EB-2008-0037

IN THE MATTER OF a process initiated by the Ontario Energy Board to promulgate guidelines for electricity distributor conservation and demand management activities.

SUBMISSIONS ON DRAFT GUIDELINES

FROM THE

SCHOOL ENERGY COALITION

General

1. The School Energy Coalition ("SEC") believes that the Draft Guidelines (the "Guidelines") represent a valuable step in encouraging and expanding distributor CDM activities.

2. The scope of the review and comments sought by the Board in the context of the Guidelines is quite narrow, so we have limited our comments below to the four specific areas in which the Board's letter of February 8th requests input. However, we wish to make three general comments:

   a. The Guidelines are, at least in some respects, a consolidation or compilation of existing Board policies and guidelines. It would be useful if the Board, in the final published Guidelines, were to note the source of each of the previous policies and guidelines included in the Guidelines, to provide continuity and a frame of reference.

   b. While we have no doubt that the Guidelines seek to reproduce previous policies and guidelines thoroughly and correctly, in fact it would appear that in many places clarifications, re-wording, and other changes have been made. We believe it would be useful for the Board to have stakeholders review the Guidelines, with the sources as noted above, and bring to the Board's attention any areas in which they think the Guidelines are not identical in meaning to the policies and guidelines on which they are based. Not only would this prevent future disagreements, but it could also bring to light any subtleties of interpretation that had been assumed in the past, and are now no longer as obvious. This scope has not been included in the current review, and we believe that it should be carried out before the Guidelines are finalized.

c. Whenever a compilation or consolidation document is prepared, there is a basic question of whether it replaces the existing policies and guidelines, or merely explains them. We believe it would be a good idea for the Board to make clear that the previous policies and guidelines have been replaced by these comprehensive guidelines. The previous policies and guidelines should only be referred to, in our view, if that is necessary to explain ambiguities in the Guidelines. Otherwise, the Guidelines should be considered a comprehensive set of policies, standing on their own.

3. Subject to the above comments, these Submissions are restricted to the four subject areas raised by the Board in its letter.

System Improvement Programs (s. 2.1.1)

4. We believe that distributor spending to improve the efficiency of its operations does not qualify as CDM spending, largely for the reasons already set out in the Guidelines.

5. We note that, in this area, the distributor is not acting as a program delivery agent (as with its other CDM programs), but as an end-user, and it is as an end-user that its system improvement spending should be judged. A prudent distributor, in making equipment, maintenance, and other such choices, must take energy efficiency into account, just like any other end user. That doesn't mean that energy efficiency is the sole consideration in making purchasing or other spending decisions, but it is an important factor.

6. In practical terms, this means that a distributor making capital spending decisions will have to consider energy efficiency as part of the business case underlying those decisions. In the simplest case, like any other end user the distributor will have energy cost savings associated with the more efficient choices, and those savings may improve the economics of the investment decision.

7. That leaves two areas in which system improvement programs have special twists:

    a. Energy cost savings to the distributor will accrue to the benefit of the ratepayers in the long term, not the shareholder. Some might argue, therefore, that there should be some form of incentive for distributors to invest in energy efficiency within their own operations. We disagree. Whenever a distributor spends money to improve their system, they do so with the knowledge going in that the long-term beneficiaries of those improvements will be the ratepayers. It is, in fact, a fundamental aspect of a distributor's business decision-making. This has not to date been much of a problem in Ontario. The vast majority of distributors regularly make system improvement decisions of all sorts, and don't need financial incentives to do so. They do it because it is good management of the business. In the rare case in which a distributor is more reluctant to spend money to benefit the ratepayers (the "harvesting the assets" situation), the Board has many tools at its disposal to encourage more prudent asset management practices.

    b. In some cases some part of the value of a system improvement activity is enjoyed by ratepayers directly in the form of commodity cost savings. In those specific cases, we

believe that distributors should be encouraged to proceed with the system improvement program, even if it is otherwise not cost effective. To that end, we suggest that the Board expressly allow distributors to include in their business case analyses of such spending the incremental customer savings that will result. We note in passing that distributors often consider such customer-side benefits when assessing reliability spending, and we see no difference between customer reliability savings and customer energy savings if they result from utility spending to improve their own system.

Multi-Year Funding (s. 2.2)

8. SEC were enthusiastic supporters of multi-year budgetting and funding commitments for the gas utilities, and we are of the same view with respect to electricity distributors. The Guidelines set out a number of reasons why this is a good idea, and we agree with them. In particular, we note that, for customers such as school boards, multi-year funding allows an LDC to work with the customer, sometimes over an extended period, to develop the best program or project for both the distributor and the customer. One year funding has a tendency to promote the "quick fix", where an LDC necessarily focuses on what is fast and easy, rather than keeping the long term benefits at the top of the planning agenda.

9. One area of concern with multi-year funding from distribution rates is the bifurcated funding model used in CDM. An LDC with a three year program funded from distribution rates, could find, long before the program is done, that OPA comes up with a similar or overlapping program. This creates a significant potential for inefficiencies in program delivery, and for customer confusion with respect to their CDM options.

10. In our view, where a distributor has a multi-year CDM program funded from rates, and an OPA program is introduced which has significant similarity or overlap, the following rules should apply:

    a. The distributor should be free to continue with their distribution rate funded program until the end of the approved funding. In effect, the program would be grandfathered. The exception to this grandfathering right would be in those circumstances in which the Board makes a general decision that a specific class of programs should not be grandfathered, which we assume would not be the norm. Absent such a decision, the distributor could continue with the program to the end of the term. This allows the distributor to reap the benefits of the front-end costs of the program, and the maintain any momentum it has built up. At the end of the current funding, the program would not continue, of course, since it is covered by an OPA program.

    b. Alternatively, the distributor should be free to apply to the Board to migrate its program to the OPA's program, on such terms as may be appropriate. It is not possible to say what those terms should be, since each program will be different in both structure and timing, but any such application could specify, for example:

        i. Use of existing resources for the OPA program.

ii. Removal of some of the spent costs from rates and addition of those costs to the OPA program costs.
iii. Continuity of LRAM calculations.
iv. Partial SSM calculations, or division of SSM and OPA profits on some reasonable basis.
v. Etc.

c. In the further alternative, the distributor should be free to apply to the Board to shift the rate funding for the duplicative program to a new or existing CDM program run by the utility, on such terms as may be appropriate. This might be sensible, for example, where the program has not really started, and the distributor had other programs that it believed were viable but for which there had not been sufficient funding available.

11. The other area of interest is the interaction between multi-year CDM funding and LDC incentive regulation. In our view, the forced separation of the two is not necessary, and probably contributes to utilities feeling that CDM is not really part of their core business. We believe that multi-year CDM funding and LDC incentive regulation should be fully integrated, as follows:

a. Any application for multi-year CDM funding should be part of a cost of service application, ie. a rebasing. This not only avoids a plethora of additional proceedings before the Board, but it also allows the Board to see the CDM funding request in context. Also before the Board, for example, will be the load forecast (including CDM adjustments), other cost pressures, overall rate impacts from all sources, other activities that will be drawing management's attention, etc. As a result, the Board will be able to make a reasoned decision as to the appropriate level of CDM funding from rates given everything that is going on with the utility. By way of example, if a utility is proposing in their rate application to implement a new CIS, the Board may conclude that, for that period, they may be stretching their resources to implement a large expansion of CDM programs as well. Alternatively, the Board may decide that the increased CDM budget itself is fine, but that expansion of existing programs is better than riskier new programs during a period when management's attention will be heavily directed elsewhere.

b. CDM should be part of distribution revenue requirement, and should be escalated along with other distributor costs. CDM costs have similar pressures to other costs, so an escalator is clearly appropriate. More important, CDM should be considered part of what the distributor does, and therefore it should be an integral part of their budget. The Guidelines already confirm the use of a CDMVA to capture over and under-spending, relative to the initial budget, so independent tracking is already looked after. The only reason to segregate the CDM budget year by year would be to pre-approve annual budget increases in excess of the PCI, as is done with the gas utilities. It would appear to us that the electricity distributors are not sufficiently experienced with CDM that the Board should be engaged in a signficant ramp-up of what are, in any case, only a part of a distributor's CDM-related costs. This is particularly true since we can expect that the number and scope of OPA programs available to distributors will expand rapidly over the next few years, giving them ample opportunity to increase their budgets aggressively if they feel they are ready.

c. The calculation of LRAM in a multi-year plan is a little more difficult, since in years other than a rebasing year the baseline load forecast is not formally established. We believe the guidelines should make clear that the load forecast in the rebasing year continues to be the baseline for LRAM purposes in subsequent IR years, but the CDM reduction inherent in the load forecast should be deemed to be increased in those subsequent years to the extent that actual load increases. For example, if a distributor's load is increasing by 5% per year, and CDM load reductions in the rebasing year are forecast to be 100 Mwhrs, then for LRAM purposes the load reductions inherent in years 2 and 3 would be 105 Mwhrs and 110 Mwhrs. The reason for this is that, as load increases, the utility's actual load reductions from broadly based CDM programs should increase by at least that much, and under a PCI model revenues are also increasing at the same rate. Therefore, the LRAM will be overstated unless the baseline increases at the same rate as revenues (ie. load).

Distribution and Transmission Losses (s. 3.4.4)

12. If we understand the proposal in the Guidelines correctly, for TRC purposes all volumes saved would be increased by 6.5%, being 4% for distribution losses and 2.5% for transmission losses. The rationale seems to us to be that if a program displaces either a kwhr or a KW, it also displaces the losses associated with it. If our understanding of the Guidelines is correct, we are entirely in agreement. Savings calculations are essentially about getting the right answer, and it is difficult to disagree that losses are saved as well as delivered power and energy.

13. Our first comment on this section relates to the clarity of the concept. We believe there is a danger of ambiguity in that distributors may seek to include in their TRC calculations not the losses associated with volume savings, but reductions in the loss factor of the distributor arising out of their CDM programs. To us, this is part of the system improvement discussion, and not part of the TRC discussion for SSM purposes. However, we can see the potential that a distributor, whose successful peak-shaving program has reduced the overall loss factor of the distributor, would seek to include in the TRC benefits not only the 6.5% add-on, but the broader impact of the loss factor reduction. This does not appear to us to be the intention of the provision, and we believe that it would be useful if the Guidelines stated this clearly.

14. We agree with the proposal to use a fixed loss factor, rather than those which are distributor-specific, for two reasons. First, it is counter-intuitive that a distributor with a high loss factor would get a higher SSM, particularly if the loss factor is the result of inadequate investment in system assets, as is sometimes the case. Second, actual loss factors usually vary widely within a service territory, and there is no guarantee that the actual loss reductions resulting from a particular CDM initiative will be equal to the distributor's overall system loss factor. Setting a fixed amount provides a system-wide balance. Although it is arbitrary, it is no more arbitrary than applying the distributor's loss factor.

15. It is not apparent to us that adding distribution and transmission losses in the manner proposed will have any unexpected negative implications on program delivery. The only implication appears to be the additional TRC, which will improve the economics of all CDM programs.

16. There is, however, a potential collateral impact, and that is that it becomes more important to ensure that all savings assumptions have been calculated at the plug and limited to actual delivered power and energy, and have not been calculated using any kind of system-wide values or including any loss adjustments. This simply emphasizes the already existing need to have the assumptions in the TRC Guide reviewed more thoroughly, in this case to ensure that we are not inadvertently double counting system losses.

17. The Board has also asked for comments on the implications on SSM calculations. SEC is on record as strenuously objecting to the current SSM structure, and now even more so in light of the more innovative and realistic SSM being used by the gas utilities. The effect of including distribution and transmission lossses is, all other things being equal, to increase the SSM paid to all utilities by 6.5%. This is a further reason why the SSM, already far too rich, should be reconsidered.

Enhanced Evaluation Planning and Reporting (s. 7.1, 7.3, 7.4)

18. The area of evaluation and audit is a critical one in CDM activities, and the Board will have seen the extent to which the gas utilities and their ratepayers developed a highly comprehensive system for evaluation and audit. What the Guidelines appear to be attempting is to accomplish the same results, but without the thoughtful and thorough interplay between utilities and ratepayers that has been the primary reason for success on the gas side. The Guidelines make a good attempt at it, but in our view the ongoing participation of ratepayers and their expert advisors in the process is essential to a proper and constructive evaluation and audit process.

19. Given our general view, we believe that these sections of the Guidelines are not appropriate in the long term, and need thorough revisions. Those revisions need to take place in the context of a more interactive consultation, particularly including CDM experts who can add their experiences in other jurisdictions. We recommend that the Board initiate such a consultation, perhaps by way of a working group, to develop a better evaluation and audit approach for electricity distributors.

20. In the meantime, we see no alternative for the Board but to proceed along the lines set out in the Guidelines. While we are in particular concerned with the practical independence of the third parties reviewing the programs (they are hired by the utilities, so their job will be to please their employers), in the meantime some of the changes proposed in the Guidelines will ameliorate the problems with lack of stakeholder involvement in the evaluation and audit process:

    a. The input adjustments for LRAM (retrospective) and SSM (prospective), are the right direction, although we note that the gas utilities' settlement had some further nuances to this timing that may be appropriate here.

    b. The Evaluation Plan is a good addition, and we believe that the current proposal is, in the absence of stakeholder consultation at the time the Plan is developed, at least a step in the right direction.

c. The Evaluation Report carefully distinguishes between two types of evaluation, and has other components that are improvements to the current situation. As with other aspects, the key thing it lacks is participation by stakeholders in its development and finalization before filing. We also think that it would be useful to add:

   i. A presumptive threshold for evaluation, such as 2% of TRC, which would operate as a guideline for the utility in deciding what custom projects, for example, should be audited.

   ii. Some analysis of sub-sectors within a program. For example, commercial programs often cover a lot of groups, and what works for a greenhouse may not work for a school, and vice versa. A good evaluation will be looking for those things, so that programs can be refined, or even divided into separate and more tightly targetted sub-programs.

Conclusion

21. We appreciate the opportunity to provide our comments on the Guidelines, and hope that our input is of value.

Respectfully submitted on behalf of the School Energy Coalition this 4th day of March, 2008.

SHIBLEY RIGHTON LLP

Per: ______________________
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