Ontario Energy Board

EB-2008-0150

Staff Report to the Board

on the Consultation on Energy Issues Relating to Low-Income Consumers

February, 2009

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1 Introduction

In July of 2008, the Ontario Energy Board (the “Board”) initiated a consultation process to examine energy issues relating to low-income energy consumers. The purpose of the consultation was to assist the Board in gaining a better understanding of those issues and in considering the need for and nature of policies or measures that could address those issues. The purpose of this Staff Report to the Board (the “Staff Report”) is to summarize the views of stakeholders, as presented in this consultation, and to provide Board staff’s comments on the options available to the Board.

2 Background

On July 2, 2008 the Board issued a letter announcing that it was initiating this consultation. The consultation took the form of a stakeholder conference which provided an opportunity for interested parties to make presentations on a variety of low-income energy issues, and written comments following completion of the stakeholder conference, which allowed participants to summarize their views after having had the benefit of the views of other participants.

In its letter to stakeholders announcing the consultation, the Board noted that the consultation was being initiated in part due to a decision of the Ontario Divisional Court regarding the Board’s jurisdiction in the area of low-income energy consumers.

The history of that court decision involved a Board proceeding to consider an application by Enbridge Gas Distribution (“Enbridge Gas”) for a distribution rate adjustment for the 2006 rate year. The Low-income Energy Network (“LIEN”), an intervenor in that matter, sought a “rate affordability assistance program” to make natural gas distribution rates affordable to low-income consumers. In its Decision, dated April 26, 2007, the Board concluded (with a dissenting opinion) that it did not have the jurisdiction to create special rates for low-income energy consumers. LIEN appealed the Decision to the Ontario Divisional Court. On May 16, 2008, the Ontario Divisional Court found (with a dissenting opinion), that the Board has the jurisdiction to consider the ability to pay when setting utility rates. The Court did not, however, indicate whether or how the Board should exercise that jurisdiction. It has been left to the discretion of the Board to select, amongst available approaches, the nature of assistance, if any, that should be available to low-income energy consumers in Ontario.

2.1 Stakeholder Conference

A stakeholder conference was held at the Board's offices from September 22 to 25, 2008. Participants were provided with an opportunity to make presentations on a number of issues:

1. Should the Board implement policies, programs or other measures designed to assist low-income energy consumers?

2. Are there programs in place now, including emergency assistance programs, to assist low-income energy consumers and, if so, are there agencies or organizations which currently work with utilities to co-ordinate the administration of these programs? What more, if anything, should be done?

3. What is the experience with low-income energy assistance programs in other jurisdictions?

4. What rate-related measures and issues associated with the implementation of rate-related measures exist that may assist low-income energy consumers?

5. What customer service issues (payment period, disconnection rules, security deposits and specific service charges) are of particular relevance and what arrears management programs are in effect in Ontario or abroad?

6. What electricity Conservation and Demand Management ("CDM") programs and natural gas Demand-Side Management ("DSM")[1] programs for low-income energy consumers are in effect in Ontario or abroad?

7. What other issues need to be considered (e.g., time-of-use pricing, sub-metering issues, consumers on retail contracts)?

8. What program funding mechanisms are in effect in Ontario or abroad?

The stakeholder conference was attended by the Chair of the Board, a Vice-Chair and one other Board Member, who participated actively. Conference participants had the opportunity to present information to assist the Board in gaining a better understanding of the issues associated with low-income energy consumers, and also to assist the Board in its consideration of the need for and nature of policies or measures to address those issues.

Approximately 40 representatives of electricity and natural gas utilities, the provincial government, consumer groups, and agencies providing services directly to low-income energy consumers attended the stakeholder conference. Presentations were made by twenty-one participants, representing this same range of stakeholders. In addition, presentations were made by representatives of Hydro Québec Distribution ("Hydro Québec"), and of PPL Electric Utilities and Dominion Peoples, electricity and natural gas distributors, respectively, in the state of Pennsylvania.

During the stakeholder conference, members of the Board, Board staff, and participants made a number of requests for additional information regarding disconnections, security deposits and the Winter Warmth Program from selected natural gas and electricity distributors. These filings are posted on the Board's website.

[1] In Ontario, the term "conservation and demand management" ("CDM") has typically been used in the context of electricity, while "demand-side management" ("DSM") has typically been used in the context of natural gas. Both terms are used in this Staff Report.

The conference was transcribed and broadcasted over the web. The transcripts and webcast are available on the Board's website.

Stakeholders were also invited to submit written comments following the completion of the stakeholder conference. In total twenty-five participants submitted written comments, which are posted on the Board's website. Subsequent to the consultation Board staff made further specific inquiries of certain representatives of government agencies and low-income groups, as well as of distributors and certain community/social service agencies that administer existing low-income energy programs. The purpose of these inquiries was largely to fill factual informational gaps about existing programs and the administration of these programs to assist Board staff with an understanding of the existing landscape in relation to low-income energy programs that are available in Ontario.

2.2 The Concentric Report: A Review of Low-Income Energy Assistance Measures Adopted in Other Jurisdictions

Board staff engaged Concentric Energy Advisors Inc. ("Concentric") to produce a report (the "Concentric Report") summarizing the types of policies, programs or other measures that have been implemented in other jurisdictions in addressing the issues of concern to low-income energy consumers. Following the stakeholder conference, Concentric provided a supplemental report (the "Supplemental Concentric Report") providing information on the authority under which programs were implemented in other jurisdictions. These reports are posted on the Board's website.

2.3 Guiding Principles

The Divisional Court concluded that the Board has the jurisdiction to take ability to pay into account when setting rates. However, it was left to the discretion of the Board to select, amongst available approaches, the nature of assistance, if any, that should be available to low-income energy consumers in Ontario. Having heard the submissions of participants in this consultation, Board staff is of the view that the Board should design and implement a framework to provide assistance to low-income energy consumers, and has outlined options for assistance throughout this Staff Report.

Board staff believes that the framework should be based the following principles:

- **Funding available to low-income energy consumers should be increased.** A number of distributors already provide some emergency assistance funding, but it is a small percentage of their distribution revenue. Increased funding will ensure that a greater number of low-income energy consumers receive assistance.

- **Funding should be accessible on a province-wide basis.** Low-income energy consumers should have access to financial assistance regardless of where they live.

- **Funding should be uniform and regular.** All distributors should be required to collect a minimum level of funding through distribution rates to provide assistance to low-income energy consumers. This amount should be collected every year.

- **Funding should be available to both electricity and natural gas consumers.** Low-income energy consumers may require assistance with electricity costs, natural gas costs, or both.

- **Distributors should partner with social service agencies.** These relationships can provide an opportunity to realize important synergies by combining the resources of a distributor with the community knowledge and expertise of the social service agencies.

- **Eligibility for assistance should be based on need.** Low-income energy consumers who receive assistance should be those who require assistance with current energy costs and/or payment obligations.

- **Assistance should also be available in the form of payment management**. The need for financial assistance may be reduced for some low-income energy consumers if distributors' customer service policies are structured to assist low-income energy consumers better manage their payment obligations through changes to when and how payments are made.

- **Assistance should not distort price signals to consumers**. The commodity price should continue to reflect the true cost of energy used by low-income energy consumers, consistent with the Government's goal of creating a conservation culture, and distribution rates should continue to reflect cost causality as well as other central principles of rate setting.

3 Who Is A "Low-Income Energy Consumer"?

If an assistance program is to be developed for low-income energy consumers, it would become necessary to define who is a "low-income energy consumer".

Ontario Experience[2]

According to Statistics Canada 2001 Census data provided by LIEN in its submission[3], there are about 760,000 low-income households in Ontario. This estimate is based on low-income thresholds ("low-income cut-offs" or "LICOs")[4], below which families will devote more than 20% of their income for food, shelter and clothing.

Of this number, 65% or approximately 490,000 are tenant households living in social housing or in private multi-residential buildings and 35%, or approximately 270,000, are homeowners. Seniors account for approximately 39% or 105,000 of low-income homeowners. According to Canada Mortgage and Housing Corporation data, approximately 23% or 113,000 of tenants pay their own utility bills. Therefore, in total 383,000 or about 50% of low-income households have a direct relationship with their utility (i.e., pay their own utility bills). The remaining 50% of the low-income households are tenant households where utility costs are included in the rent.

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[2] The analysis in this section has relied on statistical data provided by LIEN. Staff has been in contact with Statistics Canada regarding custom tabulations for the purpose of more detailed and updated statistical analysis of low-income consumer data.

[3] Ontario Income Status, LIEN "Consultation on Energy Issues Relating to Low-Income Consumers EB-2008-0150" based on Statistics Canada, 2001 Census of Population.

[4] LICOs are income thresholds, determined by analyzing family expenditure data, below which families will devote a larger share of income to the necessities of food, shelter and clothing than the average family would.

Data available from Statistics Canada on principal heating fuel is organized by income quintile[5]. The relationship between LICO and the lowest income quintile is not clear. The average pre-tax income in the lowest quintile is $16,108 compared to an overall average household pre-tax income of $74,686. The number of households at the lowest income quintile in Ontario that heat their residence with natural gas is 420,000 (or 55%), with electricity is 234,000 (or 31%) and with other heating fuels, including oil, bottled gas, wood and others, is 106,000 (or 14%). The data shows that households at the lowest income quintile are more likely than those at the highest income quintile to heat with electricity.

Experience in Other Jurisdictions

The Concentric Report notes that an important aspect of designing an assistance program is to define the term “low-income energy consumer” or “fuel poverty” or “utility financial hardship”. How this term is defined will determine who is eligible to receive assistance.

In other jurisdictions, eligibility criteria most commonly depend on household income and the number of persons in the household. Eligibility is sometimes tied to an established benchmark, such as a percentage of the federal poverty guidelines, or according to qualification for social assistance, such as government pensions. Some programs are designed to provide benefits to the lowest income consumers, while others do not attempt to make such granular distinctions.

In Great Britain, the Office of the Gas and Electricity Markets determines eligibility for assistance based on “fuel poverty”, which comprises households who spend more than 10 percent of their income in order to maintain a satisfactory heating regime.

[5] Survey of Household Spending 2006 Dwelling Characteristics and Household Equipment by Household Income Quintile, Ontario, 2006 Statistics Canada, Income Statistics Division, Custom Tabulation (February 26, 2008).

The New Zealand Electric Commission defines “low-income energy consumers” as those consumers whose low income, whether temporary or permanent, makes it genuinely difficult for them to pay their electricity bills.

In Western Australia, eligibility for assistance is based on “utility financial hardship”, which is defined as those persons having the intention but not the financial ability to pay their utility bills, without affecting their ability to meet their individual or families’ basic living needs.

Dominion Peoples, a natural gas utility in Pennsylvania, has differing eligibility requirements, depending on the program. Some programs have both income and non-income related requirements. For example, to be eligible for the Customer Assistance Program, consumers must have an income below 150% of the Federal Poverty Level, and have broken payment arrangements. There are no income level requirements to be eligible for Budget Counseling services, however consumers must have missed payments but have an ability to pay their bills.

Consumers are eligible for Pennsylvania’s PPL Electric Utilities’ Hardship Fund, which provides emergency assistance for low-income energy consumers, if they meet one or more of the following criteria:

- Household income at or below 200% of the federal poverty level
- Inability to pay and confronted with hardships
- Death of primary wage earner
- Serious injury or illness to main wage earner
- Health-threatening situations
- Families with infants
- Families with elderly or disabled persons
- Service termination

The program is administered by social services agencies, which determine eligibility and funding amount.

Eligibility for New Jersey's universal service program is based on the concept of an "affordable home energy bill", which is defined as one that does not exceed 6% of household income for both natural gas and electricity for electrically heated homes, and for natural gas heated homes, is allocated equally as 3% for natural gas and 3% for electricity.

Stakeholder Comments

As part of another matter that came before the Board, LIEN filed a report that had been prepared on its behalf by Roger Colton, entitled "A Ratepayer Funded Home Energy Affordability Program for Low-Income Households: A Universal Service Program for Ontario's Energy Utilities" (the "Colton Report"). The Colton Report suggests that assistance should be available to any low-income energy consumer, who should be defined as being any consumer with a gross household income at or below the Low-Income Cut-Off ("LICO").[6] In addition, consumers who are also moderately low-income should also be eligible for some assistance, in which case non-income related factors would be considered to determine eligibility.

LIEN reported that the generally accepted measure of home energy affordability involves a metric called "energy burden." A household's energy burden is the household energy bill divided by the gross household income. LIEN proposed that the standard of energy affordability should be that energy costs do not exceed 6% of household income. That is, a low-income energy consumer is one whose energy costs exceed 6% of household income.

LIEN also maintained that low-income energy consumers who use fuels other than electricity and natural gas, and those that pay for energy costs as part of their rent, should be considered eligible for assistance.

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[6] A Ratepayer Funded Home Energy Affordability Program for Low-Income Households: A Universal Service Program for Ontario's Energy Utilities Prepared for: Low-Income Energy Network (LIEN), Roger D. Colton, Fisher, Sheehan & Colton, April 2006.

The Vulnerable Energy Consumers Coalition ("VECC") agreed with LIEN's position and the framework in the United Kingdom, maintaining that the target objective should be the alleviation of expenditures greater than 7% - 10% of household income on energy costs.

Green Light on a Better Environment ("GLOBE") maintained that all residents of social housing should be considered to be low-income energy consumers.

The Ontario Power Authority ("OPA") indicated that it has eligibility criteria for the purposes of its targeted low-income CDM programs. More specifically, a consumer is considered "low income" and therefore eligible, if the consumer is a recipient of certain social benefits, or meets an established income screening threshold. The eligible social benefits are:

- Ontario Disability Support Program;
- Ontario Works;
- Guaranteed Income Supplement for Seniors;
- Ontario Child Care Supplement for Working Families;
- National Child Benefit Supplement; or
- Allowance for Survivor.

The income screening threshold is based on household size and maximum gross annual income, ranging from $32,000 for a household size of one, to $39,500, plus $2,500 for each additional occupant, for a household size of four or more.

The OPA indicated that in designing these eligibility requirements, it attempted to be as generous as possible in order to maximize the inclusiveness of eligible participants.

Enbridge Gas has two sets of criteria for its Enhanced Technology Awareness Program ("TAPS"), depending on how the program is targeted. Where the program is targeted to neighbourhoods, eligibility is determined by residency in a low-income neighbourhood, determined by using income data by postal code. In this manner, the distributor can identify low-income neighbourhoods to which its contractor provides the program, regardless of each household's income level. Union Gas Limited ("Union Gas") uses similar eligibility criteria for its Helping Homes Conserve program.

Enbridge Gas reported that it also reaches low-income energy consumers through partnerships with community groups and social service agencies. Consumers identified through this approach are eligible if they meet one or more of the following criteria:

- Income level at or below 125% of LICO;
- Receiving Ontario Disability Support Program benefits;
- Receiving Ontario Works benefits;
- Reside in low-rise social housing; or,
- Receiving rent supplements.

Board Staff Comments

Board staff notes that there are a variety of ways of defining low-income energy consumers: in relation to household income level, in relation to energy costs as a percentage of income, in relation to eligibility or receipt of a government benefit, or based on an assessment of need.

For the purposes of receiving assistance, Board staff believes that a "low-income energy consumer" should be defined as an electricity or natural gas consumer who, based on an assessment by a recognized social agency, has the intention to pay, but an inability to do so. Eligibility for assistance would, therefore, be based on need. This may be a need for financial assistance with energy costs, or simply an extra few days to pay a bill.

Board staff notes that for the purposes of the Winter Warmth program, currently delivered by several electricity and natural gas distributors in Ontario, and described in more detail in section 4.2 of this Staff Report, eligibility is based on an assessment of need. More specifically, consumers are eligible for assistance if they:

- Have energy bills that are currently in arrears;
- Have recently received a disconnection notice; or
- Are experiencing personal circumstances that make it difficult to pay their current energy bill.

Board staff believes that these are reasonable criteria to use when assessing whether a customer is in need of assistance, but recognizes that there may be other relevant factors.

Board staff does not believe that income level or income thresholds alone are an appropriate measure to use. Statistics Canada's income thresholds, LICOs, are based on an assessment of several costs, of which energy costs are just one. Further, LICOs are not static measures, and may change from year to year. Some consumers above the LICO may still require assistance with energy bills, and would be excluded if LICO alone were used.

LIEN advocated that eligibility should be based on the percentage of household income devoted to energy costs. While this measure is more closely aligned with energy costs than the LICO, Board staff is of the view that it is impractical, as it is unclear how such a measure would provide assistance at the time that energy costs are high, and therefore relatively more unaffordable.

Board staff notes for New Jersey's universal service program, described above, the "affordable bill" is achieved by providing the customer with an annual lump sum credit on the energy bill(s). As such, if a customer does not pay their bill during the months where the account is in a credit position, it would appear to Board staff that the energy bill still may not be affordable during the winter or during other periods when energy costs may be relatively higher.

No information was provided in this consultation as to how such a measure of eligibility would be implemented in Ontario.

Board staff also notes that to limit assistance to those consumers already receiving a government social assistance benefit may be too restrictive. The “working poor”, who are not receiving social assistance benefits, may still be in need of assistance with energy costs.

With respect to consumers that use fuels other than electricity and natural gas, such as wood, heating oil and propane, Board staff notes that the Board does not regulate fuels other than electricity and natural gas, and therefore Board staff suggests that the Board should not require that any of the entities that it regulates provide assistance to such consumers. Board staff notes that there are existing government programs, such as the Emergency Energy Fund, which is discussed in more detail in section 4.2.1 of this Staff Report, which provide assistance for energy costs for fuels other than electricity and natural gas.

4 Tools for Assisting Low-Income Energy Consumers

As noted by stakeholders in the consultation, there are many tools that can be used to assist low-income energy consumers with energy costs and payment management, including:

- rate design;
- financial assistance for bill payments;
- changes to customer service policies such as disconnection and security deposit rules; and,
- energy conservation measures.

Many of these tools can be used in coordination with one or more of the others, to provide more comprehensive assistance. Each of these tools is discussed in the sections below.

4.1 Rate Design

In this section of the Staff Report, Board staff will outline three possible approaches to assisting low-income energy consumers through rate or rate class design: (1) establishing a separate rate class and rate; (2) inverted block rate structure or lifeline rates; and (3) time-of-use pricing.

The rate design approach is distinguished from the establishment of a separate rate class for low-income energy consumers. Where the intent of rate design is to assist low-income energy consumers, rate design involves the same rate structure being charged to all consumers but is designed in a way that is intended to produce lower average rates for lower income consumers. In contrast, a separate rate class for eligible low-income energy consumers requires the identification of such consumers as separate and distinct from other residential consumers.

The Concentric Report notes that while the rate design approach may be successful at addressing the needs of low-income energy consumers, it violates the rate making principle of cost causation as it shifts costs onto the general body of ratepayers, thereby creating an implicit subsidy.

(a) Separate Rate Class / Rates

Ontario Experience

A separate rate class for low-income energy consumers has not been implemented in Ontario.

Experience in Other Jurisdictions

In its report, Concentric noted that it has found no evidence that any jurisdiction has approved a separate rate class for low-income energy consumers.

Stakeholder Comments

None of the participants in the consultation expressly advocated for the Board to establish a separate customer class with lower rates. Rather, those stakeholders that supported the notion of funding low-income programs through rates supported discount programs or other funding mechanisms that could be sourced at the utility level.

In its comments, EnviroCentre pointed to the confusion arising out of the perceived difference between a separate rate class for low-income energy consumers, as opposed to reduced rates or subsidies. EnviroCentre noted that “low-income rates are cumbersome, if not ‘messy’, in other jurisdictions and would almost certainly be very inefficient to administer in Ontario”.

While VECC commented that rate setting has always had a component beyond cost causality or strict non-discriminatory principles, it opposed the idea of a separate rate class. Rather, VECC indicated that rate assistance should be recovered on a system-wide basis in a manner similar to the funding of the CRTC's High Cost Serving Area fund. VECC proposed the creation of a system wide "Connectedness Fund" to provide rate assistance, discounts, and remission of charges.

Participants opposed to a new rate class argued that it would be discriminatory and would violate the fundamental principle of cost causality. They stated that rates should continue to be cost-based (or cost related) and recovered from the customer class that causes the costs. They added that cost shifts would increase rates for other consumers and some indicated that the uneven distribution of low-income energy consumers would create a disproportionate burden on some utilities.

Some participants further argued that a low-income rate would reduce the incentive to conserve. Many others noted that funding at the utility level would create redundancy since multiple utilities would be administering similar programs which would add to their capital and administrative costs. Some described the funding of low-income programs as a hidden, indirect and regressive form of taxation and stated that it would lead to less transparency in rate-making. Some stakeholders suggested that if the Board created a new rate class or gave special dispensation to low-income energy consumers, that this would open the door to other groups who could argue that their circumstances warrant the Board deviating from traditional rate-making principles. Finally, a few participants indicated that the Board is not a social agency, that regulated energy charges are ill-suited to affect distributive justice and that existing social welfare programs should be used and strengthened to address low-income concerns as they relate to energy.

LIEN took issue with the suggestion by other participants that the Board would have to depart from traditional rate-making principles in order to facilitate the funding of low-income or rate affordability programs within the construct of utility rates, arguing that in fact such programs in other jurisdictions have sound regulatory foundations grounded in fundamental utility regulatory principles, stemming mainly from reduced collections costs.

LIEN suggested in both its presentation at the stakeholder conference and in its written comments that distribution rates could still be cost-based but have an affordability constraint amounting to an adjustment, the net effect of which would be to result in affordable bills.

Board Staff Comments

Board staff does not believe that it would be appropriate for the Board to create a separate rate sub-class for low-income energy consumers. Such a concept is impractical and violates the basic cost causality premise of rate making. Board staff suggests that the only way such a class could be implemented is by cross-subsidization from other consumers and at significant cost burden to utilities.

(b) Inverted Block Rate Structure or Lifeline Rates

Ontario Experience

An “inverted block” or “lifeline” rate structure would be relevant to one or both of the distribution rate or the commodity price. In terms of the commodity price, it is set as part of the “Regulated Price Plan” (“RPP”) by the Board on a periodic basis in accordance with certain regulatory policies and codes developed by the Board. There presently exists an inverted rate structure, that is to say, a lower commodity price up to a certain threshold of power consumed, and the price is higher once that threshold is exceeded. The actual volumes associated with the tiers vary seasonally for residential consumers and prices are reviewed and may change every six months based on an updated forecast and any accumulated differences between the amount that consumers paid for electricity and the amount paid to generators in the previous period.

However, the RPP is not structured as a lifeline rate, as it is not based on a notion of providing a certain minimum and necessary level of electricity at an affordable price. Board staff believes it is important to clarify that the tiered pricing structure was initially introduced by the Government in 2004. When the authority to set commodity prices for consumers was transferred back to the Board in 2005, the Board decided to retain the two-tier structure primarily to incent consumers to conserve – not necessarily as a measure to assist low-income energy consumers. However, one of the reasons the Board made the change to introduce seasonal tier thresholds – with a higher threshold in the winter – was to assist low-income energy consumers[7], reflecting comments made during the RPP consultation process that a disproportionate share of low-income energy consumers rely on electric heat and the seasonal tiers produce a lower average rate in the winter.

<u>Experience in Other Jurisdictions</u>

The Concentric Report identifies that the inverted-block rate structure tends to be an imperfect method for delivering energy assistance to low-income energy consumers because income often has only a weak correlation with consumption, and in some instances a negative correlation between income and energy use has been found. If there is no correlation, or even a negative correlation, a significant number of poor people will be worse off under inverted-block rates. The Concentric Report notes that BC Hydro's application to implement a Residential Inclining Block ("RIB") rate structure was approved by the British Columbia Utilities Commission. The purpose was to achieve more conservation than under the flat rate structure. The application referred to BC Hydro's interaction with a "Rates Working Group", which suggested that although BC Hydro needs to be sensitive to the needs of low-income energy consumers, the role of providing financial assistance lies with the government rather than the utility. There were no other references to low-income energy consumers in the BC Hydro application.

[7] Other reasons for introducing seasonal tier thresholds included: Ontario had become summer peaking and residential consumers generally had more discretionary consumption in the summer (e.g., air conditioning).

The Concentric Report also identifies that in California, PG&E provided two rate schedules: one applied to consumers without natural gas space heating and one applied to consumers with natural gas space heating. Both rate schedules involved steeply inverted rates which the California Public Utilities Commission hoped would provide a conservation incentive. California's plan did not attempt to identify the poor or target its "lifeline" rates solely for low-income energy consumers.

In terms of a lifeline rate, the Concentric Report notes that one of the tradeoffs that occurs is that it results in improper price signals and discourages efficient uses of electricity or natural gas by both those consumers who are receiving a discount and those consumers who are providing a subsidy. The Concentric Report goes on to note that a lifeline rate which is properly designed must be targeted to ensure that the poor are receiving the intended benefits. According to Concentric, identifying who is eligible can be difficult, and utilities and regulatory commissions are not equipped with the administrative apparatus required to run a targeted program. One successful approach to targeting lifeline rates was tried by Duke Power which offered a reduced rate for consumers receiving Supplemental Security Income, as this was a well-defined, easily identifiable group. However, the Concentric Report notes that most lifeline rate proposals in other jurisdictions are not targeted and, instead, they involve "scattershot" rate designs which only hope that more poor people are helped by the proposal than are harmed by it.

Stakeholder Comments

There was some discussion, both at the consultation and in the written comments of an "inverted block" rate structure or "lifeline" rate concept. At least one participant expressed concern with this model, indicating that these rates are not just and reasonable and represent discriminatory pricing. They also suggested that there is no correlation between income level and electricity usage. Finally, it was noted by another participant that low-income energy consumers with electric heating could be worse off on an inverted block structure.

Board Staff Comments

As Board staff understands it, “inverted block” rate structure or “lifeline” rates involves a change to commodity or distribution rate pricing such that the rate for the lowest tier is decreased to provide relief to lower-income consumers. The structure assumes that low-income energy consumers have lower usage than higher income energy consumers. As such, the reasoning is that the low-income energy consumers will be able to ensure that all of their consumption is within the volumetric constraint imposed by the lowest tiered price and therefore pay less than other consumers whose consumption exceeds the lowest tier consumption threshold.

While it may be an option to consider revisiting the structure of the RPP or to consider imposing an inverted or lifeline rate, Board staff notes that the Board has viewed tiered prices as a short-term transitional rate structure with the intent of moving all RPP consumers to time-of-use pricing in accordance with the Government’s smart meter initiative. Board staff also did not hear any comprehensive proposal put forward to revisit the structure of the RPP. Further, Board staff would be concerned that this mechanism would only be relevant to electricity usage by low-income energy consumers, and not to natural gas usage. Finally, Board staff notes that data provided by LIEN indicates that low-income energy consumers are more likely than higher income consumers to heat their homes with electricity. Many participants in this consultation also noted that low-income energy consumers are more likely to live in poorly insulated homes, which also suggests higher consumption levels. These factors suggest to Board staff that an inverted block structure or lifeline rates may not actually provide assistance to low-income electricity consumers. In fact, it could lead to perverse results.

(c) Time-of-Use Pricing

Ontario Experience

While the goal is for all RPP consumers to transition to time-of-use ("TOU") pricing over time as smart meters are installed across Ontario, only two utilities – Milton Hydro and Newmarket-Tay Hydro – have implemented TOU pricing to date. Both utilities are still in the midst of rolling out TOU pricing; approximately 13,500 Newmarket and Tay residential consumers are on TOU pricing (or just over half of customer base) and, in Milton, all "urban" consumers (about 21,000) are on TOU prices and the plan is to complete the roll-out to "rural" consumers in mid- 2009 (about 4,200). Given the limited experience to date, it is not yet possible to ascertain whether the impact on low-income energy consumers has been generally positive, negative or neutral.

Experience in Other Jurisdictions

The Concentric Report only mentions TOU pricing in noting "Time of use pricing and seasonal pricing provide consumers with an opportunity to reduce their total electric bill by following price signals from the market." Board staff is not aware of any comprehensive studies completed in other jurisdictions that assess the impact of TOU pricing specifically on low-income energy consumers.

Stakeholder Comments

A number of groups raised concerns about the potential impact of time-of-use pricing as part of the smart meter initiative. For example, LIEN noted that TOU pricing was intended to encourage consumers to shift electricity use to off-peak hours, but that low-income households (typically families with children, seniors, disabled persons, or unemployed persons) have the least capacity to shift energy use.

GLOBE raised a similar concern and also noted that these residents spend more time at home and this is especially a problem in the winter as these residents are likely to be in electrically heated units and will require adequate heat when they are at home. As such, GLOBE recommended that some form of bill discount should be provided to social housing residents.

There was also some discussion about an exemption from TOU pricing during the winter. The Federation of Rental-housing Providers of Ontario (“FRPO”) noted that their assessment found that TOU pricing impacts are generally neutral for bulk-metered multi-residential consumption patterns.

Board Staff Comments

Board staff understands the concerns raised, but believes that the objective of assisting low-income energy consumers should be achieved without removing the incentive for consumers to conserve or to shift electricity to off-peak periods. The Government has not deviated from its intent to install smart meters in the dwellings of all residential consumers in Ontario. Board staff is of the view that it is important to maximize the incentive for all consumers to shift consumption from peak periods in order to maximize the benefits of the significant investment in smart meters. Further, a blanket exemption from TOU pricing would likely assist some low-income energy consumers but would also negatively impact low-income energy consumers that could save on TOU pricing. It is also important to note that under two-tier pricing consumers are limited to reducing consumption in order to reduce their electricity bill, while TOU pricing provides low-income consumers with the option to also shift consumption in order to better manage their bill.

Board staff notes that there was no empirical data provided in this consultation to the effect that, because low-income energy consumers spend more time at home and often have electric heating, they will be negatively impacted by TOU pricing. In fact, one of the TOU pricing pilot projects discussed by Board staff during the consultation process suggests otherwise; that is, the Oakville Hydro pilot project[8] which involved three condominiums over a 10-month period (January to October). Two of the buildings were comprised of mainly younger couples and were heated by natural gas, while the third building was primarily occupied by seniors and was electrically heated. Navigant Consulting found that, on average, participants in two of the three buildings paid about $1 per month more under TOU prices as compared to tiered prices, while participants in the remaining building paid about $1 per month less on average under TOU prices.[9] The building that paid less was occupied by seniors with electric heat.

[8] Transcripts, Day 4, p. 37.

[9] Oakville Hydro TOU Pricing Pilot: Final Report, Navigant Consulting, March 18, 2008.

4.2 Bill Assistance

Ontario Experience

A number of distributors currently offer assistance for utility arrears through the Winter Warmth and other similar programs, which are implemented through partnerships between participating electricity and natural gas distributors[10] and social agencies. In the case of the Winter Warmth program, the United Way acts to coordinate a network of more than 40 community agencies across the province, which are responsible for customer intake and eligibility assessment. These agencies may charge up to 15% for administrative and/or program delivery costs.

Criteria for the Winter Warmth program are set locally, but generally consumers are eligible to receive up to $450 of funding if they have energy bills that are currently in arrears, have recently received a disconnection notice, or are experiencing personal circumstances that make it difficult to pay their current energy bill. The funds cannot be used to pay for security deposits, but some distributors will waive deposits on a case-by-case basis. While each participating distributor has the discretion to determine the program term, most begin December 1 and run to May 31 each heating season.

The Heat And Warmth Program[11] ("THAW") is a similar program, which is available to households once every 2 years. Applicants must meet income criteria, have received a final or disconnection notice, have paid at least $50 in the past 4 months towards the utility. For the 2009 winter season, the program started January 2 and operates until funding is exhausted.

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[10] For the 2008-2009 winter season, the following utilities are participating: Union Gas, Enbridge Gas, Burlington Hydro, Enersource Hydro Mississauga, Horizon Utilities Corporation, Hydro Ottawa Limited, PowerStream, Toronto Hydro-Electric System Limited, Veridian Connections and Hydro One Networks Inc.

[11] THAW is offered by London Hydro.

Experience in Other Jurisdictions

The Concentric Report cites the example of PeopleCare, a partnership between Consumers Energy and the Salvation Army to help Michigan households who may not qualify for other assistance. The program is funded through charitable donations from Consumers Energy customers and employees, as well as “bill credits” provided by Consumers Energy. The “bill credits” are applied directly to low-income natural gas and electricity consumers’ bills, based on the Salvation Army caseworker assessment and authorization.

Appendix C to the Concentric Report notes a number of U.S. states that appear to have homelessness prevention funding that can be used for energy arrears, including Illinois, Maine, Michigan, and Minnesota. In the case of New Hampshire, a statute dating back to the 1840s requires towns and cities to provide emergency welfare services, funded by local property taxes, that include assistance for utility payments.

Pennsylvania’s PPL Electric Utilities provides the Operation HELP program, which pays the energy bills for customer who, as a result of hardships and limited income, have difficultly paying their bills. The program is supported by donations from customers, company employees and PPL Electric Utilities.

At the stakeholder conference, Hydro Québec described innovative collection programs that it has developed for its low-income residential consumers. In addition to citing good corporate and social responsibility as the main impetus for its programs, it also described the benefits to the utility and its customers associated with improved management of bad debt and of disconnection/reconnection costs. Representatives from PPL Electric Utilities and the Dominion Peoples natural gas company in Pennsylvania also cited examples of significant improvement in collections as a result of their low-income energy assistance programs. They also described initiatives to reduce administrative costs associated with collection efforts in order to better manage costs.

Stakeholder Comments

The Coalition of Large Distributors (“CLD”), Union Gas, Enbridge Gas and Toronto Hydro-Electric System Limited (“Toronto Hydro”) noted that many distributors already participate in programs like the Winter Warmth program, and noted that they support the continued inclusion in rates of the costs of donations to such programs.

Direct Energy suggested that the Board should prepare a report for the provincial government, which should include a recommendation for continuous funding for an emergency heating fund covering arrears management, disconnection or security deposits. Direct Energy suggested that this could be an area to which OPG Rebate funds are diverted.

The Consumers Council of Canada (“CCC”) argued that it would be premature to implement a broad based rate relief program in the absence of information about existing programs in place to assist low-income energy consumers with their energy bills. CCC recommended that a full inventory of existing programs be developed.

CCC also advocated for an enhancement of the provincial Emergency Energy Fund since it is funded through general revenue, covers all forms of energy, and is delivered by the municipalities who have experience with administering social assistance programs and have processes in place to determine eligibility.

A number of participants were critical of the current “patchwork” of emergency assistance programs, since many are seasonal, have different eligibility criteria, application processes, and assistance levels, and are not available in all communities. EnviroCentre argued that the programs serve as debt collection agencies for utilities, and enable utilities to avoid disconnecting customers during winter. In a joint filing, London Property Management Association (“LPMA”) and the Building Owners and Managers Association of the Greater Toronto Area (“BOMA”) recommended that the

Board highlight this problem to the government, and recommend that a comprehensive province wide program be put in place.

Nipissing First Nation advised that it manages its own heating subsidy program, since programs like Winter Warmth either do not exist in First Nations communities or there is insufficient access to them.

The Ontario Municipal Social Services Association ("OMSSA") noted that rising awareness of emergency energy funds has led to increased demand for funds. OMSSA also suggested that emergency assistance does not help to solve the problem of energy poverty. OMSSA suggested that the solution is a systemic approach to poverty reduction, and a focus on energy efficiency.

LIEN suggested that an ongoing low-income assistance program, whereby low-income energy consumers paid no more than 6% of household income on energy costs, would ensure ongoing affordability and serve to prevent energy crises.

Board Staff Comments

Board staff notes that support for the Winter Warmth program appears to be growing amongst utilities and will likely increase in the difficult economic climate the Province now faces. With some exceptions, the program as currently managed appears to be working well.

Board staff believes the Board should consider developing a bill assistance program, modeled on the existing Winter Warmth program, but extended to provide assistance year-round. Options for funding this program are discussed in section 4.2.1 of this Staff Report.

Board staff believes that it is important that all consumers are charged cost-based rates, and that the incentive to conserve is maintained. As such, Board staff suggests that many of the systemic energy affordability issues can be addressed through customer service measures and energy conservation measures, rather than providing subsidies in the form of ongoing bill discounts for all low-income energy consumers.

It appears appropriate that assistance should be available to low-income energy consumers year round. Currently the term for the Winter Warmth program varies to some degree among utilities, but most provide assistance through the Winter Warmth program from December 1 to May 31. Outside of this period, Winter Warmth funds are not available. However, Board staff recognizes that colder weather may start earlier, and end later, in certain areas of the province. Further, some low-income energy consumers, particularly those with certain medical conditions, may require air conditioning, and therefore may also face high energy costs during the summer. Year-round funding would address such weather and medical related issues.

As noted in section 5 of this Staff Report, Board staff believes that the key to the success of delivering assistance to low-income energy consumers will be partnerships between distributors and social service agencies. Board staff notes that the provision of bill assistance is one such area, and also notes that distributors participating in the Winter Warmth program have already established partnerships with the United Way and local social service agencies.

The eligibility criteria and the procedures for program delivery that have been adopted by the United Way, the social service agencies and the distributors delivering the Winter Warmth program appear reasonable. The maximum grant of $450 per household appears to be appropriate, and staff notes that the average grant to electricity and natural gas consumers in 2007-2008 was only $356.

Board staff also notes that in accordance with current Winter Warmth program guidelines, funds cannot be used to pay for a security deposit. In some cases distributors still require a deposit, and unless the low-income energy consumer obtains funds from some other source they may be denied service or reconnection, while in other cases, the distributor waives the deposit requirement. Board staff suggests that funds from any bill assistance program implemented by the Board should not be used for security deposits, but that consumers who qualify for such financial assistance should not be required to pay a deposit.

Board staff acknowledges that it may be necessary for the Board to consider exempting certain distributors from participating in such a program, particularly those distributors operating in small communities that may lack the appropriate social agency infrastructure needed to assess and qualify low-income energy consumers for assistance.

Board staff also suggests that it would be appropriate for distributors to prominently advertise such a program to ensure that all consumers who require assistance are aware of available assistance, and of how to access it. Information could be provided on a distributor’s website, and/or in bill inserts.

4.2.1 Funding for Bill Assistance

Section 4.2 of this Staff Report described a bill assistance program that Board staff suggests the Board may wish to consider. Board staff notes that the Board would also need to consider how such a program could be funded.

The Concentric Report identifies the following five primary sources of funding for low-income energy programs in other jurisdictions:

- government funding (federal, and provincial or state);
- system benefit charge[12] (i.e., dedicated state fund);
- charitable or religious donations; and
- utility surcharges or assessments on customer bills.

Each of these funding options is discussed in more detail below. However, it is helpful to summarize briefly the authority for funding in other jurisdictions. While there was much discussion at the consultation about the types of programs that low-income advocates wanted the Board to implement, there was little detail about how specifically the programs would be funded nor about applicability and legality in the Ontario context.

Authority for Funding in Other Jurisdictions

The Supplemental Concentric Report considers the question of the costs to utility customers or to taxpayers to fund low-income energy programs and identifies the authority under which the programs are funded. It indicates that, although legislation related to deregulation in many jurisdictions requires regulators to establish and

[12] Other terms are also frequently used to denote the same concept: distribution fees, universal service charge, public benefits charge, public purpose charge.

implement low-income energy programs, with a few exceptions, the legislation is not specific with respect to the mechanism or authority for funding those programs.

The Colton Report summarizes a survey conducted in 2006 of the 50 states (and the District of Columbia) which found that 26 states plus the District provide rate affordability assistance through programs where the costs are recovered in whole or in part directly from increased utility charges to other ratepayers. In California, all customer classes pay a public purpose charge. In Ohio, all customer classes are assessed via a rider to support low-income rate assistance. In New Jersey, all customer classes pay into the Universal Service Fund (USF) via a volumetric charge on all electric and natural gas bills. In Illinois, the program (SLEAF: Supplemental Low-Income Energy Assistance Fund) is funded by a flat fee on all residential accounts, and a higher flat fee from commercial and industrial consumers. In Massachusetts, the costs of low-income programs are recovered from all of the state's electric and natural gas distribution consumers. In all 27 states, the programs are funded with ratepayer dollars (rather than government dollars).

In these 26 states, there is a substantive split between states where the cost recovery mechanism was created by legislation and where the cost recovery was authorized under the generic regulatory authority exercised by state utility commissions over natural gas and electric utilities. Within the six largest state programs, for example, Pennsylvania, Ohio and Massachusetts were all done under general regulatory authority without explicit legislative support. In contrast, California, New Jersey and Illinois all implemented programs in response to a legislative directive to do so.[13]

[13] In each of these instances, the state legislation not merely authorized the program, but mandated it.

(a) Federal or Provincial Program Funding

Ontario Experience

There are a number of government-funded programs in Ontario that provide assistance to low-income energy consumers for energy costs. These programs are funded through provincial tax revenue. The two primary programs, the Emergency Energy Fund, and the Community Start-Up and Maintenance Benefit are described below.[14]

Emergency Energy Fund

The Emergency Energy Fund is a provincial government program that provides funding for utility arrears, security deposits and reconnection costs for consumers of electricity, natural gas, oil and other forms of energy. The fund is administered and delivered by municipalities, some of which sub-contract delivery to social service agencies, that may charge a fee to cover administration costs.

Funding has been provided at a level of approximately $2.1 million per year for the past four years, with the exception of the 2006-2007 fiscal year when it was doubled to $4.2 million. Funding is allocated to communities across the province, based on population, with a 30% weighting factor for northern communities.

The maximum grant per household is the amount required by the service provider to have service maintained or reconnected. Funds are available year round, or at least as long as the annual allocation lasts. In the 2007 to 2008 season some 4430 households were assisted with an average amount per assisted household of $323, which is similar to the average grant per household under the utility-funded Winter Warmth program.

[14] In addition, there is also the Shelter Fund and the Shelter Allowance. Shelter Allowance is available only to recipients of Ontario Works ("OW") and Ontario Disability Support Program ("ODSP") benefits who reside in Toronto. The Shelter Allowance is included in OW and ODSP, and covers, in addition to energy costs, rent, loan and mortgage payments, occupancy costs taxes, insurance premiums, approved home repairs, and maintenance fees for a condominium or co-operative housing unit.

As shown in Table 1-6 in Appendix 1 of this Staff Report, the program uptake has risen significantly over the past several years, with only 66% of the total budget being spent in 2004-2005 and 100.4% being spent in 2007-2008. Further, as the number of households assisted has increased, the average grant per household has decreased.

It is Board staff's understanding that many municipalities restrict access to the Emergency Energy Fund to people who are not in receipt of social assistance, as those receiving social assistance can access the Community Start-Up and Maintenance Benefit, which is described below.

Community Start-Up and Maintenance Benefit ("CSUMB")

The Community Start-Up and Maintenance Benefit provides emergency assistance to recipients of social assistance (Ontario Works or Ontario Disability Support Program) who are about to lose their housing because of rent or utility arrears payments. More specifically, CSUMB may be granted where the customer is facing disconnection of energy services and payment of the arrears would stop the disconnection, or where service is already disconnected and payment of the arrears would have services resume.

The amount granted is based on the total funds necessary to stabilize the housing situation, up to a set maximum, and may be used for energy arrears as well as security deposits in addition to other housing-related costs.[15] The maximum amount, granted only once in a 24-month period, is $799 for singles and couples without dependent children under 18 years of age and $1,500 for families with dependent children under 18 years of age.

[15] Other costs covered by CSUMB include: last month's rent deposit, moving and storage costs, household furnishings, clothing, bedding, small appliances, and any other approved costs.

Experience in Other Jurisdictions

The Concentric Report summarizes the funding sources and levels in the United States, the United Kingdom and Australia. It is clear from the discussion and figures provided in the Concentric Report indicates that in these jurisdictions, the majority of funding for energy assistance programs (at least 60% in all three cases) comes from government sources. In the United States and the United Kingdom, the remaining funds are largely sourced at the utility level.

The Supplemental Concentric Report indicates that government funding in the United States is at the federal, state and municipal levels and includes a mandatory federal block grant program which is targeted to the lowest income households that use a high proportion of household income for home energy. The funds are distributed to the states using a formula established by Congress which is based on weather and low-income population.

The Supplemental Concentric Report also suggests that the low-income energy programs in the United Kingdom are government funded. The programs in France are also described as being largely government funded but with some funding provided by the nationalized gas and electric utilities.

Stakeholder Comments

A number of participants suggested that elected officials are better judges of the support that exists for low-income programs, and that the goal of wealth distribution is more appropriately accomplished through the tax system.

However, low-income advocates maintained that government funding for low-income programs is insufficient and therefore more funding is needed to meet the needs of low-income individuals.

Union Gas also noted previous federal and provincial sources of funding for low-income energy costs, notably:

- Provincial income tax legislation which previously provided for public tax expenditures to assist low-income consumers with rising electricity costs.[16]
- Federal government provided a one-time relief for energy costs to low-income families and seniors in Canada through the *Energy Costs Assistance Measures Act, 2005*.

Board Staff Comments

Board staff suggests that there may be a role for both the Board and the government to provide funding for low-income energy assistance. The government is best suited to address the broader context of poverty, as only energy costs are within the purview of the Board.

(b) System Benefit Charge

It is helpful to first define the concept of a system benefit charge ("SBC") to ensure that all interested parties understand the nature of this funding mechanism. A SBC is a fee placed on electricity bills, and is designed to be competitively neutral and, consequently, usually non-by-passable. That is, every customer pays the charge regardless of what provider sells them electricity. SBCs also are designed not to competitively disadvantage the entity charged with collecting the fee. SBCs are usually assessed as a fee per kilowatt-hour (kWh), but they also may be assessed as a flat fee per customer. Amounts collected through the SBC generally accumulate in a fund, and may be used to fund renewable energy, energy efficiency, low-income customer programs, energy research and development, or other functions that the competitive market is unlikely to provide on its own.

16 *Income Tax Act*, R.S.O. 1990, c.1.2, s. 8.6.1, as rep. by the *Income Tax Amendment Act (Ontario Home Electricity Relief), 2006*, S.D. 2006, c. 18, s. 1.

A SBC is distinguishable from rate riders or other bill assistance programs in that the funds are collected at a state or provincial level from all consumers, usually on a volumetric basis, however, the funds, once collected can be distributed in whatever manner best addresses need even if that means some service areas are ultimately net payors into the fund. In this way an SBC can essentially move funds from one or more distributors' service area, to other areas that have a need which may be disproportionate as compared to other service areas.

Ontario Experience

Many low-income advocates have pointed to the collection of Rural or Remote Electricity Rate Protection ("RRRP") through rates as an example of a type of system benefit charge. The RRRP is a long-standing subsidy program that provides rate assistance to eligible electricity consumers in rural and remote areas of Ontario. This subsidy program is established by legislation and funded through distribution rates.

Experience in Other Jurisdictions

The Concentric Report indicates that Ohio's Electric Universal Service Fund is funded through a universal service rider, which is required by law to be assessed by utilities on retail electricity distribution rates and remitted to the Office of Community Services. The Supplemental Concentric Report also notes two New Hampshire programs, which are funded through a system benefit charge paid by all electric consumers.

The Concentric Report highlighted a New Hampshire example in which a SBC of $0.003 per kWh is applied to bills of all consumers to fund low-income programs that are mandated by the Public Utilities Commission and administered by certain community agencies. Of this, $0.0012 is applied to low-income assistance programs and $0.0018 to energy efficiency programs. The average benefit paid is about $420 per year per participant. While the imposition of a SBC is required by state, the collection of the funds is effected through the distribution rates of each of the utilities as part of each of their tariffs. The tariffs also constrain how the funds may be used and how and under what circumstances the amount of the charge may be adjusted.

Appendix A to the Supplemental Concentric Report also refers to funding mechanisms that appear to amount to SBCs, sometimes called rate assistance programs or rate riders, but funded or collected at a state level. For example, Northern Indiana Public Service has a rate assistance program that is funded through a monthly per customer surcharge for residential consumers and a usage based charge for industrial consumers. That funding was authorized by state legislation.

In Wisconsin, utilities are required to contribute 1.2% of gross revenue toward low-income or alternative fuel initiatives and a there is also a customer rate charge for the low-income rate assistance program. Again, the charges are collected pursuant to legislation. There are similar such funding mechanisms in many other states and they are generally authorized or mandated by legislation.

Stakeholder Comments

Most, if not all of the participants involved in the stakeholder consultation who opined on their preferred option for funding low-income programs indicated either directly or indirectly that the most appropriate funding mechanism is a system benefit charge.

The Electricity Distributors Association ("EDA") suggested that a system benefit charge would require some type of legislative direction.

LPMA and BOMA noted that they do not support a system benefit charge since ratepayers (and not society as a whole) would be subsidizing low-income energy consumers. However, LPMA and BOMA noted that if the Board were to decide to do something related to rates, then a system benefit charge would be preferable over a special rate, an inverted rate structure or bill discounts.

LIEN supported a system benefit charge but argued that low-income energy consumers should be exempted from paying it.

Board Staff Comments

Board staff appreciates the merits of a SBC. In particular, the universality of the charge, the ability to collect funds without deviating from traditional rate making principles or burdening individual utilities with material administrative and other costs, and the ability to collect funds globally (throughout the province) but to distribute the funds on an as-needed basis (i.e., in a manner that may be disproportionate or different to the amounts collected). More specifically, it would also give distributors with a higher proportion of low-income energy consumers access to sufficient funds. This could offer potential advantages in Ontario's electricity sector where distribution utilities are varied in size and where the proportion of low-income energy consumers as between service areas can vary considerably.

Board staff believes, however, that a specific legislative mandate, which does not currently exist, may be required for the Board to impose such a charge. While some participants pointed to the RRRP as an example of a form of SBC, Board staff notes that consumers are expressly required to contribute to the RRRP under the *Ontario Energy Board Act, 1998*. Similarly, electricity users are required to pay the debt retirement charge pursuant to a legislative provision under the *Electricity Act, 1998*. In the absence of legislative direction, Board staff suggests that the jurisdiction of the Board to impose a universal system benefit charge to be used to fund low-income programs is questionable.

(c) Charitable and Religious Donations

Ontario Experience

There is currently no provision allowing customers to provide donations to distributors for assisting low-income energy consumers.

Stakeholder Comments

Energy Probe Research Foundation ("Energy Probe") and VECC both suggested that the Board should investigate how customers could donate to emergency assistance programs as part of the payment of their energy bill.

Board Staff Comments

Board staff sees merit in the possibility of having utilities include a request for voluntary charitable donations to fund low-income programs on customer bills, but notes that this may require legislative support in relation to the electricity sector.[17] Such donations could then be used by utilities to supplement whatever other funding sources may be received.

(d) Utility Surcharges or Assessments on Customer Bills

Ontario Experience

As noted in section 4.2, many distributors are currently participating in the Winter Warmth and similar programs, which provide emergency assistance for the payment of electricity and natural gas arrears. Funding is provided largely through distribution

[17] More specifically, further consideration needs to be given to the need to amend Ontario Regulation 275/04, *Information on Invoices to Low-Volume Consumers of Electricity*.

rates, though some funds may be sourced from utility shareholders or through charitable donations at the utility level. Recovery through rates for programs to assist low-income energy consumers was addressed by the Board as part of the proceeding to develop the 2006 Electricity Distribution Rate Handbook ("EDR Handbook"). In its Report of the Board on the EDR Handbook, issued, May 11, 2005, the Board stated, in part:

> *The Board is seeking ways to address the issues raised in relation to low-income energy consumers and will therefore allow recovery of donations related to assisting customers with their electricity bills. These expenditures are more directly related to the provision of electricity distribution services.*

Section 6.2.4 of the EDR Handbook states, in part:

> *The recovery of charitable donations will not be allowed for the purpose of setting 2006 rates, except for contributions to programs that provide assistance to the distributor's customers in paying their electricity bills.*

It is important to clarify that these "donations" are not voluntary on the part of consumers, as amounts are recovered through distribution rates charged to consumers.

Experience in Other Jurisdictions

The Supplemental Concentric Report describes a number of state-funded low-income energy programs, including the California Alternate Rates for Energy program funded through a rate surcharge paid by all other utility consumers, and Michigan's Low-income and Energy Efficiency Fund funded through a surcharge on the distribution rates of the state's two largest utilities.

Stakeholder Comments

While certain participants, such as LIEN, VECC and EnviroCentre supported (to a greater or lesser degree) some notion of the Board establishing a rate or bill discount, arrears management or similar program that would be housed and funded within the utility, the utilities and other customer groups were opposed to the concept of low-income assistance being funded through utility rates.

Board Staff Comments

Board staff is cognizant of the fact that a number of the larger utilities are already participating in Winter Warmth or similar programs, and that these programs are funded through distribution rates. It is clear that through its EDR filing requirements, the Board has facilitated the ability of utilities to recover this funding.

Board staff suggests that the Board may wish to consider recovery through distribution rates as an option to fund any bill assistance programs for low-income energy consumers. This would be consistent with the current method of funding used by a number of distributors for existing emergency assistance programs, including the Winter Warmth program.

Board staff notes that the Winter Warmth program, which is the most common program implemented by electricity and natural gas distributors to date, began in the winter of 2004 when Enbridge Gas committed $300,000 to the program. Enbridge Gas has continued that level of funding to the present. Toronto Hydro followed the next year with the commitment of $100,000 for each season. Over time other utilities have joined and the total annual investment for the 2008-2009 winter season is approximately $1.2 million.

Table 1-1 in Appendix 1 of this Staff Report provides a breakdown of spending over the past several years, as well as the number of applicants for those utilities that have participated in Winter Warmth or equivalent programs. With respect to the level of funding, the current commitment of the participating distributors varies significantly. Union Gas and Enbridge Gas are each investing 0.01% of their respective distribution revenues, compared to 0.02% for Toronto Hydro, 0.03% for PowerStream and Hydro Ottawa, 0.04% for Enersource Hydro Mississauga ("Enersource"), and 0.18% for London Hydro.

The data shows that electricity distributors are allocating, on average, 0.06% of total distribution revenues to the Winter Warmth program, while natural gas distributors[18] are allocating 0.01% of total distribution revenue. However, excluding London Hydro, which is providing significantly more funding, as a proportion of total distribution revenues, the average contribution for electricity distributors drops to 0.04% of total distribution revenues.

For the 2007-2008 winter season, the average grant per electricity customer ranged from $280 to $354, while the average grant to natural gas consumers was $360.

The natural gas utilities are in a unique position as they have access to additional funding from the Garland class-action settlement. In accordance with the terms of Enbridge Gas' settlement of that case, any amounts that are not used for the Winter Warmth program are returned to the United Way for use in general programs and services.

Board staff suggests that the Board may wish to consider requiring all electricity and natural gas distributors to collect funds from all ratepayers in their service or franchise areas based on a common percentage of total distribution revenue. This will ensure a consistent level of funding across all utilities.

[18] This calculation excludes the additional money available to Enbridge Gas as a result of the Garland class action settlement. The terms of the settlement require that $9 million be invested through the United Way, with an annual interest rate paid out to the United Way for use for the Winter Warmth fund.

Funding could be set initially as 0.12% of total distribution revenues, which is approximately twice the average currently being provided by electricity distributors. This would represent the maximum amount that distributors would be permitted to recover through rates. Board staff suggests that this increase is necessary to ensure that more low-income energy consumers can access funds.

If there are funds left over at the end of the calendar year, Board staff suggests that distributors could roll these funds over into the next year unless there is some compelling reason that dictates otherwise.

Board staff recognizes that for many utilities that already have or participate in Winter Warmth or equivalent programs, the funding level suggested by Board staff would represent a significant increase in the commitment to these programs. Board staff recognizes, however, that at least one utility already provides for funding well above this level and that for other utilities that have implemented such programs. Board staff heard from low-income energy consumer advocates that the level of funding that currently exists is not likely sufficient to meet the needs of all consumers that are eligible for such funding.

Board staff also provides some comments on how such a funding option could be implemented, should the Board determine that such an option is appropriate.

Each distributor could include the funding for its low-income energy assistance program in its revenue requirement as a component of OM&A, as part of the normal application process in a cost of service rebasing exercise. In order to avoid placing the implementation of the low-income energy assistance program on hold until the rebasing of each individual utility, the Board could permit each utility to capture the expenditures related to the low-income energy assistance program funding in a deferral account. This deferral account would then be cleared at the next cost of service rebasing. At this point, the deferral account would no longer be needed.

Board staff acknowledges that this approach would require those distributors that are not subject to cost of service rebasing in the near future to use funds from existing revenue requirement amounts. However, since the suggested level of funding is relatively low, Board staff does not believe this should create a hardship for any distributor.

4.3 Customer Service Policies

As noted by OMSSA in its written comments, assisting low-income energy consumers need not solely involve direct financial assistance. There are non-financial mechanisms, such as improved customer relations, that can reduce the burden on low-income energy consumers.

This section will examine the following issues:

- **4.3.1** Bill Payment Procedures
- **4.3.2** Equal Billing
- **4.3.3** Disconnection for non-payment
- **4.3.4** Security deposits rules
- **4.3.5** Arrears management
- **4.3.6** Waiver of service charges

Board staff notes that the Board is reviewing a number of customer service issues as part of the consultation on Electricity Distributor's Provision of Service (EB-2007-0722). The focus of that consultation is on measures that apply to all consumers, including low-income electricity consumers. Board staff has limited the discussion in this Staff Report to customer service policies that could provide incremental or differential assistance to low-income energy consumers, and has limited the discussion of stakeholder comments to those made in this consultation.

While the focus of this section is on rules that could apply in the electricity sector, Board staff sees merit in similar rules being established for the natural gas sector.

4.3.1 Bill Payment Procedures

Ontario Experience

At the present time, there are no mandatory rules regarding the minimum amount of time that must elapse before a customer is subject to late payment charges. Industry practice is generally for the period to be 16 days, which is the period recommended in section 9.3.2 of the Board's 2000 Electricity Distribution Rate Handbook (the "2000 EDR Handbook"). It is Board staff's understanding that some distributors in the province voluntarily provide 21 days. At least one Ontario distributor also offers extended payment dates (to the first week of the next month) to seniors and others.

Experience in Other Jurisdictions

Little information was provided by stakeholders as to bill payment procedures in other jurisdictions, with the exception of equal billing, which is addressed in section 4.3.3 below.

Information provided by Pennsylvania's PPL Electric Utilities at the stakeholder conference indicates that the utility allows customers to change the due date of their electric bill.

Stakeholder Comments

VECC suggested that late payment charges should not be applicable until 21 days after the due date, while LIEN suggested allowing consumers on fixed incomes to specify the due date for payments. CCC also commented that consideration should be given to allowing consumers to choose the bill due date.

Enbridge Gas advised that it offers Golden Age Services to consumers over 65 years of age (117,000 consumers in total). These consumers have the option of paying their bills right after receiving pension cheques. Other special payment arrangements apply. Union Gas stated that its billing system does not have the functionality to allow different payment dates.

The School Energy Coalition ("SEC") suggested that the Board could also encourage the use of prepayment meters where the payment method – monthly billing vs. prepayment - does not affect rate levels.

Board Staff Comments

Payment Period

Board staff believes that a minimum payment period of 21 calendar days would be appropriate low-income electricity consumers, who may require additional time to make arrangements for payment.

As noted above, several low-income advocates in the consultation suggested that consumers on fixed incomes should be permitted to choose the due date for their bill payments. If the Board were to extend the due date for low-income electricity consumers to 21 days, Board staff does not believe it would be necessary to require distributors to also allow these consumers to choose their due date, except in the context of equal billing (see section 4.3.3 below), or to receive a further extension. The Board may wish, however, to allow distributors to retain the discretion to extend the minimum bill payment period in appropriate cases, such as where it is evident that a customer's ability to pay is being adversely affected by a mismatch between receipt of government fixed income payments and utility bill due dates.

Correction of Billing Errors

Board staff notes that as part of the Provisions of Service proceeding, the Board is considering the issue of the correction of billing errors.

For amounts that have been over billed, Board staff suggests that the Board may wish to consider allowing low-income electricity consumers to request repayment by cheque in all cases, as these consumers may have particularly urgent need for the funds for other purposes.

For amounts that have been under billed Board staff suggests it may be appropriate for the Board to consider allowing low-income electricity consumers to repay any under billed amounts in equal installments over the same period as the billing error occurred in all cases. This would recognize low-income electricity consumers' limited ability to pay, especially unexpected amounts for which the consumer may not have budgeted for.

4.3.2 Equal Billing

Equal billing[19] was noted in the consultation as a billing option that could assist low-income electricity consumers with bill payment. Equal billing is a payment option whereby bills are issued in equal installments over a certain period of time (usually 11 months), and any amount over- or under-billed is reconciled on an annual basis (usually the 12th month). The benefit of equal billing to a customer is that it allows the customer to better budget for electricity payments, and "smoothes out" seasonal fluctuations in electricity consumption. This may increase the customer's ability to pay in each billing period, which may in turn reduce the risk to the distributor of customer non-payment. Another benefit to the distributor is that equal billing "smoothes out" the distributor's cash flow. The distributor may, however, still be at risk of customer non-payment at the time of reconciliation, particularly if the customer's annual consumption was under-estimated by a significant amount and the customer is then unable to pay the amounts owing on the bill that covers the reconciled amount.

Ontario Experience

Equal billing is addressed in section 2.6.2 of the *Standard Supply Service Code* (the "SSS Code"), which states:

[19] Also commonly known as budget or levelized billing or equal payment. For the purposes of this Staff Report, the term "equal billing" will be used to denote these types of payment options.

A distributor may offer an equal billing plan option (or some equivalent form of levelized or budget billing) to all standard supply service customers.

Board staff understands that many electricity and natural gas distributors in Ontario currently offer some form of equal billing plan to residential consumers.

Experience in Other Jurisdictions

The Concentric Report identified the use of equal billing as one of the tools adopted in other jurisdictions to assist low-income energy consumers.

The Concentric Report notes the example of Nova Scotia Power Incorporated, which allows consumers enrolled in the budget billing program to chose a preferred due date to assist them in meeting payment obligations in a timely manner. Consumers with past due accounts were also permitted to enroll in the budget billing program, which was a change from past rules.

The Concentric Report also notes Dominion Virginia Power's equal billing program, but notes several restrictions on the availability of the program. For example, to be eligible to participate, consumers cannot owe more than the amount charged on their most recent monthly bill. No extensions or payment arrangements are granted to consumers on budget billing. However, Dominion Virginia Power does periodically review customer usage and may adjust the budget amount if the customer's usage deviates significantly from historical patters.

Equal Billing is also offered by Pennsylvania's PPL Electric Utilities.

Stakeholder Comments

There was general agreement among participants that commented on equal billing that distributors should be required to offer it to low-income energy consumers. The Kingston Community Legal Clinic (“KCLC”) suggested that the billing option should also be available to consumers enrolled with a retailer, and that credit history should not be a barrier to customer enrollment.

Enbridge Gas, Union Gas and Hydro One Networks Inc. (“Hydro One”) confirmed that they currently offer equal billing plans. Bills are issued on a monthly basis[20]. Union Gas reported that it encourages its customers to join its equal billing program to lessen the impact of higher winter bills.

Toronto Hydro reported that it currently offers consumers the option, upon request, of monthly billing to alleviate some of the difficulties of paying larger bills. With the introduction of a new Customer Information System in the near future, Toronto Hydro plans to offer all consumers the option of monthly billing.

Board Staff Comments

Board staff believes that equal billing is an important measure to assist low-income electricity consumers to better manage their energy costs, since each bill is for a consistent amount, until reconciliation. Board staff therefore suggests that distributors should be required to offer an equal billing plan to all residential consumers.

Where distributors bill on a bi-monthly or quarterly basis, this may result in higher bills that are relatively more unaffordable for low-income electricity consumers than bills for monthly consumption. To address this issue, Board staff suggests that it may be appropriate for distributors to bill low-income electricity consumers that are on equal billing on a *monthly* basis. Board staff is aware that a number of distributors currently bill on a less frequent basis, but Board staff believes that the benefits to these

[20] In the case of Hydro One, seasonal residential customers are billed bi-monthly, but all other residential customers are billed on a monthly basis.

consumers of equal billing would not be fully realized if the customer is billed less often than on a monthly basis.

It is Board staff's understanding that a number of Ontario distributors offer consumers on equal billing a choice of the dates on which payment may be made. As many low-income electricity consumers receive their income at dates fixed by government agencies, it may be appropriate to allow low-income electricity consumers who elect equal billing to be given the option of at least two different monthly payment dates (such as the 1st or 15th of each month).

Equal billing requires reconciliation at the end of the period between the amount billed and the amount consumed. Board staff believes that, because low-income electricity consumers may have particularly urgent need of funds for other purposes, it may be appropriate for the customer to receive any refund at the time of reconciliation in the form of a cheque, at least where the amount is large enough that it would need to be credited over more than one bill.

The equal billing reconciliation may demonstrate that a low-income electricity customer owes the distributor for a shortfall. Given their limited incomes, this may put particular strain on low-income electricity consumers as they may be unable to afford to repay the amount owing in a lump sum. Therefore, Board staff suggests that it would be reasonable for the shortfall to be rolled into the following year's instalments in equal monthly amounts. This may make the payment of the shortfall more affordable for the low-income electricity customer, as the shortfall will be "spread out" over a longer period of time.

4.3.3 Disconnection for Non-Payment

<u>Ontario Experience</u>

The existing rules and guidance with respect to disconnection of service for non-payment contain no specific provisions for low-income energy consumers, but rather apply to all consumers.

The *Electricity Act, 1998* allows electricity distributors to shut off the supply of power if an amount payable is overdue. Reasonable notice must be provided. The Distribution System Code ("DSC") (section 4.2.3) currently recommends that no less than seven calendar days be given prior to disconnection. The rules in the DSC dealing with the disconnection and reconnection process currently include no direction as to what information a distributor should include in a disconnection notice.

In 2002, the Ontario Government amended the *Electricity Act, 1998* to introduce a ban on disconnection for the period of November 11, 2002 to April 1, 2003. This winter disconnection ban existed only for the 2002-2003 winter period, and was not continued beyond April 1, 2003.

Experience in Other Jurisdictions

The Concentric Report noted that regulatory authorities in some jurisdictions have expressed concern about the potential detrimental effect of service disconnections on consumers who have medical conditions, on young children or on the elderly. Those consumers are viewed as more susceptible to rising energy prices, and as such, many U.S. states have adopted rules that prohibit utilities from disconnecting consumers under certain circumstances: (a) at certain times of year such as November 1 through March 31; (b) when temperatures reach certain extreme levels; (c) before the weekend when the utility's customer service office will not be open; and (d) before recognized holidays such as Christmas.

Concentric reported that it reviewed the disconnection policies of all 50 states and the District of Columbia, and found that 48 jurisdictions have implemented policies or adopted rules to protect consumers from disconnections during extreme weather conditions or when the disconnection would be detrimental to the medical condition of the individual customer or a member of the household. Most weather related policies involve temperatures dropping below a specified level during the next 24 hours, although several states (including Minnesota) have policies against disconnection when temperatures or heat indices rise above certain thresholds.

Similar weather-related prohibitions exist in Manitoba and Alberta.

Hydro Québec will not interrupt service for residential consumers between December 1 and April 1, and will reconnect service for residential consumers for this period.

Pennsylvania's PPL Electric Utilities offers a "Double-Notice Protection Plan" whereby consumers may arrange for an individual or social agency to receive a copy of all overdue or termination notices.

Stakeholder Comments

Participants advocating on behalf of low-income energy consumers generally argued for a ban on disconnection during the heating, and in some cases cooling, seasons to protect against weather-induced illness and death. Some participants also advocated for a disconnection ban for age or medical related reasons.

While some utilities noted that it is their policy not to terminate service during winter, the CLD noted that it is opposed to a compulsory suspension of winter disconnections. However, the CLD did indicate that it favours establishing a joint working committee comprised of utilities and social service agencies to increase understanding of mutual issues and opportunities, such as providing bill information to consumers on social service agencies or dedicating utility staff resources to liaise with social service agencies.

VECC also suggested that service should not be terminated where a utility receives a pledge, letter of intent or other notification that a third party is forwarding payment, or where the customer makes a minimum payment. VECC also encouraged proper notice and direct contact with local social service agencies to remedy customer default.

The KCLC suggested that there is a lack of oversight on disconnections, and that the Board should prevent "over-noticing" of potential disconnections.

OMSSA believes energy companies should engage in a higher degree of customer relations and be less quick to disconnect consumers. They should instead work with consumers to maintain service.

GLOBE suggested that the Board should track customer care statistics as part of a clearinghouse role, including statistics on the number of disconnections, reconnections, security deposit waivers implemented, and arrears management programs provided. GLOBE also noted that utilities should recognize that some consumers may not speak English as their first language, may not be literate or may have physical or mental disabilities.

The Colton Report also identified the importance of reporting requirements to allow regulators, distributors, advocates and other interested parties to track the impact of low-income assistance programs, and suggests monthly reporting on fourteen measures.[21]

Nipissing First Nation commented that the factors considered in existing disconnection policies do not reflect realities on a First Nations reserve, such as high rates of diabetes, poor housing and a growing population with infants in homes.

[21] Number of program participants, distribution of full retail bills, number of accounts, number of disconnection notices, number of accounts with pre-program arrears, number of accounts successfully retiring arrears, telephone contacts, number of residential field visits, number of residential terminations, number of residential reconnections, write-offs (gross), new deferred payment arrangements, distribution of overdue accounts by dollar account, and distribution of overdue accounts by payment status.

Board Staff Comments

Board staff believes that the Board may wish to consider establishing requirements on distributors with respect to the process that must be followed when disconnecting consumers for non-payment. Various aspects of this process are discussed below.

Content of Disconnection Notice

Board staff believes that it may be helpful to consumers if specific types of information were to be included in the disconnection notice, so as to provide consumers with the tools necessary to avoid, as much as possible, disconnection. Board staff believes that an expanded notice will provide particular assistance to low-income electricity consumers as it may serve to link consumers with social service agencies and fuel charities. The following information is proposed as the minimum required in a disconnection notice:

- the amount that is overdue, including any late payment charges;
- the scheduled date of disconnection;
- any action(s) that the customer can take to avoid disconnection and the deadline for taking such action(s);
- any reconnection charges that may be payable;
- contact information for the distributor;
- contact information for local social service agencies and local energy assistance charities;
- a description of the process for qualifying for assistance that is available to low-income electricity consumers;
- a reference to the arrears payment plans offered by the distributor; and

- confirmation of whether a local Vital Services By-law is in effect that applies to a customer's rental unit and whether the distributor has provided the required notification to the municipality.

Board staff notes that several of these proposed items will largely be of interest only to low-income electricity consumers. However, Board staff believes that as a matter of practice and for convenience, distributors would have only one standard form of disconnection notice.

Timing of Disconnection Notice

Board staff suggests that it may be appropriate for distributors to provide 21 calendar days' notice as a minimum prior to disconnecting a low-income electricity customer, as these consumers may require the benefit of an expanded period in which to make arrangements to pay arrears.

Alternatives to Disconnection

Board staff is mindful of the importance of heat to family heath during Ontario's cold winters, and therefore suggests that distributors should use disconnection as a last resort. Several utilities at the stakeholder conference indicated they already operate on such a basis.

Board staff notes that there are many alternatives to disconnection, and suggests that the Board could encourages distributors to explore how these alternatives may be incorporated into its policies and procedures. Reasonable alternatives could include:

- Offering an arrears repayment arrangement before considering disconnection of a low-income electricity customer.

- During the winter heating season, utilities could consider temporarily maintaining service if a low-income electricity customer with payment difficulties agrees to pay a minimum dollar amount. Use of this option may prove valuable for cases where an outside agency indicates that serious ongoing payment problems exits.

- Some distributors allow the local municipality to pay directly for consumers enrolled in a social assistance program (e.g. Ontario Works). This could be considered to reduce the risk of future payment problems.

- Utilities could consider deferring a costly disconnection process where the amount outstanding is modest.

- Distributors could delay disconnection if a social service agency or fuel charity confirms in writing that it will pay the full amount of the arrears and any associated service charges.

- Distributors could consider not disconnecting consumers (low-income electricity consumers and others) on weekends or statutory holidays if no utility staff is available to accept payment or negotiate a payment agreement.

4.3.4 Security Deposits

Ontario Experience

The DSC was revised in 2004[22] to adopt new rules regarding the collection of security deposits from residential consumers in the electricity sector, including:

- Distributors may require a deposit if a new or existing customer does not have a good payment history ("GPH").

[22] See RP-2002-0146 proceeding. In 2006, further amendments were adopted to deal with bulk metered residential condominiums (EB-2006-0030).

- A formula for the maximum amount of the deposit is specified.
- Deposits may be paid in equal instalments over at least four months.
- Deposits must be refunded after one year if a GPH is achieved.
- If the deposit is paid by a third party, any refund must go to that party.

Experience in Other Jurisdictions

The Concentric Report identified waivers or reductions of security deposits as one of the tools used in other jurisdictions to assist low-income energy consumers, and reported that this tool is used in eleven U.S. states. Empire District Electric waives the deposit and late payment charge for consumers in Missouri and Arkansas who are over the age of 60, or are disabled. Four major utilities in Virginia waive deposits for consumers eligible to receive benefits through the Low Income Home Energy Assistance Program or LIHEAP . Consolidated Edison in New York exempts consumers from paying a deposit if they are over the age of 60, unless their service was disconnected for non-payment within the past six months.

Stakeholder Comments

CCC and FRPO agreed that increased flexibility in the area of security deposits may assist low-income energy consumers. CCC also suggested that security deposits should not be a prerequisite to service and should be payable over several months.

The Industrial Gas Users Association ("IGUA") suggested that the Board should consider reviewing security deposit practices in respect of low-income energy consumers.

SEC noted that it believes low-income programs that have as their primary goal a legitimate business purpose are part of the normal operations of a utility. Such operationally-justified programs may include payment measures related to customer deposits.

KCLC and LIEN requested a mandatory exemption for low-income households from current security deposit requirements, as LIEN suggests that they make bills unaffordable and act as a barrier to continuing utility service. LIEN also noted that utilities have been unable to document the usefulness of deposits in protecting against loss of revenue due to non-payment.

VECC suggested waiving the security deposit requirement where a social agency provides emergency support to the customer. If either the customer or social agency is still required to provide surety, then interest should be paid at the utility weighted average after-tax cost of capital.

LPMA and BOMA suggested that security deposits should not be required from residential consumers until their GPH deteriorates. If required, deposits should be payable over an extended period, such as 12 months, or in affordable monthly instalments. Deposits should be drawn down when a customer is in arrears, then restored over an extended period.

Union Gas reported that its consumers can request additional time to pay security deposits. As long as a customer keeps paying new charges each month and a portion of the deposit, the utility will allow the deposit to be paid over a number of months. Enbridge Gas suggested that there may be a misunderstanding about the role played by security deposits, in that they are intended to merely help recover costs.

The CLD suggested that deposit waivers are contrary to existing ratemaking principles and related obligations to set just and reasonable rates and neglect to recognize inter-dependencies of each customer class, and that distributors are not equipped to assess and manage ongoing eligibility.

Board Staff Comments

Board staff acknowledges that gathering the funds to pay a mandated security deposit may add to the financial pressures already faced by low-income electricity consumers. Board staff notes that when the current security deposit rules were developed, specific provisions were included to assist low-income electricity consumers, including the requirement that consumers be allowed to pay a deposit in instalments, and that the deposit must be refunded upon achievement of good payment history.

Board staff is mindful of the need to balance the interests of distributors and non-low-income electricity consumers in ensuring reasonably effective security deposit policies remain in place as part of prudent utility management.

Board staff suggests that the Board may wish to consider the following changes to the current security deposit rules to provide assistance to low-income electricity consumers:

- Low-income electricity consumers who qualify to receive financial assistance in relation to the payment of energy bills should not be required to provide a security deposit.

For a low-income customer that is not receiving financial assistance, but is nevertheless in need of assistance, Board staff suggests that the Board consider the following:

- Low-income electricity consumers could be permitted to pay a security deposit in equal instalments over period of at least 12 months, instead of the current four months, including where the security deposit is provided to replace a security deposit that has been applied against arrears, or where the customer is required to pay an increase to an existing security deposit.

- The DSC currently requires that distributors refund a deposit upon a residential customer achieving one year of GPH. Where a low-income electricity consumer has paid a required deposit over a period of 12 months, it appears unreasonable to Board staff that the customer must wait an additional 12 months for the deposit to be refunded if the customer has achieved good payment history. As such, Board staff suggests it may be appropriate for distributors to assess a customer's 12 months of good payment history in relation to *each instalment* of the deposit. That is, when a security deposit that has been paid in instalments is required to be returned to a low-income electricity consumer, it would be returned to the customer in equal instalments over a period of the same duration, provided that the customer maintains a one-year GPH.

- Under existing rules, where a customer has received a disconnection notice within the relevant 12 month period, distributors are permitted to use the customer's highest actual or estimated monthly load, rather than the average, for the purposes of calculating the amount of a required deposit. Board staff suggests that this rule should not apply to low-income electricity consumers, in recognition of their limited ability to pay.

4.3.5 Arrears Management Programs

Ontario Experience

It is Board staff's understanding that many distributors voluntarily offer payment arrangements to payment troubled consumers, however it is not universal across the province.

Experience in Other Jurisdictions

The Concentric Report indicated that many utilities offer payment plans for past due accounts, which allow consumers to avoid disconnection, while negotiating a reasonable plan to pay amounts owing over an agreed upon period of time. The utility avoids writing off the customer account as an uncollectible bad debt expense.

At the stakeholder conference, information was provided on arrears management plans offered by Hydro Québec, and by two utilities in Pennsylvania, Dominion Peoples, and PPL Electric Utilities.

Hydro Québec reported that its experience with payment arrangements has shown that payment agreements adapted to payment capacity help the regularity of payments, operational costs are not increased, and customer relations are maintained.

Hydro Québec has two “Adapted Payment Agreements”, one with debt support, and one with consumption support. Both agreements cover a 48 month period, broken down into 12 month sequences. Every 12 months the utility discusses payment with the customer, and requires proof of income.

For the “debt support” agreement, the customer is required to make minimum payments which cover 100% of the consumption, and some of the outstanding debt. If the customer honours the agreement, then a portion of the debt is written off over 4 years, and administrative charges are waived.

For the “consumption support” agreement, the customer is required to make minimum payments that cover approximately 60% of consumption. If the customer honours the agreement, the debt is written off over 4 years, administrative charges are waived, and approximately 40% of the customer’s consumption costs are waived.

Stakeholder Comments

There was agreement among many participants of the benefits for both consumers and utilities of payment plans or arrangements.

LIEN recommended a ratepayer-funded arrearage management program for low-income energy consumers that would include:

- arrears retired over a two-year period;

- co-payments toward arrears, set equal to an affordable percentage of income;
- no pre-condition for grant of arrearage management credits; and
- in the event of non-payment, place the participant in same collection process as any other customer.

KCLC suggested a similar program, and added that the initial down-payment required for reconnection should not exceed the customer's available means.

Hydro One advised that it has measures in place to assist consumers, such as payment arrangements, extended special arrangements for those with extenuating circumstances, and working with social service agencies which administer programs. Union Gas noted that it also works with a number of social service agencies and support groups to assist consumers.

Toronto Hydro also advised that it offers flexible repayment plans.

Canadian Manufacturers and Exporters ("CME") suggested that arrears management costs are incurred to provide regulated services and should be recoverable from ratepayers.

Board Staff Comments

Board staff agrees that a well-designed arrears management program may assist low-income electricity consumers with meeting payment obligations, while reducing utility collection expenses and bad debt expenses. Board staff acknowledges and commends those utilities that voluntarily negotiate payment arrangements with payment-troubled consumers, and suggests that such policies should be adopted by all distributors.

Board staff suggests that the Board may wish to consider requiring distributors to offer, at a minimum, an arrears management program to low-income electricity consumers that allows the customer to pay any arrears in installments, along with current charges. An appropriate minimum length of time for the arrears payment plan may be five months. This could be increased to ten months if the arrears exceed a certain threshold, such as twice the customer's average monthly billing amount. Any outstanding late payment charges or service charges could be included in the amount subject to the payment agreement. Board staff suggests that it would not be reasonable for a distributor to charge interest on the arrears that are the subject of the arrears management program.

Board staff acknowledges that the distributor may require some remediation where a low-income electricity consumer has failed to make payment in accordance with the terms of an arrears payment agreement. In that case, Board staff suggests it may be appropriate for the distributor to disconnect the customer, provided that the distributor has followed the applicable rules pertaining to disconnection for non-payment (in other words, there should not be an expedited disconnection process in these cases).

Board staff acknowledges that a simple payment deferral may not provide adequate assistance for some low-income electricity consumers, and suggests that the Board may wish to consider encouraging distributors to develop an "enhanced arrears management plan" for consumers most at risk. This would serve as the second-tier response where a simple deferral is inadequate. Board staff is of the view that distributors, in partnership with social service agencies, would be best placed to determine the appropriate structure of the plan, so as to provide each customer with the appropriate services. Board staff suggests that the following elements could be considered:

- waiver of any late payment charges on the outstanding debt, provided the customer maintains any agreed-upon repayment schedule;

- waiver of any other non-payment of account service charges[23] owing on the account;
- waiver of a modest part of the principle arrears each time a payment is made in full and on schedule, to encourage the development of reliable payment patterns;
- a minimum one year repayment term for the arrangement;
- allowance of one or two missed payments before the arrangement terminates;
- extended due date, whereby the regular due date will become the first week of the following month to better match cash flow of fixed income consumers;
- entering into a temporary extreme weather service guarantee where the utility agrees to continue service during such periods provided the customer pay some portion of the amount owing, with any uncollected amounts rolled into a payment deferral plan;
- waiver of any pending disconnection if the customer agrees to enter into an arrears management program. If the customer fails to meet the agreed-upon terms, the distributor could proceed with its normal collection process .

Board staff also believes that it may be of benefit to incorporate CDM or DSM programs into such payment arrangements, so as to provide an opportunity for some long term reductions in energy usage, and therefore energy costs.

4.3.6 Waiver of Late Payment & Collections Charges

Ontario Experience

The Board does not mandate any special requirements in this area for low-income energy consumers at the present. A number of Ontario utilities indicate, however, that they voluntarily provide various customer assistance measures.

[23] The charges in question consist of disconnect/reconnection at meter and at pole charges, collection of account charges, and returned cheque charges.

Experience in Other Jurisdictions

The Concentric Report noted that some U.S. utilities waive the late payment charge, especially in conjunction with the customer arranging a payment plan for the past due amounts. The Concentric Report also reported that late payment waivers do not appear to be common practice in other jurisdictions in Canada.

The Concentric Report cites the example of a recent New Brunswick Power proceeding in which intervenors requested a reduction in late interest charges applicable to certain economically vulnerable consumers. The New Brunswick Energy and Utilities Board concluded that the appropriate way to establish policies to assist vulnerable consumers was through legislation.

Empire District Electric in Missouri and Arkansas waives the late payment charge for consumers who are over the age of 60, or are disabled. In addition, several investor-owned and municipally-owned utilities in the State of Washington, including Seattle City Light, also waive late payment charges for low-income energy consumers.

With respect to natural gas utilities, the Concentric Report noted that the American Gas Association had estimated, using 2004 information, that 8% of utility assistance programs offered by its members included the waiver of customer charges, disconnection fees, late payment charges and reconnection fees.

Stakeholder Comments

The CME observed that the manner in which disconnection/reconnection charges and late payment charges are enforced, and waived, appears to be ad hoc, and suggested that the Board may wish to provide further guidance in this area.

There was agreement by several participants that late payment and disconnection and reconnection charges should be waived for low-income energy consumers. VECC suggested that the charges should be waived upon receipt of amounts owing or upon the customer enrolling in an arrears management plan.

Nipissing First Nation agreed that changes to specific service charges and arrears management programs were needed, but did not provide details as to what changes should be made.

Enbridge Gas noted that as part of its Golden Age Services program it waives late payment penalties and offers other special payment arrangements for consumers over the age of 65.

Union Gas advised that it does not support measures that would result in special programs, rules, waivers of fees and arrears forgiveness for low-income energy consumers, as it has no mechanism or functionality in its billing system to identify and track low-income households. Union Gas also noted that it believes that the late payment charge is well established and practical and that its objective is to encourage consumers to pay promptly.

The CLD advised that it believes service charge waivers are contrary to existing ratemaking principles and related obligations to set just and reasonable rates.

SEC suggested that utilities may appropriately voluntarily spend on low-income customer programs to achieve operational or other cost benefits or to reduce the financial hardship to low-income energy consumers.

Board Staff Comments

Late Payment Charges

Board staff observes that while a cost basis exists for the other standard service charges listed in the 2006 EDR Handbook, this is not the case for the 19.56% per year late payment charge. Given low Canadian interest rates in recent years, a cost-based late payment charge could lead to a substantial lowering of the extra charges imposed upon late paying consumers, including low-income electricity consumers. Board staff suggests that it may be appropriate for the Board to consider changing the maximum permissible late payment charge to the distributor's approved short-term debt rate, plus 5%. Such a rate would be consistent with another Canadian utility (Newfoundland Power Inc.), which sets its late payment charge "at a rate equal to the prime rate charged by chartered banks on the last day of the previous month plus five percent".[24] This change could take effect starting with the 2010 electricity distribution rate adjustment process.

Other Service Charges

One useful tool, discussed by Ontario utilities in the past, is to set province-wide caps on service charges relating to collections and non-payment. At present, this approach is in use only for late payment charges. Board staff suggests that the Board may wish to consider extending this approach such that the approved standard amounts set out in the 2006 EDR Handbook for charges related to non-payment or collection of account would function as maximums, unless the utility were to waive the service charges for low-income electricity consumers. The new maximums could apply to both regular hour and associated after-hours charges, and apply to the following service charges:

- returned cheque charge;
- collection of account charge – no disconnection;
- disconnect/reconnect at meter; and,
- disconnect/reconnect at pole.

Such a policy could take effect starting with the 2010 electricity distribution rate adjustment process.

[24] See section 11 (c) of the utility's 2008 rate tariff.

4.4 Energy Conservation and Demand Management

Electricity conservation and demand management and natural gas demand side management encompass a wide range of activities and programs that can reduce consumers' energy costs through reduced usage. They are often cited as a tool to assist low-income energy consumers to reduce energy costs, through installation of energy efficient measures that could reduce consumption.

Ontario Experience

Ontario electricity distributors can apply for funding for low-income CDM programs to the OPA and the Board, and natural gas distributors can apply to the Board for funding of low-income DSM programs.

On October 6, 2005, the Minister of Energy issued a directive to the OPA to develop CDM programs "that will reduce overall electricity energy consumption and demand by residents of low-income and social housing by up to 100 Megawatts (MW)". A second directive was issued by the Minister of Energy on July 13, 2006, directing the OPA to organize the delivery and funding of CDM programs through electricity distributors. Funding of $400 million was made available and is administered by the OPA through funds from the Global Adjustment Mechanism. The OPA currently acts as a centralized agency by developing and delivering several programs across the province targeted at low-income energy consumers and/or social housing. These programs are delivered through electricity distributors, community agencies, municipalities and other qualified delivery agents. The OPA projects that $15 to $20 million of the 2008 and 2009 funding for these programs will directly reach low-income residents.

The Board has approved the funding of CDM programs for low-income energy consumers through distribution rates for both electricity and natural gas distributors over the past several years.

In May 2004 the Minister of Energy granted approval to all electricity distributors to apply to the Board for an increase in their 2005 distribution rates to recover their third instalment of their market adjusted revenue requirement (“MARR”). This approval was conditional upon a commitment to reinvest in CDM programs an equivalent of one year’s return. To that end, the Board developed processes for distributors to apply for third tranche funding through 2005 distribution rates. As part of third tranche funding, twenty-four electricity distributors delivered CDM programs targeted to low-income energy consumers and/or the social housing sector. Of the total $163 million in third tranche funding approved by the Board, approximately $6.9 million[25] was for programs targeted to low-income energy consumers and/or the social housing sector.

In March 2008 the Board issued its “Guidelines for Electricity Distributor Conservation and Demand Management” (“CDM Guidelines”), which consolidates policies and regulatory requirements that had been previously articulated through a number of means. With this document the Board confirmed its ongoing role in CDM activities by electricity distributors through the review and approval of spending levels and proposed programs, reporting guidelines, program evaluation, and the review and approval of applications for recovery of the Lost Revenue Adjustment Mechanism (“LRAM”) and the Shared Savings Mechanism (“SSM”).[26] Under the framework set out in the Guidelines, distributors may deliver certain programs funded through distribution rates, and also participate in the delivery of OPA-funded CDM programs.

The Board has developed policies on DSM activities for natural gas distributors. The original regulatory framework for distributor sponsored DSM programs was set out a Report of the Board dated July 23, 1993 (EBO 169-III). In 2006, the Board conducted a generic hearing related to distributor DSM activities (EB-2006-0021). Among the issues

[25] Based on figures provided by distributors in Annual Reports filed with the Board. The figures have not been independently verified by the Board.

[26] The LRAM is intended to remove a disincentive for distributors to deliver conservation programs, by addressing revenue losses resulting from the reduced consumption by consumers. The SSM is intended to encourage distributors to participate in the delivery of CDM programs.

addressed in the Board's August 25, 2006 decision in Phase I of the generic proceeding was programs and funding targeted to low-income energy consumers.

As set out in the Board's decision in Phase I of EB-2006-0021, Union Gas and Enbridge Gas agreed to spend as a minimum, the greater of $1.3 million, or 14% of each respective utility's residential DSM program budget, on low-income programs. Further, of the $1.0 million budgeted for market transformation programs, each utility would spend no less than 14% on targeted low-income market transformation programs.

The DSM plans for Union Gas and Enbridge Gas that were approved by the Board as part of the DSM generic proceeding expire at the end of 2009. On October 31, 2008 the Board announced that it was initiating a consultation process to develop guidelines to be used by natural gas distributors in developing their next generation DSM plans (EB-2008-0346).

The draft DSM Guidelines, issued January 26, 2009 propose the development of expanded low-income programs with separate DSM budgets, metrics, targets and shareholder financial incentive payments. Under the proposed DSM Guidelines, natural gas distributors would be expected to propose explicit metrics and corresponding targets for the DSM programs targeted at low-income energy consumers. Written comments on the draft DSM Guidelines are due late February 2009.

Experience in Other Jurisdictions

The Concentric Report indicates that low-income targeted CDM and DSM programs are common practice in other jurisdictions.

In the United Kingdom, for example, the Warm Front Scheme provides grants to improve heating and energy efficiency of private sector housing in England. The grant provides energy-efficiency advice, energy-efficient light bulbs, and insulation measures such as cavity wall insulation, loft insulation, hot water thermal jackets, and heating improvements. The scheme is aimed at vulnerable households in receipt of eligible benefits. Funding for Warm Front, which is provided through government grants, is currently authorized at £800 million for the period between 2008 and 2011.

Established in 1976, the United States Department of Energy Weatherization Assistance Program ("WAP") is a formula grant program designed to improve energy efficiency in the homes of eligible low-income energy consumers thereby reducing their energy consumption by lowering their heating and cooling costs. Through WAP, the federal government distributes funds to states, which then allocate these funds through state weatherization agencies, to training community action agencies, other non-profit organizations, and tribal organizations to install weatherization measures. Since inception, the Department of Energy estimates that it has weatherized approximately 5.6 million homes.

California's Low Income Energy Efficiency (LIEE) program provides low-income energy consumers with a varying array of energy related services including home weatherization, refrigerator replacement, repair and replacement of heating and air conditioning equipment, and compact fluorescent light bulb ("CFL") distribution. Operating under a legislative mandate these programs seek to provide the benefits of energy efficiency at no cost to qualified low-income energy consumers who otherwise would be unable to obtain these benefits.

At the stakeholder consultation, representatives from Pennsylvania's PPL Electric Utilities and Dominion Peoples, electricity and natural gas distributors respectively, provided information on CDM and DSM programs provided to low-income energy consumers in their state.

The Pennsylvania Low Income Usage Reduction Program (LIURP) is a state wide, utility-sponsored, residential usage reduction program, mandated by Pennsylvania Public Utility Commission regulations. Under LIURP, companies install weatherization measures (measures intended to reduce household energy consumption) and repair existing housing for eligible low-income families, provided that the home is in satisfactory condition. Companies should also provide consumer education programs in conjunction with weatherization efforts, to educate consumers on how to conserve energy.

Hydro Québec makes participation in energy efficiency mandatory for consumers receiving bill support.

Stakeholder Comments

Participants in the consultation agreed that energy conservation programs can assist low-income energy consumers to reduce the burden of energy costs.

There was a general consensus on the need for increased cooperation among industry participants, particularly distributors and community-based organizations, but also the OPA and the Board. Participants also agreed that distributors should be encouraged or required to provide *targeted* low-income programs, with separate budget targets and performance metrics.

The OPA provided information on its activities pertaining to the low-income sector, including research, pilot projects, and stakeholder consultations.

The OPA indicated that it has two dedicated initiatives for the low-income sector: the multi-family buildings initiative, and the single family homes initiative. The multi-family buildings initiative provides financial incentives for common area upgrades, in-suite energy efficiency, technical support and funding for resident education.

The single family homes initiative targets residents in electrically heating homes and buildings with less than six dwelling units. Energy efficiency upgrades and audits are provided at no cost to the resident along with education materials regarding energy conservation practices in the home.

Enbridge Gas maintained that utilities are the most effective delivery agent for providing education and energy efficiency programs to their consumers, and that these measures are long-term sustainable solutions that can reduce the need for other forms of customer support and assistance. As examples of programs it delivers to assist low-income energy consumers, Enbridge Gas noted the Enhanced TAPS program, which provides low flow showerheads, faucet aerators, pipe wrap, and a programmable thermostat. The Home Weatherization Retrofit program aims to improve the energy efficiency of the building envelope. Enbridge Gas reports that the average cost of this program to the utility is $2,700 per household, and results in annual savings of $500. Enbridge Gas also delivers “Green Boxes” through local food banks and offers low-income homes the opportunity to switch to a more efficient natural gas water heater at no cost.

Union Gas also outlined a number of programs it is delivering aimed at low-income energy consumers, with the objective of empowering low-income energy consumers to control their natural gas usage through ongoing education on energy conservation. Programs include Helping Homes Conserve which offers eligible consumers installation, at no cost to the customer, of basic energy saving measures including: energy-efficient showerheads, water-saving bathroom and kitchen aerators, foam pipe insulation and programmable thermostats. Union Gas also has a Weatherization program that includes a pre- and post-program energy audit, and building envelope upgrades including attic/wall insulation and draft proofing, also at no cost to the customer.

Enbridge Gas and Union Gas agreed on a number of barriers or challenges that must be overcome to increase and improve the delivery of DSM programs to low-income energy consumers.

The current framework for DSM incents utilities to maximize the total resource cost ("TRC") [27], but low-income programs typically have a low or negative TRC. Therefore, targeted incentives are needed to encourage distributors to deliver low-income DSM programs. The Green Energy Coalition ("GEC") was also in agreement on this point.

Stakeholders noted that the identification of, and communication with, low-income energy consumers is a barrier to program design, highlighting the need for increased cooperation with social service agencies and the development of linguistic and culturally appropriate outreach. Union Gas noted that it has made it a priority to solidify partnerships with community agencies in order to help overcome this barrier. The natural gas distributors also noted that knowledge of efficient energy use and available DSM programs should be communicated to consumers.

Toronto Hydro noted that it has already taken steps to help mitigate some of the difficulties facing low-income energy consumers through the delivery of CDM programs targeted to low-income energy consumers and the social housing sector. More specifically, Toronto Hydro provided an appliance retirement program for social housing consumers as part of its portfolio of third tranche programs and is participating in an OPA program providing education and energy efficient light bulb distribution.

Toronto Hydro noted that local contact and interaction with low-income energy consumers is key to the success of programs, as is permanent and predictable funding.

GEC's comments focused predominantly on DSM programs delivered by natural gas distributors. GEC advocated for joint delivery of programs and information sharing among distributors, the OPA and other delivery agents. As part of the next generation of DSM plans, GEC advocated that natural gas distributors should be required by the Board to dramatically increase their budgets for low-income DSM programs, and to

[27] The total resource cost measures the net costs of a demand-side management program as a resource option based on the total costs of the program, including both the participant's and the distributor's costs.

increase overall DSM budgets to accommodate this increase. The OPA should also be encouraged to prioritize fuel switching as a means to address the low-income energy burden, energy efficiency, and peak reduction. LPMA and BOMA also noted the benefits of fuel switching and suggested that programs could be implemented in the short term, including a consultation on the viability of extending natural gas to areas that are currently not served by natural gas distributors.

Finally, GEC noted that current avoided costs are understated, as they do not recognize a number of factors, including the potential cost savings due to reduced customer non-payment, disconnection and reconnection.

EnviroCentre discussed the concept of “Conserver” households, which would be those living in energy-efficient homes. In order to incent reduction of energy use for non-basic needs, EnviroCentre suggested that the Board should refine existing tiered electricity commodity rates such that the “Conserver” threshold covers basic consumption levels, and consumption above this threshold would be charged at much higher rates. A similar pricing framework should be introduced for natural gas.

EnviroCentre also suggested that all CDM and DSM funding should be re-directed to low-income targeted programs, which should be approved as long as they are cost-effective, but not necessarily TRC positive.

GLOBE noted that the social housing sector provides good opportunities for CDM and DSM due to relatively inefficient buildings, and the ease with which residents can be identified and targeted. GLOBE advocated for CDM programs targeted to the social housing sector that are equitably accessible province-wide and at no cost to the household. Programs should include an education component and use local delivery agents with expertise and knowledge in serving low-income energy consumers.

LIEN also advocated for permanent low-income targeted CDM and DSM programs, available province-wide, and at no cost to eligible consumers. Programs should provide “deep” weatherization measures, such as installation of energy efficient appliances, proper attic and wall insulation and efficient heating systems. However, LIEN cautioned that CDM or DSM programs alone will not be sufficient to ease the energy burden faced by low-income energy consumers, since even with dramatically higher budgets it would take a significant number of years to reach all low-income households in need of assistance.

The Colton Report identified CDM and DSM as the fourth critical component of a universal service program, and noted that successful implementation requires an ongoing partnership between distributors and local community-based organizations. Further, it recommends that the budget for low-income CDM or DSM programs should be set as a designated percentage of a distributor’s total revenue, the level of which should be sufficient to ensure there are no lost opportunities in any given year.[28]

A number of CDM and DSM measures are identified that should be provided to low-income energy consumers, including:

- Energy audits and air sealing services
- Weatherization services
- Heating and cooling systems
- Lighting and appliance upgrades

These programs should be targeted to high use, payment troubled consumers, and incorporated into other aspects of a distributors’ customer service operations.

Board Staff Comments

Board staff agrees that CDM and DSM can be effective tools to assist low-income energy consumers to reduce their energy burden. However, in order to provide

[28] Lost opportunities arise when the accomplishment of some task precludes the future accomplishment of additional work at that same dwelling. For example, the installation of an inefficient measure at the time of building construction often precludes upgrades to efficient measures in the short term.

effective assistance, programs need to be targeted to, and specially designed for, low-income energy consumers.

Board staff acknowledges that low-income CDM and DSM programs are sometimes not cost effective when measured using the TRC test, which is the accepted measure of cost effectiveness. However, Board staff suggests these programs may be effective if one considers the ancillary benefits such as improved affordability for low-income energy consumers (through lower consumption), and reduced collections costs for distributors. To facilitate these types of programs Board staff also believes that it is appropriate to lift the requirement that such programs deliver positive TRC benefits, recognizing the need to support the delivery of CDM and DSM to low-income Ontarians.

Board staff notes that the Government introduced new legislation on February 23, 2009 which makes provision for a new framework for the delivery of CDM initiatives in the province. Under amendments to the *Ontario Energy Board Act, 1998* proposed Bill 150 (the *Green Energy Act, 2009)*, the Minister of Energy and Infrastructure may direct the Board to establish conservation targets for electricity distributors. It is contemplated that distributors may be permitted to meet their targets by offering Board-approved CDM programs in their service areas or by contracting with the OPA for the provision of province-wide programs. In the former case, the Board would need to establish criteria for programs that may be included in a distributor's portfolio, and approve the distributor's portfolio of programs and budget. Board staff believes that this will provide an opportunity for the Board to ensure that the appropriate level and type of programs are available to low-income energy consumers. Board staff notes that this will also require separate metrics, targets and shareholder incentives for low-income programs. The structure of the current shareholder incentive (shared saving mechanism or SSM) for electricity and natural gas utilities may need to be reconsidered as it may act as a disincentive to the delivery of targeted low-income programs, since programs with lower net benefits result in a lower SSM.

Board staff notes that for natural gas distributors, targets are being discussed as part of the Board's consultation on the DSM Guidelines noted above (EB-2008-0346).

Coordination with Other Assistance

It was noted by participants in this consultation that in other jurisdictions CDM and DSM programs are coupled with financial assistance. Board staff sees merit in this approach.

Board staff suggests that the Board should encourage distributors to assist low-income energy consumers in accessing CDM and DSM programs that may help to reduce the customer's energy usage. At a minimum, this could include providing consumers with information about any available programs and how to access them.

5 Social Agency Partnerships

Ontario Experience

Distributors participating in the Winter Warmth program have established relationships with both the United Way, and community agencies that deliver the program directly to consumers. The distributors rely on the community agencies' experience and expertise in working with energy consumers in need, to assess applicants' eligibility for assistance, and to determine the best way to help the consumer.

It is also Board staff's understanding that there are existing relationships between distributors and social service agencies, but these are often ad hoc. Further, the relationships are often between individual utility employees and the agency, rather than with the distributor itself. However, in many cases these relationships have allowed the agencies to negotiate payment arrangements on behalf of low-income energy consumers that can avoid disconnection or the need for financial assistance.

In June 2004 the Board initiated the Unpaid Electricity Charges consultation (RP-2004-0166) to provide greater clarity as to electricity distributors' rights and obligations with respect to consumers owing money for unpaid electricity charges or for a security deposit. As part of that consultation, the Board heard from low-income advocates about the problems arising from the lack of clear, consistent and predictable procedures governing the interface between distributors, low-income energy consumers, and the social service agencies that serve those consumers.

To address this circumstance, the Board facilitated a dialogue between distributors and representatives of social service agencies with a view to the development of a set of common practices across the Province. The Board's role was one of facilitation only, as it anticipated that the distributors and social service agencies would take leadership in developing, implementing, and maintaining the practices. However, the working group was voluntary, and disbanded before completing its work.

Experience in Other Jurisdictions

It is common practice in other jurisdictions for social or community based agencies to be the party responsible for assessing whether a consumer is eligible, and not the distributor or regulator.

Concentric identified coordination with public assistance agencies and charitable organizations as important to the success of low-income assistance programs because these groups are frequently involved in setting eligibility requirements, and consumers in need of energy related assistance are frequently already in contact with these groups to receive other forms of assistance. Utilities can benefit from relations with social service agencies and charitable organizations because the caseworkers are better able to identify clients.

Hydro Québec reported that it has forged relationships with consumer associations because they have unique experience regarding low-income energy consumers. The utility conducted joint studies and pilot projects with the associations, and they have developed a joint task force that meets monthly and advises management of the utility.

Stakeholder Comments

Distributors, and participants representing distributors, noted that requiring distributors to identify low-income energy consumers would be problematic because distributors have no capacity or expertise to assess eligibility criteria, particularly if based on income.

Union Gas also noted that it has made it a priority to solidify partnerships with community agencies to help identify low-income energy consumers and bring further awareness of programs available in the communities it serves.

LIEN maintained that a review of the experience in other jurisdictions indicates that confidentiality issues associated with the identification of low-income energy consumers are resolvable and that the administrative concerns are manageable, and therefore not a reason to deny assistance to low-income energy consumers. LIEN also acknowledged that local community and non-profit groups have experience in working with low-income households, and are therefore better placed to identify low-income energy consumers.

Board Staff Comments

During the stakeholder consultation, distributors maintained that they have no process or experience for identifying who is low income for the purposes of providing special assistance. Board staff notes that the Board has previously addressed this issue, in its Summary Report in RP-2004-0166, in which the Board noted:

> *One of the key difficulties in this area concerns the extent to which distributors can or should be required to identify an existing or potential customer as a low-income customer or otherwise as a person requiring some measure of special management. It is the Board's view that distributors ought to have no such definitional role. The identification of a customer as a low-income customer should rest with the responsible social agencies.*

Board staff agrees believes that this statement remains applicable.

Board staff has suggested in this Staff Report a number of measures that could be considered by the Board to assist low-income energy consumers. However, the consumers eligible for assistance need to be identified, and Board staff suggests that this should be done by social service agencies, and not distributors.

To that end, Board staff suggests that it would be appropriate for distributors to partner with social service agencies for the purposes of assessing the eligibility of consumers for low-income targeted programs. These social service agencies appear to be best placed to assess whether a consumer is in need of assistance with current energy costs, and also to assess the best form of assistance. The social agency could also help the consumer access other forms of assistance related to energy and other costs.

6 Education and Outreach

Experience in Other jurisdictions

Concentric identified that in other jurisdictions, regulators may be expected to develop and disseminate customer education materials to increase public awareness and participation in low-income programs. An effective customer education program describes the available assistance programs and eligibility requirements.

Dominion Peoples, in Pennsylvania, produces a “Customer Referral Guide” to inform social service agencies about energy assistance available to their clients. The Guide provides descriptions of available programs as well as the eligibility requirements. The utility also provides bill inserts reminding consumers of the availability of assistance programs.

PPL Electric Utilities produces a brochure which summarizes all programs available to its consumers.

The New Hampshire Public Utilities Commission, the regulator in the state of New Hampshire, produces a brochure providing information to consumers on the state’s Electric Assistance Program. The brochure provides information about the nature of the program, benefits available, eligibility requirements, how the program is funded, and how consumers can apply.

Hydro Québec, a government-owned utility, provides education to consumers by meeting annually with consumer associations, to provide information on any changes in policies, and to get feedback.

Stakeholder Comments

There was significant discussion at the consultation about the need for more education of consumers on a variety of energy-related issues, and general agreement that the Board should play a role in this area.

Many participants highlighted the difficulty of reaching certain groups of consumers, such as those whose first language is not English, and those who do not have access to the internet. It was also noted that education campaigns should be culturally appropriate to the target group.

The City of Kitchener suggested that the Board brings impartiality and neutrality to communications, and is therefore in the best position to provide information to consumers that will be trusted. LIEN agreed.

Several participants advocated for a "one-stop shop" approach where consumers could find information, in one place, on all forms of available assistance, including bill assistance, energy efficiency programs and distributor customer care policies and practices. Information should also be provided on eligibility requirements and how to access the programs.

CCC stated that the Board, in conjunction with the Ministry of Energy and Infrastructure, should develop a low-income assistance resource centre for utilities, consumers and social service agencies. The purpose of the resource centre, which would be funded through general tax revenues, would be to maintain an inventory of programs in place throughout Ontario, and to provide information as to how to access those programs. GLOBE suggested that a specialized clearinghouse of information was needed for the social housing sector as well as a trusted advisor to provide information to social housing residents. GLOBE indicated that it could fulfill such a role.

Board Staff Comments

The Board has undertaken several consumer education initiatives since 2000 with the introduction of a consumer relations centre, utility bill inserts, consumer-related content on its website and outreach to consumers through the media. In July 2007, the Board launched *The Energy Choice is Yours* (ECiY) campaign, aimed at informing residential and small business consumers about the energy sector and their options for energy supply.

As part of the ECiY campaign to date, the Board has undertaken select outreach opportunities, including presentations to energy poverty workshops and legal clinics, development of a consumer-oriented microsite, utility bill inserts, consumer awareness initiatives, distribution of consumer materials and focus group testing.

In 2008-2009, the Board expanded the focus of the ECiY campaign to include all aspects of the energy sector and has developed a comprehensive and robust consumer communication and outreach plan, elements of which include:

- Community "tour days" with presentations to consumers and/or their representatives, interviews with local media, meetings with municipal and provincial officials as well as opportunity for connection with local utility contacts and social service agencies;

- Leveraging partnerships with key organizations to capitalize on existing relationships with consumers;

- Media briefings for representatives of ethnic language media and availability of some consumer information in twelve languages; and

- A review of the current consumer education materials to incorporate additional topics of interest to consumers and to expand existing content.

Board staff believes that consumer education and outreach will be fundamental to the success of any low-income targeted programs and initiatives implemented by the Board.

Low-income energy consumers need to understand what assistance is available and how to access it. Board staff believes it is critical for utilities to undertake a consumer awareness campaign around their local energy assistance program(s).

Board staff suggests that utilities should look to integrate information on any programs and initiatives into their existing or expanded communications and community outreach initiatives.

Board staff notes that an option for the Board would be to work, with the assistance of local utilities, to incorporate information about programs available and to assist eligible Ontarians in accessing this information.

Specifically, through its *Energy Choice is Yours* education and outreach campaign, the Board could:

- Work with electricity and natural gas utilities to gather and maintain contact information on the social service agency partners responsible for delivery of the local energy assistance programs.

- Provide a “one-stop shop” section of the Board’s website with information on energy assistance program availability and eligibility requirements and information on how to access the programs.

- Develop consumer education materials specific to energy assistance programs, including those related to energy efficiency.

- Identify outreach opportunities to reach target audiences.

7 Consumers in Multi-Residential Buildings

Ontario Context

Smart metering and smart sub-metering of residential units in rental complexes and condominiums is intended to help the government achieve its conservation objectives through individual accountability for energy use and, eventually, load-shifting due to time-dependent pricing. Smart metering or smart sub-metering is a requirement for new condominiums, and the installation of smart meters (by licensed distributors) or smart sub-meters (by licensed smart sub-metering providers) in other residential units is expected to increase over time as persons become authorized to conduct those activities in accordance with applicable legal and regulatory requirements.

On July 25, 2008 the Board issued the Smart Sub-Metering Code (the "SSM Code") in order to impose appropriate standards on the activities of smart sub-metering providers.

Experience in Other Jurisdictions

Neither the Concentric Report nor participants at the consultation provided any information on sub-metering.

Stakeholder Comments

Low-income advocates argued that sub-metering will increase the energy burden of low-income energy consumers because they may not be able to afford the increased costs of paying for the amount of electricity they actually use, and since the current levels of social assistance and rent subsidies are not adequate to cover potential increased costs due to sub-metering.

The CLD suggested that there is an opportunity and responsibility for both the Board and distributors to ensure the public is educated about smart sub-metering, so they can adequately prepare and adapt.

Enbridge Electric Connections Inc. maintained that it is neither appropriate nor is there a jurisdictional basis for the Board to direct licensed smart sub-metering companies to introduce low-income programs, since the Board does not rate regulate smart sub-metering companies. Enbridge Electric also argued that contractual provisions between a building owner or developer and smart sub-metering company may limit the company's ability to change the amounts payable by unit owners or occupiers.

In a related matter, low-income advocates argued that assistance for energy costs should be made available to tenants whose energy costs are included in rent.

Board Staff Comments

Board staff recognizes that sub-metering and TOU pricing will affect low-income energy consumers, and may affect them in ways that differ from the impact on other consumers. However, smart sub-metering and TOU pricing are part of the government's strategy to achieve its conservation objectives through individual accountability for energy use and, eventually, load-shifting due to time-dependent pricing. As noted above, to exempt low-income energy consumers from smart sub-metering or TOU pricing would appear inconsistent with these goals.

However, Board staff sees no reason why any financial assistance provided collected by electricity distributors through distribution rates and the suggested customer service measures outlined in section 4 of this Discussion Paper, could not also be available to low-income energy consumers living in sub-metered buildings.

Board staff notes that the SSM Code contains a number of provisions that mirror those in the DSC. More specifically, the SSM Code and DSC contain similar provisions with respect to: the requirement for, and content of, Conditions of Service; security deposits; provision of information to consumers; and, disconnection and reconnection processes. Board staff believes that the DSC and SSM Code should contain similar provisions where applicable, to ensure that all consumers who are billed for electricity costs separately receive equal protection.

If the Board were to implement revisions to the DSC to implement customer service rule changes to address the particular needs of low-income energy consumers, then it would appear appropriate to make corresponding amendments to the SSM Code.

Board staff believes that these corresponding changes might, given the similarities between the DSC and the SSM Code, most efficiently be proposed once comments have been received and considered on the proposed DSC amendments.

In the consultation, the issue was also raised about the availability of low-income energy assistance programs to residential tenants whose energy costs are included in rent.

There is no meaningful way to allocate a landlord’s bulk metered costs to individual rental units unless the units are individually metered, and even then it is not within the Board’s purview to mandate the terms of rental agreements. Tenants whose energy costs are included in rent are not consumers of the distributor. As such, Board staff does not believe it is appropriate for distributors to provide assistance to tenants whose energy costs are included in rent.

8 Implementation Issues

Board staff acknowledges that there are a number of implementation issues associated with the options that Board staff have laid out in this Staff Report. In this section, Board staff will comment on certain matters related to implementation.

Reporting Requirements

Throughout the consultation, stakeholders made suggestions relating to the types of information that the Board could consider collecting from distributors, so as to better inform the Board about the delivery of assistance to low-income energy consumers.

Board staff agrees with many of these suggestions, and suggests that the Board consider revising its reporting and record keeping requirements to require natural gas and electricity distributors to report on certain information.

Bill Assistance

If the Board were to implement a bill assistance program, staff suggests that it may be beneficial for distributors to report on the following in order to assist the Board to review the program on an ongoing basis and incorporate any necessary changes:

- amount budgeted vs. the amount spent;
- the number of applicants vs. the number of applicants receiving assistance; and
- average grant per applicant.

Customer Service Rules

Board staff found it difficult to assess current security deposit disconnection practices as distributors are not currently required to collect data in this area. Therefore, Board staff suggests that the Board may wish to require distributors to collect and report on:

- disconnection notices issued for non payment, by customer class;
- disconnections effected for non-payment, by customer class;
- number and total value of security deposits held, by rate class;
- number and total value of security deposits applied to accounts, by rate class; and
- bad debt by customer class.

Code Amendments

In section 4.3 of this Staff Report, Board staff made a number of suggestions for changes to existing customer service rules to assist low-income energy consumers with payment management. Board staff notes that to effect such changes, the Board would need to issue for comment proposed amendments to the Distribution System Code, the Retail Settlement Code, and the Standard Supply Service Code.

Stakeholder Working Group

A number of participants in this consultation suggested that the Board should organize a working group to further discuss how consistency in distributor policies can be achieved, as well as further options for assisting low-income energy consumers. Board staff sees merit in establishing such a group, and suggests that the Board may wish to consider also involving representatives of social service agencies, and government ministries.

APPENDIX 1: Data Tables

UTILITY EMERGENCY ASSISTANCE PROGRAMS[29]

Table 1-1: Utility Allocations[30]

	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009
Burlington Hydro	-	-	-	-	$20,000
Enersource Hydro Mississauga	-	-	$35,000	$35,000	$50,000
Horizon Utilities	-	-	-	-	$15,000
Hydro One	-	-	-	-	$100,000
Hydro Ottawa	-	-	-	$65,000	$40,000
London Hydro				$100,000	$100,000
PowerStream	-	-	-	$30,000	$30,000
Toronto Hydro	$100,000	$100,000	$100,000	$96,000[31]	$140,000[32]
Veridian Connections	-	-	-	-	$26,000
TOTAL ELECTRIC	**$100,000**	**$100,000**	**$135,000**	**326,000**	**$521,000**
Union Gas	-	$175,000	$200,000[33]	$217,342[34]	$197,342[35]
Enbridge Gas	$300,000[36]	$300,000[37]	$300,000[38]	$300,000	$300,000
Garland Settlement[39]				$354,000	$225,445
TOTAL GAS	**$300,000**	**$475,000**	**$500,000**	**$871,340**	**$722,787**
OVERALL TOTAL	**$400,000**	**$575,000**	**$635,000**	**$1,197,342**	**$1,227,787**

[29] With the exception of London Hydro, all distributors listed in these tables participate in the Winter Warmth program. London Hydro participates in The Heat and Warmth program (“THAW”).
[30] Where no information is entered, either data is not available, or the utility did not participate in the program in that year.
[31] $75,000 was budgeted, but $96,000 spent.
[32] Approximately $80,000 spent to date. Due to increased demand, an additional $60,000 was allocated.
[33] Amount spent: 149,070.
[34] Amount spent: $183,977. $17,232 was unused and rolled over to 2008/2009.
[35] Budgeted amount of $180,000 plus a rollover of unused funds from 2007/2008.
[36] Amount spent: $226,887.
[37] Amount spent: $254,520.
[38] Amount spent: $241,064.
[39] The Garland class action suit settlement requires that $9 million be invested through the United Way, with an annual interest rate paid out to the United Way for use for the Winter Warmth fund. In 2007-2008, $166,000 was given out for Winter Warmth, and the remaining $188,000 was unused and distributed to the United Way Community Fund.

Table 1-2: Utility Allocation as % of Total Distribution Revenue

	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009
Burlington Hydro	-	-	-	-	0.07%
Enersource Hydro Mississauga	-	-	0.03%	0.03%	0.04%
Horizon Utilities	-	-	-	-	0.02%
Hydro Ottawa	-	-	-	0.05%	0.03%
London Hydro				0.18%	0.18%
PowerStream	-	-	-	0.03%	0.03%
Toronto Hydro	0.02%	0.02%	0.02%	0.02%	0.02%
Veridian Connections	-	-	-	-	0.06%
AVERAGE ELECTRIC	**0.02%**	**0.02%**	**0.03%**	**0.06%**	**0.06%**
Union Gas	-	0.01%	0.01%	0.01%	0.01%
Enbridge Gas	0.01%	0.01%	0.01%	0.01%	0.01%
AVERAGE GAS	**0.01%**	**0.01%**	**0.01%**	**0.01%**	**0.01%**
OVERALL AVERAGE	**0.015%**	**0.015%**	**0.02%**	**0.035%**	**0.035%**

Table 1-3: Number of Households Receiving Assistance

	2004-2005	2005-2006	2006-2007	2007-2008
Burlington Hydro	-	-	-	-
Enersource Hydro Mississauga	-	-	-	84
Horizon Utilities	-	-	-	-
Hydro One	-	-	-	-
Hydro Ottawa	-	-	286	499
London Hydro				790
PowerStream	-	-	-	90
Toronto Hydro	171	249	238	296
Veridian Connections	-	-	-	-
TOTAL ELECTRIC	171	249	524	**1759**
Union Gas	-	-	405	502
Enbridge Gas	662	677	711	1124
TOTAL GAS	662	677	1116	**1626**
OVERALL TOTAL	**833**	**926**	**1640**	**3385**

Table 1-4: Average Grant per Household Receiving Assistance

	2004-2005	2005-2006	2006-2007	2007-2008
Burlington Hydro	-	-	-	-
Enersource Hydro Mississauga	-	-	-	$354
Horizon Utilities	-	-	-	-
Hydro One	-	-	-	-
Hydro Ottawa	-	-	$399	$353
London Hydro	-	-	-	$350[40] $550
PowerStream	-	-	-	$283
Toronto Hydro	$499	$371	$294	$323
Veridian Connections	-	-	-	-
AVERAGE ELECTRIC	**$499**	**$371**	**$347**	**$353**
Union Gas	-		$368	$366
Enbridge Gas	$365	$376	$334	$353
AVERAGE GAS	**$365**	**$376**	**$351**	**$360**
OVERALL AVERAGE	**$432**	**$374**	**$349**	**$356**

PROVINCIAL EMERGENCY ENERGY FUND

Table 1-6:

Fiscal Year	Total Allocation	Households Assisted	Average per Household	Expenditures	% of Budget Spent
2004-2005	$2.05 million	2960	$467	$1.35 million	66%
2005-2006	$2.1 million	3495	$460	$1.7 million	80%
2006-2007	$4.2 million	5755	$592	$3.4 million	81%
2007-2008	$2.1 million	4430	$323	$2.108 million	100.4%

[40] Average grant of $350 for residential account without electric heating, and $550 for residential account with electric heating.