

ONTARIO ENERGY BOARD
DRAFT DEMAND SIDE MANAGEMENT GUIDELINES
FOR NATURAL GAS DISTRIBUTORS

Comments of Industrial Gas Users Association (IGUA)

1. In 2006 the Ontario Energy Board (OEB) conducted a generic review of Ontario's Gas Distributors' Demand Side Management (DSM) activities (Docket EB-2006-0021, the "*Generic Review*"). As an outcome of the *Generic Review*, which included an extensive settlement process, the Board approved a framework for gas distributor DSM programs and approved a three year DSM plan for each of Enbridge Gas Distribution (EGD) and Union Gas Limited (Union). Those approved DSM plans expire at the end of calendar 2009.
2. On October 31, 2008 the Board initiated this proceeding to develop DSM program guidelines to be used by natural gas distributors in developing their next DSM plans.
3. The first step in this proceeding has been the development by the Board of a draft updated set of DSM Guidelines (*Draft DSM Guidelines*). These *Draft DSM Guidelines* are built upon the existing DSM framework negotiated by stakeholders and then approved by the Board in the *Generic Review*. The *Draft DSM Guidelines* propose some modifications to the existing DSM framework. The proposed modifications have been informed, in part, by three brief and separate meetings convened by Board Staff with each of ratepayer interests, environmental advocates and distributors.¹
4. The *Draft DSM Guidelines* were issued by the Board for comment on January 26, 2009, along with a very high level Board Staff Discussion Paper (*Discussion Paper*). The *Discussion Paper* serves primarily to identify the "major issues" raised in the three stakeholder meetings, and to note how each of these issues has been addressed in the Board's *Draft DSM Guidelines*.

¹ Board Staff Discussion Paper, p.4, second last paragraph.

5. IGUA herein provides its comments on the *Draft DSM Guidelines*, as elucidated by the *Discussion Paper*. IGUA has attempted to generally limit its comments to areas that do, or could, directly impact industrial consumers.
6. The second step in this proceeding has been development by the Board's consultants, Navigant, of a Report on Measures and Assumptions for DSM planning. Navigant's report was issued by the Board on February 6th, 2009. Comments on Navigant's report have been requested by the Board, and are to be filed by March 6th, 2009. Those comments will be considered by Navigant prior to finalization of its report. IGUA understands that the comments on Navigant's draft report along with Navigant's finalized report will be put to the Board for its consideration. IGUA will file any comments that it has on Navigant's draft report separately.

General Comment on the DSM Planning Review Process.

7. There are those who participated in the ratepayer group consultation meeting convened by Board Staff, including IGUA, who suggested that following some experience with the DSM framework set by the *Generic Review*, it was time for a more comprehensive rethink of both whether, and if so how, DSM should be undertaken by regulated gas distributors in Ontario, and how gas distributor DSM initiatives should be evaluated and incented. Staff generally refers to this view at the bottom of page 3 of the *Discussion Paper*.
8. In publishing the *Draft DSM Guidelines* directly, the Board has indicated a determination to proceed with a more cursory and limited review of the current DSM framework at this time.
9. IGUA appreciates the imperative to provide a basis upon which EGD and Union can prepare and submit DSM plans that will take effect as of January 1, 2010. IGUA presumes that this imperative has prompted the Board to define a framework for the next plans based largely on the current DSM planning framework, and with a cursory and limited review of that current framework.

10. The *Draft DSM Guidelines* endorse multi-year programs [section 3.2]. The currently approved programs are each 3 years long.
11. In light of the broad concerns recently expressed regarding the continuing veracity and relevance of the current DSM framework, and the perforce cursory review of that framework in this process, IGUA commends a shorter plan period, at this time. Pending further consideration of the framework as anticipated by Board Staff², IGUA urges the Board to limit the next plan to 1 year (i.e. 2010). A 1 year approval would allow for replacement plans to be in place by January 2010, while providing an opportunity for a more considered review to be undertaken in 2009 and for plans based on the outcome of that review to be developed, approved and put in place by January 2011.
12. In urging a 1 year plan in 2010, IGUA is also mindful of the dire economic circumstances in which many IGUA members currently find themselves. The review of gas distributor DSM activities should consider the changed economy along with quickly evolving provincial energy policy.

In particular, such a review should include:

- (a) A more complete consideration of the continued role for regulated gas distributors in delivering DSM on behalf of, and funded by, ratepayers, in an increasingly crowded and quickly evolving field of public and private sector DSM/CDM proponents. A focussed set of gas distributor DSM objectives might be determined.
- (b) Consideration of the appropriate principles upon which to incent, and compensate, gas distributors to achieve the DSM objectives determined to be appropriate for them to pursue.
- (c) Review of alternatives to the TRC, LRAM and SSM program parameters and calculations against the determined incentive and compensation principles. Such review should include consideration of DSM planning and evaluation in other jurisdictions.

² Staff Discussion Paper, page 4.

- (d) Consideration in particular of the appropriate role for regulated gas distributors in today's DSM/CDM context in development and delivery of market transformation programs, and consideration of the principles appropriate to guide, evaluate and compensate for such programming.
 - (e) Consideration of the appropriate role for regulated gas distributors in development and delivery of DSM programs targeted specifically to low-income consumers in light of the Board's determinations following the policy consultation regarding Energy Issues Relating to Low Income Consumers (EB-2008-0150), and consideration of the principles appropriate to guide, evaluate and compensate for such programming.
13. IGUA looks forward to participation in such a review.

Support for Proposals in the *Draft DSM Guidelines*.

14. The comments that follow apply to the DSM framework to be applied to the 2010 DSM plans. As outlined above, IGUA urges a more measured review of the entire DSM planning paradigm, including the areas of proposed change in the *Draft DSM Guidelines*, once the 2010 program parameters are established.
15. IGUA supports continued use of the Total Resource Cost (TRC) test as the screening tool for the 2010 DSM plans.
16. IGUA endorses the proposal that LRAM and SSM calculations for the 2010 plans should be done on the basis of the best data available at the time that those calculations are prepared and submitted for approval by the Board, rather than on the basis of data used to apply the TRC screening of an initiative at the outset of the planning cycle. Using data current at the time of program evaluation will result in revenue adjustments and incentive payments based on results, rather than on plans. This will incent the utilities to continuously critically evaluate the success and effectiveness of their ongoing DSM programs.

17. IGUA understands the Board to be proposing that, going forward, DSM inputs would be adopted, and updated as required, by the Board, and provided to the gas distributors for application. IGUA endorses the development and approval of a single set of DSM technologies and input assumptions under the auspices of the Board, and with a public review and comment process. This approach will regularize assumptions across utilities and should preclude ongoing debate regarding these technologies and associated assumptions. Should the utilities have the need to supplement the Board developed and approved assumptions, individual proposed additions can be brought forward with the appropriate supporting evidence for Board consideration as part of the individual DSM plan approval applications contemplated.
18. IGUA supports determination of DSM budgets and associated programs, including approval for market transformation and low-income consumer targeted DSM programs, through Board review in rate proceedings. In order to ensure an expeditious yet thorough review, the Board should consider, and provide direction on, the mechanics and expected timing for a filing and review process for proposed DSM program budgets and metrics, which process would run alongside the more cursory and mechanical IRM rate reviews.
19. IGUA supports the increased rigour proposed in the *Draft DSM Guidelines* in respect of information requirements for DSM plan approval in general, and in respect of the "persistence" measure [Section 2.5.4] in particular.

Concerns regarding proposals in the *Draft DSM Guidelines*.

20. IGUA has four specific concerns regarding the *Draft DSM Guidelines*; i) the contemplated inclusion of "spillover" effects as credit to utility driven gas savings; ii) the potential for relatively haphazard "market transformation" programming; iii) the potential for a lack of precision regarding the role and authorities of the Consultatives and the Evaluation and Audit Committees (EACs); and iv) a potential gap in accounting for value derived from DSM driven environmental attributes in addition to carbon dioxide.
21. "Spillover", if accepted, would credit Ontario gas distributors with gas savings resulting from adoption by gas customers of conservation measures outside of DSM program

participation. Based on very limited information regarding alleged "spillover" effects of Ontario gas distributor DSM programs, and virtually no rigorous testing of that information, IGUA does not accept that it is appropriate to so credit the distributors. In IGUA's current view, incidental psychological impacts of utility DSM programs on gas consumers are simply too remote to be rewarded through increased utility earnings. IGUA recognizes that the Board has proposed a requirement for "*comprehensive and convincing empirical evidence*" regarding alleged spillover effects and associated revenue impacts. IGUA is concerned, however, that such an invitation legitimizes the notion that gas savings driven by remote and largely unquantifiable impacts of DSM programs on a general ethos of conservation should result in both program approval and utility rewards. Such legitimization would merely invite continuing debate in each approval application regarding such remote effects, by legitimizing what remains an unproven, untested and unpersuasive concept. The result could be windfall savings/incentives for the utilities, over and above utility earnings on DSM programs that are already supranormal (*vis a vis* regulated ROIs). IGUA respectfully suggests that the matter of whether to include spillover effects in the DSM framework at all, and if so how, is one better left for review in the broader context of the emerging conservation context and the appropriate role for, and impact of, regulated gas distributors therein.

22. In respect of "market transformation programs", the draft Guidelines [section 6.2.4] seek to provide some guidance regarding the factors that the Board will consider in evaluating market transformation program proposals. IGUA supports a more rigorous analysis of proposed programs and metrics in this area. IGUA suggests that the guidelines in this area be supplemented to make clear the need for evidence regarding the long-term strategic role of any such programs within both the utility's DSM portfolio as a whole and the target market in general.
23. The *Discussion Paper* indicates an intent that program evaluation and audit "*transparency will be maintained through the continued participation of the DSM Consultative, and the Evaluation and Audit Committee under new terms of reference to be developed by distributors in cooperation with stakeholders*"³. The requirement itself to

³ Staff Discussion Paper, pages 11, last paragraph.

develop those terms of reference is set out at page 37 of the *Draft DSM Guidelines* (as part of section 7.0). It is IGUA's impression that despite considerable discussion of the roles and responsibilities of the Consultatives and the EACs in the *Generic Review* decisions, as reflected in section 7.0 of the *Draft DSM Guidelines*, there remains considerable uncertainty about the protocols and authorities under which the Consultatives and EACs are to operate. IGUA suggests that the new terms of reference to be developed should be filed with the Board for consideration as part of the Board's review of the utilities' DSM plans. The Board has in the past taken some comfort from the transparency and oversight that these intended participatory structures have provided. Filing of these terms of reference will allow the Board to evaluate directly to what extent the roles of the Consultatives and the EACs support the Board's continuing reliance on these processes as disciplines on DSM planning, implementation and evaluation.

24. The *Draft DSM Guidelines* provide for the tracking of proceeds resulting from the sale of, or other dealings in, carbon dioxide offsets associated with utility DSM programs [section 8.5]. IGUA suggests that the direction to record such proceeds for future consideration of disposition be expanded to cover those arising from the sale of, or other dealings in, any environmental attributes generated by DSM programs. These might include carbon, sulphur oxides, nitrogen oxides, and other environmental impacts of burning gas (and reducing the burning of gas).

Conclusion.

25. IGUA's comments herein are informed by its continued involvement in both the Board's DSM proceedings and in the Consultatives and EACs.
26. IGUA has attempted to focus its comments on areas of impact on industrial customers and industrial DSM program participants.

27. IGUA hopes that these comments are of some assistance to the Board, and respectfully requests that it be allowed recovery of its reasonably incurred costs, in accord with the Board's cost recovery guidelines for this review process.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Macleod Dixon, LLP

per:



Ian Mondrow

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