CDM trend in electricity demand.

The EDA is concerned that unless there is an explicit adjustment for non-LDC CDM impacts that is equivalent to recognition accorded to LDC-delivered CDM in the short and long term, LDCs will not view all delivery mechanisms as being equally attractive delivery mechanisms. LDCs will have no incentive to support the effectiveness of CDM delivered by third parties, an unintended consequence perhaps, but one that would be inconsistent with developing a culture of conservation in the province. The concern, as discussed in the EDA paper, is that the impact of non-LDC CDM could be onerous, and potentially impossible to determine, particularly on a prospective basis.

Finally, the EDA agrees with the suggestion of Board staff that "consideration of alternative mechanisms to address lost revenue due to changes in demand resulting from all forms of conservation should be considered as part of the process to develop 3rd Generation IRM or during the Board's review of options for the fundamental redesign of electricity distribution rates."

3) COMMENTS ON OEB'S STAFF RECOMMENDATIONS

S. 4.1.1 CDM FUNDING

Board Staff Proposal: *The framework … encourages LDCs to seek funding from the OPA, and to rely on funding through distribution rates where OPA funding is not available or where funding through distribution rates is more appropriate.*

Comment:
The EDA agrees with the Board staff proposal. It is the understanding of the LDCs that they will contract with the OPA for standard programs to be delivered province-wide. As well, there will

be an opportunity for LDCs to contract with the OPA to develop and deliver custom localized programs. The EDA assumes that the OPA contracts will include timelines for the delivery of programs and also include provisions for funding past 2010 should program delivery be delayed or require an extension to complete. To the extent that the OPA contracts do not address this matter then the LDCs would want assurance that any required funding past 2010 would be recovered through distribution rates provided the program was directly attributable to customers in the LDC's service area. As noted above, the LDCs look forward to reviewing the draft Master Agreement(s) from the OPA to gain a better understanding of the OPA CDM funded process.

S. 4.1.3 INCENTIVE MECHANISM

Proposal – CDM Activities Funded by the OPA: *The Board should not provide a shareholder incentive mechanism for CDM activities funded by the OPA.*

Comment:

The EDA agrees with the recommendation and looks forward to reviewing and providing comment on the OPA's draft Master Agreement and contract process. It is the understanding of the LDCs that OPA contract payments to LDCs will reflect three components:

- A time and materials component
- A contract administration component and
- A bonus component for performance beyond the targeted deliverable.

The LDC is to price the first two components and an 'incentive' element may be included by the LDC in the administration component for each program delivered or supported.

Board Staff Proposal – CDM Activities Funded Through Distribution Rates: *The Board continue to provide an incentive mechanism for CDM activities funded through the distribution rates, and that this mechanism be consistent with the model currently in place.*

Comment:

The EDA agrees with this recommendation.

The EDA notes that the Board staff paper has provided flexibility in the approach to incentives, whether funded through OPA payments or rate funded through an SSM approach. This flexible approach is appropriate during the 2nd generation IRM. However, the EDA recommends that the matter of incentives be reviewed by the Board as part of the development of the 3rd generation IRM for electricity distributors.

S. 4.2.1 COST ALLOCATION

Board Staff Proposal: *Board staff recommends that a fully allocated costing methodology be applied to all LDC-delivered CDM activities. Capitalized assets associated with distribution rate funded CDM activities could be included in rate base. Assets purchased with funds from the OPA would not be eligible for inclusion in rate base.*

Comment:

The EDA agrees with the staff recommendations. However, in regards to the fully allocated costing methodology being applied to all LDC-delivered CDM activities, it would be helpful for

LDCs to be provided with certainty on how administrative expenses should be allocated. For instance a detailed outline of the types of costs (e.g. indirect costs and overheads) that would be included, as well as a methodology for the allocation of these costs between distribution activities and CDM activities would be beneficial.

4.2.2 REVENUE ALLOCATION

Board Staff Proposal: *Consistent with staff's recommendations for the treatment of costs associated with OPA-funded CDM activities, Board staff recommends that revenues earned from OPA CDM contracts be kept separated from LDCs distribution revenue.*

Comment:
The EDA agrees that revenues from the OPA contract must be kept separate from the LDC's distribution revenue requirement.

S. 4.3 PROGRAM EVALUATION

Board Staff Proposal – CDM funded by the OPA: *LDCs be required to provide audited evaluation results when filing LRAM claims with the Board, and that the audit scope should be limited to confirming that the participation level in the LDC service area is accurate and that the energy savings assumptions used in the calculation of the lost revenue amount are the current ones used by OPA.*

Comment:
The EDA agrees with the recommendation that the audit, referenced in the discussion paper proposal, should be limited to the confirmation that the accuracy of participation levels and energy savings are the same as those reported to and used by the OPA. There should be no requirement to provide more detail as that could incur additional costs that outweigh the benefits. The EDA and the LDCs will take the opportunity to review the audit processes, as well as the contract implications should audit results differ from the original reporting, that will be part of the OPA Master Agreement documents when they become available for comment.

Board Staff Proposal – CDM Funded Through Distribution Rates: *Staff recommends that LDCs undertake program evaluations, and provide audited results to the Board.*

Comment:
The EDA agrees with the recommendation.

4.4 PROGRAM REPORTING REQUIREMENTS

Board Staff Proposal – CDM Activities Funded by the OPA: *The Board limits its reporting requirements for CDM programs funded by the OPA to only the information that the Board needs to assess an LRAM claim, and that the information only be required when such a claim is filed.*

Comment:
Although the EDA agrees with this recommendation, the Association looks forward to reviewing the reporting requirements for LDCs in the LDC CDM program with OPA that are anticipated to be reflected in the Master Agreement documents.

Board Staff Proposal – CDM Activities Funded Through Distribution Rates: *Board staff recommends that the reporting requirements be based on the current annual reporting requirements for third tranche and 2006 funding.*

Comment:
The EDA agrees with this recommendation.

5.2 Service Quality Regulation

The Board staff's view is that Service Quality Indicators (SQIs) should be inclusive of all activities, regardless of whether they are CDM-related or for other distribution activities. Board staff is of the view that consideration of LDCs' CDM activities should form part of the Board's SQR review.

Comment:
The EDA and LDCs require clarification on what would be included in LDCs CDM activities. LDCs will be reporting to the OPA on CDM activities that are funded by the OPA and there may be some local CDM activity funded through distribution rates that would be reported to the OEB. It is important for LDCs to ensure that any reporting requirement does not add to the administrative costs of the LDC.

The most obvious area impacted by CDM-related calls from customers is the LDC's call centre. LDCs experience is that calls related to CDM are often more time-consuming to address than calls about other issues (e.g. bill related, customer moves). Some LDCs may have the capacity to separate CDM related calls from other customer calls, while other LDCs are likely not in this position. As well, LDCs, often the first point of contact for customer inquiry, may also receive calls about CDM programs in their area in which they are not directly involved. As a result some SQI indices for some LDCs may fall from current levels and below mandated target levels. The EDA recommends, that at the very least, some form of acknowledgement be built into the Service Quality Regulation (SQR) reporting system to identify when CDM activities have caused a SQI to fall below the mandated target. It would be desirable to revisit this matter following a review of the OPA Master Contract details and/or after a year of experience with OPA-funded CDM activities.

The EDA understands the OEB's desire to be informed on the performance of LDCs in the delivery of LDC services. However a case may be made that CDM programs delivered by LDCs and funded by OPA are not regulated activities, and as a consequence are not required to be reported to the OEB under SQR. The extent of involvement of LDCs in OPA funded programs is not yet fully known; as noted previously LDCs are yet to review the OPA Master Agreement and schedules. CDM will also be delivered by third parties that will be reporting results to the OPA. EDA wants to ensure consistency in reporting for all parties while maintaining high standards. Further dialogue will be required following the review of the OPA Master Agreement.

5.3 Minimizing Customer Confusion

The staff has identified that a number of parties will be delivering CDM programs to electricity consumers in Ontario, which may cause confusion for customers who have been accustomed to receiving CDM services from the LDC licensed to deliver electricity in the service area.

Comment:
The EDA agrees that the increase in CDM programs that also involve third parties may lead to confusion for the electricity consumer. The EDA looks forward to the work of the powerWISE brand strategy advisory group, that includes LDC participation, that is working towards consistency in branding and messaging for powerWISE to act as the 'voice' of CDM in the province.

<u>Appendix: Energy Use Reduction from CDM not delivered by LDCs</u>

OVERALL APPROACH TO ESTIMATE LOST REVENUE

The purpose of this analysis is to estimate distribution revenues lost by LDCs as a result of CDM programs delivered by entities other than the LDC itself ("non-LDC CDM"). The overall approach to the analysis can be summarized as follows:

1. Establish a uniform measure of electricity volume
2. Estimate total electricity volume reductions resulting from province-wide CDM initiatives
3. Estimate the portion of these electricity volume reductions resulting from non-LDC CDM
4. Express this portion of volume reductions as a percentage of total electricity volume

UNIFORM MEASURE OF ELECTRICITY VOLUME

The electricity volume units which drive distribution revenues from variable charges are expressed either in terms of energy usage (in kilowatt-hours or "kWh"), or as a combination of power demand (in kilowatts or "kW") and energy usage. The applicable units vary according to customer class, as follows:

Table A-1: Variable Distribution Charge Volume Units

Customer Class	kWh	kW
Residential	X	
General Service Less Than 50 kW	X	
General Service 50 to 999 kW	X	X
General Service 1,000 to 2,999 kW	X	X
General Service 3,000 to 4,999 kW	X	X
Large Use	X	X
Unmetered Scattered Load	X	
Sentinel and Street Lighting	X	X

A uniform measure of volume is needed to construct a reasonably simple analysis of volume impacts. In estimating the LDCs' distribution revenue reductions that arise from non-LDC CDM, this analysis relies on volume projections based on units of energy usage (measured in terawatt-hours or "TWh"), rather than power demand (measured in megawatts or "MW"). Although larger usage customer classes are billed in part on the basis of power demand, their use of power over time is generally more uniform. As a result, energy usage is a reasonable metric for their electricity purchase volumes as well.

TOTAL ELECTRICITY VOLUMES RESULTING FROM PROVINCE-WIDE CDM

The IPSP includes projections of cumulative reductions in energy usage arising from province-wide CDM initiatives to reduce demand by an additional 1,350 MW from 2007 to 2010, with an overall impact reaching 7.6 TWh in 2010.

It is estimated that demand reductions of approximately 950 MW have been achieved from province-wide CDM initiatives by the end of 2006, leaving about 400 MW of further reductions to meet the provincial target for 2007[1]. This 400 MW reduction can be translated to 2.3 TWh of energy usage, using the same power factor assumed in the IPSP's 2008-10 forecast.[2]

The resulting reductions in energy usage from province-wide CDM can therefore be summarized as follows:

Table A-2: Energy Usage Reductions (TWh's) from Province-Wide CDM

	2007	2008	2009	2010
Cumulative CDM Impact (2008-2010)[3]		1.9	4.6	7.6
Total CDM Impact (2007)	2.3	2.3	2.3	2.3
Total CDM Impact (cumulative)	2.3	4.2	6.9	9.9
Total CDM Impact (incremental)	2.3	1.9	2.7	3.0

The incremental CDM achievement decreases in 2008, as a result of the annual profiling of targets in the OPA's CDM plan, in which the amount of incremental energy usage reductions rises annually from 2008 to 2010.

VOLUME REDUCTIONS RESULTING FROM NON-LDC CDM

The portion of electricity volume reductions attributable to CDM programs delivered by LDCs can be estimated on the basis of the LDCs' share of overall CDM funding. This approach assumes that programs delivered by LDCs are equally cost effective with other provincial CDM initiatives.

For 2007, the proportion of energy usage reduction attributable to LDC CDM programs is estimated at 20%, which represents the estimated unspent CDM funding from distribution rates ($65 million) divided by the estimated current level of province-wide annual spending on CDM ($325 million). The calculation of this proportion for 2007 is shown below:

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[1] OPA, 2006 Annual Report – Chief Energy Conservation Officer (page 54), 1 November 2006

[2] (7.6 TWh / 1,350 MW) x 400 MW = 2.3 TWh

[3] OPA IPSP, Annual CDM by Category – Aggressive, Moderate and Proposed Scenarios (Proposed Scenario Energy)

Table A-3: Estimated 2007 CDM Spending ($ millions) by LDCs

Total third tranche LDC CDM funding[4]			163
Cumulative CDM spending as at September 2006[5]	78	78	
less: Cumulative CDM spending as at June 2006[6]	(58)		
Quarterly CDM spending		20	
Estimated cumulative LDC CDM spending as at December 2006			98
Estimated third tranche LDC CDM funding available in 2007			**65**
Estimated province-wide CDM spending for 2007[7]			325
Estimated LDC CDM spending as a percentage of province-wide spending			***20%***

For years 2008-10 this proportion is 27%, which is equal to the amount of the OPA's LDC CDM fund ($400 million) divided by the total provincial CDM commitment ($1.5 billion). The proportion of reductions in electricity volumes resulting from non-LDC CDM, based on the LDCs' share of province-wide CDM spending, can be summarized as follows:

Table A-4: LDCs' Share of Province-Wide CDM ($ millions)

	2007	2008-10[8]
Province-wide CDM spending	325	1,500
LDCs' CDM spending	65	400
LDCs' share of province-wide CDM spending	*20%*	*27%*
Non-LDC share of province-wide CDM spending	***80%***	***73%***

The incremental reductions in energy usage from non-LDC CDM can therefore be estimated as follows:

[4] EB-2006-0266, OEB Staff Discussion Paper: Proposed Regulatory Framework for Conservation and Demand Management by Ontario Electricity Distributors in 2007 and Beyond (page 1), 25 January 2007
[5] OEB, CDM Quarterly Reports: Quarter 3 2006, 1 December 2006
[6] OEB, CDM Quarterly Reports: Quarter 2 2006, 22 August 2006
[7] OPA, 2006 Annual Report – Chief Energy Conservation Officer (page 1), 1 November 2006 (estimates current level of CDM investments in Ontario at $300-350 million per year)
[8] Ministry of Energy Backgrounder, Ontario's Conservation and Green, Renewable Energy Achievements

Table A-5: Energy Usage Reductions (TWh's) from Non-LDC CDM

	2007	2008	2009	2010
Total CDM Impact (incremental)[9]	2.3	1.9	2.7	3.0
% attributable to non-LDC CDM	*80%*	*73%*	*73%*	*73%*
Incremental non-LDC CDM impact	**1.8**	**1.4**	**2.0**	**2.2**

VOLUME REDUCTIONS FROM NON-LDC CDM AS A PERCENTAGE OF TOTAL ELECTRICITY VOLUMES

The IESO's "Normal Growth Median Forecast" provides a base view of province-wide energy usage, which grows from 158.2 TWh in 2007 to 162.5 TWh in 2010. The annual growth rate ranges from 0.5% to 1.3%, which is in line with recent weather-adjusted historical results.[10] The IESO data aligns well with the energy usage forecast from the IPSP,[11] however the IPSP projections are made on five-year intervals rather than an annual basis.

This forecast reflects the impact of "naturally occurring" CDM (e.g. higher energy efficiency of newer technology), but does not include the impact of managed CDM programs. The IPSP treats CDM programs as an element of the Supply Mix, rather than as a reduction to projected end-customer energy usage.

The cumulative province-wide impact of CDM programs will thus reduce the energy usage projected in the load forecast, as follows:

Table A-6: CDM Impact on Province-wide Energy Usage Forecast (TWh's)

	2007	2008	2009	2010
Load Forecast (before CDM)[12]	158.2	160.2	161.0	162.5
Year/year growth		*1.3%*	*0.5%*	*0.9%*
less: Total CDM Impact (cumulative)[13]	2.3	4.2	6.9	9.9
Load Forecast (after CDM)	**155.9**	**156.0**	**154.1**	**152.6**

The incremental impact to the LDCs' annual electricity sales volumes arising from non-LDC CDM can therefore be estimated as follows:

[9] per Table A-2
[10] Based on data from the IPSP's OPA historical energy and peak analysis, the annual growth rate of weather-normalized energy usage for 2002-2005 was 0.0%-1.2%.
[11] The IPSP's energy usage forecast for the year 2010 is approximately 1 TWh lower than the IESO's.
[12] IPSP, Load Forecast Stakeholder Presentation – Data for Graphics (slide 21, IESO Normal Growth Median Forecast)
[13] per Table A-2

Table A-7: Impact of Non-LDC CDM on LDC Electricity Sales Volumes (TWh's)

	2007	2008	2009	2010
Load Forecast (after CDM)	155.9	156.0	154.1	152.6
Incremental non-LDC CDM impact[14]	1.8	1.4	2.0	2.2
Incremental non-LDC CDM impact, as % of Load Forecast (after CDM)	**1.16%**	**0.90%**	**1.29%**	**1.42%**

The incremental annual impact in this period averages approximately 1.2%. This percentage would be applied to a LDC's weather-normalized distribution revenue from variable charges, to estimate the incremental revenue lost as a result of non-LDC CDM. The annual impact to total weather-normalized distribution revenue would be about 1.0%, depending on the LDC's specific mix of revenue resulting from fixed and variable distribution charges.

[14] per Table A-5