

IN THE MATTER OF the Ontario Energy Board Act 1998,
S.O. 1998, c.15, (Schedule B);

AND IN THE MATTER OF an Application by Toronto
Hydro-Electric System Limited Inc. for an Order or Orders
granting approval of initiatives and amounts related to the
Conservation and Demand Management Code;

ONTARIO POWER AUTHORITY
Submissions to the Ontario Energy Board

May 24, 2011

1. These are the submissions of the Ontario Power Authority (the “OPA”). The OPA was requested by the Board to attend the hearing in this matter and to provide evidence on the issue of whether the CDM programs proposed by Toronto Hydro-Electric System (“THESL”) are “duplicative” of OPA-Contracted Province-Wide CDM Programs as that term is used in s. 2.3 of the Conservation Code.
2. The OPA has not been given a specific role in either the Conservation Code or in OEB Filing Guidelines in the determination of duplication. As a result, the OPA has been addressing this issue on a case-by-case basis in response to requests by LDCs. In doing so, the OPA has developed a “purposive approach” to the duplication issue. This approach is described in greater detail below.
3. With respect to the THESL programs in particular, the OPA’s views were provided in a letter to THESL dated April 21, 2011,¹ and in the Witness Statement² and oral testimony of the OPA’s Director, Market Transformation.
4. In the course of that testimony, the witness was asked whether it was foreseen that the OPA would take “a more direct role in ensuring that the filings that are made are properly informed by your [OPA] input as to where your programs begin and these [LDC] end?”³
5. The OPA would be pleased to provide assistance to the Board in addressing the issue of duplication between the OPA-Contracted Province-Wide CDM Programs and proposed Board-Approved CDM Programs.
6. To provide this assistance, the OPA would benefit from clear direction on the information that the Board would require and the criteria that the OPA should apply to address the duplication issue. In this regard, the OPA’s role would be consistent with the role it has been assigned by the Board in the context of LDC Green Energy Act Plans (“GEA Plans”).⁴ The OPA would also be assisted by the Board’s guidance as to whether the OPA’s role in pre-filing assessment should extend to commenting on the cost-effectiveness of any proposed Board-Approved CDM Programs.
7. The process associated with LDC-OPA coordination in the context of LDC GEA Plans would be an appropriate model to follow when addressing the duplication issue. Similar to the LDC GEA Plan process, a distributor proposing a Board-Approved CDM Program would be required to submit its program proposal(s) to the OPA for comment in advance of filing. The distributor would be required to file the OPA’s comments with its application. Final program proposals would be submitted to the OPA no less than 60 days in advance of the date the distributor needs to receive the OPA’s comments for inclusion in its application for Board-Approved CDM Programs.

¹ Letter from OPA to THESL, April 21, 2011, Ex. K1.1.

² Witness Statement of Julia McNally, Ex. K2.2.

³ Transcript, Volume 3, p. 87.

⁴ Filing Requirements: Distribution System Plans - Filing under Deemed Conditions of Licence, March 25, 2010 (EB-2009-0397). The OPA has also been given the role of providing its views on transmission expansions; see for example, Filing Requirements for Transmission and Distribution Applications, November 14, 2006 (EB-2006-0170).

1 8. The filing requirements governing the LDC GEA Plan process note that communication
2 and meetings with the OPA should be a valuable source of information.⁵ Accordingly,
3 LDCs and the OPA have worked together effectively and appropriately, engaging in
4 informal discussions prior to GEA Plans being submitted formally to the OPA for
5 comment. In the context of conservation, the OPA also has an ongoing working
6 relationship with LDCs. The OPA would encourage this type of LDC-OPA coordination
7 regarding proposed Board-Approved CDM Programs.

8 9. With respect to the criteria to be applied, as indicated, the OPA has developed a
9 "purposive approach" to addressing the duplication issue. This is described in the
10 evidence as follows.⁶

11 This approach allowed the OPA to assess the duplication issue with reference to
12 the purpose of the duplication restrictions in the Code, i.e., what problems they
13 were meant to solve.

14 In the OPA's view, the OPA-Contracted Province-Wide programs, together with
15 Board-Approved programs, are meant to allow the LDCs to achieve their
16 conservation targets. At the most general level, the OPA-Contracted Province-
17 Wide programs target customers and measures that are applicable province-
18 wide, while the Board-Approved programs are meant to target other and
19 regionally-specific savings opportunities while building on the success of the
20 OPA-Contracted Province-Wide CDM Programs.

21 In light of the above, the purposes for avoiding duplication are as follows:

22 1. Ensure Incremental MW and GWh and do not undermine Province-Wide
23 programs – e.g. for programs that offer reduced consumption, does the
24 program have the potential to deliver incremental savings beyond those
25 targeted by OPA-Contracted Province-Wide CDM Programs?

26 2. Avoid Market Place Confusion – e.g. is the program likely to create
27 confusion in the market place?

28 3. Ensure Prudent Use of Rate Payer Funds by Avoiding Duplication of
29 Resources – e.g. will this program result in duplication of program
30 administration efforts or costs?

31 4. Capture Regionally Specific Opportunities – e.g. does this program target
32 end uses, behaviours, or customer groups that are specific to the LDC's
33 region?

34 In determining whether a program is duplicative, the OPA assesses the program
35 by reference to the four purposes noted above. While the conclusion does not
36 mechanically follow from the consideration of these purposes, generally, if a

⁵ Filing Requirements: Distribution System Plans (EB-2009-0397), p. 7.

⁶ Exhibit K2.2, p. 2.

1 program is found to conflict with some or all of the purposes, then the OPA may
2 offer recommendations on how to avoid the potential conflict. If significant
3 potential conflicts cannot be cured, then the program would likely be found to be
4 duplicative.

5 10. The OPA's purposive approach is informed by its efforts in designing the OPA-
6 Contracted Province-Wide CDM Programs and the goals which they are meant to
7 achieve, as well as its expertise in pursuing its conservation mandate. It also identifies a
8 role for LDCs in designing and implementing their own programs.

9 11. If the Board would benefit from the OPA's continued application of the purposive
10 approach to proposed Board-Approved CDM Programs on an ongoing basis, the OPA
11 requests that the Board provide that direction to the OPA and to LDCs so that all parties
12 will have clear direction in this regard.