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July 21, 2010

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700  
Toronto, Ontario, M4P 1E4

Dear Ms. Walli:

**Re: EB-2010-0215 – Creation of the Conservation and Demand Management Code for Electricity Distributors - Comments of the London Property Management Association**

This letter is in response to the Board's June 22, 2010 letter related to the above noted proceeding. Three paper copies have been provided to the Board and an electronic version has been filed through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca).

These are the comments of the London Property Management Association ("LPMA") on the Proposed Conservation and Demand Management Code for Electricity Distributors. Comments are provided primarily based on Attachment B to the Board's letter, unless otherwise noted.

## **1. GENERAL AND ADMINISTRATIVE PROVISIONS**

### **1.2 Definitions**

LPMA notes that there are numerous references to "customer type", "customer types" and "customer type(s)" throughout the proposed code, including the appendices to the code. Some of references are followed by brackets that include the words "residential, commercial, institutional, industrial". This addition to the description of what is

specifically meant by customer type, types or type(s) appears three times in the proposed code.

The majority (thirteen) of the references to customer type, types or type(s) in the proposed code and the attached appendices, however, do not include the reference noted above. LPMA is concerned with this lack of consistency throughout the proposed code as this could lead to different interpretations of "customer type", "customer types" and/or "customer type(s)".

LPMA recommends that the phrase "(residential, commercial, institutional, industrial)" either be added following each reference to the customer type, types or type(s) in the proposed code and the associated appendices to the code or that definition of "customer type", "customer types", or "customer type(s)" be added to Section 1.2 to mean residential, commercial, institutional and/or industrial customers.

### **1.7 Timeframe for the Code**

Paragraph 1.7.1 indicates that all electricity savings (kWh) and peak demand savings (kW) resulting from CDM programs must also occur within the timeframe of January 1, 2011 through December 31, 2014.

In light of this discrete period, LPMA believes that the Board should make it clear, particularly with respect to the electricity savings (kWh), that there will need to be an adjustment made to any claimed savings resulting from CDM programs that are achieved with less than twelve months remaining to the December 31, 2014 deadline. In other words, any savings generated from CDM programs achieved after the beginning of 2014 will need to be prorated down to reflect the amount of time in 2014 in which the savings were actually generated.

If the Board proposes to use any simplifying assumptions, such as using a half year rule for savings generated in any year, then it would be useful to reflect this in the proposed code. This should eliminate any confusion later on.

## **2. CDM STRATEGY AND ANNUAL REPORTS**

### **2.1 CDM Strategy Requirements**

Paragraph 2.1.1, part (d) refers to other distributors, natural gas distributors, social service agencies, any level of government, government agencies and the OPA in reference to administrative efficiencies and co-ordination of CDM activities.

LPMA believes that this paragraph should be amended to include industry associations, many of which are in an excellent position to deliver CDM programs and education to their members.

LPMA also believes that this paragraph should be amended to include for profit and not for profit companies and organizations that may be well suited to deliver CDM programs on behalf of distributors across multiple franchise areas.

Paragraph 2.1.4 should be amended as well. In addition to a distributor making its CDM Strategy available for public review at the distributor's offices and posting it on their website if they have one, LPMA recommends that the Board should also post the CDM Strategy for a distributor on the Board's website. In particular, the Board should create a repository for all CDM Strategies that are deemed complete by the Board. This would allow easier access to the documents by all stakeholders, including distributors and ratepayers, enhancing the ability for all parties to compare and contrast the strategies across distributors.

### **2.2 Annual Reports**

As written, paragraph 2.2.3 appears to require a distributor to only make its Annual Report available (either at its offices or on its website) by September 30 of each year for the previous calendar year. LPMA submits that the distributors should be required to make available (at its offices and on its website) not only the most recent Annual Report, but all previous Annual Reports as well. Parties will then be able to assess any changes on a year to year basis.

Similar to the comments provided above related to paragraph 2.1.4, LPMA recommends that paragraph 2.2.3 be amended to reflect the Board making the Annual Report for all distributors available for public review on the Board's website. All of the Annual Reports for each distributor should be maintained on the Board's website for public access and review, not just the most recent one.

In addition to the information listed in paragraph 2.2.5, LPMA submits that the following information should be included.

First, all distributor costs related to work done and/or contracted out to affiliates should be itemized. It should also be shown whether this work/contract was awarded to the affiliate based on a tendering process or whether it was awarded in the absence of any tendering process.

If the affiliate was awarded the work/contract based on a tendering process, the distributor should be required to indicate that the affiliate was the lowest cost bidder. Alternatively, if the affiliate was chosen, but was not the lowest cost bidder, the distributor should be required to provide the lowest cost as compared to that awarded to the affiliate with a detailed explanation of why any lower cost bidders were not accepted.

If the work/contract awarded to the affiliate was not done on the basis of a tendering process, then LPMA submits that the Board should require the distributor to justify the costs paid to its affiliate. The provision of similar information in the Annual Reports from other distributors for similar services could be used as a benchmark to evaluate the costs paid to an affiliate.

Second, all distributor costs related to work done and/or contracted out to a third party should be itemized. It should also be shown whether this work/contract was awarded as the result of a tendering process or not.

This information would be useful when evaluating any costs paid to an affiliate for untendered work. Some of the third parties awarded work by one distributor may well be affiliates of other distributors, or other distributors themselves.

Third, all responses to any tendering process should be maintained by the distributor for review by the Board and other parties if a review of the cost efficiency of the CDM program spending is questioned. This will ensure that all parties, including affiliates, are treated equally.

### **2.3 Co-ordination with the OPA**

LPMA submits that paragraph 2.3.1 should be added to. This paragraph would indicate that the distributor has received confirmation from the OPA that all of the CDM programs for which the distributor is seeking Board approval do not duplicate existing OPA-Contracted Province -Wide CDM Programs. The wording of paragraph 2.3.1 could be as follows:

*"Prior to applying for Board approval of any CDM programs, a distributor must review the existing OPA-Contracted Province-Wide CDM programs **and obtain written confirmation from the OPA that the CDM programs for which the distributor is seeking Board approval do not duplicate the existing OPA programs.**" (emphasis added)*

LPMA believes that this would be an efficient way for distributors, the Board and other interested stakeholders to ensure to everyone's satisfaction that the requested CDM programs are not duplicative of the OPA programs.

## **3. BOARD-APPROVED CDM PROGRAMS**

### **3.1 Requirements**

In part (e) of paragraph 3.1.4, it is proposed that the proposed CDM program must include the total projected peak demand savings (kW) and electricity savings (kWh) per year, or if the program is for less than one year, the total projected peak demand savings (kW) and electricity savings (kWh) for the duration of the program.

LPMA notes that in terms of the peak demand savings (kW), the Minister's Directive establishes a target of 1330 MW of provincial peak demand **persisting** at the end of the four-year period beginning January 1, 2011. In other words, any temporary peak demand reductions or any peak demand reductions that are only in place during the life of a CDM program should not be included in the projection. Only those reductions to the provincial peak demand that are reasonably expected to persist to the end of the four year period should be included.

Part (f) (ii) makes reference to indirect expenditures. However, this term is not defined in the Definitions section of the proposed code. Nor is it defined in Appendix A to the proposed code that deals with the fully allocated costing methodology.

LPMA suggests that the wording should be changed to replace "direct" and "indirect expenditures" with "marginal costs" and "allocable costs", both of which are defined in Appendix A to the proposed code. Part (f) (ii) would then read as follows:

"a division of program costs into marginal costs (as defined in Appendix A to this Code) and allocable costs (also as defined in Appendix A to this Code) incurred as a result of program implementation;"

This would ensure consistency throughout the Code.

### **3.3 CDM Programs for Low-Income Customers**

Paragraph 3.3.1 indicates that a distributor **may** meet a portion of its CDM targets through the delivery of CDM Programs targeted to low-income customers. LPMA notes that in the cover letter, the Board noted that it was of the view that the CDM Code could appropriately address a number of matters in related to Board-Approved CDM Programs targeted to low-income customers, but noted the then Minister of Energy and Infrastructure's September 8, 2009 letter that requested that the Board not proceed to implement new support programs for low-income energy customers in advance of a ministerial direction.

LPMA notes that the Minister of Energy and Infrastructure advised the Board by way of a letter dated July 5, 2010 that it could now resume its work in relation to low-income energy customers.

LPMA believes that a minimum the proposed code should change the word "may" to "will be required to". The Board can then address the low-income energy customer issue in more detail as it deals with low-income CDM programs.

#### **4. COST EFFECTIVENESS**

##### **4.1 Cost Effectiveness Tests**

It appears that paragraph 4.1.3 is incomplete. It ends with the word "and" at the bottom of page 10, followed by a blank area at the top of page 11.

LPMA believes that the first sentence in paragraph 4.1.4 should be amended to read:

"... the CDM programs will likely result in peak demand savings (kW) and electricity savings (kWh) *in the January 1, 2011 through December 31, 2014 period.*" (emphasis added)

This addition reaffirms that any peak demand savings (kW) and electricity savings (kWh) that are projected should be within the timeframe contemplated in the Minister's Directive.

##### **4.2 Pilot CDM Programs**

LPMA is concerned with the potential for overlapping and duplicative pilot CDM programs. The Board should maintain an inventory of all proposed and approved pilot CDM programs on its website to ensure that all distributors have access to this information in one location.

In addition, the proposed code should include working that requires distributors to share the results of the Board-Approved pilot CDM programs with other distributors, the Board

and other stakeholders. In the absence of this sharing, there would be a need for repetitive and duplicative pilot programs across the province.

In particular, paragraph 4.2.1 should be amended to add part (d) as follows:

"the distributor agrees in advance to share the results of the pilot CDM program with other distributors, the Board and other interested stakeholders as soon as the pilot program evaluation is complete."

### **4.3 Educational CDM Programs**

LPMA is concerned about the restriction implied in part (c) of paragraph 4.3.2. This part, as currently worded appears to limited the education to the specified customer type(s) (i.e. residential, commercial, institutional, industrial).

LPMA believes that in many cases, effective education is not and should not be limited to the specified customer types. Education of builders, home renovation contractors, HVAC dealers, appliance retailers, etc., could be an important part of any educational CDM program.

## **5. ACCOUNTING TREATMENT**

LPMA has two significant concerns with the accounting treatment as described in the proposed code.

First, LPMA believes that there should be a reporting requirement for distributors in relation to the earned revenues and incurred expenses related to CDM activity. In particular, LPMA believes that the distributors should be required, at a minimum, to report their earned revenues from all Board-Approved CDM programs, their earned revenues from all OPA-Contracted Province-Wide CDM Programs, their incurred expenses from all Board-Approved CDM Programs and their incurred expenses from all OPA-Contracted Province-Wide CDM Programs. This information will be invaluable when it comes time to evaluate the success, or lack thereof, of the CDM Programs.

LPMA suggests that the Annual Report would be an appropriate place for this information to be provided on an annual basis.

If this information is already captured under the current RRR reporting requirements, then LPMA suggests that it should clearly be disaggregated from the revenues and costs that are included in the distributor's distribution revenue requirement.

LPMA's second concern is with the Board-Approved CDM variance account described in paragraph 5.5. As outlined there, any difference between the funding awarded for Board-Approved CDM Programs and the actual spending incurred for these programs is tracked through the CDM variance account.

LPMA submits that the Board should cap the amount of overspending that is recoverable through the CDM variance account. The proposed code does not appear to have any limits on the amount that can be included in this account.

Specifically, LPMA submits that a cap of 15% should be used on any actual spending over and above the amount of funding awarded. This figure mirrors the current DSM variance account methodology used by the gas distributors.

In addition to the 15% cap on the funding awarded, LPMA believes this amount (i.e. up to the 15% of the funding awarded) should only be recoverable if the distributor reaches 100% of both of its CDM Targets (i.e. the distributor has achieved 100% of its electricity (kWh) target and 100% of its peak demand (kW) target).

LPMA submits that by requiring a distributor to hit 100% of both CDM Targets imposes some level of cost efficiency incentive on distributors to achieve their CDM Targets in the most cost-efficient manner available. LPMA has further comments related to the cost efficiency incentive and the recovery of costs in excess of the funding awarded through the CDM variance account in Section 7 - Performance Incentive, below.

In addition to the two concerns noted above, LPMA has the following comments on specific paragraphs in the Accounting Treatment section.

Paragraph 5.2 indicates that a distributor must use a fully allocated costing methodology for all CDM Programs and that this methodology is set out in Appendix A.

It is not clear to LPMA how or when this fully allocated costing methodology will be reviewed and tested. For example, a number of distributors will be filing 2011 cost of service applications in the next few months. It is not clear to LPMA how the distributors will be able to quantify the allocable costs (as defined in Appendix A to the Code) to be allocated to the non rate-regulated activities associated with CDM activities. In many cases, the cost of service proceeding is likely to be completed before the distributor is in a position to file its CDM Strategy and/or quantify the expenses associated with its Board-Approved and/or OPA-Contracted CDM Programs. It is not clear, therefore, how the final revenue requirement for these distributors will be determined in the absence of this information.

LPMA also notes that parties may not have the opportunity to review and test the fully allocated costing given the statement at paragraph 1.6.1 of the proposed CDM code that would allow the Board to grant approval, consent, or determination without a hearing.

LPMA submits that the Board should consider the use of a generic deferral/variance account mechanism into which to transfer some of the revenue requirement that is determined to be an allocable cost at some point in the future. If some estimate of the allocable costs is included in the finding of a revenue requirement for a distributor without the allocable costs and methodology used not being test in the cost of service rebasing application or in the approval of the CDM programs, then the variance account would be used to record any difference that may result from a review of the allocable costs and methodology at a later time.

The Board will also need to consider how to deal with these allocable costs for distributors that are under an incentive regulation mechanism.

With respect to paragraph 5.3, it is not clear to LPMA what is meant by earned revenues and incurred expenses from either Board-Approved CDM Programs or OPA-Contracted Province-Wide CDM Programs. It is assumed that the incurred expenses in both cases is the fully allocated costs referenced in paragraph 5.2, but this is unclear.

As for the earned revenues, LPMA assumes that this refers to the GAM funding received plus any incentive earned. But again, this is not totally clear.

Finally, paragraph 5.5 discusses the need and requirements for a Board-approved CDM variance account to track the spending versus the funding awarded for Board-Approved CDM Programs. However, there is no corresponding discussion in the CDM code dealing with the need for a similar variance account related to the revenues and cost incurred for all OPA-Contracted Province-Wide CDM Programs. It is not clear to LPMA how the OPA contracting process works.

LPMA believes there needs to be complete transparency in the OPA contracts awarded to distributors. For example, if a distributor incurs expenses that are lower than the funding received from the OPA in a contract, does the excess revenue flow to the distributor shareholder, or is clawed back through the OPA contract? Similarly, if the distributor incurs expenses in excess of the amount awarded in the OPA contract, is this a shareholder cost or is it recoverable through the OPA contract?

Another issue surrounding the OPA contracts is that it is assumed that there are some performance targets included in the contracts. What happens if the targets are not achieved? Is the shareholder of the distributor at risk for a claw back of some of the OPA contracted funds? Are ratepayers on the hook to pay the distributor through the GAM even though they failed to deliver the contracted savings?

Finally, it is not clear why paragraph 5.6 only references Board-Approved CDM programs when indicating that the distributor shall not be the owner or beneficiary of any Environmental Attributes that are related to or result from those CDM Programs. LPMA

would expect that the same should apply to the OPA-Contracted Province-Wide CDM Programs. Both sets of Programs are being paid through the GAM with ratepayer money. Again, this may be a situation where better understanding of the OPA contracts would assist parties.

## **6. PROGRAM EM&V**

LPMA believes that the CDM code should be amended in this area to indicate that the independent third party review should be made available for public review at the distributors office and if the distributor has a website, it should also be posted on the website. This requirement would parallel the proposed requirements for the Annual Report, as noted in paragraph 2.2.3 and that for the CDM Strategy, as noted in paragraph 2.1.4.

In addition, LPMA believes the Board should retain copies of all the third party independent reviews for each distributor in the repository on the Board's website noted above on page 3 of these comments.

## **7. PERFORMANCE INCENTIVE**

### **a) Attribution**

LPMA is concerned with the attribution of benefits as described in paragraphs 7.1.2 which is essentially the Centrality Test used by the Board for the natural gas distributors that is a reflection of the existing framework established in the 2006 generic DSM proceeding. this is discussed at pages 63 and 64 of the Concentric Energy Advisers report dated March 19, 2010 for the Ontario Energy Board titled "Review of Demand Side Management (DSAM) Framework for Natural Gas Distributors.

In that report, Concentric stated the following (at page 69):

*Concentric is concerned that the centrality principle currently used by the OEB gives too much credit to gas distributors for DSM programs. Concentric recommends that, rather than attributing 100% of the benefits to gas distributors that satisfy the centrality principle, as the default, the utilities should provide evidence supporting any percentage greater than that actually spent by the utility. Otherwise, the OEB should assign a percentage of credit to*

*the utility based on the percentage of total dollars they spent on designing, developing and delivering the joint DSM programs in question. We believe this would more equitably attribute benefits to gas distributors than under the existing DSM framework.*

In its comments on the Demand Side Management Guidelines for Natural Gas Distributors (EB-2008-0346) dated June 7, 2010, LPMA supported the Concentric recommendation related to attribution. LPMA continues to support the Concentric approach and believes the Board should adopt the same approach for electricity CDM and recommended by Concentric for gas DSM.

**b) Calculation of Performance Incentive**

LPMA regrets that the Minister's Directive requires that incentives be available to distributors for failing to meet 100% of their CDM targets. However, the Board is free to determine the level of reward available for this failure.

LPMA has reviewed the proposed calculation of the performance incentive as sent out in Appendix A. LPMA believes that the reward available for Range 1 (i.e. 80% up to 100%) should be reduced by 50% from that proposed. Similarly, a reduction of one-third from that proposed for Range 2 (100% to 110%) is recommended.

Based on the proposal in the draft code, distributors could collect \$3.591 million for reaching 100% of the peak demand (kW) target and a further \$3.600 million for reaching 100% of the electricity (kWh) target, for a total of \$7.191 million for simply doing what they are **REQUIRED** to do as part of their license conditions. This represents 10% of the total \$72 million that the Board proposed to make available to distributors for meeting 150% of their targets. LPMA believes that this is essentially a waste of ratepayer money. Spending more than \$7 million to reward the distributors for something they are required to do is foolish.

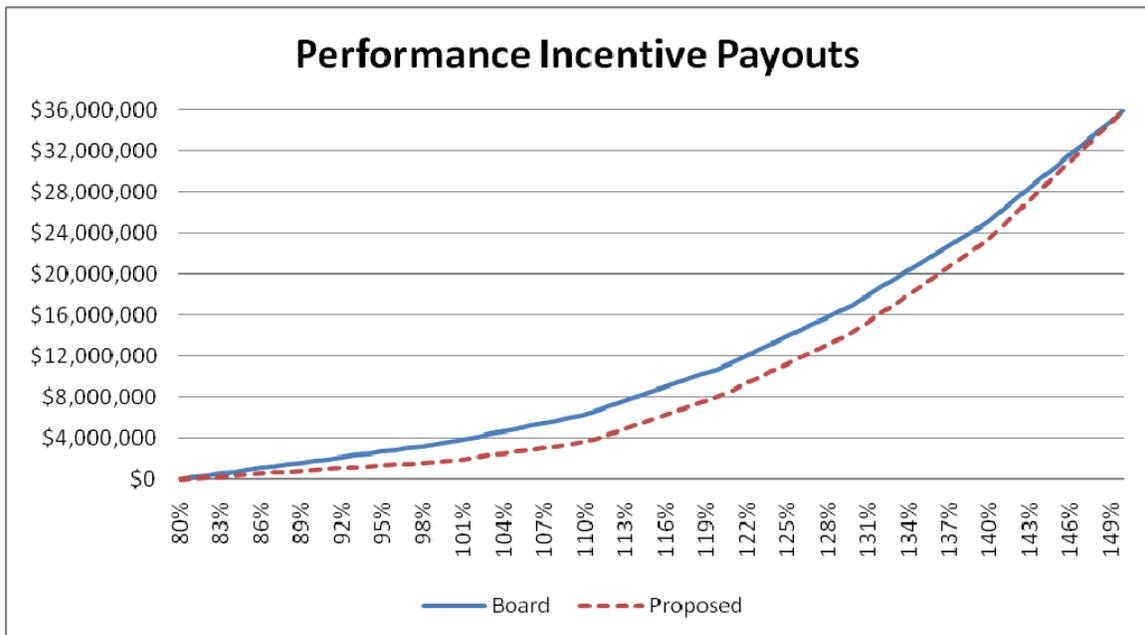
LPMA recommends that, as a minimum, the Board should cut the incentives available in Range 1 by one-half and the incentives available in Range 2 by one-third. This would reduce the incentive payable to the distributors for hitting the required 100% of the CDM

targets to approximately \$1.8 million for each of the peak demand and electricity targets, costing ratepayers a total of \$3.6 million.

To balance off these reductions in incentive payments for Ranges 1 and 2 and maintaining the total potential payout of \$36 million for achieving 150% for each of the peak demand and electricity targets requires that the incentive payments be increased for Ranges 5 and 6. The increased incentives needed in these ranges to arrive at a payout of \$36 million for 150% of the peak demand and electricity targets are shown in the table below in the section dealing with Appendix D.

LPMA believes that the higher incentives available for performance in excess of 130% of target are appropriate. At this level, it will likely be more difficult for distributors to achieve incremental reductions. A higher level of incentive should encourage additional effort.

The graph below shows the incentive curve as proposed by the Board and that proposed by LPMA. LPMA believes that the performance incentive calculation that it is proposing is better in that it reflects a lower payout at levels up to 110% and higher payouts at levels in excess of 130%.



As noted above in these comments, LPMA believes that the CDM variance account should be capped at 15% of the Board approved CDM budget. As the above curves illustrate, the growth in performance incentives accelerates at higher levels of achievement. Without a cap on the variance account, distributors have an incentive to spend as much as they can in order to climb up the incentive curve. This is because there is no cost to the distributor if they can recover all of the excess costs through the variance account. However, from a ratepayer perspective, this is not reasonable. Ratepayers end up paying the higher CDM costs recovered through the variance account and paying for the higher levels of incentive payments achieved.

### **c) Balanced Proposal**

LPMA supports the balance implied in the incentive payment calculation methodology proposed. That is, each of the six ranges requires that the threshold at which the range begins must be met before the distributor can claim the performance incentives for peak demand and electricity savings within that range.

In other words, if a distributor achieves 125% of the electricity savings target, but only 109% of its peak demand target, then it would only qualify for the performance incentives in Range 2 for **both** the electricity and peak demand targets. The distributor would not qualify for Range 2 incentives for peak demand savings and Range 4 incentives for electricity savings.

LPMA believes that this approach is appropriate in that it reflects that a balanced approach to reduced electricity consumption and reduced peak demand are required. Reduced electricity consumption in the absence of any peak demand reduction is not as desirable as is a more moderate reduction in electricity consumption accompanied by some reduction in peak demand. Similarly, a reduction in peak demand with no corresponding reduction in electricity consumption (i.e. shifting of consumption) is also not as desirable as a reduction in both electricity consumption and peak demand use.

In the view of LPMA, the Board approach of essentially determining the range for which incentives will apply by selecting the lower of the ranges for the two targets is appropriate and desirable. If a distributor has excelled in meeting one of its targets, it will be significantly incented to concentrate on improving its performance in the other target area. In the example above, by focusing more attention and resources on the peak demand target and increasing it from 109% of the target to 112% (for example), the distributor increases its performance incentive from Range 2 to Range 3 for **both** electricity consumption and peak demand reductions.

#### **d) Persistence**

The Minister's Directive clearly states that the CDM Targets established for all distributors includes 1330 megawatts (MW) of provincial peak demand **persisting** at the end of the four-year period. LPMA notes that nowhere in the draft code is there any mention of persistence related to the target reduction in the provincial peak demand.

LPMA believes that the draft code, at paragraph 7.2.1 should reference this persistence.

In particular, paragraph 7.2.1 should be amended to replace the second sentence with:

"A distributor must provide verified results for both electricity savings (kWh) and peak demand savings (kW) ***persisting at the end of the four-year period*** at the time of its application to the Board for a performance incentive."  
(emphasis added)

LPMA further believes that a definition of the phrase "persisting at the end of the four-year period" should be included in the Definitions section of the code to make it clear that temporary reductions in the peak demand do not count as part of the CDM Target and that only peak demand savings that are expected to continue and last long beyond the end of the four year period can be considered as part of the CDM Target. LPMA believes that the CDM Target related to the provincial peak demand as described in the Minister's Directive clearly contemplates a long-term reduction in the peak demand, not a temporary reduction, nor a reduction in peak demand at a given point in time.

In light of this, LPMA suggests that the following definition be added to 1.2 Defintions:

"persisting at the end of the four-year period" means continuing, lasting or persevering beyond the end of the four-year period.

#### **e) Efficiency Proposal**

In its cover letter, the Board indicated that its current incentive proposal does not include a cost efficiency element, but that the Board saw merit in providing an incentive to those distributors that achieve their CDM Target in the most cost-efficient manner.

The Board further stated that it was interested in receiving specific proposals for cost efficiency incentive structures that reward those distributors who achieve their CDM Targets by using the least amount of program funds. The Board also proposed that the total amount of dollars available through the performance incentive would remain at \$72 million, inclusive of both the savings incentive (from 80 to 150% of the CDM Targets) and the cost efficiency incentive.

Based on the constraints proposed by the Board, it would appear to LPMA that the inclusion of a cost efficiency element in the incentive proposal will require a reduction in the incentive payment to some distributors to fund the additional payment to those distributors that are rewarded for achieving their CDM Targets by using the least amount of program funds. This is because the performance incentives, assuming 150% of CDM Targets are achieved, are constrained to remain at \$72 million. In other words, even though a distributor may achieve their CDM Targets, they may lose a portion of the performance incentive to which they are otherwise entitled based on the incentive formula applied to their individual targets because other distributors met their targets and did so more cost effectively.

LPMA believes that there are two essential questions that the Board will need to address any proposals for cost efficiency incentive structures.

First, the Board will need a quantitative method to determine the level of cost efficiency across distributors. Since it may not be practical or possible to split program funds into funds used to reduce electricity consumption (kWh) versus those used to reduce peak

demand (kW) because some programs may have impacts on both targets, the Board may want to simply calculate cost efficiency in two ways: total program funds divided by kWh savings and total program funds divided by kW savings. Then, for example, only distributors that are in both the top quartile in terms of lowest program funds (costs) per kWh saved and lowest program funds (costs) per kW saved would be eligible for a cost efficiency incentive adjustment. These additional incentives would be funded by the remaining distributors that do not qualify for the cost efficiency incentive through a re-allocation of a portion of their performance incentive.

Second, the Board will need to quantify the level of the cost efficiency incentive payment to the distributors that qualify and it will need a methodology to quantify the re-allocation of the incentive payment being clawed back from the remaining distributors in order to fund the additional payment to those who qualify.

LPMA notes that at the end of the four year period, following the filing of the final Annual Report and the final third party reviewer's report on the distributor's Board approved CDM programs, the Board will be able to calculate the performance incentive for each individual distributor. For those distributors who qualify for the cost efficiency incentive, the Board could simply add a percentage onto the calculated performance incentive. For example, the Board may select a 5% increase to the performance incentive for all distributors that qualify. If a cost efficient distributor qualified for a performance incentive of \$2 million, then it would be eligible for a further \$100,000 cost efficiency incentive, for a total of \$2.1 million.

Because the distributors have significantly different CDM Targets that will result in substantially different performance incentive levels and because the distributors will end up in different Ranges for the performance incentive (as defined in Appendix D), the total amount of the cost efficiency incentive will only be calculable when all the distributors have reported and it is determined which are eligible for the cost efficiency payment and the amount for each of the eligible distributors is calculated.

This aggregated amount would then be funded by or re-allocated from the remaining distributors by calculating a percentage reduction to the incentive payment earned by the other distributors. This would simply be calculated as the total amount to be awarded for the cost efficiency payments divided by the performance incentive earned in aggregate by the distributors that did not qualify for the cost efficiency bonus.

A potential issue with this approach is that the distributors with the largest performance incentives could also be the most cost efficient distributors, resulting in large cost efficiency payment that would need to be financed by the remaining smaller distributors that have small performance incentives to begin with, which could be potentially wiped out by the need to re-allocate funds to the large cost efficient distributors.

A reversal of the approach described above could add more certainty to the level of the performance incentive removed from the underperforming distributors and transferring the uncertainty to the level of the cost efficiency incentive.

In particular, the Board could divide the distributors into three groups. The first group would be those that qualify for the cost efficiency incentive (for example, those distributors that are in the top quartile of both the cost per kWh and the cost per kW savings). The second group would be those distributors that are in the bottom quartile (defined as those distributors that are in the bottom quartile of both the cost per kWh and the cost per kW savings). The third group would be all the remaining distributors.

The second group of distributors (those least cost efficient) would have their performance incentive payment reduced by, for example, 10% from what they would otherwise be eligible to receive. The third group of distributors would have their performance incentive payment reduced by a lower percentage, for example 5%. The total reduction in the performance incentives for the second and third group of distributors would then be redistributed to the first group of distributors so that the performance incentive is increased by the same percentage across these distributors.

Under the scenario noted above as a potential issue (i.e. large cost efficient distributors financed by small less efficient distributors potentially eliminating performance incentives for these distributors), the percentage increase in the incentive to the cost efficient distributors may be small. However, by being cost efficient they guarantee that none of their performance incentive will be clawed back. In the example provided, they would maintain the 5% of the performance incentive that is clawed back from others in the third group.

LPMA believes this is a more fair approach in it that it guarantees that all distributors will maintain most of their performance incentive. The 5% for group three distributors and 10% for group two distributors are suggestions only and could easily be modified by the Board to increase or decrease the level of the cost efficiency incentive.

The Board may not want to make an explicit determination of these percentages as part of the CDM code. Rather the code could identify that some adjustment will be made in order to redistribute a portion of the performance incentive to those distributors that are found to be the most cost efficient. Hopefully this would create and encourage competition between the distributors to not only deliver significant CDM results, but to also do it in the most cost efficient manner that they can achieve.

#### **APPENDIX A - FULLY ALLOCATED COSTING METHODOLOGY**

LPMA is not clear why the definition of "Non Rate-Regulated Activities" shown in the Definitions section of Appendix A makes explicit reference to billing and collection for water and sewage, and distributor-owned generation.

LPMA is concerned that some distributors may interpret this to mean they should include the costs and revenues associated with billing and collection for water and sewage and distributor-owned generation in the fully allocated cost calculation for CDM programs or that they should not include any revenue offsets associated with billing and collection for water and sewage in the calculation of the revenue requirement in a cost of service filing.

While LPMA agrees that billing and collection for water and sewage are non rate regulated services, the net impact of providing these services (i.e. revenue offsets) are included in determining the revenue requirement in a cost of service proceeding. This was confirmed in the EB-2009-0143 Decision and Order dated April 1, 2010 for Essex Powerlines Corporation where the Board stated:

*"As a general rule, when a utility is involved in providing services to third parties, such as its affiliates, using its internal resources to support these services the margins associated with such non-utility operations are included in its revenue offsets. This approach recognizes that ratepayers should only be burdened with the recovery of the net costs of the service they receive. Therefore the Board finds that it is appropriate to include the net margin from accounts 4375 and 4380 in the calculation of its revenue offset.*

*With regard to the level of non-utility revenue, the Board acknowledges that OPA-funded CDM activities were captured in accounts 4375 and 4380. Therefore the net margin of \$32,601 should be excluded." (page 14)*

LPMA also submits that the list of marginal and allocable costs included in paragraph 2.3 should include computer hardware and software. It should be made clear to the distributors that the costs are not limited to expenses, but may also include an allocation of assets used, such as office equipment, which is listed, and computer hardware and computer software, which are not listed. The allocation of these assets could be based on IT costs, headcount, number of invoices processed or some other cost driver that reflects the use of billing systems, etc. in the delivery of CDM programs.

Paragraphs 2.5 and 2.6 should be clarified reflect that salaries and labour costs include benefits costs. While paragraph 2.5 does include 'other labour related costs', there is no corresponding reference in paragraph 2.6 related to the allocation of executive and administrative functions, legal services and financial analysis services.

## **APPENDIX B - CDM STRATEGY TEMPLATE**

No additional comments.

**APPENDIX C - ANNUAL REPORT TEMPLATE**

No additional comments.

**APPENDIX D - PERFORMANCE INCENTIVE CALCULATION**

As noted above in Section 7 Performance Incentive, LPMA recommends that the performance incentives should be reduced for both of the CDM Targets (i.e. electricity (kWh) target and peak demand (kW) target) in Range 1 and Range 2 and increased for Range 5 and Range 6. In particular, the approached recommended above and shown graphically is based on the following performance incentives (highlighted figures represent changes from those provided in Appendix D).

Performance Tiers			Performance Incentive	
Range	Range Begins	Range Ends	cents/kWh	\$/kWh
1	80%	up to 100%	<b>0.15</b>	<b>6.75</b>
2	100%	up to 110%	<b>0.30</b>	<b>13.50</b>
3	110%	up to 120%	0.75	33.75
4	120%	up to 130%	1.05	47.25
5	130%	up to 140%	<b>1.50</b>	<b>67.50</b>
6	140%	up to 150%	<b>2.10</b>	<b>94.50</b>

The above performance incentives move some of the reward away from Ranges 1 and 2 and increase the incremental incentives for achieving Range 5 and/or Range 6 performance.

Sincerely,

*Randy Aiken*

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