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BY E-MAIL AND WEB POSTING

March 28, 2008

**To: All Licensed Electricity Distributors
All Participants in Consultation Process EB-2008-0037**

Re: Guidelines for Electricity Distributor Conservation and Demand Management - Board File No.: EB-2008-0037

Today, the Board issued its "Guidelines for Electricity Distributor Conservation and Demand Management" (the "Guidelines"). The Guidelines consolidate all of the Board's policies in relation to conservation and demand management ("CDM") activities undertaken by electricity distributors. A copy of the Guidelines is available on the Board's website at www.oeb.gov.on.ca.

The Guidelines were developed by the Board in consultation with interested stakeholders. Most recently, the Board invited comment on a draft of the Guidelines (the "Draft Guidelines"). Stakeholder input was also solicited at the relevant time in relation to the development of many of the pre-existing policies that have now been consolidated into the Guidelines.

Consultation on Draft Guidelines and Board Response to Comments

On February 8, 2008, the Board issued the Draft Guidelines for comment by interested parties. In its February 8, 2008 letter, the Board noted that much of the material in the Draft Guidelines was a reiteration of pre-existing policies which the Board did not intend to revisit as part of this consultation. However, the letter noted that the Draft Guidelines addressed four new policy issues, and included a number of questions designed to elicit stakeholder input on those issues.

The Board received written comments on the Draft Guidelines from twelve interested parties. The comments related principally to the four new policy issues identified in the Board's February 8, 2008 letter, but in some cases also addressed other areas. The Guidelines issued today reflect the Board's consideration of those comments.

All of the written comments are available on the Board's website at www.oeb.gov.on.ca. The following summarizes some of the key comments received on the Draft Guidelines, as well as whether and the manner in which those comments have been reflected in the Guidelines. Part 1 deals with the four new policy issues, and Part 2 deals with other issues.

Part 1: New Policy Issues

Funding for System Improvement Programs (section 2.1.2)

Interested parties were generally supportive of the Board's view that maximizing the efficiency of a distribution system should be part of a distributor's prudent asset management practices, and should not be considered "extra" or "optional". Accordingly, interested parties were also generally supportive of the approach whereby a measure to maximize the efficiency of distribution infrastructure would not be considered a CDM initiative.

Interested parties were also generally of the view that the Draft Guidelines provided sufficient direction to guide distributors in their asset management planning. Several interested parties suggested that the Board's planned initiative to develop appropriate distributor asset management practices will provide an opportunity to further refine the role of energy efficiency in asset management planning. The Board agrees.

Given the supportive nature of most of the comments received, the Board has not made any substantive changes to this section of the Guidelines relative to the comparable section in the Draft Guidelines.

Availability of Multi-Year Funding (section 2.1.1)

With one exception, interested parties were supportive of the Board's proposed policy to allow funding through distribution rates for CDM programs for a period of up to three years. One interested party, however, suggested that until the issue of overlap and duplication with programs funded by the Ontario Power Authority ("OPA") is resolved, there is no sound basis for providing funding through distribution rates for a period of more than one year. The Board remains of the view that multi-year funding for CDM programs is appropriate.

Several interested parties agreed that funding through distribution rates should be available only for programs where no OPA funding is available. It was also suggested by a number of interested parties that the Board could address the issue of potential overlap and duplication between distribution rate-funded programs and OPA-funded programs through the use of variance accounts.

The Board remains of the view that funding through distribution rates should only be available for programs where no OPA funding is available. The Board agrees that variance accounts are an appropriate tool to track any spending built into rates for a program for which a distributor, subsequent to receiving approval from the Board for a program, secures funding from the OPA for that program. Alternatively, a distributor may apply to the Board to use that funding for another program, provided that the new program is not being funded by the OPA. This has been reflected in the Guidelines.

Some interested parties requested clarification as to the regulatory process and timing of applications for funding of CDM programs, and for those involving lost revenue adjustment mechanism (“LRAM”) and shared savings mechanism (“SSM”) claims. The Guidelines provide additional guidance on these issues, in sections 2.1.1 (applications for funding), 5.3 (LRAM) and 6.3 (SSM). As indicated in those sections, while distributors may bring forward an application at any time, the Board is of the view that such applications are best considered as part of a broader cost-of-service rate proceeding.

With one exception, interested parties indicated that CDM funding should remain outside the incentive rate mechanism (“IRM”) rate adjustment. The interested party that took an opposing view suggested that multi-year CDM funding and incentive regulation should be fully integrated, such that CDM funding would be escalated along with other distributor costs.

The Board has concluded that whether and how CDM funding may be included in the incentive regulation mechanism rate adjustment is a rate-making matter that will be addressed in the appropriate forum. This has been noted in the Guidelines.

One party expressed concern that CDM funding is still “program based”, which means that there are no means of accessing “core” or “grassroots” funding. The Board believes that program-based funding allows for proper oversight by the Board of the prudence of expenditures. Section 3.3.2 of the Guidelines provides information on the types of program costs that distributors should ensure are accounted for in a benefit-cost analysis. This includes costs associated with designing, operating, evaluating, tracking and administering the programs.

Inclusion of Distribution and Transmission Losses in Savings Calculations (section 3.4.4)

The Draft Guidelines proposed that distributors include distribution losses of 4% and transmission losses of 2.5% when undertaking a benefit-cost analysis of CDM programs, and when calculating the SSM associated with a program. The distribution loss factor of 4% was chosen as being representative of an average of distribution loss factors across Ontario.

There was consensus amongst interested parties that losses should be included in a benefit-cost analysis. There was no opposition to a transmission loss factor of 2.5%. With respect to distribution losses, all interested parties that commented on this issue suggested that a distributor-specific loss factor would be more appropriate than an average loss factor, as it better reflects the characteristics of a distributor's distribution system. Two interested parties suggested, however, that while use of distributor-specific loss factors is more appropriate, for simplicity it would be better to use an average loss factor.

The Board has clarified in the Guidelines that the loss factor in question relates to distribution and transmission system losses.

The Board agrees that it is more appropriate for distributors to use a distributor-specific distribution system loss factor. The Board also agrees that the system loss factors should only be used for the purposes of a benefit-cost analysis of CDM programs, and not for SSM. To gross up savings values using a distributor-specific system loss factor for SSM would inappropriately reward distributors with high system losses and therefore no loss factor will be incorporated into the SSM calculation. The Board has therefore, in the Guidelines, modified its approach to these two issues.

One interested party suggested that losses should be included in the calculation of LRAM, to be consistent with the initially proposed treatment of losses in the calculation of SSM. The Board remains of the view that it is not appropriate to include losses in the calculation of LRAM, as losses are a pass-through, such that there is no lost revenue associated with losses. Lower system losses simply means that lower costs are passed on to ratepayers, and not that distributors have received less revenue. This approach is consistent with the Board's conclusion that losses should not be included in the determination of SSM.

Another interested party suggested that a higher loss factor should be used when calculating peak day avoided costs. The Board does not have sufficient information to determine whether or how losses might differ between peak and off-peak periods, and has therefore not stipulated that a higher loss factor should be used when calculating peak day avoided costs.

Enhanced Evaluation, Planning and Reporting (sections 7.1, 7.3 and 7.4)

The Draft Guidelines included new policies relating to the following matters regarding evaluation, planning and reporting: evaluation plans, implementing updated input assumptions, and evaluation reports.

Two interested parties suggested that the Board should hire an independent auditor to review the evaluations of distributor programs, though one interested party suggested that this should only apply for LRAM and SSM claims in excess of a certain threshold. One interested party also suggested that the Board establish a "CDM Audit Advisory

Committee", consisting of three intervenor representatives, to provide advice to Board staff and the independent auditor. The Board does not believe that either of these approaches should be adopted. Quite apart from resource considerations, the Board believes that the rate setting process provides for adequate participation by stakeholders, and in the context of that process stakeholders can probe the reasonableness of a distributor's evaluation of program results.

Two interested parties requested that the Board provide a sample or template evaluation plan, to guide distributors in the development of this document. The Board does not believe that a template would be of great assistance given that each program may require different evaluation metrics, activities and outcomes. The Board is of the view that section 7.1 of the Guidelines provides sufficient guidance in relation to the development of evaluation plans, and also notes that stakeholders will have an opportunity to comment on a distributor's evaluation plan in the context of the hearing in which the distributor's application for program funding is considered.

One interested party indicated that the guidelines for evaluation are a positive step, but that the Board should initiate a consultation with stakeholders to develop a better audit and evaluation approach for distributors. The Board does not believe that this is necessary at this time. To the extent that greater experience with the new evaluation provisions reveals that further work is required in relation to audit and evaluation, the Board may revisit the matter.

There was consensus amongst interested parties in support of the Board's proposal for the implementation of updated input assumptions, although one interested party expressed concern that the section of the Draft Guidelines may lead to inconsistent interpretations. The Board has now included in section 7.3 of the Guidelines additional information designed to provide clarification in relation to this issue.

One interested party suggested that there should be an exemption in certain cases from the requirement for a third party assessment. Specifically, there should be no need for a third party assessment in the following cases: where funding for a program was approved by the Board or obtained from the OPA before the Guidelines come into effect, since distributors may not have included the cost of such assessment in the program budget; or, where the distributor can demonstrate that it has used the assumptions published by the Board or the OPA.

With regards to the cost of a third party assessment for programs funded through distribution rates, the Board notes that the need for a third party assessment was originally set out in the March 2, 2007 "Report of the Board on the Regulatory Framework for Conservation and Demand Management by Ontario Electricity Distributors in 2007 and Beyond", and was not therefore a new element introduced for the first time in the Draft Guidelines.

The Board does not agree that there should be an exemption where funding has already been approved by the Board or obtained from the OPA as distributors should have been aware of the Board's guidelines with respect to third party assessments as of March 2007, when the Framework Report was issued.

Going forward, the Board expects that distributors will include a reasonable estimate of evaluation costs as part of the program budget.

For programs funded by the OPA, the Board would consider an evaluation by the OPA or a third party designated by the OPA to be a third party assessment, and therefore there should be no cost to the distributor. The Guidelines have been revised to provide clarification on this point.

With regards to the proposed exemption where the distributor can demonstrate that it has used the assumptions published by the Board or the OPA, the Board notes that one of the purposes of a third party review is to ensure that the distributor has, in fact, used the input assumptions published by the OPA or the Board, as applicable. The Board therefore does not agree that the third party assessment should be waived where the distributor has used input assumptions published by the OPA or the Board.

Part 2: Other Issues

Input Assumptions and Avoided Costs

The Draft Guidelines stated that the Board will post on its website avoided cost data and inputs and assumptions that distributors should use in their benefit-cost analyses of CDM measures and programs.

The Board has clarified the Guidelines that where a CDM measure contributes to the avoidance of distribution capacity costs, the distributor should include these avoided capacity costs in its benefit-cost analysis.

There was consensus among those interested parties that commented on input assumptions that there should be consistency between the values adopted by the Board and those adopted by the OPA. One interested party also suggested that the Board may want to ensure that the cost effectiveness of CDM programs is assessed using a consistent set of avoided costs, regardless of the source of funding.

However, two interested parties expressed concerned about the OPA's avoided cost estimates, and cautioned the Board against adopting them.

The Board agrees that, to the extent appropriate, there should be consistency in the input assumptions and avoided costs used to assess the cost effectiveness of CDM programs, regardless of the funding source. The Board is committed to exploring these issues with the OPA.

Free Rider Rates

One interested party urged the Board to require distributors to provide evidence to support the free rider rate estimates used in the 2008 CDM programs.

The Board has no information to suggest that free rider rates differ between distributors, and will continue to provide prescriptive free rider rates for use by distributors.

Pilot Programs

One interested party disagreed with the proposal that distributors certify that the technology being used or tested as part of a pilot program is not being used by any other distributors, or is being used or tested by one or more other distributors in a limited capacity. This interested party argued that the requirement is onerous, and that the success of technologies may differ between service areas.

The Board remains of the view that there should not be duplication with respect to the testing of CDM technologies. However, the Guidelines contemplate that the Board may consider applications for pilot programs in relation to technologies that have been or are being implemented by one or more other distributors where the applicant can demonstrate how it will coordinate or work with the other distributor(s) to ensure effective use of the program and of lessons learned.

Next Steps – Measures & Assumptions and Avoided Costs

The Board's Total Resource Cost Guide that was issued September 8, 2005 included, as appendices, an Assumptions and Measures List, and a table of Avoided Costs, for use by distributors when assessing the cost effectiveness of CDM programs. As was noted in the Draft Guidelines, these items will now be posted as separate documents on the Board's website, to facilitate future updates. Please refer to the Conservation and Demand Management webpage on the Ontario Energy Board's website at www.oeb.gov.on.ca.

With one exception, the data contained within these documents has not been changed. The exception is that the Industrial Measures list has been revised to correct some errors. The corrected industrial inputs and assumptions should be used by distributors in accordance with the guidelines for the implementation of updated input assumptions set out in section 7.3 of the Guidelines.

The issuance of the Guidelines concludes this consultation. The Board wishes to thank all participants for their thoughtful contributions. The Board has noted the comments received in relation to the other issues that were not the focus of this consultation, and will have regard to them as and when the Board considers that changes to the Guidelines may be warranted.

The Board will address the issue of cost awards for this consultation in accordance with the Notice of Hearing being issued today for that purpose.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary