



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

July 21, 2010

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: OEB Proposed CDM Code for Electricity Distributors
Board File No.: EB-2010-0215
Comments of the Vulnerable Energy Consumers Coalition (VECC)

We have some comments that we hope the Board will consider in moving forward with the Code and with LEAP.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC
Encl.

Vulnerable Energy Consumers Coalition (VECC) Comments on Proposed OEB CDM Code

Part A below contains VECC's submissions relating to expansion of Code requirements for distributor-specific targeted Low Income CDM Programs.

Part B provides some General Comments on the Code from a ratepayer perspective

Part A Comments on Code Requirements related to CDM Programs for Low Income Customers

As set out in paragraph 11 of the Directive, distributors may meet a portion of their CDM Targets through the delivery of CDM Programs targeted to low-income customers. In this respect, the Board's view is that "the CDM Code could appropriately address a number of matters in relation to Board-Approved CDM Programs targeted to low-income customers. Those matters include cost effectiveness, cost(s) to the low income customer of participating in the program, coordination with social service agencies, and eligibility requirements."

However, the Board notes:

"as stakeholders are aware, by letter dated September 8, 2009, the then Minister of Energy and Infrastructure advised the Board of the government's plan to develop a province-wide integrated program for low-income energy customers. In light of these plans, the Minister requested that the Board not proceed to implement new support programs for low-income energy customers in advance of a ministerial direction".

The Board states that it "may consider the need to amend the CDM Code in the future to address any further developments in this area."

The latest communication from the Minister to the Board was on July 5, 2010. The Minister states inter alia:

I am separately sending a direction to the Ontario Power Authority ("OPA") with instructions to design, implement and fund an electricity conservation and demand management ("CDM") program for low-income residential consumers as part of its suite of OPA-Contracted Province-Wide CDM Programs for the 2011 to 2014 period.

VECC submits that whereas the OPA is tasked with developing Province-wide low income CDM programs, this leaves open the question of distributor-specific targeted Low Income programs. Other than the criteria that there should be no duplication of OPA programs, in our view, the Board, as a key component of LEAP, should encourage distributors to develop and implement complementary LI-CDM programs. The CDM code should include modifications to reflect distributor-specific rate-funded LI-CDM Programs. These should include the following elements.

- Eligibility Criteria
- Budgets-Rate funded and Total (including OPA programs)
- Targets (Combined OPA and Distributor-specific)
- Engagement of local Social Agencies
- Use of Scorecards
- Shareholder Incentives
- Measurement and Verification

Guidance on these elements can be had from the work of the LEAP Conservation Working Group.

VECC submits that while paragraph 7 of the Directive states that the Board should not approve Distributor-specific CDM programs until Province-wide programs are announced, the Board should not wait for the OPA Province-wide programs in order to amend the Code. Rather, it should make the necessary changes to the CDM Code in consultation with OPA as soon as possible. This will provide greater certainty and facilitate/accelerate development of distributor-specific LI CDM programs.

VECC notes that the Ministers' Letter of July 5 2010 provides impetus to developing gas distributor Low Income DSM programs and this will also facilitate the coordination between gas and electric CDM/DSM

We have provided our suggestions for modifications to the Code. We hope the Board will consider these and issue a modified Code for final comment in time to allow distributors to meet the November 2010 deadline for filing.

Part A (Continued)-Specific Comments/Modifications to Proposed Code to reflect requirement for distributor-specific Low Income targeted programs

Definitions

Add Definitions

VECC submits that the following definitions should be added to the Code:

Low Income CDM Program means a targeted program for low income consumers meeting Board- Approved eligibility Criteria.

Low Income Eligibility Criteria means *inter alia*, a consumer with a family income of less than 125% of the Low Income Cut Off (LICO) as defined by Statistics Canada for the area of domicile of the consumer.

2.1 CDM Strategy Requirements

ADD new paragraph d), shifting the existing paragraph d) to paragraph e):

2.1.1

d) Include distributor-specific targeted programs directed to eligible Low Income consumers: and

2.2 Annual Reports

Add new paragraph h):

2.2.5

h) For Board-approved targeted Low Income Programs include a section that includes the following

- Eligibility/Screening and Participants
- Budgets
- Kw and Kwh savings by measure
- Engagement of local Social Agencies
- Scorecard Results
- Shareholder incentive

3. Board Approved CDM Programs

Amend existing paragraphs:

3.1.4 A distributor's application for a proposed Board-Approved CDM Program, including targeted Low Income CDM programs, must include the following:

(b) a benefit-cost analysis of each program which shall be completed by using the OPA's Cost Effectiveness Tests; For targeted Low Income programs, the tests shall be modified as approved by the Board.

3.3 CDM Programs for Low-Income Customers

Amend existing paragraphs:

3.3.1 A distributor ~~may~~ shall meet a portion of its CDM Targets through the delivery of CDM Programs targeted to low-income customers. These programs are designed to be complementary to the OPA-Province wide programs.

The following supplementary requirements shall apply

- a) The Budget allocated to Low Income Programs shall be not less than 20% of the total residential budget for both OPA and distributor-specific programs
 - b) The cost-effectiveness screening criteria shall be modified as approved by the Board
 - c) Engagement of Social Agencies will be solicited
 - d) The measures shall be provided free to eligible participants
 - e) Cost effectiveness shall be measured by a Board approved scorecard
 - f) The distributors' incentive shall be based on a Scorecard as approved by the Board
 - g) A separate E&MVA will be required
4. Cost Effectiveness

4.1 Cost Effectiveness Tests

Amend existing paragraph:

4.1.3 Except for targeted Low Income CDM Programs, a distributor shall use the OPA's Measures and Assumptions Lists to conduct the cost effectiveness tests.

6.1 Independent Review

Amend existing paragraph:

6.1.1 A distributor's results for its Board-Approved CDM Programs must be evaluated through an independent third party review. The review of a distributor's results for its Board-Approved CDM Programs must be done by an independent third party selected from the OPA's third party vendor of records list. The third party reviewer must use the OPA EM&V Protocols when conducting EM&V on Board- Approved CDM Programs. E&VA of Low Income distributor specific programs should be conducted using both OPA and OEB approved protocols.

7.1 Eligible Programs

Add paragraph:

7.2.4 For Low Income distributor-specific programs the incentive shall be based on the scorecard approved by the Board at the time of program approval.

Part B General Comments on the Code - Ratepayer Perspective

2. CDM STRATEGY AND ANNUAL REPORTS

Section 2.2.3 Annual Reports

In VECCs view, Annual Reports should include a list of major contracts and associated costs for operation of the CDM programs, including both contracts with identified affiliates and third parties.

Distributors should also be required, at a minimum, in the Annual Report to list all revenues and expenses from all Board-Approved CDM programs, OPA-Contracted and Province-Wide CDM Programs.

Paragraph 2.2.3 should be amended to require the Board to make the Annual Reports for all Electricity distributors available on the Board's website.

4. COST EFFECTIVENESS

4.1 Cost Effectiveness Tests

It appears that paragraph 4.1.3 is incomplete.

5. ACCOUNTING TREATMENT

5.5 A distributor shall track spending for its Board-Approved CDM Programs in a Board-approved CDM variance account, which will be used to record the difference between the funding awarded for Board-Approved CDM Programs and the actual spending incurred for these programs. The disposition of the balance in this account

shall be made at the time specified by the Board and in the manner specified by the Board.

VECC submits that as is the case for gas utilities, the Board should cap the amount of overspending that is recoverable through the CDM variance account. In our view 10-15 % would be reasonable.

7. Performance Incentive

7.2.3 A distributor's performance incentive shall be calculated across the distributor's entire portfolio of Board-Approved CDM Programs and OPA-Contracted Province-Wide CDM Programs. A distributor's performance incentive shall be calculated in the manner set out in Appendix D.

VECC finds the performance incentive for just achieving targets are too rich and recommends that the performance incentives should be reduced for both (kWh) peak demand (kW) targets in Ranges 1 and 2 and increased for ranges 5 and 6.