

STAFF SUBMISSION

Board Staff Submission on
Toronto Hydro-Electric System Limited's Application for Board-
Approved CDM Programs
Board File Number EB-2011-0011

May 22, 2011

Background

On January 10, 2011, Toronto Hydro-Electric Systems Limited (“THESL”) filed an application with the Board seeking approval for certain conservation and demand management (“CDM”) programs pursuant to the Board’s CDM Code that was issued on September 16, 2010. The CDM Code was developed by the Board in response to a Directive from the Minister of Energy dated March 31, 2010.

Originally THESL had applied to the Board for approval of nine programs; however, after reviewing its application, THESL notified the Board by way of letter dated April 1, 2011 that it had decided to withdraw the In-Store Engagement and Education program and associated budget as a standalone program from its application in this proceeding. THESL had decided to consolidate this program with the Community Outreach and Education Initiative prior to finalization of its program portfolio, but had inadvertently included it as a separate program in the application materials filed with the Board on January 10, 2011.

The following is a list of THESL’s updated suite of eight CDM programs for which THESL is seeking Board approval:

1. Business Outreach and Education Initiative
2. Commercial Energy Management and Load Control
3. Commercial, Institutional and Small Industrial Monitoring and Targeting
4. Community Outreach and Education Initiative
5. Flat Rate Water Heater Conversion and Demand Response
6. Greening Greater Toronto Commercial Building Energy Initiative
7. Hydronic System Balancing
8. Multi-Unit Residential Demand Response

On February 25, 2011, THESL filed its submission on the Draft Issues List. As part of its letter, it included an addendum to its application for Board-Approved CDM Programs. Within its addendum, THESL requested that the Board approve an additional \$343,499 which is made up of 2010 program development and planning costs and 2011 forecasted program development and application costs.

On April 21, 2011, THESL filed a letter with the Board that it received from the Ontario Power Authority (“OPA”). The OPA provided its opinion on THESL’s proposed Board-Approved CDM Programs, including which programs it believed could be funded

through the existing Program Administrative Budget (“PAB”) provided under the Province-Wide Programs and which programs it considered to not be duplicative of the Province-Wide Programs, based on reasons and conditions set out in their letter.

In total, THESL has requested the approval of approximately \$51M. THESL has proposed a payment schedule for recovery of the requested amounts which is discussed further below.

On May 2, 2011 and May 3, 2011, the Board held an oral hearing for this proceeding. At the end of the second day, the panel confirmed the schedule for written submissions from parties. Below is Board staff’s submission on THESL’s eight proposed programs for which they have applied for approval from the Board.

Submission

Summary

Board staff is supportive of the Board providing its approval of the Commercial Energy Management and Load Control program, the Commercial, Institutional and Small Industrial Monitoring and Targeting program, and the Multi-Unit Residential Demand Response program as filed by THESL. Board staff is also supportive of the Hydronic System Balancing program, but only insofar as it is offered to the multi-unit residential building (“MURB”) sector. Board staff notes that it appears that elements of this program can be funded by the OPA and staff does not support the Board providing additional approval for these elements, in particular the delivery of the program to the office, institutional and hospital sectors.

Board staff notes that THESL has complied with the Board’s CDM Code as follows:

- THESL has shown these programs to be cost effective as they pass both the Total Resources Cost (“TRC”) and Program Administrator Cost (“PAC”) tests,
- THESL has provided an evaluation plan for each program and stated it will comply with the OPA’s Evaluation Measurement & Verification (“EM&V”) Protocols, and
- THESL is planning on delivering these programs to segments of the market that the OPA is not targeting with any of its Province-Wide Programs, therefore not duplicating any of the OPA Province-Wide Program efforts.

Board staff does not support the approval of the three educational programs proposed by THESL. Board staff notes that the OPA has stated that it believes the proposed

educational programs are payable through the existing PAB available to THESL under the Province-Wide Programs and that further funding approval would be inappropriate.

Board staff is also not supportive of THESL's proposed Flat Rate Water Heater Conversion Program. It appears to staff that THESL has the ability to transition its customers from the flat rate service to a metered service at its discretion. Board staff is of the view that approval of funds to provide customers with an incentive to switch from the flat rate service to a metered service is not appropriate.

In regards to the additional program development and application costs for which THESL has requested approval, Board staff submits that only those amounts incremental to THESL should be approved. Board staff supports the approval of the 2011 application costs of \$145,000, comprised of legal costs, OEB costs and intervenor costs as these functions were incremental to those amounts THESL has recovered through distribution rates.

Board staff also submits that if the Board is to approve any or all of THESL's proposed programs, THESL should be directed to work with both the IESO and Board staff to determine a payment schedule that will ultimately be approved by the Board.

Below is the detailed submission from Board staff.

Educational Programs

As outlined in THESL's letter dated April 1, 2011, it has applied to the Board for approval of three standalone educational programs: Business Outreach and Education Initiative; Community Outreach and Education Initiative; and, Greening Greater Toronto Commercial Building Energy Initiative. In total, THESL has requested approval of \$7.6M to fund these three programs. Although THESL has not included any cost effectiveness results for these programs, section 4.1.2 of the CDM Code allows for distributors to apply to the Board for a program where cost effectiveness cannot be demonstrated if the program is either a pilot program; a low-income program; or, a program designed for educational purposes.

Board staff is of the opinion that educational programs have intrinsic value that cannot always be measured in a tangible or immediate way. In order for a CDM program to be effective, a proper understanding of the program's details and objectives must be clearly conveyed to the targeted program participants. Although THESL's proposed educational programs have merit in the larger construct of helping to build a culture of

conservation in the province, Board staff submits that an expenditure of approximately \$7.6M is excessive and does not represent good value for money, particularly given the access to PAB funding as discussed below.

In its letter of April 21, 2011, the OPA notes that it is of the opinion that these three programs are payable through the existing PAB provided to THESL under the Province-Wide Programs. Although THESL has noted that it has fully allocated all of its PAB funds¹, Board staff submits that it appears, after hearing the testimony from the OPA, that THESL still has the ability to pursue the activities it hopes to pursue through these three proposed Board-Approved educational CDM Programs within the OPA Province-Wide Programs. THESL concedes that these programs could in theory be funded through PAB funds, but submits that its PAB is already fully allocated and that these programs should therefore be considered incremental. The test, however, is not whether programs are incremental – it is whether they are duplicative. This is clearly stated in the Minister's Directive and the CDM Code. Board staff submits that if the programs can be funded through the PAB, they cannot be considered non-duplicative.

Board staff also submits that efforts and costs associated with educating potential participants should be included in the design and delivery of each individual program for a more accurate depiction of each program's overall performance and cost effectiveness. In response to Board staff IR #11(a), THESL noted that although it investigated leveraging the educational elements found within these proposed standalone educational programs into its other proposed programs in this application, the standalone educational programs are intended to augment the underlying OPA Province-Wide CDM Programs. Board staff understands that within the PAB, THESL is free to pursue marketing efforts to best enhance its suite of Province-Wide Programs. In response to cross examination from the Consumers Council of Canada, THESL noted that the \$5.7M allocated to the Community Outreach and Education program is in addition to some \$14M which the OPA has already allocated to such efforts.² Board staff submits that it would be inappropriate for the Board to provide approval of funding for increased marketing efforts for OPA Province-Wide CDM Programs.

For the reasons noted above, Board staff does not support the approval of the THESL's three proposed educational programs.

¹ THESL Oral Hearing Transcript, Vol. 2, Page 17, Line 19-22, May 2, 2011

² THESL Oral Hearing Transcript, Vol. 2, Page 38, Line 4-11, May 2, 2011

Commercial Energy Management and Load Control

THESL has proposed to deliver the Commercial Energy Management and Load Control (CEMLC) program to the office, retail, institutional and hospitality sectors in facilities with an average monthly demand of less than 200kW. THESL's main objectives for this program are to provide the small and mid-sized commercial and institutional sectors with an energy management system (EMS) that will allow participants to manage their energy use while allowing THESL to control electricity loads during periods of high system demand. THESL has proposed that this program be approved for a four-year term, with a total budget of \$11.7M. THESL has shown that this program passes both the TRC (1.7) and the PAC (6.4) tests and is projecting energy consumption savings of 40.7GWh and peak demand savings of 0.9MW. THESL has also provided an evaluation plan for this program and confirmed that the final program results will be evaluated using the OPA's EM&V Protocols, in accordance with the CDM Code.

THESL notes that the CEMLC program is non-duplicative of any of the OPA's Province-Wide CDM Programs as it is designed to meet the needs of small commercial customers with less than 200kW of average monthly peak demand. Conversely, the OPA's Province-Wide Residential and Small Commercial demand response initiative is primarily intended to meet the needs of residential customers. In the OPA's letter of April 21, 2011, it notes that it does not find THESL's proposed CEMLC program duplicative as the OPA does not currently have a small commercial demand response and load control Province-Wide Program. The OPA does mention, however, that a similar program is planned for a future iteration of the Province-Wide Programs and that it would be beneficial to the development of the new initiative to have THESL proceed to test design concepts. Board staff notes that Section 2.3.2 of the CDM Code states as follows: "Distributors shall not apply for Board approval of CDM Programs that duplicate **existing** OPA-Contracted Province-Wide CDM Programs [emphasis added]". The CDM Code does not reference potential future OPA programs.

Board staff submits that the proposed CEMLC program targets a segment of the market with a program offering that is currently not available to customers through the OPA's Province-Wide Programs. Board staff is of the view that although the concept of the proposed CEMLC program is not entirely unique, the manner in which the program has been designed, that is, the combination of a demand response component and an energy management system, is not the same as any one particular Province-Wide Program. Board staff submits that the program is non-duplicative of any currently offered Province-Wide Program, it has passed both the TRC and PAC tests, it has

positive projections for both energy consumption (GWh) and peak demand (MW) savings and THESL has shown that it will evaluate the project in accordance with the OPA's EM&V protocols. For these reasons, Board staff supports the approval of the CEMLC program.

Commercial, Institutional and Small Industrial Monitoring and Targeting

THESL has applied for approval of approximately \$5.5M to fund its proposed Commercial, Institutional and Small Industrial Monitoring and Targeting program over a 4-year period. In its letter of April 21, 2011, the OPA noted that monitoring and targeting is not currently offered to the commercial, institutional and small industrial markets and that because of this reason, it did not consider this program to be duplicative of the Province-Wide CDM Programs.

Board staff notes that the proposed program by THESL takes a program element from the OPA's Industrial Accelerator program, that being monitoring and targeting, and provides a full-fledged program to a segment of the market currently not targeted by the OPA Province-Wide Programs.

The main objective of this program is to change the mindset and behaviour of building operators by allowing them to measure and manage energy efficiency improvements with continuous monitoring of usage levels and patterns while targeting reductions in key areas. Board staff is of the view that behavioural changes are important and a necessary factor to ensuring the successful implementation of energy conservation measures. Board staff feels that there is growth potential for capacity building within the sectors targeted by THESL in this program. By increasing the knowledge base of the projected program participants, while also providing them with better skills to leverage the energy efficiency and conservation technologies that will be made available to them, THESL will be better positioning itself to achieve the program's projected energy consumption and peak demand savings potential.

Board staff notes that in response to Board staff interrogatories #36 and #37, the premise of this program, monitoring and targeting, is supported by various research papers and that related programs have been offered in other jurisdictions including California, British Columbia and Manitoba. THESL has also shown that this program is cost effective when analysed against both the TRC test (1.6) and the PAC test (1.5). THESL has provided an evaluation plan for how it will conduct its evaluation of the program and has indicated that it will conform to the OPA's EM&V Protocols when completing its final evaluation of the program. THESL is targeting a material portion of

its energy consumption target with this program and is anticipating a four-year, cumulative energy savings of 40.7 GWh.

Board staff submits that this program is not currently offered by the OPA to the segment of the market THESL proposes to offer the program to, it is cost effective, it is anticipated to result in material energy consumption savings and it has a reasonable budget of \$5.5M to be used over four years. Board staff therefore submits that the program should be approved as filed.

Flat Rate Water Heater and Demand Response

The Flat Rate Water Heater and Demand Response program has an associated budget of approximately \$1.2M and is proposed to be active for one year. THESL has shown that the program passes both the TRC (1.9) and PAC (1.7) tests. THESL notes in its application that the OPA does not offer a Province-Wide CDM Program that is available for the conversion from a flat rate to a metered service. In the OPA's letter of April 21, 2011, the OPA noted that the program includes two components; flat rate water heater conversion and *peaksaver*, of which the latter is offered through the Province-Wide CDM Programs. THESL noted that it agreed to subtract the funding related to the *peaksaver* component of the proposed program and subsequently updated its evidence to reflect this.

THESL is using the commonly found residential demand response device in an effort to devise a new program offering that is not available to customers through the OPA. Without the demand response component to this initiative, the proposed program is simply an exercise to convert THESL's remaining flat rate water heater customers to a metered service, an effort that they have been pursuing without any ratepayer funding for a number of years. It is Board staff's view that the act of converting customers from an unmetered water heater service to a metered service does not represent a conservation activity.

Exhibit K 3.1, the Unmetered Water Heater Service FAQ from THESL's website, indicates on page 5 that if a customer has not already taken action to transition from the flat rate service to a metered service, THESL will be sending that customer a letter indicating that it will no longer be offering the flat rate service.

In the oral hearing, Board staff asked for an undertaking from THESL indicating whether THESL could unilaterally discontinue the flat rate service currently enjoyed by a number of customers. In response to undertaking J 3.1, THESL noted that it intends to propose

a date certain for termination of unmetered water heater service in its next rate application for Board approval, but refused to answer the question of unilateral discontinuation, stating that such information was “irrelevant”. In Board staff’s view, such information is clearly relevant to the appropriateness of the proposed program. Board staff submits that a Board-Approved CDM Program is not the appropriate vehicle to transition customers from the flat rate water heater service to a metered service. THESL is proposing to spend \$1.2M of ratepayer money on this program, largely to incent people to voluntarily move to a metered hot water service. If THESL can unilaterally move these customers to metered service, then there is no justification for the payment of incentives. Put simply, ratepayer money should not be expended where there is no practical necessity to do so. Given THESL’s refusal to respond to the undertaking, the Board must assume that THESL does have the ability to unilaterally discontinue unmetered service, or, that it has not taken the opportunity to demonstrate that it cannot. For these reasons, Board staff submits that the Board should not approve the Flat Rate Water Heater and Demand Response Program.

Hydronic System Balancing

THESL has proposed to implement the Hydronic System Balancing program as a four-year program with a total cost of approximately \$4.7M. THESL has designed this program to identify common hydronic system over-sizing issues and then provide incentives to encourage participants to make the required system changes. THESL has proposed to target hydronic system pump load and consumption in the office, institutional, multi-residential and hospitality sectors within the City of Toronto. THESL has provided both TRC (2.2) and PAC (4.7) cost benefit ratios, which show that the program is cost effective under both tests. THESL has also provided an evaluation plan for this program and has confirmed that the OPA’s EM&V Protocols will be followed when conducting its final evaluation of program results.

In the OPA’s letter of April 21, 2011, it noted that this program targets a niche opportunity within the MURB market that is not currently targeted in the Equipment Replacement Incentive Initiative (“ERII”). THESL confirmed that the OPA’s Province-Wide ERII program is offered to the office, institutional and hospital sectors during the oral hearing.³ When further questioned by Board staff on the distinguishing characteristics of the program, THESL noted that the current OPA Province-Wide ERII program could potentially target hydronic systems, however there are no provisions in the Province-Wide CDM Programs for the assessment component in THESL’s

³ THESL Oral Hearing Transcript, Vol. 3, Page 18, Line 24-28, May 3, 2011

proposed program.⁴ THESL further noted in the pre-filed evidence for this program⁵, that an incentive is available to participants for the system assessment component of THESL's proposed program.

Board staff is concerned that elements of the proposed program by THESL can be funded by the OPA, at least in terms of the office, institutional and hospital sectors and that funding approval from the Board is not necessary. Board staff is also concerned with the alteration of incentive levels in THESL's proposed program. At section 2.3.3(a) of the Board's CDM Code, it states that a program will be considered duplicative of the OPA-Contracted Province-Wide CDM Program if the proposed program has different customer incentive levels on products or services already offered through the OPA-Contracted Province-Wide CDM Programs. Board staff submits that THESL's decision to offer incentives for assessing a participant's system does not make the program non-duplicative.

Board staff, however, submits that this program has potential benefits to the MURB sector, which is not serviced by the OPA Province-Wide Programs. THESL has shown in its pre-filed evidence⁶ that the MURB sector accounts for 1,460 of a potential 1,984 hydronic facilities in the market, or approximately 74%. Additionally, the MURB sector accounts for approximately 45% of booster pump sites, 58% of estimated pump load (MW) and 42% of estimated pump consumption (GWh). Board staff is of the view that if the Board approves this program, it should require THESL to run both the TRC and PAC tests again, but with the program targeted only at the MURB sector. If THESL can show that the program passes both tests and that the program costs will yield positive energy consumption and peak demand savings, Board staff submits the program (as delivered to the MURB sector with presumably a reduced overall budget) should be approved.

Multi-Unit Residential Demand Response

The Multi-Unit Residential Demand Response program is proposed to run for four-years at a total cost of \$19.9M. THESL has provided cost effectiveness results for this program showing that the proposed program passes both the TRC (1.6) and PAC (1.0) tests. THESL notes in its application that this program is designed to reduce the summer peak demand load attributable to the MURB sector, which is a significant contributor to peak summer demand and is a sector that is experiencing electrical load

⁴ THESL Oral Hearing Transcript, Vol. 3, Page 19, Line 23-27, May 3, 2011

⁵ THESL CDM Application, Hydronic System Balancing Program, Page 6, January 10, 2011

⁶ THESL CDM Application, Hydronic System Balancing Program, Page 10, January 10, 2011

growth in THESL's service territory. THESL does not believe that the load attributable to this sector will be adequately addressed through the OPA's Province-Wide CDM Programs and therefore is seeking to address this gap.

The OPA's letter of April 21, 2011, noted that the MURB DR program is unique and focused on high-density applications. The OPA further noted that this program integrates the concepts of *peaksaver* and commercial demand response into a single program. Board staff is of the view that although this program uses some of the concepts currently found in the OPA's Province-Wide CDM Program suite of offerings, specifically the concept of *peaksaver* and commercial demand response, THESL has devised an innovative program design to target a segment of its market that will not be addressed by the current suite of Province-Wide CDM Programs. Board staff has reviewed the Program Schedules that comprise the attachments to the Master Agreement between THESL and the OPA for delivery of the Province-Wide CDM Programs and as currently designed and proposed, it does not appear that THESL would have the ability to address the peak demand reductions targeted by the MURB DR program through OPA Province-Wide Programs. Board staff is aware of the ability for distributors to make applications for custom projects to the OPA for inclusion in the Province-Wide Program offerings, but cannot anticipate whether such a program would be approved by the OPA. The April 21, 2011 letter from the OPA further supports this position as the OPA is supportive of THESL moving forward with the MURB DR program as a Board-Approved CDM Program.

THESL proposes to run this program for four years. Board staff is of the view that although a four-year program approval is a significant period of time, it is necessary for the program to reach its desired results. New programs presented to the market require a certain amount of time to build up momentum and awareness from potential participants and a yearly approval process is not desirable or logistically reasonable for the delivery agent, in this case THESL. Board staff submits that, although the proposed program offers little energy savings (0.5 GWh), it does offer considerable demand savings of a projected 11.7 MW, which would account for approximately 4% of THESL's peak demand target.

In addition to showing that the program is cost effective both on a TRC and a PAC basis, the total budget of \$19.9M (\$2.7M fixed costs and \$17.2M variable costs) is primarily comprised of variable costs which are only realized if participants are enrolled. Board staff submits that if the Board decides to approve the MURB DR program, it can do so with the understanding that the total budget will only be exhausted if the program is successful, with THESL meeting its expected participation figures. THESL has

provided an evaluation plan and has confirmed that it will comply with the OPA's EM&V Protocols when conducting its evaluation of the program, which is consistent with the requirements of the CDM Code.

Board staff submits that the MURB DR program is not currently offered in the OPA Province-Wide CDM Programs and will assist THESL to meet a material portion of its peak demand target. The proposed program is cost effective and will be offered to a segment of the market that is experiencing significant load growth and is not targeted under the current OPA Programs. For these reasons, Board staff supports the approval of this program.

Program Development and Application Costs

In THESL's letter of February 15, 2011, it requested the recovery of an additional \$343,499. This amount is comprised of 2010 program development and planning costs and 2011 forecast program development and application costs. THESL noted that in preparation for the implementation of the CDM Directive, it was necessary for it to undertake planning work to determine how and by what means it was to achieve its Board assigned CDM Targets. THESL further noted that it felt the need, after establishing that a portion of its CDM Targets would need to be met through Board-Approved CDM Programs, to plan for and develop the programs included in this application. This process required market research, program analysis, and the preparation and filing of this application. In addition to these program development costs, THESL also notes that it is seeking recovery of incremental costs incurred in preparing and bringing the Board-Approved CDM Program applications before the Board, inclusive of external legal costs as well as OEB hearing costs and intervenor costs claims.

The *Green Energy and Green Economy Act, 2009* ("Green Energy Act") revised sections of the *Ontario Energy Board Act, 1998*, (the "Act") including the addition of section 78.5: Payments to distributors or the OPA under conservation and demand management programs. Section 78.5 states that "the IESO shall make payments to a distributor or to the OPA on behalf of other persons prescribed by the regulations with respect to amounts approved by the Board for conservation and demand management programs approved by the Board pursuant to a directive issued under section 27.2." Board staff submits that all costs related to Board-Approved CDM Programs are to be administered through the IESO as noted above.

Board staff submits that the planning and development process and associated costs undertaken by THESL in 2010 (\$158,199) and the forecasted application support costs for the 2011 proposed programs (\$40,250) should not be approved by the Board.

Board staff is of the view that although these functions were helpful to THESL in preparing and defending its Board-Approved CDM Program application, these functions were completed by existing THESL staff and the costs associated with these individuals should have been recovered through distribution rates. There was no clear evidence that these costs were incremental to THESL.

In regards to the 2011 application costs of \$145,000 incurred by THESL, Board staff submits that these costs should be recoverable in accordance with section 78.5 of the Act as they are costs directly related to CDM Programs arising from the CDM Code and are incremental to other regulatory amounts currently recovered through distribution rates by THESL.

Payment Schedule

In response to Board staff IR#2, THESL has proposed that the Board approve a consistent payment term for all the proposed programs. THESL has proposed that fixed costs, which it proposes will be defined by a schedule of planned labour costs based on the terms defined by the Board, be paid in advance and in six month intervals starting with the first payment within 30 days after the Board provides its decision and order. THESL proposed that variable costs covering third party and participant incentives to be paid by the Independent Electricity System Operator ("IESO") net 30 days based on invoices (supported by evidence of costs incurred) submitted by THESL and on condition that THESL will not pay participants or third parties until it receives payment from the IESO.

THESL also requested that the Board include direction for the establishment of a Global Adjustment Mechanism ("GAM") settlement process for this application. THESL requested that this settlement process be separate from other GAM related financial settlement processes currently in place. THESL proposed that the final financial settlement with the IESO for the approved programs be completed no later than June 30, 2015. THESL requested this date so that the final Annual Report to be filed by September 30, 2015 may contain a record of all the financial settlements for the four-year period ending December 31, 2014 inclusive of final EM&V reporting and final settlements. Board staff is unclear as to why THESL proposes the Board devise a new settlement process as this appears to be a function undertaken by the IESO. However, Board staff notes that section 5.5 of the CDM Code states that "a distributor shall track

spending for its Board-Approved CDM Programs in a Board-Approved CDM variance account, which will be used to record the difference between the funding awarded for Board-Approved CDM Programs and the actual spending incurred for these programs. The disposition of the balance in this account shall be made at the time specified by the Board and in the manner specified by the Board.” Board staff suggests that if in the Board’s final decision it ultimately approves any or all of THESL’s proposed programs, a Board-Approved CDM variance account also be established. Board staff, upon review of THESL’s annual filings, will review the amounts put forth by THESL to verify their accuracy.

Board staff strongly suggests that if the Board is to approve any or all of THESL’s proposed CDM Programs, that the Board includes only the total budget for each program and not the specific payment schedules in the decision. Board staff strongly recommends that the Board direct THESL, Board staff and the IESO to work together in a timely manner to develop an agreed upon payment schedule that would be administered by the IESO.

THESL also suggested that it would be helpful for the Board to provide direction on how to deal with variable costs for participant incentives in the event of over achievement of targets for Board-Approved programs. THESL proposed to manage the program variable participant incentive costs in the amount approved by the Board in the following manner: Program participant applications will state that incentive payments to participants will be conditional on the availability of funding from regulatory approval from the Board. In the event of a potential program over-achievement THESL will submit an application to the Board to approve an increased incentive budget. Board staff submits that this is a prudent and appropriate manner in which to deal with participant incentives in the event of over-achievement and supports the approval of this process.

Staffing

THESL has proposed a human resources plan in response to Board staff IR #7 in which it proposes the use of existing CDM staff as well as hiring new incremental contract staff to support the delivery of the proposed Board-Approved CDM Programs. Board staff supports the manner that THESL proposes to employ its incremental CDM staff, that is, on a contractual basis, as this is the most appropriate way to outfit its proposed Board-Approved CDM programs that have a finite program life.

THESL proposes to hire its new incremental contract staff to implement its suite of Board-Approved CDM Programs at a budget of \$2.7M for a total of 27 person years for the period starting in 2011 and ending in 2015. THESL notes that the staff and administrative work planned for 2015 is required to complete EM&V, final settlements with the IESO and reporting to the Board. Board staff submits that THESL's total budget for its incremental staff should only reflect the staff required to implement the programs ultimately approved by the Board and not Province-Wide Programs that are funded by the OPA.

Staff is of the view that the costs for staffing associated with CDM related activities should be recovered in accordance with section 78.5 of the Act.

Other Issues

Board staff notes that this is the first application for Board-Approved CDM Programs since the CDM Code was finalized and the CDM Targets issued. On that basis, there has been considerable discussion of the criteria for determining if THESL's proposed CDM programs duplicate those already issued by the OPA. Board staff expects that there will be more applications for Board-Approved CDM Programs by other LDCs in the coming months, and each of these LDCs will be assessing whether their programs duplicate those of the OPA prior to filing with the Board. This assessment could entail seeking an opinion from the OPA, as THESL did in this case. Given that the Board will be deliberating on this issue of duplication with respect to the THESL programs, Board staff submits that it could be helpful to future proceedings if the Board enunciated generic criteria on duplication that informed its thinking. While Board staff recognizes that this generic criteria would not be binding to future panels, it could assist in the efficiency of future proceedings.

All of which is respectfully submitted.