

February 20, 2008

**BY COURIER (2 COPIES) AND EMAIL**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, Suite 2700  
Toronto, Ontario M4P 1E4  
Fax: (416) 440-7656  
Email: boardsec@oeb.gov.on.ca

Dear Ms. Walli:

**Re: Pollution Probe – Written Comments on Draft Guidelines  
EB-2008-0037 – Draft Guidelines for Electricity Distributor CDM**

We write on behalf of Pollution Probe to provide its written comments on the Board's *Draft Guidelines for Electricity Distributor Conservation and Demand Management* dated February 8, 2008 (the "*Draft Guidelines*").

Pollution Probe believes that, overall, the Board's draft report is excellent. However, Pollution Probe does have a few comments and suggestions for further improvement as detailed below.

**A. Issues Already Being Examined**

**1. System Improvement Programs**

Pollution Probe agrees with the *Draft Guidelines* that actions by electric utilities to improve the energy efficiency of their distribution systems should not be considered as CDM initiatives for regulatory purposes.

However, Pollution Probe submits that the Board should also take additional actions to motivate electric utilities to reduce their electricity distribution losses. Specifically, Pollution Probe submits that variances between a utility's forecasted and actual distribution losses should no longer be a pass through item.

**2. Multi-Year Funding**

Pollution Probe strongly supports the *Draft Guidelines*' proposals with respect to multi-year CDM funding and the establishment of variance accounts with respect to CDM spending.

### 3. Distribution and Transmission Losses

Pollution Probe notes that the benefits of CDM programmes include the avoided costs of electricity generation, transmission and distribution. These avoid costs thus include associated system losses. Pollution Probe therefore submits that the calculation of avoided costs must also include the associated avoided distribution and transmission losses in order to accurately measure the benefits of CDM programmes.

Pollution Probe further notes that distribution and transmission losses are at their highest during peak demand periods. Accordingly, Pollution Probe further submits that a higher than average loss factor should be used when calculating peak day avoided costs.

However, with respect to what distribution loss value should be used, Pollution Probe respectfully disagrees with the following proposition at pages 17 and 18 of the *Draft Guidelines*:

Some distributors may be able to calculate their distribution losses with a fair degree of accuracy. Others may not, and in any event, the rate of losses will also vary from year to year as infrastructure is updated and load shapes vary. Given the variations, and the complexity of their sources, ***it is likely not appropriate to assign different loss values to different distributors (even if they are known)***. Rather, it is preferable to assign an average distribution loss “estimate” to distributors collectively [emphasis added].

Pollution Probe submits that, wherever practically possible, the most accurate information should be used instead to estimate the cost-effectiveness of a utility’s CDM programs. Accordingly, an electric utility should not use an Ontario or collective average distribution loss factor if its own loss factor is known and is materially different from the average; its own loss factor should be used instead.

### 4. Enhanced Evaluation Planning and Reporting

Pollution Probe supports the *Draft Guidelines*’ new proposal with respect to the evaluation plan and report.

### 5. Avoided Costs

With respect to avoided cost data for analyses, Pollution Probe notes that page 10 of the *Draft Guidelines* states that “[t]he Board will post on its website avoided cost data that distributors should use for undertaking benefit-cost analyses of CDM measures and programs.”

Accurate avoided cost estimates are an important prerequisite for accurate CDM evaluation. Pollution Probe accordingly urges the Board to ensure that reliable and accurate avoided cost estimates of a high calibre are posted on its web site to allow for accurate CDM evaluation.

Pollution Probe's concern becomes evident when one examines, as a contrast, the avoided cost estimates developed and used by the Ontario Power Authority in its *Integrated Power Supply Plan*. Pollution Probe believes that these estimates likely underestimate the real cost of new supply significantly.<sup>1</sup> Assuming that Pollution Probe is correct, serious questions are thus raised about the validity of the OPA's new supply decisions compared to other alternatives since the costing comparisons are not based on reasonable avoided cost estimates.

Pollution Probe wishes to avoid potentially similar issues with respect to CDM evaluation by ensuring that the Board posts avoided cost estimates that reflect market data and Ontario's historical experience (unlike, for example, what the OPA appears to have done with respect to the construction costs and operating performance of nuclear reactors).

#### 6. Pilot Programmes

Pollution Probe respectfully disagrees with the onerous and inappropriate requirements regarding pilot programmes, and these requirements should be deleted.

The *Draft Guidelines* note at page 34 that, if a utility wants to initiate a pilot CDM program, it must certify that "to the distributor's knowledge, the technology is not being used or tested by *any other distributors, or* is being used or tested only *in a limited capacity* [emphasis added]."

Pollution Probe submits that this requirement is onerous and inappropriate. From a practical point of view, a utility would be required to review the pilot projects of *over 80* other Ontario utilities before it could seek funding for its own pilot project. In addition, since Ontario is a very large and heterogeneous province, a successful technology and programme design for downtown Toronto may not be successful in Atikokan (or vice-versa). This requirement will accordingly stifle innovation and experimentation, which should instead be fostered and encouraged as part of "building a conservation culture" in Ontario.<sup>2</sup>

---

<sup>1</sup> A few sample reasons are included here for the Board's reference. First, the OPA's estimates are based on the assumption that costs due to the return rate of capital for all new supply is only 4%, which Pollution Probe believes is very low. Second, Pollution Probe believes that, relative to Ontario's historical experience, the OPA's assumptions with respect to the capital cost of building nuclear reactors is very optimistic. Finally, Pollution Probe also believes that, relative to Ontario's historical experience, the OPA's assumptions about the operating performance of nuclear reactors are also very optimistic.

<sup>2</sup> See e.g. the remarks of Premier McGuinty on April 19, 2004 available online at <http://www.premier.gov.on.ca/news/Product.asp?ProductID=397>. See also the Report of the Conservation Action Team dated May 19, 2005 and available online at [http://www.energy.gov.on.ca/index.cfm?fuseaction=conservation.actionteam\\_report2005](http://www.energy.gov.on.ca/index.cfm?fuseaction=conservation.actionteam_report2005).

Put simply, Pollution Probe submits that there should not be a presumption that it is inappropriate for two or more utilities to be simultaneously undertaking pilot projects that test or use the same technology. Further, utilities should not have the correspondingly high onus to review and certify that all other utilities are not doing its pilot project or that only a few other utilities are only doing its pilot project on a limited basis. Pollution Probe thus submits that these requirements should be deleted from the *Draft Guidelines*.

## **B. Additional Issues That Need To Be Reviewed As Soon As Possible**

Pollution Probe submits that, as detailed below, there are a couple issues that need to be reviewed as soon as possible (and ideally incorporated into the *Draft Guidelines*).

### **1. Free-Rider Rates**

Pollution Probe submits that the Board should require Ontario's large electric utilities to provide evidence to support their free-rider rate estimates for their 2008 CDM programmes.

Unfortunately, it appears that the Board proposes to continue its practice of publishing technology-specific free-rider rates that electric utilities can use to calculate the cost-effectiveness of their CDM programmes. However, *free-rider rates are a function of programme design, not technology*. Accordingly, if a technology's free-rider rate is lower than its programme's actual free-rider rate, the utilities' cost-benefit analyses will overestimate the cost-effectiveness of their CDM programmes. In other words, the cost-benefit analyses could estimate that a programme is cost-effective when in fact it has a negative net present value.

Pollution Probe accordingly submits that it is time for the Board to require Ontario's large electric utilities to provide evidence to support their free-rider rate estimates. Pollution Probe submits that this change would be consistent with the Board's statutory mandate to protect the interests of consumers by allowing the appropriate testing of free-rider rate estimates (unlike the current practice).

### **2. Third Party Audit**

Pollution Probe submits that the Board should hire an independent auditor familiar with CDM issues to review all of the electric utilities' CDM evaluation reports. Pollution Probe also submits that the Board should establish a CDM Audit Advisory Committee, consisting of three intervenor representatives, to provide advice to Board Staff and the independent auditor on these matters.

Page 29 of the *Draft Guidelines* notes that:

Given the ratemaking implication of program evaluations, intervenors, ratepayers and the Board need to be confident that evaluations are an accurate reflection of actual program results. Where a distributor is making a claim for LRAM in relation to programs funded by the OPA, or where the distributor is making a claim for LRAM and/or SSM in relation to programs funded through distribution rates in 2007 and beyond, ***there is a requirement for the involvement of an independent third party.*** [emphasis added]

While Pollution Probe strongly agrees that there is a need for accurate evaluation of the cost-effectiveness of CDM programmes, Pollution Probe submits that the requirement to simply hire third party evaluators will not be sufficient to achieve the intended objective.

Pollution Probe instead submits that the Board should hire an independent auditor familiar with CDM issues to review ***all*** of the electric utilities' CDM evaluation reports. Pollution Probe also submits that the Board should establish a CDM Audit Advisory Committee, consisting of three intervenor representatives, to provide advice to the Board Staff and the independent auditor on these matters. .

### **Conclusion**

We trust that Pollution Probe's comments on and suggestions for further improvement of the *Draft Guidelines* are of assistance to the Board. Please do not hesitate to contact the undersigned if you wish to discuss this matter further.

Yours truly,



Basil Alexander

BA/ba