

COMMENTS OF THE CONSUMERS COUNCIL OF CANADA

Re: Ontario Energy Board Draft Guidelines for Electricity Distributor Conservation and Demand Management

EB-2008-0037

Funding Through Distribution Rates:

The Council continues to support a framework where the Ontario Power Authority (“OPA”) oversees and funds CDM activities undertaken by Ontario electric local distribution companies (“LDCs”). If the LDCs apply to the Board for approval of programs it is critical that it is only in cases where funding is not available from the OPA. From the Council’s perspective there must be as much coordination as possible among the OPA, the Board and the LDCs in delivering CDM to ensure that ratepayer funds used to support the programs are managed in the most cost-effective way possible. It does not make sense to have two separate, and distinct, infrastructures in place undertaking essentially the same role.

The Council continues to support the statement set out in section 2.1 of the Draft Guidelines that programs funded through distribution rates must be targeted to consumers within the distributor’s licensed service area. The responsibility for the facilitation of broad-based programs should remain with the OPA.

System Improvement Programs:

With respect to system improvement programs the Council supports the approach set out in the Draft Guidelines that, “In the case of new infrastructure, or replacement of existing infrastructure, any measures to maximize the efficiency of the infrastructure will not be considered a CDM initiative. The Board expects that distributors will consider energy conservation and efficiency improvements as part of distributors’ overall analysis of any infrastructure investment.” (p. 5) In effect, there should not be some attempt to characterize these investments as CDM when there is an ongoing expectation that distributors should be maximizing the efficiency of the their operations. This is especially true in the context of an incentive regulation framework that is intended to create incentives to maximize efficiency.

Pilot Programs:

Although not a new policy regarding pilot programs the current Draft Guidelines state:

The Board considers a pilot program to be a program that involves the installation, testing or evaluation of technologies that are not already in use in Ontario, or in limited use, and that serves as a tentative model for future development

The Board expects that a properly structured pilot should provide an opportunity to gain experience in business processes, installation procedures, logistics, deployment, integration issues, customer communications, and customer impacts. A distributor should provide a rationale for how its program will increase the collective understanding of the technology and its benefits as a CDM measure. Distributors should also be prepared to share the results and knowledge gained through the pilot with the Board and other distributors. (p. 5)

The Council is of the view that there should be more clarity in the Draft Guidelines regarding CDM pilot programs and how they are funded. Specifically, the Board should address:

1. What are the filing requirements with respect to pilots?
2. What are the parameters regarding the funding of pilot programs? Is there a financial limit?
3. How is the cost-effectiveness of a pilot program assessed? In effect, how can ratepayers be assured the funds are being spent wisely?
4. What is the scope of the technologies that might qualify for a pilot? What specifically qualifies as a “CDM” technology?

The Council is not aware of how prevalent the use of pilot programs is in Ontario by the LDCs. Depending upon the interest and potential number of applications the Council submits that, at some point in the future, the Board should consider defining more specific rules around pilot programs.

Funding Term:

The Council is not opposed to the proposal to allow LDCs funding for programs for a period of up to three years. As noted above, this should only be for programs that are not offered by the OPA. The Council agrees that there should be a requirement to submit a CDM plan, budget and evaluation plan to the Board for review and approval. In that submission there should be a requirement for detailed and comprehensive evidence to support the multi-year programs and demonstrate why the target areas are not being sufficiently addressed by the OPA. What is not clear in the Draft Guidelines, as currently drafted, is what the regulatory process for review and approval will entail. The following questions come to mind:

1. Is the plan submitted through the LDC’s annual rate submission? If this is during an incentive regulation term how are parties notified of the Board’s intent to review any multi-year plans? (This point is relevant to one year plans as well)

2. To the extent the multi-year plans are to be considered through separate and distinct regulatory proceedings what is the expected timing for the filing of the supporting evidence and the actual proceeding?
3. What specific regulatory process is envisioned? Will there be a written or oral hearing process?
4. LDCs will be required to submit CDM plans and a budget. What level of detail is required for the submission of a multi-year plan?
5. Will the results be subject to an independent audit in order to ensure that spending is tracked appropriately and LRAM and SSM amounts are verified?

The Board has identified a question regarding the inclusion of CDM costs in the distribution revenue requirement that will likely be subject to an annual incentive regulation adjustment. The Council submits that if a multi-year plan is submitted the costs should be accounted for outside of the adjustment mechanism. The guidelines envision variance account treatment for CDM spending, and true-ups for any spending variances. Adjusting CDM spending within an incentive regulation formula seems inconsistent with the variance account proposal. In addition, if multi-year approval is sought and approved, the costs should be kept outside of an incentive regulation envelope. This is consistent with the multi-year approach adopted by the Board in its approval of the three-year plans for the Ontario natural gas utilities.

Total Resource Cost Test:

With respect to the TRC test the Council accepts it is an important tool to be used in screening and evaluating programs. In order for the TRC test to be effective there must be an effort on the part of the Board to keep the assumptions relevant. To the extent the assumptions are not kept up to date CDM screening results and evaluation results may not be appropriate, or reflective of what is actually happening.

In the Toronto Hydro Electric System Limited proceeding dealing with approval of shared savings mechanism (“SSM”) and lost revenue adjustment mechanism (“LRAM”) amounts the Council pointed to a number of cases where the TRC Guide should be updated. One example was the free-ridership rate used for the Summer Challenge Program. The rate being used was contrary to studies produced in California for similar programs. From the Council’s perspective this has led to some LDCs getting credit for savings that did not occur because of their efforts, or frankly did not occur at all.

The example above simply highlights the importance of keeping the TRC up to date based on the best studies available. To the extent this is achievable the Board should ensure the assumptions are not stale. Recognizing that the OPA is currently implementing a comprehensive CDM evaluation process the Council urges the Board to work with the OPA in this respect. The importance of using well-founded assumptions

in both screening and evaluation cannot be understated. This is especially critical when the LDCs are making applications for SSM rewards and LRAM adjustments.

Distribution and Transmission Losses:

The Board is seeking input regarding whether or not all distributors should be subject to the same distribution loss values rather than distributor-specific factors in the evaluation of CDM programs. To the extent distributors can determine actual loss factors, distributor-specific loss factors may be appropriate. From the Council's perspective the point is to be as accurate as possible in evaluating CDM results. It is unclear, however, how CDM programs impact losses for both distribution and transmission, and how those direct losses can be measured.

With respect to including losses in the calculation of the SSM the Council does not at this time support the proposal. This issue, from our perspective, needs a more detailed consideration by the Board.

Attribution of Benefits:

The Council supports the policy that requires, in the case of joint programs the attribution of benefits should be considered on a case by case basis. Having said that we remained concerned that if a distributor claims it was central to the program it can claim 100% of the benefits. Clearly demonstrating centrality remains a problem. In addition, we question the fairness regarding the policy that even if the LDC contributed slightly more than 50% of the funding it can claim 100% of the benefits. The Council submits that the Board may want to reconsider the rules around attribution if joint programs become more prevalent.

Enhanced Evaluation Planning and Reporting:

The practice of updating assumptions for the LRAM calculations based on the best available information has been in place for many years in the Ontario natural gas sector. The underlying principle is that the LDCs should not get financial compensation for lost revenue that was not "lost". In addition, they should not be penalized. Using the best available information regarding assumptions used to calculate lost revenue is appropriate. The evaluation of CDM programs is complex and not always precise. To the extent better information can assist in the evaluation of programs that information should be used. Assessing what actually occurred, to the extent possible, is essential.

With respect to the SSM calculations, the reasoning behind not adjusting for updated assumptions retroactively is to avoid penalizing the LDCs. If the assumptions were different the LDCs may not have pursued the programs. There should be some recognition, however, that under the current rules LDCs may be compensated for results that are based on outdated assumptions. From the Council's perspective the balance is appropriate and the Board has resolved this issue in several previous proceedings. There

is no reason to now implement a change from what has been the accepted practice in the natural gas industry. The draft guidelines as currently drafted are appropriate.

Evaluation Plans and Evaluation Reporting:

With respect to the sections of the guidelines that refer to Evaluation Plans and Evaluation Reports, the Council submits that the Board should develop a more detailed template for LDCs to use in the development and submission of evaluation plans. To the extent each LDCs interprets the Board requirements differently and reports differently this may become onerous for the Board. A common detailed template would ensure some consistency in carrying out evaluations and reporting results to the Board.

To the extent possible, the Board and the OPA should work together to determine what are the important components of an evaluation plan, and how those result should be reported. If the LDCs are working with both entities consistency should be helpful for all stakeholders.

In addition, the Council submits that if an LDC is applying for an SSM reward or an LRAM adjustment there should be a requirement for an independent audit of the results.

LRAM and SSM:

The SSM mechanism that is now in place was approved by the Board several years ago and not based on a comprehensive review of alternatives. In addition, there has been no assessment made as to whether the current mechanism in its present form has been effective in creating an incentive for LDCs to pursue cost-effective CDM. Also, there has been no assessment as to whether it appropriately balances the interests of utility shareholders and their ratepayers. The Council submits that it would be appropriate for the Board to consider, in the near future, a comprehensive review of the SSM and LRAM mechanisms. To the extent the Board has set up a framework for CDM outside of the OPA funded initiatives a review of those mechanisms is, from the Council's perspective, required.