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VIA MAIL and E-MAIL

Ms. Kirsten Walli
Board Secretary
P.O. Box 2319
2300 Yonge St.
Toronto, ON
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Dear Ms. Walli

Re: Consultation on the Development of Demand Side Management Guidelines for Natural Gas Distributors
Board File No.: EB-2008-0346

Please find enclosed the comments of the Vulnerable Energy Consumers Coalition (VECC) in the above-noted proceeding.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC
Encl.

BOARD STAFF DISCUSSION PAPER
DRAFT DEMAND SIDE MANAGEMENT GUIDELINES FOR NATURAL GAS DISTRIBUTORS

Comments of the Vulnerable Energy Consumers Coalition (VECC)

Introduction

VECC represents vulnerable consumers who by virtue of disposable income, domicile, age and language are less able to access and pay for demand side management programs in order to reduce their growing utility bills and/or improve their home comfort and lifestyle.

Collectively these “vulnerable” customers are often referred to as “Low Income” a term that certainly characterizes the largest group of vulnerable consumers. However the demographic profile is broader and encompasses important groups such as Senior Citizens.

Overview of comments

VECC considers the Board staff discussion paper and it’s Appended Guidelines as addressing the *framework* for Gas Utility DSM in Ontario beyond the period covered by the current three year DSM plans of Union Gas and Enbridge Gas Distribution.
As such, the details of the programs including Targets, Budgets and Financial matters are to be addressed in Rates cases.

This is critical to VECC and its constituency since the Board has still to issue its Report on EB-2008-0150 Low Income Consultation and the Board’s Findings on the recommendations made by participants in that proceeding; accordingly any such findings cannot have been reflected in the Board Staff Discussion paper.

Accordingly there is a significant issue of when and how the Board’s recommendations flowing from the Low Income consultation will be translated into changes to the DSM Framework and reflected in the Programs, Targets and Budgets of Union and Enbridge.

VECC has comments on the following topics as addressed in the Paper and Guidelines.

- Application of the Guidelines
- Green Energy Act
- Use of the TRC Test
- Adjustments to the TRC for LRAM/SSM determination
- Incentives

Application of the Guidelines

The Guidelines should strike a balance between providing certainty to the utilities regarding the policy and practices that apply to Gas DSM under the jurisdiction of the OEB and the dynamic and changing landscape with respect to Energy Efficiency in North America, Canada and Ontario. As new policy and program initiatives emerge the framework and guidelines must adapt.

Of particular importance to VECC is that as initiatives targeted at vulnerable energy consumers and the housing sectors that service them are brought forward, the framework targets and the programs must adapt without undue delay.

That has not happened at the OPA where progress towards development and implementation of targeted programs for the low income and seniors housing sector has been, in VECC's submission, painfully slow.

Green Energy Act

It is expected that the Ontario Green Energy Act will be introduced in the Provincial Legislature by the end of February 2009.

It is widely expected that among other things the Act will call for a significant increase in public sector funding and indirect (tax) incentives for Conservation/Energy Efficiency.

Whether the Act will also call for the private sector to invest more in Energy Efficiency, remains to be seen. Enbridge and Union Gas are private Companies who although subject to regulation of rates by the Board, do not have to respond to government policy to the same extent as the public sector.

It is also possible that in addition to the current players in the funding and/or delivery of Conservation/EE programs, new players such as Municipalities, whether directly or through their utility ownership, will be encouraged to enter the field in order to stimulate local economies and create jobs.

This makes the role and focus of Gas DSM even less clear/defined than at present.

Accordingly, the Board should <u>not</u> endorse a broad new multiyear Gas DSM Program and initiatives in such an uncertain environment. The potential for moving in the wrong direction, duplication and overlap resulting in wasted ratepayer money is just too great.

VECC suggests that the appropriate balance for Budgets is to move to a series of limited time offers for the majority of mass market prescriptive measures and to custom industrial projects that can be planned, executed and completed within two budget cycles.

The exception to this "go short approach" would be longer term initiatives based on partnerships developed with housing providers such as Social Housing Agencies and Property Owners that require a sustainable source of cofounding.

Use of the TRC Test

VECC has consistently expressed concerns that for Residential Sector markets, the TRC Test drives the Gas Utilities toward DSM measures with low up-front investment and away from higher cost measures with longer term but sustainable benefits.

Accordingly "Low Income" targeted measures such as weatherization, replacement of low efficiency furnaces and water heaters in low rise housing are not utility DSM managers' favorites. The bang for the buck in terms of leverage and net TRC (and therefore SSM) is seen to be lower than other measures.

It is precisely these "Deeper Measures" that are required by "Low Income" householders and their housing providers. The measures can also be made affordable to customers and landowners by rentals or payment plans on the utility bill, financed by the utility or other service provider partners.

VECC offered the Board staff for their consideration, the Low Income Public Purpose Test (LIPPT) as an alternative, but this has been given scant consideration in the paper. VECC hopes that is because the Staff are awaiting the Board's Report from Low Income Consultation and will then examine the benefits of either the LIPPT or a "Scorecard" approach.

Adjustments to the TRC for LRAM/SSM determination

The Gas Utilities DSM managers are compensated in part by performance bonuses that are geared to maximizing the Net TRC and hence the LRAM and SSM from their DSM Program Portfolios. While incenting DSM program managers to drive for the most savings is laudable, the downside is that they are consistently trying to get credit for claimed DSM savings that may be due to other factors while ignoring "false positives" that reduce effective savings.

Hence the endless debates over

- Free-ridership
- Attribution-Centrality
- Spillover

While on the other hand minimizing such factors as

- Partial effectiveness
- Inventory

The Board staff paper makes comments on attribution and spillover, but not on the other factors that affect actual DSM savings. This is an omission. Guidance should be provided on the other positive and negative factors affecting savings and Net TRC, so that independent auditors know what to look for and to apply the appropriate level of professional judgment.

Incentives

Current incentives for Gas Utility DSM and Electric Utility DSM are simply too high.
VECC has consistently argued that no incentives are necessary, since even investor owned utilities, are fully compensated for prudently incurred costs of running DSM programs and for the Loss of load through the Lost Revenue Adjustment Mechanism. In addition if incentives are to be provided these should be commensurate with the relative risks of DSM programs and Utility operations.

Over the years, with use of regulatory mechanisms such as Deferral Accounts and with the experience in DSM programs, risks to the utility shareholder have decreased since the pioneering days of 10 years ago.

The current SSM has resulted in returns on the capital deployed that are way above the allowed return on utility assets of 6-7% and shareholder's equity of 8-9%.

The goal should be for the utility to be neutral as to whether it invests in gas distribution assets or energy efficiency to reduce the need for new infrastructure to serve the customer base.

The current Incentives do not achieve this goal and by increasing the costs to ratepayers failed in the primary goal of DSM to benefit ratepayers.

Other Matters

Communications

The current communications between the utilities and the stakeholders is not working.

In conducting its DSM programs the utilities are undertaking Board sanctioned non-core activities with special funding provided by ratepayers.

A simple analogy is a charitable organization with a Board of Directors from its stakeholders.

The staff develops and brings forward plans to spend the funding provided by its members and are responsible for executing and reporting the results. An Audit committee is appointed to work with independent auditors under as part of a value for money/financial audit.

Communications with the stakeholders is required at critical points in the planning, execution and reporting/audit cycle. The audit committee has narrow but important duties. Staff also consult a sub- Board level with sector representatives on priorities and improving delivery and effectiveness.

Union and Enbridge need to rethink their communications Interface with Stakeholders and should be directed by the Board to do this in a timely way prior to the next DSM Planning Cycle

Attachment: Specific Comments on Guidelines by Section

By way of exception, the draft Guidelines propose changes in the following areas:

- Development of inputs and assumptions (section 2.3)
- Adjustment factors in the Total Resource Cost test for assessing DSM programs:

- Spillover effects (section 2.5.2)
- Persistence of savings (section 2.5.3)
- Development of DSM budgets and targets (section 3.0)
  - Low-income customer programs
- Incentive payment mechanisms (section 5.0)
  - Shared savings mechanism for resource acquisition programs
  - Market transformation incentive
  - Low income customer programs Incentive
- Program evaluation and audit (section 6.0)
- Annual reporting guidelines (section 9.0)
- Filing guidelines (section 10.0)

For symmetry, the draft Guidelines incorporate elements of the "Guidelines for Electricity Distributor Conservation and Demand Management" issued by the Board in 2008 (EB-2008-0037).

Section 2.3

> "Distributors may use other data where appropriate and justified. However, where a distributor uses other data the distributor should provide detailed evidence to justify its use."[i]

This requirement is *post facto* and should be changed.

In order to use a new/modified assumption research is required. The results of this research should be provided to the EAC and to Board staff as soon as available. Any dispute should be resolved up front not at the audit point or in a rates case. The onus is on the utility to get buy in for its proposed new changed assumptions up front.

Section 2.4.1

> "Equipment that requires O&M expenditures is often not incremental (i.e., those costs would have been incurred in the base case anyway). However, if the energy efficient equipment requires significantly more maintenance than its less energy efficient counterpart, the incremental O&M costs need to be factored into the TRC analysis. There will be exceptions and a proper TRC analysis should incorporate these."

The Guidelines fail to address ***Inventory***.

Inventory relates to equipment purchased (or given free) but not installed. Particularly for Mass Market measures such as showerheads, aerators, pipe wrap programmable thermostats and CFLs, follow up studies have shown this as a problem and as much as 5-10% of such equipment is sitting in the householders' cupboard. This is <u>not</u> covered in "free-ridership[ii], however it is nonetheless real and requires adjustment to TRC especially given the large numbers of such units and their large contribution to overall claimed savings and TRC.

The problem does not exist to a significant degree for Low Income programs, since installation is done by utility contractors and most measures are in place for a considerable period with only a few being removed (persistence issue).

2.5.2 Attribution

> "In order for the distributor to claim 100% attribution of benefits, the distributor should demonstrate that its role was 'central' to the program. The centrality principle as expressed by the Board in proceeding EB-2005-0001 dictates that the distributor plays a central role if the distributor initiated the partnership, initiated the program, funded the program, or implemented the program. Centrality is established by the distributor if its financial contribution is greater than 50% of program funding or, where the distributor's financial contribution is less than 50% of program funding, "

VECC agrees with the **quantitative** provisions related to the source of funding, but disagrees with the latitude provided with regard to non-quantitative support for centrality and attribution.

"Follow the money" is a simple and sound principle. Ratepayers provide the money so the benefit for TRC and LRAM/SSM calculations should be proportional to the money provided by gas ratepayers, not other utility ratepayers or government or private corporations. If a gas distributor administers a program, the costs are recovered from ratepayers in any event.

Accordingly Guidelines should be amended to provide no discretion with regard to non-quantitative attribution, the benefits claimed by the distributor should be proportional to the funding provided by the utility out of its ratepayer financed DSM budget.

2.5.3 Spillover (New)

VECC believes that the Spillover issue is a "can of worms".

Who influences a householder to purchase and install an energy efficient measure is fraught with difficulty, given the plethora of parties involved. The Board Guidelines should mention collateral benefits, but the Guidelines should close the door firmly on all attempts by Union and Enbridge to inflate savings, net TRC and LRAM/SSM rewards for such benefits. Ratepayers are already paying too much in rewards; this will just exacerbate the situation

2.5.4 Persistence (Changes Proposed)

> "As distributors have increased their experience in developing and evaluating DSM programs, there is a need for more thorough consideration of long-term retention, technical degradation, and persistence of savings in particular for programs with significant budgets and savings. Distributors will be expected to address persistence of savings in their next generation DSM plans and evaluations of programs."

VECC agrees with the principles behind adjustment to TRC for persistence. However it introduces a new level of complexity and costs that may not be warranted.

For most mass Market measures studies by agencies such as IEA and CPUC and closer to home OPA have determined persistence is a factor and have some general approaches that can be applied to adjust individual measure savings. For example major adjustments to lifetime of screw in CFl have recently made by OPA.

VECC suggests that the TRC Guide incorporate Persistence adjustments for all mass market measures based on best available data, rather than as suggested in Section 2.5.4 leaving this to Union and Enbridge.

2.6 Fuel Switching

> "Fuel switching to natural gas is not a DSM activity and DSM funds should not be used for this purpose."

VECC disagrees in the context of Low Income programs. Switching to natural gas for space heating and water heating is a viable and beneficial energy Conservation measure that benefits a householder just as much replacing standard efficiency furnaces does for an existing gas customer.
Manitoba has approved fuel switching as an eligible measure, as has Quebec.

3.1 Budget Determination
VECC agrees with the identification of the Low Income segment but notes that other target groups subject to energy poverty must be read into the definition of Low Income.

Importantly, the existing proportionality principle that establishes the "floor" for low income budgets should be set out in the Guidelines.

"The budgets allocated to "low Income" DSM programs should *as a minimum* be in proportion to the number of Low Income customers and their housing providers in the rate class."

3.2 Budget Term and Reporting

> "There are benefits associated with multi-year funding for ongoing programs. Multi-year funding supports better planning and management and facilitates the utilities' entering into of partnerships with other delivery agents. Distributors may therefore apply to the Board for multi-year DSM funding. The term of the DSM budget will be the subject of a rate proceeding where distributors and stakeholders will have the opportunity to provide their views to the Board."

VECC disagrees in that the time is not appropriate to approve multi-year budgets for reasons outlined in our Comments on the Staff discussion Paper. In those comments VECC suggested a "Go Short approach" involving short term mass market campaigns like OPA Every Kilowatt Counts and Custom Projects that can be planned and delivered in no more than two budget years. The exception is partnerships with low income housing providers that require more sustained funding.

3.6 Market Transformation Targets

> "For each market transformation program the utility should propose a program description, goals (including measurement method), shareholder financial incentives (including structure and payment), length, level of funding and program elements."

As noted earlier, VECC disagrees with the current approach to Market Transformation, for reasons outlined in its Comments on the Staff Paper.

An alternative approach related to demonstration of potential "market ready gas technologies" funded out of a separate budget and designed to prove the market readiness is something that VECC would support even though its constituency is unlikely to be early adopters of such technologies.

4.2 Calculation of LRAM

> "The LRAM is determined by calculating the energy savings by customer class and valuing those energy savings using the distributor's Board-approved variable distribution charge appropriate to the class."

As noted under Comments on the Staff Paper, VECC advocates that the Guidelines provide clear and unequivocal direction on the use of the "Best Available" input assumptions at the time of the audit and Preparation of the LRAM/SSM claims.

5.1 Eligible Programs (Incentives)

> "Distributors can apply for separate incentives for the following types of programs:

- SSM for Resource Acquisition Programs (TRC Net Savings)
- Market Transformation Programs
- Low Income Programs "

VECC has already commented that the existing incentive mechanisms for Resource Acquisition and Market Transformation should be reviewed and revised as soon as possible.

5.1.3 Low Income Customer Programs Incentive

> "Incentive payments for low-income customer programs may be made on an individual program basis. This incentive will be in addition to any amount earned as SSM discussed in section 5.1.1 above.
> Distributors are expected to use the program's approved evaluation metrics to determine the program's success relative to the established targets discussed in section 3.7 above. The incentive payment will be tied to the ability of the program to meet (or surpass) its established targets.
> The measurement and calculation methodologies to be used to determine whether the incentive has been earned in a year should be detailed by each distributor in its DSM plan."

With respect, this provision is so vague as to be meaningless.

Board Staff should immediately conduct a study of evaluation and audit best practices for "Low Income CDM/DSM programs, including metrics, calculation methods (e.g. LIPPT), estimation of collateral benefits and use of Scorecards. This work cannot be done by the utilities and is urgently needed.

Based on VECC's advice regarding current practices, it appears that most utilities mandated to undertake Low Income DSM/CDM are not provided with shareholder incentives, just full recovery of all costs and Lost Revenue protection.

6.3 Implementation of Updated Input Assumptions

> "The input assumptions used to screen DSM technologies and programs may change over time due to more accurate and up-to-date information. The timing at which changes in assumptions become effective will differ depending on the use of the assumption, as follows:
> Program Design and Implementation
> Utilities should design, screen and evaluate programs using the best available information known to them at the relevant time. Therefore, it is expected that utilities will incorporate new information into program design and implementation as soon as available. In considering the prudence of any spending in excess of an approved budget that has been tracked in a DSM variance account, it is expected that the information available to the distributor at the time the program was implemented will be considered. That

is, when amounts in a DSM variance account are being reviewed for the purposes of disposition, it is expected that the information available to the distributor at the time the spending decision was made by the distributor will be considered. This will apply even if the input assumptions have changed since that time. "

VECC notes that these provisions do not conform to the "Best Available" at the time of the Evaluation and Audit, nor with the corresponding section of the ED Guidelines for LRAM/SSM calculation (7.3 page 26)

VECC disagrees that the "Best Available" principle is embodied in the wording, but nonetheless advocates much increased clarity in this area that includes

- Specification of allowed sources,(including OPA) and
- Exact timing relative to the independent Evaluation and Audit under the auspices of the EAC

As noted in its comments on the Board Staff Paper, VECC believes that ratepayers should only compensate the utility and its shareholder in the LRAM/SSM for ***ongoing*** savings; that means the savings based on the best available input assumptions and the accomplishment in terms of units as determined by the auditor at the time of the independent audit.

7.0 DSM Consultative

"DSM Distributors, in consultation with the DSM Consultative, are expected to develop clear terms of reference regarding the role and operation of the DSM Consultative and EAC."

VECC strongly suggests that a proper communication plan be developed addressing the interface between the utility and stakeholders and that deals with the issues of information flows at critical points in the program planning, execution and reporting cycle. The analogy presented by VECC in its Comments on the Board Staff Paper may be helpful in this regard.

8.1 Funding of DSM Programs

"There could be two potential streams of funding available to distributors for the delivery of DSM programs: funding through distribution rates and funding from third parties."

VECC notes that In Manitoba there is a blending of Government and ratepayer funding but in Quebec the funding is provided by ratepayers.

This provision, although a principle to be included in the Guidelines, cannot be taken into account or given effect until the future EE Landscape is clarified following the introduction of the Green Energy Act

[i] Draft Demand Side Management Guidelines For Natural Gas Distributors EB-2008-0346 Dared January 26,2009 Section 2.3 Page 11

[ii] The standard definition of a free rider is "a program participant who would have installed a measure on his or her own initiative even without the program." see Violette, Daniel M. (1995) *Evaluation, Verification, and Performance Measurement of Energy Efficiency Programs*. Report prepared for the International Energy Agency.