

**COMMENTS OF**  
**THE LONDON PROPERTY MANAGEMENT ASSOCIATION**  
**ON THE STAFF DISCUSSION PAPER**  
**‘PROPOSED REGULATORY FRAMEWORK FOR CONSERVATION AND**  
**DEMAND MANAGEMENT BY ONTARIO ELECTRICITY DISTRIBUTORS IN**  
**2007 AND BEYOND’**

**INTRODUCTION**

The following comments on behalf of the London Property Management Association (“LPMA”) are in response to the Ontario Energy Board’s January 25, 2007 letter requesting parties to provide written comments on Board Staff’s Discussion Paper by February 9, 2007.

In general, LPMA supports the proposals of staff in the Discussion Paper. The staff proposals provide a balanced approach for delivering conservation and demand management (“CDM”). Regulatory certainty for LDCs and rate impact minimization for ratepayers has been achieved.

The remainder of this paper provides comments of the specific areas/proposals in the Staff Discussion Paper.

**SPECIFIC COMMENTS**

**1.5 Guiding Principles**

LPMA agrees with the four guiding principles provided in Section 1.5. In particular, LPMA agrees that the OEB should facilitate the implementation of government policy related to CDM, that LDCs should be provided with regulatory certainty to allow them to plan and make appropriate investment decisions, and that the roles of all market participants (LDCs, OPA, OEB, third party providers, etc) should be clearly defined and understood.

In addition, LPMA supports the guiding principles of the minimization of regulatory burden to LDCs and costs to ratepayers. However, LPMA does not believe that regulatory burden should be minimized to the extent that it may affect ratepayer costs adversely. This is discussed in greater detail in sections below that deal with CDM activities funded through distribution rates.

While the proposed guiding principles do include a statement related to the minimization of costs to ratepayers and that any unnecessary duplication of requirements on LDCS by

the OEB and OPA should be avoided, LPMA believes that that this guiding principle should be expanded to a stronger statement such as to provide an integrated approach among all market participants to ensure that the delivery of CDM is achieved on a cost-effective basis that minimizes duplication of effort, costs and regulatory reporting requirements.

#### **4.1.1 CDM Funding**

The Board Staff proposal “implicitly 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”. LPMA has two concerns with this proposal.

First, LPMA believes the wording should be stronger. Instead of implicitly encouraging LDCs to seek OPA funding, the OEB should explicitly require LDCs to seek OPA funding before seeking funding through distribution rates through the OEB. This would ensure that ratepayers of all LDCs would only pay higher distribution rates for CDM programs that are not funded through the OPA. It would not be appropriate for ratepayers of one utility to pay higher distribution rates than ratepayers of another utility simply because one utility did not access OPA funds and the other did. LDCs should be prohibited from applying to the OEB for funding through distribution rates for programs that are offered by the OPA.

Second, LPMA agrees that LDCs should rely on funding through distribution rates only where OPA funding is not available or where funding through distribution rates is more appropriate. However, LPMA is concerned about potential problems that may arise under this approach. To safeguard ratepayers, LPMA believes that any LDC that wishes to pursue a CDM initiative where OPA funding is not available should be required to first demonstrate the need for, the benefits of and the cost associated with any such program to the OEB and ratepayers. Further LPMA would be concerned that if a specific CDM program that is not funded by the OPA is established by a number of LDCs, there is a significant potential for duplication of effort and costs that would ultimately be borne by ratepayers. LPMA suggests that the OEB act as a “clearinghouse” for these CDM initiatives that require funding through distribution rates to ensure that the LDCs work together wherever possible to minimize the impact on distribution rates.

LPMA notes that one example provided by Board Staff of an initiative that might be more appropriately funded through distribution rates would be an initiative to reduce line losses. While LPMA accepts that reduced lines losses on an LDC system would directly benefit the ratepayers of that LDC, there would also be a benefit of reduced consumption for the province overall. It would seem reasonable that such an initiative should not be funded exclusively through distribution rates.

A concern for the LPMA is the lack of clarity surrounding the process related to availability of funding through distribution rates. The Staff Discussion Paper is silent on a process that would be followed in applying for this funding. In particular, if an LDC

provides an estimate of the amount of money it would like to spend on non-OPA funded CDM, how will this amount be tested? How will the unique CDM programs being proposed be evaluated for appropriateness? How will rates be set in the absence of a load forecast (under incentive regulation)? Will the additional cost be recovered through a separate CDM rate rider or embedded in the overall distribution rate that is subject to the escalation factor under incentive regulation? Will there be a variance account around the amount of revenue actually collected through the distribution rate funding and the amount actually spent on the program? It would be helpful, in our view, if the Staff Discussion Paper dealt with these issues that will arise if and when an LDC decides to request funding through distribution rates.

#### **4.1.2 Revenue Protection**

LPMA agrees with the Board Staff conclusion that a comprehensive revenue stabilization mechanism is not appropriate at this time.

LPMA further agrees that the current LRAM available to LDCs should be continued to address revenue erosion resulting from LDC CDM activities that are funded by the OPA or through distribution rates. The continuation of such a mechanism should remove the disincentive associated with encouraging reduced consumption.

LPMA notes that in the long-term, Board Staff has indicated that an LRAM may not be the best mechanism to address changes in demand due, at least in part, due to the many sources of conservation activities. LPMA believes that it will become increasingly difficult to separate the impacts of conservation between that initiated by the LDC or some third party, or for that matter, the natural conservation generated through the ongoing replacement of aging electrical equipment with new more efficient equipment. LPMA supports a number of alternatives to minimize and/or eliminate the loss of revenue due to conservation measures, including a review of the fundamental design or redesign of electricity distribution rates (fixed vs. variable costs), and the development of a third generation IRM (price cap vs. revenue cap, inclusion of change in average consumption in X factor, etc.), and a review of the revenue stabilization adjustment mechanism proposed by the EDA. A combination of all of the above could provide a substantially different solution than the LRAM approach.

#### **4.1.3 Incentive Mechanisms**

LPMA strongly believes that the OEB should not provide a shareholder initiative mechanism for CDM activities funded by the OPA. In order to create a viable and sustainable environment for the provision of CDM services, all potential market participants must be treated equitably. If LDCs were to have an incentive mechanism that was not available to non-LDCs, the LDCs would be able to effectively keep the market to themselves. They could achieve this by offering higher customer rebates and/or lower costs to potential customers than could other potential providers who did not have access to a potentially lucrative “bonus”. This would inhibit the establishment of a

competitive market for CDM service providers. Over the long-term this could ultimately result in less CDM than could otherwise take place.

With regard to the CDM activities funded through distribution rates, LPMA accepts that the continuation of the SSM, as is currently in place, is appropriate. Specifically, the SSM is only applicable to expenditures on the customer side such as efficiency improvements and not to utility side expenditures such as distribution system improvement projects. LDCs will continue to be able to earn a return on such expenditures and recover these costs through rates. In addition, LPMA believes that LDCs have an obligation to serve their ratepayers in an as efficient manner as possible. LDCs should not be rewarded for doing what is expected of them.

LPMA believes that in the longer term, similar to a review of the LRAM, there should be a review of the need for an SSM for LDCs for CDM activities funded through distribution rates. CDM is a clear policy of the provincial government. Given that this government is the sole shareholder of a large LDC, it is questionable whether this utility requires an incentive to pursue CDM. This is clearly a directive from their shareholder. Similarly, many of the other LDCs are owned by local municipal governments. These governments are also likely to embrace a conservation of culture in the future or suffer the repercussions from voters. As the owners of many of the LDCs, they could direct them to pursue CDM measures, assuming of course that mechanisms are in place to protect the LDCs from lost revenues. In such a scenario, an SSM would not be required.

As noted previously, LPMA believes the establishment of a competitive market for DSM services is essential for meeting the provincial targets. Providing a bonus to one market participant that is not available to another may inhibit, or at least slow, the establishment of such a market. As such, LPMA believes the OEB should periodically review the need for an SSM.

#### **4.2.1 Cost Allocation**

LPMA believes that the proper allocation of costs is a key component of the Staff Discussion Paper. LPMA strongly supports and agrees with the Staff proposal recommending a fully allocated costing methodology be applied to all LDC delivered CDM activities, regardless of funding source.

Marginal costing is not appropriate because it automatically creates a situation in which an LDC is at a competitive advantage over non-LDC service providers because the CDM activities undertaken by the LDC are effectively subsidized by regulated distribution rates. This creates an undesirable impact on service providers and ratepayers alike.

As noted by Board Staff, the use of fully allocated costing would mean that non-LDCs can compete on a level playing field with LDCs, eliminating the potential negative impact on competition in this market.

With respect to the issue of capitalized assets being included in rate base or not, LPMA supports the Staff recommendation, with one caveat. It is clear that assets purchased with funds from the OPA, or any other non-LDC source, should not be included in rate base, consistent with the treatment of assets funded partially through an aid payment to the utility by a customer. It is less clear, however, whether assets purchased with distribution rate funds should be included in rate base or not. The treatment of these assets would depend on the definition of the distribution rate funds. If the distribution rate funding includes the costs associated with the asset such as depreciation, cost of capital (debt & equity) and net tax impact (CCA and interest deductibility, capital & property tax), but not the cost of the asset itself, then the asset should be included in rate base. However it should be noted that the inclusion of such an asset will continue to have a distribution rate impact in subsequent years. It is unclear whether this cost would have to be included in a subsequent request for distribution rate funding for CDM or would be subsumed in the non-CDM portion of rates.

On the other hand, if the distribution rate funding includes the cost of the asset in its entirety, then LPMA believes that it would not be appropriate to include the asset in rate base. Ratepayers have paid for the asset up front. There should be no continuing costs associated with depreciation or capital carrying costs associated with such an asset.

It may be necessary to convene a workshop or process to deal with the allocation of CDM related costs on fully allocated basis to ensure consistency across the industry. It may also be useful for the OEB to review its Uniform System of Accounts to determine if any changes can/should be made to simplify and standardize the accounting for the LDCs.

#### **4.2.2 Revenue Allocation**

Revenues, whether funds received to deliver CDM programs or incentives for their delivery, should be treated in the same manner as costs. That is, for regulatory purposes, such revenues should be classified as non-distribution related.

In addition to the above, and to provide LDCs with regulatory certainty and predictability, LPMA believes the OEB should explicitly state that any impact on other costs such as income taxes and the cost of debt and equity that are related to an LDCs involvement in CDM would not be reflected in rate or the revenue requirement of the regulated distribution business. This would include such things as the impact on interest coverage ratios and other financial measurements of the regulated distribution business.

#### **4.3 Program Evaluation**

LPMA agrees with the need for an audit of the evaluation results when LDCs file LRAM claims for CDM activities funded by the OPA or for LRAM and SSM claims for CDM activities funded through distribution rates.

For the OPA funded activities, one of the requirements is for the audit to ensure that the energy savings assumptions used in the calculations are the current ones used by the

OPA. However, there may not be any OPA used energy savings assumptions for distribution rate funded CDM programs since these programs may not be offered through the OPA or are substantially different enough from OPA programs so as to not qualify for OPA funding. The OEB should clearly identify a process to establish any such energy savings assumptions needed for these unique LDC programs.

### **5.0 Other Matters**

LPMA agrees with the comments provided by Board Staff with respect to integration with the multi-year rate plan, service quality regulation and minimizing customer confusion.