



PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DEFENSE DE L'INTERET PUBLIC

ONE Nicholas Street, Suite 1204, Ottawa, Ontario, Canada K1N 7B7

Tel: (613) 562-4002. Fax: (613) 562-0007. e-mail: piac@piac.ca. <http://www.piac.ca>

Michael Buonaguro
Counsel for VECC
(416) 767-1666

March 4, 2008

VIA MAIL and E-MAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

Dear Ms. Walli:

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

Comments of the Vulnerable Energy Consumers Coalition (VECC)

General Comments

VECC has comments on three framework Issues that affect the response to the Board Staff Questions:

- Load and CDM forecast under COS regulation
- Incentives for Loss reduction/System Improvements
- Harmonization of OPA and OEB TRC Guide and Assumptions

Load and CDM forecasts under COS regulation

VECC has a major and ongoing concern regarding the disconnect between the CDM savings included in load forecasts provided under Cost of Service Regulation filings (e.g. Toronto Hydro and Hydro One) and the CDM forecasts provided by the OPA in the IPSP.

Rates are based on the inclusion of both Rate-funded and OPA-funded CDM (Kw and KWh). However, neither the Board nor intervenors have access to the data that underlie the claimed OPA-funded CDM savings because:

- a) forecasts are *regional* rather than utility/franchise specific, and
- b) Timing and achievement differences make the forecasts very uncertain.

For the gas utilities under COS regulation, a utility-specific LRAMVA is used. Likewise for electric utilities VECC respectfully submits that, even if utility-specific CDM savings were included in the load forecast under COS regulation, an LRAMVA for both OPA and Rate funded CDM is required.

Under IRM, if CDM is external to the Formula and treated as an exogenous Y factor, then as discussed below, an LRAMVA mechanism is appropriate.

Incentives for Investment on Loss Reduction/System improvements

It is the responsibility of all distributors to maintain the reliability of their systems and also improve load shape and reduce losses of power. Under COS regulation, as recent filings demonstrate, (e.g. Toronto Hydro and Hydro One) major Sustaining CAPEX is included in the revenue requirement. Ratepayers should not be asked to finance both sustaining capital and CDM system improvement programs. Determining which measures are truly incremental will be difficult and contentious.

Harmonization of OPA and OEB TRC Guide and Assumptions

Complete separation of rate-funded and OPA-funded CDM is not a practical approach. Harmonization and avoidance of duplication is the appropriate approach.

There are several examples of potential duplication. For example, in its recent rate application Toronto Hydro requested that ratepayers pay the costs of its load control program in 2008-2010 even though OPA has a program on offer to LDCs (Apparently, according to THESL, legacy programs are not covered under the OPA funding).

Most importantly, the assumptions for OPA-funded and Rate-funded measures and programs should be identical (avoided cost, lifetime, freeridership, savings, net TRC etc.).

OPA held a meeting with stakeholders in November 2007 at which, among other things it indicated that its E&MV group have prepared a draft TRC Guide for OPA-funded measures/programs.

Now, the OEB is planning to issue an updated CDM Guide (Appendix A to this Board Staff Paper). To further complicate things, certain measures (e.g. Water

Conservation, variable speed gas furnace motors) are also undertaken by Union Gas and Enbridge. There are, therefore, potentially three sets of assumptions for common measures.

It is essential that a common set of measure assumptions are developed and used for all rate-funded and OPA-funded CDM programs and where applicable, for the same assumptions to be used by the gas utilities.

The OEB must provide the necessary direction in this regard and approve the Guide(s).

Comments on Board Staff Issues

System improvement programs:

Is sufficient direction provided to guide distributors in their asset management planning?

Under COS regulation Distributors can and do include System Improvements in their CAPEX Budgets. No additional Mechanism or incentive is required.

Under IRM it depends on how 3GIRM treats incremental capital for system upgrades (above the amount included in the base RR) and the treatment of CDM (e.g. as a Y factor).

Multi-year funding:

What are the implications of the Board approving a three-year plan for a distributor given potential uncertainties regarding the Ontario Power Authority's CDM activities for the same period?

Without sorting out the overlap/duplication and Load forecast and LRAM/LRAMVA issues there is no sound basis for providing funding from rates beyond one year. This is unfortunate because programs should preferably be sustained for a number of years in order to maximize the impacts and benefits to ratepayers.

Should CDM funding be included in the distribution revenue requirement and therefore be subject to the Incentive Regulation Mechanism ("IRM") rate adjustment? Alternatively, should CDM funding remain outside of the IRM rate adjustment as is currently the case?

No. Because of the uncertainties with OPA overlap/duplication with OPA Programs/funding, under 3GIRM rate-funded CDM should be treated as a Y factor and subject to prudence review by the Board. Similarly any claims for LRAM and SSM should be reviewed individually. (See also comments on reporting, monitoring and evaluation).

Distribution and transmission losses:

What are the implications of all distributors using the same distribution loss values, rather than the loss value specific to each distributor?

On Page 18 the paper proposes that

Distributors should include distribution losses of 4% and transmission losses of 2.5% when undertaking a benefit-cost analysis of programs, and when calculating the SSM associated with a program. The result will be higher TRC benefits. [Emphasis added]

It is not appropriate to use the same “standard” loss factor. This will penalize some utilities (such as Hydro One) and reward others at ratepayer expense. A more appropriate question is whether utility-specific historic average losses be used and if so, how would this factor be adjusted due to the impacts of M&A activity and loss reduction programs

What are the implications for program delivery – specifically for the types of programs for which distributors may seek funding through distribution rates? What are the implications of including distribution and transmission losses in the calculation of the shared savings mechanism (“SSM”)?

As noted above, under COS regulation distributors include capital for system improvements and should not receive any financial incentive for system loss reduction.

Under 3GIRM it depends on the treatment of CDM and associated LRAM/LRAMVA. In principle incremental funding for system improvements could be allowed as a specific Y factor. Practical considerations, however, require prior determination of what is truly incremental. In principle VECC accepts an LRAM/LRAMVA that compensates the utility for lost revenue.

VECC has never supported an SSM as necessary or appropriate for ED CDM and does not agree with the proposal on page 22:

The SSM is available for customer-side programs that are funded through distribution rates, such as efficiency improvements in the use of electricity. The SSM is not available for utility-side expenditures such as distribution system improvement projects, or programs that are not funded through distribution rates, such as those funded by the OPA.

In addition, under a Rate Cap Formula (as opposed to revenue cap) since base rates are set based on a certain level of average use there must be an adjustment mechanism to reflect the lower average use resulting from CDM,

including loss reduction programs. Such adjustment mechanisms are included in the gas utility IRM schemes for both Union and EGD.

Enhanced evaluation planning and reporting:

With respect to the timing for implementing updated input assumptions for the Lost Revenue Adjustment Mechanism (“LRAM”) and SSM set out in section 7.3, what are the implications of the updated input assumptions being implemented on a retrospective basis for LRAM, but on a prospective basis for SSM?

On Page Section &.3 it is proposed that

7.4 Evaluation Report (New)

A distributor that makes an LRAM or SSM claim, whether in relation to programs funded by the OPA or through distribution rates, will need to file a more detailed Evaluation_Report at the time of making that claim

This implies that the OEB will provide oversight of OPA funded programs at a measure/program specific level. Is this practical or appropriate? The rest of the paper relates to rate-funded CDM, not OPA-funded CDM. This should be clarified up front on page 4:

2.0 FUNDING OF CDM PROGRAMS

There are two streams of funding available to distributors for the delivery of CDM programs: funding from the OPA, and funding through distribution rates. The draft Guidelines discuss the funding available through distribution rates.

LRAM claims could become significant (particularly if OPA-funded programs are included) and it may not be appropriate to wait until plan end to process these and to adjust average use.

With respect to the Evaluation Plan referred to in section 7.1, are the Board’s expectations sufficiently clear? Are there any additional matters that should be addressed in an Evaluation Plan to enhance its effectiveness?

Above some materiality threshold, all LRAM (and if allowed) SSM claims should be subject to independent audit by a CDM auditor hired by the Board

With respect to the Evaluation Report referred to in section 7.4, are the Board’s expectations sufficiently clear? Are there any additional matters that should be addressed in an Evaluation Report to enhance its effectiveness?

Materiality Criteria should be set out as is the case for the Gas utilities. Audit reports should be made public and opportunity for ratepayers to ask clarifications and make submissions should be available.

VECC requests an award its legitimately incurred costs in this proceeding in accordance with the decision in EB-2006-0266 determining that VECC is eligible for costs.

Yours truly,



Michael Buonaguro
Counsel for VECC