February 20, 2009

BY EMAIL & BY COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

Board File No. EB-2008-0346
Development of Demand Side Management Guidelines – Gas Distributors
Comments of Energy Probe

Pursuant to the letter from the Board, dated January 26, 2009, inviting comments on the Board Staff Discussion Paper, Energy Probe Research Foundation (Energy Probe) is hereby providing three hard copies of the comments of its consultant, Mr. Norman Rubin, for the Board's consideration. An electronic copy of this communication in PDF format is being forwarded to your attention.

Should you have any questions or require additional information, please contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc. Mark Kitchen, Union Gas Limited (By email)
Michael A. Penny, Torys LLP (By email)
Norm Ryckman, Enbridge Gas Distribution Inc. (By email)
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DRAFT DEMAND SIDE MANAGEMENT GUIDELINES
FOR
NATURAL GAS DISTRIBUTORS

EB-2008-0346

COMMENTS OF ENERGY PROBE RESEARCH FOUNDATION

Consultation:

Energy Probe appreciates the opportunity to comment on the circulated documents in this matter, especially the draft Guidelines and the Board Staff Discussion Paper on those Guidelines.

We also appreciate the opportunity we had in late November 2008 to discuss these matters in meetings with Board Staff and other intervenors. For the record, we are concerned that dividing those consultations into separate meetings -- one with "ratepayers", one with "environmentalists", and one with "utilities" -- did not maximize the value of those consultations. We find that many intervenors and stakeholders -- Energy Probe emphatically included! -- hold overlapping interests among these three. Moreover, our typical, combined, DSM consultations have often been most fruitful through discussion, cross-fertilization, persuasion, and agreement among stakeholders who could not discuss these matters face-to-face in November, because we were at separate meetings.

Indeed, on matters as fundamental to natural-gas DSM as those discussed in the recent Generic DSM hearing (EB-2006-0021), the alignments among signatories to Partial Consensus Statements seldom (if ever) aligned with these arbitrary labels.

We are especially concerned that the matter of "DSM Framework" -- discussed in Section 3.0 of the Staff Discussion Paper as one which divided the "ratepayers" from the other two groups -- could not have been discussed with all parties in the same room. We look forward to future opportunities to discuss these important ideas with all stakeholders.

We would urge the Board to avoid this classification and separation wherever possible in future consultations.

DSM Framework: (Staff Discussion Paper, S. 3.0)

Energy Probe views this issue as the virtual "elephant in the room" -- an issue that is more fundamental than the others, and that holds the promise of more fundamental improvements to DSM and its associated incentive schemes. We were frankly impressed with the level of general support shown in the (rather heterogeneous) "ratepayer" meeting, for the notion of substantially replacing the TRC-based SSM with one based on normalized reduction in average usage.

We are generally pleased with the supportive discussion and recommendations on this matter in Section 3.0 of the Staff Discussion Paper, and we especially welcome the proposal that OEB Staff "begin the preliminary work of investigating the potential use" of this alternative approach. While we note that this planned "preliminary work" would not have any "bottom line" impact for several years, we would urge the Board and its Staff to pursue it as quickly and aggressively as possible, and to ensure that it is not lost.[1]

As indicated above, we would also welcome the opportunity to discuss this matter with our fellow stakeholders who attended the other two meetings, and would urge Board Staff to try to find ways to facilitate those discussions. (The Staff Discussion Paper tells us only that "Representatives of environmental interests as well as the distributors were supportive of the existing DSM framework," which raises more questions than it answers.)

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[1] We are concerned by the Staff Discussion Paper's statement that "It is also staff's view that before such an exercise is undertaken preliminary work should be done to review the experience of other jurisdictions in using this approach." Ontario has often led "other jurisdictions" in the adoption of good ideas, and should not hesitate to adopt this one for lack of a well-worn path to follow.

In addition to the motivations and benefits listed in Section 3.0 of the Staff Discussion Paper, we would add the following in support of this alternative approach:

- **The boundaries between DSM and natural-gas marketing (both "new markets" and "customer retention") are often problematical and arbitrary in a TRC-based framework, and could be clarified in a framework based on normalized reduction in average usage.[2] At the extreme, it is now conceivable that a gas LDC could spend ratepayer DSM money and earn a shareholder DSM incentive while <u>increasing</u> average usage by promoting greener-than-some gas fireplaces, gas backyard heaters, outdoor gas lamps, mosquito traps, and the like.[3]**
- **There is evidence that Enbridge has been "world class" in DSM spending and calculated TRC savings, but that its average customers have actually cut their gas consumption <u>less</u> than those in comparable jurisdictions with less "successful" DSM programs![4] In other words, it is possible that the net effect of an incentive to lower average gas consumption could be very different from what we have been experiencing recently with our DSM incentives.[5]**

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[2] To take two simple examples that have come to our attention as a member of Enbridge's 2009 Evaluation and Audit Committee: (1) EGDI is planning to work with multi-unit residential landlords, to increase the hot-water efficiency of common laundry facilities in these buildings. But we believe that the overall market for home use of washing machines is seeing a massive and progressive shift from hot to warm to cold wash water. In that context, marginally increasing increase the hot-water efficiency of a washing machine could be seen as "load retention" rather than DSM! (2) Many restaurants pre-clean their dishes (before they go in a dishwasher) with what is essentially a hand-held shower. Many of these are not especially high-efficient, and EGDI (and many other gas LDCs) are working to save some gas by promoting lower-flow spray-wash heads. We wonder what non-hot-water alternatives are available – based on compressed air, or brushes, or scrapers, etc. – that could eliminate hot-water use completely in this application, at least for the majority of dishes. In both cases, our conservation impulses are working against the current financial incentives of the LDC; with an incentive to lower per-customer average usage, our interests would align perfectly.

[3] Typically, the bulk of the promotion of fireplaces or backyard heaters would be budgeted as a marketing expense, while the added expense of (say) providing discounts for customers of units with better efficiency than average would be budgeted as a DSM expense. Calculated gas savings (TRC) from consumers who bought the more efficient units rather than the standard ones would add to that year's Shared Savings Mechanism (SSM) incentive from ratepayers to shareholders.

[4] The benchmark data is from a study conducted in 2000 by the Gas Research Institute, summarized in Energy Probe's 2003 October 29 submission to the OEB Generic DSM/DR Review (RP-2003-0144), available online at http://www.oeb.gov.on.ca/documents/directive_dsm_energyprobe291003.pdf . Union Gas's average customer cut consumption more than Enbridge's but less than the average in the GRI study. A more popular version of these results was published in the National Post, September 24, 2003 – available online at http://www.eprf.ca/energyprobe/index.cfm?DSP=content&ContentID=8449 .

[5] In the multi-stakeholder discussions following in Energy Probe's 2003 October 29 presentation in RP-2003-0144, an Enbridge official suggested that the consumption results merely showed that Enbridge's marketing department was as skilled and effective as its DSM department.

- **Whatever DSM benefits we consider – lowering gas bills, avoiding supply-side investments, improving Ontario's Balance of Payments, decreasing emissions and their negative environmental or social impacts, etc. – it would seem that declines in average gas consumption align more closely with those benefits than TRC "savings".[6]**

Energy Probe hopes to be able to extract information on average gas usage, in Ontario and other regions, and may find ways to inject it into DSM discussions, at least as a "reality check". (See below.)

Market Transformation:

We do share the concerns about attribution of MT programs that are presented in Section 5.3.2 of the Staff Discussion Document. But we also note that other pressures – including frustration with the TRC-based SSM and the associated target-setting exercise -- have increased the relative role of MT programs in the past several years, and will probably continue to do so.

In fact, the fundamental change discussed in Section 3.0 of the Staff Discussion Document (and above) as the "DSM Framework" issue – and probably deferred past the next multi-year DSM period – may well lend itself to a MT-based approach in the shorter term. Specifically, Energy Probe would like to see Ontario's gas utilities rewarded for decreasing their customers' average gas usage (at least in specific rate classes), and encourages them to propose such metrics as Market Transformation programs.

[6] Although the TRC and the SSM officially place no value on the environmental or social benefits of decreasing gas consumption, Ontario society clearly places some value there, and we believe that value generally adds to the force of this argument.

That approach would not completely eliminate the need for some research: Before transferring significant funds from ratepayers to shareholders, we need to ensure that the goals chosen represent a real improvement over the *status quo*, and a laudable achievement compared to appropriate benchmark regions. But we are hopeful that this limited information can be gathered well in time for the 2010 DSM program year.

Adjustment Factors in the Total Resource Cost Test: (Draft Guidelines S. 2.5; Staff Discussion Document S. 5.2)

While we generally support the calculation of TRC savings based on best available information (as is proposed), the two documents are apparently silent on the effect that changed "Adjustment Factors" will have on the same year's TRC target, on which the SSM hinges!

Will the target be adjusted automatically retrospectively, as if the new "Adjustment Factors" had been known a year or 18 months earlier? Or will it remain frozen, as negotiated at an ADR and/or approved by the OEB? Will the answer be the same for prescriptive (mass-market) programs as for custom programs? Will it depend on whether the change came through new research, or correction of an obvious error, or a significant change (for good or ill) in program design?

These two main options (formerly referred to as "Yes/Yes" and "No/Yes") have been the subject of bitter and complex dispute and adjudication in the past -- "Take the Year 2000 DSM program, please!" -- and must not be left undefined until the round of evaluations and audits at year's end. Moreover, if the annual end-of-year evaluation (subject to audit) is the main opportunity to incorporate newly revised "Adjustment Factors", we would submit that might increase the benefit of having an independent (non-Utility) evaluator.

Spillover:

Energy Probe generally supports the cautious approach to Spillover taken in the circulated documents – Section 2.5.3 of the Draft Guidelines and Section 5.2 of the Staff Discussion Document.

Program Type Specific Guidelines: (Draft DSM Guidelines S. 6.2)

We find the organization of this section – specifically the order of the sub-sections -- misleading.

Specifically, "6.2.1 Direct Acquisition Programs" and "6.2.3 Custom Projects" both refer to gas-saving programs whose benefits are to be measured by TRC and contribute to the SSM. We consider them similar, and we would group them together.

Similarly, "6.2.5 Low Income Customer Programs" refers to gas-saving programs whose benefits are partly to be measured by TRC, and whose incentive may partly resemble the TRC-based SSM. We would put that third, after your 6.2.1 and 6.2.3.

Your "6.2.4 Market Transformation Programs" is quite different from the others, because their results will be measured with "one-off" metrics rather than SSM, and their incentives will also be "one-off".

Finally, "6.2.2 Market Support Programs" may be the most different of all, because the results from these programs are very resistant to measurement, and will probably receive no shareholder incentive at all.

Low Income Customer Programs: (*passim*, esp. Staff Discussion Document S. 5.3.3)

Energy Probe has not directly participated in these discussions since the Generic Gas DSM Hearing (EB-2006-0021). We were generally impressed with the near-consensus decision reached on this matter in that proceeding, and remain to be convinced that a fundamental departure from it would be in the public interest. We note that the Staff Discussion Document says that "The low-income programs and the associated metrics and targets will be the subject of a rate proceeding allowing for stakeholder review," and we look forward to that opportunity.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

February 20, 2009

Norman Rubin

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