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BY E-MAIL AND WEB POSTING

March 29, 2011

**To: All Rate-Regulated Natural Gas Distributors
All Participants in Consultation Processes EB-2008-0346 and
EB-2008-0150**

**Re: Demand Side Management (“DSM”) Guidelines for Natural Gas Utilities
(EB-2008-0346)**

Issues for Further Comment

The purpose of this letter is to inform participants of the Board's views and considerations regarding the role of ratepayer funded DSM activities for the next three years. This letter also invites interested stakeholders to provide written comments to inform the Board on specific issues relating to the role of ratepayer funded natural gas DSM for that period.

Background

The Board initiated this consultation process in October 2008, in anticipation of the expiry of the DSM plans of both Enbridge Gas Distribution Inc. (“Enbridge”) and Union Gas Ltd. (“Union”) at the end of 2009. The purpose of this consultation was to establish, through guidelines, a revised DSM framework to be used by the two natural gas utilities in developing their next generation DSM plans. On April 14, 2009, the Board extended the natural gas utilities' existing DSM framework by one year to provide time for the impact of the *Green Energy and Green Economy Act, 2009* to become clear before developing a new multi-year DSM framework.

By letter dated January 7, 2010, the Board extended the natural gas utilities' DSM framework by another year and informed stakeholders that the Board would proceed with a review of the current framework.

The Minister of Energy's letter to the Board of July 5, 2010 urged the Board to consider expanding low-income gas DSM, as well as gas DSM generally. The Minister also recognized the Board's responsibility to balance ratepayers' interests.

Following a stakeholder meeting and a webinar on two Board-commissioned consultant reports, and informed by stakeholder comments on those reports, a Staff Discussion Paper, along with Board staff's proposed Revised Draft DSM Guidelines for Natural Gas Utilities, were issued for stakeholder comments. On February 14, 2011, written comments from 16 stakeholder groups were received.

The Board has benefited from the extensive stakeholder comments received since the beginning of this consultation. Informed by these comments, the staff discussion papers, the consultant reports, the policies of the Government, and market developments, the Board wishes to inform participants of the Board's views and considerations regarding the role of ratepayer funded DSM programs going forward.

DSM Framework

The Board notes that the original regulatory framework for natural gas utility sponsored DSM programs was established through guidelines set out in its E.B.O. 169-III Report of the Board dated July 23, 1993. Until 2006, Union and Enbridge filed DSM plans in accordance with the E.B.O. 169-III Report. In 2006, the Board conducted a generic proceeding (EB-2006-0021) which led to three-year DSM plans starting in 2007, which the Board later extended by two years. The most recent approved DSM plans are now scheduled to end in 2011.

As stated in the 2006 Decision, the intent of the proceeding was to "streamline processes, harmonize practices, and re-examine the rules of DSM"¹. The Board did not "revisit the general principles adopted and conclusions reached in the Report of the Board E.B.O. 169-III"².

In the current consultation, some parties have proposed significant increases to scope and budgets for ratepayer funded gas DSM. The Board notes, however, that other stakeholder submissions proposed that the Board should reassess the role that ratepayer funded natural gas DSM activities should play going forward. They argued that a number of developments have taken place since the original regulatory framework was developed in 1993 that warrant a fundamental reassessment of the long-term role of ratepayer funded DSM activities.

In its E.B.O. 169-III Report, the Board noted that "experience with gas DSM is limited, and it has yet to be fully evaluated in any jurisdiction in Canada or elsewhere." As noted by a number of participants, the landscape for conservation has since developed into an environment with a larger number of private and public entities delivering energy efficiency programs. The Board notes that today's market for conservation goods and

¹ Board Decision with Reasons, EB-2006-0021, Phase 1, dated August 25, 2006, p.5.

² Ibid, p.6.

services provides an array of solutions that are economically attractive to consumers. This has led to customers implementing DSM technologies without requiring a ratepayer funded or tax-funded subsidy.

In addition, the Board notes that the implementation of higher mandatory efficiency standards for new building construction, as part of the Ontario Building Code, and the more stringent efficiency standards and ratings of appliances, including water heaters and furnaces, has led and is expected to lead, to significant natural gas savings over time.

The Board recognizes that ratepayer funded natural gas DSM programs were originally meant to achieve savings beyond those that would have naturally been achieved by customers as a result of market forces or higher energy efficiency standards. In light of current market conditions, achieving incremental benefits through ratepayer funded natural gas DSM programs will be more limited and by necessity more costly to implement.

The Board notes that Enbridge and Union have achieved significant natural gas savings through their DSM activities since the issuance of the Board's E.B.O. 169-III Report. However, the Board also notes that, over that period, the level of complexity associated with satisfactorily measuring the savings achieved by these DSM activities has been a recurring concern. The Board agrees with the view that there is a need to focus on DSM programs that provide value to ratepayers as a whole with a high degree of confidence that results are actually achieved.

Role of Ratepayer Funded DSM Activities

DSM programs by their nature involve a level of cross subsidization; in effect a payment from those who do not take advantage of DSM programs to those who do. Although long standing regulatory principles state that cross subsidies should be avoided where possible, the Board has determined that some level of cross subsidization can be appropriate to address certain system wide and societal benefits within pre-determined limits. The Board has concluded, however, that the justification for gas DSM cross subsidies is eroding, and that expansion of DSM initiatives funded by natural gas ratepayers is not warranted at this time.

The Board notes that ratepayer funded natural gas DSM programs to date have broadly consisted of one or more of the following:

- a) Programs, such as resource acquisition, with financial incentives (i.e. subsidy) towards the equipment and installation costs to make the DSM investment more attractive to the customers;
- b) Programs, such as market transformation, aimed at educating contractors and trades and influencing customers' conservation behaviour (e.g., case studies,

conferences and tradeshow for building contractors, distribution of flyers and media advertising targeting natural gas customers, school education materials, etc.); and

c) Research and development (R&D) activities and pilot programs.

The Board notes Enbridge's acknowledgement that "... many traditional gas utility DSM programs have reached, or are close to reaching maturity (e.g. high efficiency furnaces, programmable thermostats, low-flow showerheads)."³ In the Board's view, this is an indication that part of the natural gas utilities' objective for DSM may have been achieved and a gradual reduction in "traditional" natural gas DSM activities would lead to lower budget requirements. On the other hand, an increased focus on "deep measures," such as thermal envelope improvements, could lead to larger budget requirements.

The Board also notes staff's comments that a greater focus on deep measures may imply that fewer participants can be reached at a given budget level and that the cost per participant would be much larger on average; a result that would increase cross subsidization. To illustrate that point, staff noted⁴ that Union's average cost per customer for broadly available measures (energy efficient showerheads, bathroom and kitchen aerators, 2 metre pipe wrap, and programmable thermostats) in 2009 was \$121. Whereas its average 2009 total cost per low-income participant for its deep measures (attic, wall and basement insulation, and draft proofing) was \$2,750.

The Board further notes the federal and provincial governments' decision to withdraw from their deep measure residential programs (i.e., the federal ecoENERGY Retrofit and the Ontario Home Energy Savings Program). The Board agrees with the view expressed by one participant that these government withdrawals should signal a cautionary approach in considering a significant expansion of ratepayer funded deep DSM programs.

An increased focus on deep measures in the residential sector may or may not be appropriate, but in any event should be accommodated within the current DSM budget levels. This approach would alleviate concerns regarding cross-subsidization levels. In addition, maintaining the DSM budget levels would be consistent with the Board's view of the appropriate role of natural gas DSM, as described below.

DSM Budget Level & Plan Term

The Board notes that the core business of a natural gas utility, and that for which the Board makes orders approving or fixing just and reasonable rates, as found in the *Ontario Energy Board Act, 1998* at Section 36(2), are those activities in relation to the "the transmission, distribution and storage of gas." The Board created the DSM

³ Board proceeding EB-2010-0175, Enbridge's 2011 DSM plan application dated May 28, 2010, Exhibit B, Tab 1, Schedule 2, p. 2.

⁴ Staff Discussion Paper, EB-2008-0346, dated January 21, 2011, p. 40.

framework within that context recognizing that the acquisition of demand reduction resources could represent an alternative to acquiring additional supply resources. The environment and market for demand resources has evolved substantially. It is questionable whether it remains necessary or appropriate for utilities to provide (and ratepayers to fund) services which are widely available through the market.

The current DSM budget levels, which now represent about 2.8% and 4.1% of Enbridge's and Union's respective distribution revenues, have come to represent a sizeable portion of their business. The Board finds it appropriate at this time to limit the ratepayer funded portion of the natural gas DSM budgets to their current levels. Although the Board has been supportive of DSM activities within utilities over the years and remains supportive of DSM generally, it is concerned with the extent to which cross subsidies are appropriate within the Board's mandate of regulating gas distribution, and whether it is necessary for ratepayers to fund services which are available through a variety of channels in the marketplace.

The Board is also concerned that the availability of ratepayer funded DSM programs may have the effect of discouraging or impairing the penetration of market-driven activities.

To the extent non-market support continues to be required for these services beyond that available from the current level of ratepayer funding, the Board believes that alternative sources of funding would be more appropriate.

The Board agrees with staff's proposal of a three-year plan term, which would end in December 2014. Some participants commented that the length of the term should be longer to provide utilities with additional regulatory and funding certainty. The Board finds however, that a three-year term will provide a sufficient period of regulatory and funding certainty.

With respect to low-income programs, the Board is of the view that funding should be considered independently from DSM budgets for the residential sector. For the next three-year period, the Board expects funding for low-income DSM programs to stay at the current level or increase. The Board notes that, in addition to the monetary (i.e. reduction in energy costs) and non-monetary (i.e. improvement in living conditions) benefits these programs bring to low-income consumers, the impact of these programs can be more readily ascertained due to their lower free ridership rates. However, the Board would like further stakeholder comments on the appropriateness of continuing to recover the current low-income DSM budget funding through residential rates or whether funds should be recovered from all rate classes.

With respect to commercial and industrial DSM programs, the Board acknowledges the comments made by some participants that these programs can result in corporate entities financing, through their distribution rates, conservation measures that benefit their competitors. Accordingly, the Board seeks further comments from stakeholders on the appropriateness of programs directed to these customer segments.

The Board also seeks further comments on the natural gas utilities' role in providing natural gas DSM education and training programs, as well as their role in funding R&D and pilot programs through distribution rates.

Issues for Further Comment

Having determined that the budgets for ratepayer funded natural gas DSM activities should not be expanded, the Board seeks further stakeholder comments on the following issues:

1. How should the low-income DSM budget be set? Should the low-income budget stay at the same level or increase? Should the current low-income budget funding from the residential class be maintained or should the funding be recovered from all rate classes? Is there a different set of programs that are appropriate for low-income consumers e.g. should "deep" measures be promoted for this group of customers to a greater extent? What approach should be used to coordinate gas DSM programs with electricity CDM programs for low-income consumers?
2. Do industrial and commercial DSM programs with significant incentives create competitive advantages for the participants of the programs relative to their competitors? What programs, if any, are appropriate for these sectors? Should there be a focus on monitoring consumption, data analysis or benchmarking energy use in buildings and industrial processes? Should DSM programs in these sectors focus more on energy audits and efficiency training or case studies to highlight best practices and new technologies, rather than financing equipment and installation costs for specific DSM projects?
3. What should be the natural gas utilities' role, if any, in providing natural gas DSM education and training programs funded through distribution rates? Should they focus on targeting contractors, trades and professional associations to ensure DSM messages reach end-users?
4. What should be the natural gas utilities' role, if any, in undertaking R&D and pilot programs funded through distribution rates? Should utilities work with key industry leaders to encourage further changes in building codes and improve standards in heating equipment?

Invitation to Comment

Participants are invited to provide written comments on the aforementioned list of issues by **April 21, 2011**, in accordance with the filing instructions set out below.

Cost Awards

As noted in the Board's October 31, 2008 letter, cost awards will be available to eligible persons under section 30 of the *Ontario Energy Board Act, 1998* for their participation in this consultation.

Attachment A to this letter contains important information regarding cost awards for this consultation.

Filing Instructions

All filings to the Board in relation to this consultation must be addressed to the Board Secretary. Two paper copies of each filing must be provided. The Board asks that participants make every effort to provide an electronic copy of their filings in searchable/unrestricted Adobe Acrobat (PDF) format and to submit their filings through the Board's web portal at <https://www.errr.ontarioenergyboard.ca>. A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filing services" webpage on the Board's website at www.ontarioenergyboard.ca and fill out a user ID password request. Additionally, interested stakeholders are asked to follow the document naming conventions and document submission standards outlined in the document entitled *RESS Documents Preparation – A Quick Guide* also found on the "e-filing services" webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail at boardsec@ontarioenergyboard.ca. Those who do not have internet access should submit the electronic copy of their filing on a CD.

Filings must be received by **4:45 pm** on the required date. They must quote file number **EB-2008-0346** and include your name, postal address, telephone number and, if applicable, an e-mail address and fax number.

All materials related to this consultation will be posted on the "Regulatory Proceedings" portion of the Board's website at www.ontarioenergyboard.ca. The material will also be available for public inspection at the Board's office during normal business hours.

Questions regarding this consultation should be directed to Lenore Dougan at 416-440-8141 or by e-mail at GasDSM@ontarioenergyboard.ca. The Board's toll free number is 1-888-632-6273.

Yours truly,

Original Signed By

Kirsten Walli
Board Secretary

Attachments: A – Cost Award Information

Attachment A - Cost Award Information (EB-2008-0346)

Activities Eligible for Cost Awards

The Board has determined that cost awards will be available in relation to the following activities:

Activity	Total Eligible Hours per Participant
Provision for written comments	Up to 10 hours

Groups representing the same interests or class of persons are expected to make every effort to communicate and co-ordinate their participation in this process.

Cost Awards

When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

The Board will use the process set out in section 12 of its *Practice Direction on Cost Awards* to implement the payment of the cost awards. Therefore, the Board will act as a clearing house for all payments of cost awards in this process.

For more information on the cost awards process, please see the Board's *Practice Direction on Cost Awards* and the October 27, 2005 letter regarding the rationale for the Board acting as a clearing house for the cost award payments. These documents can be found on the Board's website at <http://www.ontarioenergyboard.ca/OEB/Industry/Rules+and+Requirements/Rules+Codes+Guidelines+and+Forms>.