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VIA MAIL AND EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
26th Floor
2300 Yonge Street
Toronto, ON
M4P 1E4

Dear Ms. Walli:

**Re: Conservation and Demand Management (CDM) Guidelines for
Electricity Distributors (EB-2012-0003)**

Vulnerable Energy Consumers Coalition (VECC) - Comments

We are writing, per the Board's Letter of January 5th, to provide VECC's comments on the Board's recently developed CDM Guidelines. The comments are organized according to the sections of the Guidelines with particular focus on the LRAM section.

Section 1.0 - Overview

Relationship to 2008 CDM Guidelines

The very last page of the proposed Guidelines includes the following sentence – "All other aspects of the 2008 CDM Guidelines (i.e., except for LRAM and SSM calculations for CDM programs delivered before 2011) are superseded by this document and the CDM Code". In VECC's view this statement provides key context for the new Guidelines and should be included/repeated at the start of the document so that it is not overlooked by Distributors.

VECC notes that the proposed guidelines do not address the Shared Savings Mechanism (SSM) calculations for CDM programs delivered after January 1,

2011. VECC presumes that this exclusion is based on the view that all such CDM programs will be funded by either the OPA or through the Global Adjustment (as opposed to distribution rates) and therefore (in accordance with the 2008 Guidelines) not be eligible for SSM. If this assumption is not correct and an SSM for other programs (excluding TOU pricing) is available, then VECC would have comments on the structure, assumptions and calculation methodology.

Section 2 – Timeframe

Scope

It is important to note (and clarify) that the Guidelines apply not only to programs initiated in the years 2011-2014 but also to ongoing effects during 2011-2014 of programs implemented prior to January 1, 2011.

Section 3 – CDM Targets

Time of Use Pricing

The Guidelines state that the implementation of TOU Pricing will be considered a Board-Approved CDM program. It is also noted that the implementation of TOU pricing is funded through distribution rates. Based simply on these two points, one could speculate that TOU Pricing would be eligible for SSM. However, in VECC's view an SSM request for TOU Pricing is not appropriate as it is a mandatory program. Furthermore, VECC considers the last sentence in third paragraph of this section as precluding any additional funding to utilities for TOU pricing through the SSM.

Pre-2011 OPA-Contracted Province-Wide CDM Programs

VECC agrees with the proposed treatment of these programs to the extent they led to new program activity in 2011. However, VECC also notes that the savings from such (2010) programs would only eligible for an LRAM starting in 2011.

Section 13 – Lost Revenue Adjustment Mechanism (LRAM)

Symmetrical LRAM (page 8)

VECC agrees with the principle that the LRAM should be symmetrical. LRAM is meant to capture “unforecasted” CDM results which can either higher or lower than expected. The principle of the LRAM is to ensure that electricity distributors are not negatively impacted by their CDM activities. However, it should also ensure that they are not inappropriately compensated for lost revenues attributed to CDM that did not actually occur.

LRAM Calculation History/Practice

The proposed Guidelines note that the energy savings are to be valued using the distributor's Board-approved variable distribution charge for the applicable rate class. The 2008 Guidelines specifically mention the fact that the variable charges used should not include any Regulatory Asset Recovery rate riders and to-date this has been the standard practice. One issue that VECC has noted with past claims is that for programs applicable to the demand billed GS>50 and Large Use classes the rates used have often not been reduced by the transformer ownership allowance and, as a result, over state the lost revenue from these classes. It would be useful if the 2011-2014 Guidelines included a reminder regarding this issue.

Another issue regarding the current practice with respect to LRAM calculations is the use of the OPA's reports. Typically the OPA's reports are based on the "annual" savings per unit (i.e., savings assuming the measure is in place for the entire year). However, programs are not implemented on January 1st and savings in the year of implementation will be less than the full "annualized" value. Adjustments for this fact are frequently not made by distributors (or their consultants) when calculating LRAM claims. Again, it would be useful if the new Guidelines highlighted the need to recognize this issue.

One final issue worth noting is that the verified results produced by the OPA are expressed in terms of kWh and kW peak reduction. For energy billed customer classes the kWh can be viewed as being equivalent to the loss in billed kWh. However, in the case of demand billed customers the peak kW reduction is not equivalent to the loss in billed kW. Furthermore, the peak reduction can not be translated into a billed kW reduction simply by multiplying by 12, since some CDM programs focus strictly on summer peak and others only on summer peak during extreme weather conditions. The Board should require distributors to clearly document how they have translated peak kW CDM savings into billing kW reductions.

LRAM Claims for Pre-2011 CDM Programs

The proposed Guidelines state (page 11) that for CDM programs delivered prior to 2011 distributors should continue to follow the 2008 CDM Guidelines.

It would be helpful if the Board were to clarify (perhaps in an Appendix) its expectation regarding LRAM claims for CDM programs delivered prior to 2011. With the 2012 Rate Application process, distributors will have completed their outstanding claims regarding the impact of pre-2011 CDM programs for the years up to and including 2010 (per the Board's June 22, 2011 Filing Guidelines). It is

VECC's understanding (based on the 2008 Guidelines and recent Decisions regarding Whitby's, Hydro Ottawa's and Hydro One Brampton's 2012 rates) that:

- Distributors will be eligible for an LRAM for verified CDM savings related to pre-2011 programs implemented since the last rebasing year and up to the year prior to rebasing in the 2011-2014 period.
- Distributors will generally not be eligible for the impacts of CDM programs implemented prior to or in its last (pre-2011) rebasing year, as these impacts are assumed to be captured in its last rebasing load forecast. (Note: There may be exceptions to this if distributors can clearly demonstrate that the impacts of such programs were not included in their rebasing load forecast)
- The load forecast for the 2011-2014 rebasing year is assumed to capture all of the CDM program activity undertaken in earlier years. As a result, distributors will not be eligible for any pre-2011 CDM program impacts once the 2011-2014 period rebasing has occurred as these are all assumed to be captured in this new load forecast.

For example, if the distributor rebased in 2009 and its first rebasing in the 2011-2014 period occurs in 2013 then it will be eligible to claim the effects of its pre-2011 CDM programs implemented since its last rebasing year (i.e. its 2010 programs) for the period January 1st 2011 up to April 30th 2012, assuming May 1st 2013 is the start of the rate year.

Timing of the Application

One issue of note is that the OPA's Verification Reports are based on calendar year results, while some distributors with a May 1st rate year base their LRAM calculations on the rate year and not the calendar year. The Board may wish to consider whether or not LRAM claims should be standardized and based on calendar years only.

In addition, the timing of such OPA reports has resulted in many LRAM claims for the impact of 2010 CDM programs on 2010 revenues being initially made based on preliminary OPA results and requiring last minute updates in both IRM applications and COS rate cases. VECC does not have a particular solution to propose but notes that this is not an efficient use of resources for utilities, intervenors or the Board.

1. A related issue of note is the recent practice for distributors to make LRAM claims for the ongoing effect of programs in periods where the final OPA Verification Reports for that year are not yet available (e.g. the impact of 2010 programs in 2011 and up to April 1, 2012 as part of their 2012 Application). The current 2008 Guidelines state that "When applying for LRAM, a distributor should ensure that sufficient time has passed to ensure that the information needed to support the application is available." (page 19). The Guidelines also state (page 18) that "LRAM is a retrospective adjustment". Based on these statements it is VECC's view

that LRAM applications should only be made for past periods and where the information to support the claim is available. The Board may wish to clarify this point in the proposed Guidelines.

Program Result Verification

VECC notes that while the Board Accepts OPA verified Results for LRAM claims for OPA programs, it currently requires Third Party Verification for all non OPA programs. If the Board approves such programs in future, this requirement should continue. However VECC believes its experience over the last 5 years clearly indicates a different approach is required.

VECC suggests that the Board retain an independent consultant (or if volume warrants consultants) to receive and validate LRAM claims on behalf of Board Staff. The Verification Report would be available to both utility and intervenors and questions to the Auditor would be part of the hearing process.

This proposal is designed to address the extreme variability of the quality of Third Party Audit Reports when auditors were retained by the utilities. It is not practical to mirror the gas utility practice of auditors being hired by consensus of an Audit and Evaluation Committee of utilities and ratepayers.

If an SSM were available, then the scope of audit/verification would be broadened.

LRAM Variance Account

The proposed Guidelines call for the establishment of an LRAM variance account (LRAMVA) to capture (by customer class) the difference between the actual verified impacts of authorized CDM activities undertaken between 2011-2014 and the level of CDM program activity included in the distributor's load forecast and rates.

Consistent with the establishment of an LRAMVA, the Guidelines set out the "expectation" that distributors will include a CDM component in the load forecast undertaken for rebasing during 2011-2014. The proposed Guidelines also address (page 10) the situation where the distributor has not included CDM impacts in its load forecast.

VECC notes that for distributors who rebased in 2011 most of the approved load forecasts explicitly recognized the impact of 2011 CDM programs. However, particularly where the Load Forecast as a "settled issue", there were cases where no explicit details are available regarding the specific level of 2011 CDM activity incorporated in the forecast (e.g. Brant County Power Inc., EB-2010-0125). There were also 2011 rate cases where the load forecast did not include an explicit acknowledgement of 2011 CDM programs (e.g., Kingston Hydro, EB-

2010-0136) but the program impacts were deemed to be reflected in the load forecast models and, hence, the results. In both instances VECC recommends that, in the absence of a clear forecast of 2012 CDM impacts, there should be no true-up of the 2011 program results, either for 2011 or subsequent years. VECC notes that such an approach is consistent with the Board's recent decision (EB-2011-0206) regarding Whitby Hydro's 2012 rates.

VECC agrees with the requirement that the impact of the CDM programs should be calculated on a monthly basis. As noted above, in the first year of implementation this will involve more than simply dividing the verified annual savings by 12, as CDM programs are implemented during and not at the start of the year. Also, even afterwards, the monthly savings will vary for programs that are associated with space conditioning or peak demand management.

Finally, VECC notes that, to date, CDM load forecast impacts have typically been expressed in terms of kWhs and, for demand billed classes, will need to be translated into billing kW impacts for purposes of the LRAMVA. Distributors should be required to demonstrate how, for demand billed customers, both the billing demand impacts of their actual CDM programs (as distinct from the OPA's calculation of peak demand impacts) as well as the billing kW impact of the CDM level embedded in rates was calculated.

Thank you for the opportunity to comment. If any clarification is required regarding the comments please contact Bill Harper (416-348-0193, bharper@econalysis.ca), Roger Higgin (416 391-0738, spainc@rogers.com) or myself (416-767-1666, mbuonaguro@piac.ca).

Yours truly,



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