

June 8, 2010

Ms. Kirsten Walli, Board Secretary
ONTARIO ENERGY BOARD
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Dear Ms. Walli:

Re: EB-2008-0346: Review of Demand Side Management (DSM) Framework for Natural Gas Distributors.

Industrial Gas Users Association (IGUA) Comments on Concentric Report.

The Board has invited written comments from interested stakeholders on the report commissioned by the Board from Concentric Energy Advisors (Concentric) on *Review of Demand Side Management (DSM) Framework for Natural Gas Distributors*, March 19, 2010 (the Report).

While thorough in its review of practices in several jurisdictions active in utility driven conservation, the Report begs a fundamental question. Before this DSM framework review proceeds, the Board should address this question: *What are the appropriate objectives for gas distributor DSM in Ontario?* IGUA's position is that the Board's gas DSM policy should focus on the provision of least cost energy services, rather than on achievement of the government's energy efficiency and climate change targets.

IGUA's general view is that utility rates and rate structures should reflect cost causality, and that social programming is properly the purview of elected representatives (i.e. governments) rather than economic regulators. In a crowded field of energy efficiency products, services and government incentives, and in the face of the growing consumer cost of the government's "green

energy" policy agenda, the Board's gas DSM policy should maintain a focus on the provision of least cost energy services.

Policy Objectives

IGUA's primary concern with the Concentric report is that it does not fully consider the distinction between the role of government and government policy on the one hand, and the role of economic energy regulation and regulatory policy on the other hand. Regulatory policy should be informed by government policy, but the two are not coincident. Concentric seems to conflate the two.

In the specific context of considering the Ontario government's current "green energy" policies, the Ontario Energy Board's Chair has recently articulated the distinction between regulatory policy and government policy as follows:

Regulatory policy differs from government policy. Regulatory policy expresses the Board's independent approach to the implementation of the law and best aligns the government's policy priorities, the sector's delivery of those priorities and the protection of ratepayer interests.¹

The *Green Energy and Green Economy Act, 2009* amended the Board's objectives in relation to gas to expressly add as an objective "*the promotion of energy conservation and energy efficiency in accordance with the policies of the Government of Ontario*". IGUA submits that "*promotion ... in accord*" with government policy is quite distinct from assuming responsibility for achievement of government policy.

Concentric equates government policy and the appropriate objectives for this Board's gas DSM regulatory framework.

Concentric's views on an appropriate DSM budget are expressly informed by the notion that Ontario's gas distributors need to spend more to achieve the Ontario government's policy objectives for energy efficiency and carbon emission reduction.² Here concentric evaluates appropriate DSM budgets by considering what will be required to achieve the province's objectives, rather than considering how the Board, in determining a gas DSM framework, should be guided by these objectives.

Concentric recommends identifying "cost effective" DSM programs by reference to a "societal cost test". The essential difference between the "total resource cost" standard and Concentric's "societal cost test" is that the latter assumes a value associated with carbon emission reduction. While the Ontario government has declared carbon emission reduction targets, there has been no direct legislative implementation of a carbon emission reduction framework, and no express government determination regarding what mechanisms, applied to which sectors, are to be used

¹ Howard I. Wetston, Q.C., Speech to TransCanada Corporation MarketView, Montreal, Quebec, May 19, 2010.

² See, for example, Q&A 88 in Concentric's May 20, 2010 *Response to Stakeholder's Written Questions*.

in pursuit of its targets. Determination of all of these issues will be a highly normative and political matter. These are not decisions which the Board should take upon itself.

DSM was initially conceived as a mechanism for least cost utility planning.³ It quickly evolved into pursuit of energy efficiency measures that would minimize overall energy services costs (the "total resource cost" perspective). Concentric's proposals contemplate a shift in Ontario gas DSM from: least cost energy services to least cost government energy policy achievement. Neither the Board nor the gas distributors are responsible for achievement of the government's energy efficiency or carbon reduction policies.

Ratepayer Costs

The Board's objectives related to the promotion of gas conservation and energy efficiency in accordance with the policies of the government are balanced by the objective of protecting the interests of consumers with respect to prices of gas service. Concentric qualifies its recommendations on DSM programming and expenditures with reference to the need to temper customer rate impacts of DSM expenditures. Concentric further acknowledges that in assessing customer impact, it is appropriate to consider the "special purpose charge" assessments directed by section 26.1 of the *Ontario Energy Board Act, 1998*.⁴

The costs to Ontario energy ratepayers associated with the government's "green energy" policies extend well beyond the section 26.1 energy efficiency program "special purpose charge". They include:

- (a) The renewable energy generation costs (RESOP and FIT) included in the "Global Adjustment" component of electricity rates.
- (b) The costs of electricity conservation programs (CDM), both OPA and distributor funded (all of which are all ultimately funded through electricity rates).
- (c) The costs of redevelopment and expansion of Ontario's electricity transmission and distribution infrastructure to connect renewable electricity generation, whether allocated to local ratepayers or provincial ratepayers.
- (d) The costs of "smart meters" and future "smart grid" deployment.
- (e) The costs of future carbon abatement legislation.

From an industrial perspective, there are also real and significant costs already incurred by industrial gas and electricity ratepayers to enhance the energy efficiency of their industrial processes, both for the sake of environmental stewardship (and future likely legislative requirements associated therewith) and in order to remain globally competitive.

³ E.B.R.O. 462; April 19, 1990 Decision; E.B.O. 169 (Phase III Decision - July 23, 1993).

⁴ Q&A 8 in Concentric's May 20, 2010 *Response to Stakeholder's Written Questions*.

Moving away from a regulatory policy aimed at least cost energy services to embrace a regulatory policy focused on funding government energy efficiency and carbon abatement policies *per se* would add yet further costs for energy consumers.

Conclusion

IGUA has serious concerns regarding further expansion of gas DSM. IGUA's members and Ontario ratepayers in general are already paying mounting costs associated with several government mandated and publicly funded energy and environmental policy initiatives. IGUA recognizes that the Board's new objectives include the promotion of gas efficiency and conservation. However, by virtue of its pre-existing objectives, and its fundamental role as an economic regulator, the Board must also, and perhaps more fundamentally, protect the interests of ratepayers in respect of the costs of energy services.

Funding of the Ontario government's energy efficiency and carbon emission reduction objectives is a matter for determination by the government, in accord with transparent and democratic due process. IGUA maintains that funding for these policies should not be through regulated gas distribution rates.

In IGUA's view the Board's policy should focus on the provision of least cost energy services, in a manner consistent with the Ontario government's energy efficiency and climate change policies, rather than on achievement of the government's energy efficiency and climate change targets *per se*.

Yours truly,
MACLEOD DIXON LLP



Ian A. Mondrow

c. Murray Newton, IGUA

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