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BY EMAIL and RESS

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Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2010-0216 – Electricity CDM Targets

We are counsel for the School Energy Coalition. This letter constitutes SEC's comments on the Board's June 22, 2010 letter describing a methodology for developing individual LDC targets for CDM, as proposed by OPA, and listing the OPA's resulting LDC-specific targets .

Introduction

School boards are partners with electricity distributors in conservation and demand management initiatives, and expect to continue and expand that relationship into the future. The work of some LDCs, who have most quickly embraced the conservation culture, has already been of great assistance to school boards in developing and implementing CDM activities that reduce energy costs for schools and provide an example and learning opportunity for school children. We are therefore strong supporters of the increasing role of LDCs in CDM, as exemplified by the Minister's Directive.

Against that background, schools are conscious that the establishment of LDC-specific CDM targets is a double-edged sword. On the one hand, it will be a licence condition,

so from the LDC's point of view a lower target may be better, i.e. easier to achieve the condition. On the other hand, a higher target inevitably means that the utility will have access to greater resources – whether money, people, or otherwise – to achieve that more challenging goal. Further, different utilities will see this tension of opportunity vs. risk in different ways, some seeing the glass half-full and others seeing it half-empty.

From the ratepayer's perspective, it is in our interests to see utilities motivated to reach the highest targets they can reasonably achieve, and to have access to the resources they need to do so. Conversely, it is contrary to our interests as ratepayers if LDCs see the targets they must meet as being unfair or an unreasonable burden.

Specific Comments

These principles, then, are the context against which we have the following comments on the OPA's methodology, and the resulting targets:

1. ***Empirical Basis of Allocation.*** Subject to a number of our comments below, it appears to us to be appropriate to allocate the overall province-wide targets on an empirical basis, rather than through a more subjective process. We believe that some adjustments to the allocation formula may be appropriate, but the basic concept appears sound.
2. ***Impact of Past Success.*** The issue of most concern to us is the assumption in the formula that all LDCs are starting from the same position. What has transpired over the last several years, even prior to the third tranche spending, but certainly accelerating at that time, is that some utilities have entrenched CDM as an important local and corporate goal, while others have done what they feel is expected of them (sometimes less), with still other utilities at various states in between.

We believe that in using a province-wide load or demand figure as the basis for the allocation, the OPA is implicitly ignoring the fact that some LDCs have been much more aggressive than others to date. The effect of this on the early adopters is that they have much less low-hanging fruit available to them, since they have been more diligent in harvesting it already. In effect, the OPA's proposal penalizes the early adopters for their past success.

The solution is not, in our view, to provide credit towards achievement of targets for programs initiated in past years. Instead, we believe the Board should consider setting the targets in a manner that takes past success into account.

While there are a number of ways of doing this, one possible way is what is referred to in legal terms as "hotchpot". The total to be allocated is assumed to include all of the past success over the, say, 2005 to 2009 period. The allocation is then done

using the appropriate formula (which could be share of load or demand), but then from the gross allocation to an individual LDC is deducted their success to date, to get their net allocation going forward.

An example may help. The net peak demand target is 1330 MW. Assume for the example that from 2005 through 2009 distributor CDM programs have already reduced peak demand by 2000 MW. The gross target is therefore 3330 MW. On the basis of share of province-wide demand, LDC A should meet 10% of the target, so that LDC's gross target is 333 MW. However, LDC A, an early adopter, has already achieved 240 MW of peak demand reduction in 2005-2009. Therefore, it has a net target going forward of 93 MW. On the other hand, LDC B should also meet 10% of the target, but has only achieved 120 MW of peak demand reduction to date. Its net target going forward would be 213 MW. Mathematically, the total allocation must be the same as using the OPA approach, but the individual allocations will be affected by success to date.

This approach, or variations on it, would in our view be fairer to those LDCs who have already been successful in CDM, and would send a message to all LDCs promoting the early and enthusiastic adoption of government and Board policies. We note that concern over setting the bar too low for those who have already shown their ability to do this well would, in our view, be ill-founded. Those early adopter LDCs didn't need a licence condition before to do this well, and they will likely approach their new target as simply a floor on which to build much higher results.

What a revised allocation approach would avoid is the ironic result that those actually contributing the most to the province's CDM targets might be found to be in breach of their licence for not being good enough at CDM.

- 3. Residential vs. Non-residential.** The split in Gwhrs. between residential and non-residential ratepayers creates big differences in overall energy targets between various LDCs. While it is not clear from the OPA's Advice why the figures of 1150 Gwhrs for residential and 4850 Gwhrs. for non-residential were used, we assume that they are an accurate reflection of the government's goal.

What OPA has proposed is that the residential and non-residential consumption percentages for each utility be aggregated to get a single Gwhrs target for the LDC. In our view, it would be worthwhile for the Board to consider splitting the target between a residential target and a non-residential target for each LDC. In so doing, the Board would more accurately reflect the OPA's proposed formula, and would likely lead to a higher overall net savings in the period.

We believe that a two-part target is consistent with the Minister's Directive, and flows naturally from the approach proposed by the OPA.

4. **Top Ten Peak Hours.** The OPA has proposed that peak demand be measured using the top ten peak hours in the summer. There are a number of technical aspects of that proposal that have been commented on by LDCs, but our concern is whether this can achieve the government's overall goal. While in general we support this approach, it is not clear to us that measuring 1330 MW of peak demand reductions as if there were actually ten peaks will produce a net 1330 MW of demand reduction at the province's actual peak in the year.

Based on the information currently available, it may not be possible for the Board to change this at this time. However, we believe that further study may be warranted, to determine whether achievement of a given peak demand target province-wide may require allocation to LDCs of a higher number of peak demand MWs using the ten hours method. For example, to achieve 1330 MW at peak, it may be necessary to allocate 110% of that, or 1463 MW, to LDCs measured using the top ten peak hours.

5. **Winter Peaking LDCs.** The submissions of North Bay Hydro raise an important question about fairness to winter peaking LDCs. The practical reality is that summer peaking utilities can and do implement summer programs that target both Gwhrs and peak demand, and many will get this dual benefit from their programs. For a winter peaking utility, separate programs must target Gwhrs (which will largely be achieved in the winter), and peak (which must be achieved in the summer). It appears to us that achieving the Board's targets will thus be more difficult for winter peaking utilities.

If this is in fact the case, we believe the Board may wish to consider making a small adjustment to the peak demand allocations, for example by taking 10% of the total province-wide target and allocating it only to summer peaking utilities, with the remaining 90% being allocated to all utilities.

6. **Customer Growth and Other Economic Factors.** The OPA's material accepts the reality that economic factors, in particular customer growth, can have a significant impact on the available CDM in a utility's franchise area. There is little doubt that achieving CDM targets in Bluewater, for example, will likely be more difficult than in a high growth area like Halton Hills or Milton. The simplicity of the province-wide consumption and demand percentages has a flip side, i.e. they take a snapshot and don't reflect the dynamics and momentum of each area.

It may not be practical to implement a customer growth factor or similar adjustment to the allocation formula at this time. However, whether now or for the future, we believe that the Board should consider whether customer growth rates should be taken into account in establishing the CDM licence conditions.

7. **Data Updates.** The Board has specifically asked about the use of up to date data. We agree with a number of other parties that the data on which the formula is based should be the most recent data available. Further, as we note below, if the target allocation is more dynamic, further data updates may assist the Board in keeping the targets optimized.
8. **Multi-year Targets/Inflexibility.** Our final concern is that setting once and for all multi-year targets may be too inflexible for the very changeable electricity landscape in this province.

The Minister's Directive clearly requires that targets be established relating to a four year period commencing January 1, 2011. However, it does not appear to us that the Directive requires those targets to remain static. At any given time, the overall target for the period must still be 6000 Gwhrs and 1330 MW, but our read of the Directive is that the Board could alter the allocation between LDCs during the period at any time and from time to time when it is appropriate.

This stands to reason. There will be, for example, mergers and acquisitions that change who the players are, and thus change the targets in licences. There will be circumstances in which distributors, for force majeure reasons, simply cannot achieve their licence conditions on CDM.

The fact is that many things can happen in four years, and in our view it is in the public interest for the Board's establishment of CDM targets to remain flexible during that period. Without significantly undermining the certainty that utilities would prefer, we believe that the Board can make the target-setting process more dynamic by providing that there will be an annual adjustment of the targets during the four year period.

We see three main benefits of doing so. First, as the shares of individual LDCs in the province-wide load or peak demand change, those can be reflected in more up to date targets. This would in part address the different growth rates between utilities. Second, as the Board gathers information on how the targets can be optimized (e.g. how to achieve the actual peak reduction, as noted earlier), that information can be used to adjust the targets. Third, if the sustained economic downturn approach used by OPA in proposing the overall targets proves to be too pessimistic, an annual re-set would make it easier to implement government-initiated increases in the province-wide targets.

For these reasons, we believe it would be beneficial for the Board to establish a process to review the targets annually and ensure that they are kept at the most effective levels to achieve provincial CDM goals.

Conclusion

We thank the Board for the opportunity to provide input on these matters, and we hope that input is of assistance.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.



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cc: Wayne McNally, SEC (email)
Interested parties (email)