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Ontario

BY E-MAIL and HAND DELIVERY

June 30, 2011

Ms. Kirsten Walli, Board Secretary
Mr. Michael Millar, Legal Counsel
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli and Mr. Millar:

RE: Motion by the Consumer's Council of Canada ("CCC") and Aubrey LeBlanc in relation to s.26.1 of the *Ontario Energy Board Act, 1998* ("Act") and Ontario Regulation 66/10

Board File No.: EB-2010-0184

Decision and Order, June 8, 2011 (re: CCC Interlocutory Motion for production of unredacted materials)

We acknowledge receipt of the Board's Procedural Order No. 10, dated June 13, 2011, extending the date of compliance with the above-noted "Decision and Order" to June 30, 2011.

Please note that counsel has been instructed not to seek an appeal of the Board's Decision and Order, dated June 8, 2011. Copies of those documents required to be unredacted in accordance with the Board's Decision and Order are attached herein.

We respectfully note that the Board's Decision and Order requires a minor clarification. As regards the Government's response to JT 1.6 and 1.7, Exhibit 3 "Legislation and Regulations Committee: Ministry Approval Form", the Board's Decision and Order inadvertently fails to address the redactions at page 6, under the headings "s.8 Other Jurisdictions and Harmonization" and "s.9 Communications".

With respect to the re-attendance of the Government's witness for additional cross-examination, please be advised that Mr. Beale is available for cross-examination on July 20-22 and July 25-29, 2011.

Yours very truly,

Arif Virani
Counsel

encl.

cc: Robert Warren, Counsel for the Moving Parties, Consumer's Council of Canada & Aubrey LeBlanc (by email only)

All Intervenors (by email only)

UNDER ADVISEMENT NO. JT 1.5

EXHIBIT 1: COPY OF GEA_RATIONAL FOR REALLOCATION OF MEI PROGRAM COSTS TO RATEPAYERS

RATIONALE FOR THE REALLOCATION OF MEI MULTI-FUEL CONSERVATION PROGRAM COSTS TO ELECTRICITY AND NATURAL GAS RATEPAYERS

ISSUE

Ongoing costs relating to MEI multi-fuel conservation programs are more appropriately borne by the natural gas and electricity ratepayers given that the predominant beneficiaries for these programs are the natural gas and electricity ratepayers.

BACKGROUND

Context

Energy conservation programs are generally administered by energy agencies and utilities such as the Ontario Power Authority, the natural gas utilities, and the local distribution companies (LDCs)[1].

The costs of those programs are recovered from energy users (ratepayers) through various mechanisms that result in charges being added to energy bills and remitted to the organization administering the program on a cost-recovery basis. The benefits of those programs are calculated on the basis of deferred investments in the energy system (e.g. generation or distribution infrastructure) and are established via a variety of cost-benefit tests.

MEI's involvement in program delivery has been justified on the basis of a structural gap in the energy sector which prevents any of the existing agencies and market participants from delivering multi-fuel conservation programs (e.g. a program that saves both natural gas and electricity)[2]. The benefit to the energy users from such a multi-fuel program is derived from not only the strengths of an integrated conservation offering (given that most energy users are, in fact, multi-fuel users) but also from the efficiencies in being able to deliver a multi-fuel program through one service provider (i.e. MEI), rather than multiple parties.

Rationale

MEI's multi-fuel conservation programs have been more successful than anticipated, in terms of levels of participation, and are placing increasing pressures on the Treasury. Given that the primary rationale and beneficiary of these programs is the energy user, MEI is proposing to recover the appropriate portion of its multi-fuel program costs from the ratepayers.

[1] electric utilities

[2] Regulatory structure of the industry prevents, in large part, an electricity utility from recovering costs for anything but conservation of electricity, and so on.

This proposal seeks to redistribute those costs in anticipation of continued MEI multi-fuel programs and in a manner that conforms to industry-accepted valuations of the ratepayer benefit from conservation programs. The general approach to establishing these benefits are to make use of cost-benefit tests to provide consistency and transparency of method. Industry-standard methods of performing these cost-benefit tests rely on both (1) determining rules for establishing which program costs are "recoverable" from the ratepayer and part of the cost-benefit test, and (2) determining the benefit ratepayers derive in the form of deferred investments in the energy system and direct benefits from lower commodity costs.

One such test is the Total Resource Cost (TRC) test, used by the Ontario Energy Board as well as many other North American jurisdictions to assess the cost/benefit equation for conservation programs. The TRC test *assesses total conservation costs and benefits under a series of generally conservative assumptions. The benefits are defined as "avoided costs". This represents the benefit of not having to provide an extra unit of supply – typically expressed as kW and/or kWh, or m3 of gas. For electricity, supply costs include the generation, transmission and distribution costs, while for gas the major component is the gas itself, with marginal contributions from the transmission, storage and distribution costs.*

NOTE FROM PK TO KEN N: I CHANGED TO AVOID TALKING ABOUT SOCIETAL TESTS. SOCIETAL AUTOMATICALLY IMPLIES A GENERALIZE, OR SOCIALIZED, BENEFIT- EXACTLY WHAT WE WANT TO NOT SAY HERE. WE WANT THE CHARGES RESTRICTED TO A SUB- SECTOR OF "SOCIETY"(SAY, GAS RATEPAYERS) AND BENEFITS TOO.

The data for determining the avoided cost is subject to technical research and analysis and could include time-variable factors, environmental externalities, and be affected by the assumptions in future energy development paths (e.g. choice of future electricity supply sources)[3]. As a result, this analytical process would be expected to be refined and adapted over time.

Design of Proposed Solution

Given this dynamic analytical environment, MEI needs to establish a cost-recovery mechanism with sufficient flexibility to accommodate future policy and energy sector developments. In order to establish the appropriate rigour, transparency, and justification for imposing MEI program costs on the ratepayers, the following process would be established and described through regulation [James R: will MEI describe the following points via regulation?]:

1. Definition of MEI program costs included and excluded from cost-recovery process

    MEI would continue to fund activity for propane and oil conservation, where there is no pre-existing mechanism for allocating costs directly to these energy users. Further, MEI would continue to fund all program administration costs (staff, IT resources, etc) for its multi-fuel programs.

    Specifically, MEI would seek cost recovery of the non-administrative costs directly related to natural gas and electricity conservation efforts.

[3] Sample data chart attached at end of document

2. Definition of generic cost-benefit tests that would be utilized by MEI in seeking cost-recovery for appropriate costs

   The regulation would identify whatever principles necessary to establish the appropriate regulatory framework for cost recovery. Recovery for non-administrative natural gas and electricity conservation program costs would be guided by such cost-benefit tests as approved by the Minister.

3. Establishment of principles of transparency and ratepayer benefit in the cost recovery process, with a full disclosure process relating to the individual cost recovery claims being submitted to the regulator

   There would be disclosure made on the nature of the cost recovery tests at each cost recovery instance and, therefore, an affirmation that the specific cost recovery instance abided by the general guidelines imposed upon itself by MEI.

Implementation

MEI seeks the necessary legislative changes to enable a flexible and transparent cost recovery process that conforms to industry norms and the principle of recovering costs commensurate with benefits to the energy sector. Further details, as described above, would be laid out in regulations before proceeding with seeking cost recovery for MEI multi-fuel programs.

NOTE FROM PAUL K: DO WE NEED THIS CHART?
Attachment: Sample data chart from avoided cost analysis for electricity conservation

Attachment 1:

Avoided Cost of Energy, and of Generation, Transmission and Distribution Capacity[1]

A	B	C	D	E	F	G	H	I	J	K	L	M
Year	Ontario Seasonal Average Avoided Energy Cost (CAD$/MWh)								Avoided Generation Capacity Costs (CAD$/kw-yr)	Avoided Transmission Capacity Costs (CAD$/kw-year)	Avoided Distribution Capacity Cost[2] (CAD$/kw-year)	Avoided Capacity Costs for Demand Response (CAD$/KW-yr)
	Winter			Summer			Shoulder					
	On Peak	Mid-Peak	Off-Peak	On Peak	Mid-Peak	Off-Peak	Mid-Peak	Off Peak				
Hours/Period	602	688	1614	522	783	1623	1305	1623	n/a	n/a	na	na
2006	120.8	83.9	45.4	112.9	81.4	47.5	84.2	42.3	0.00	0.00	0.00	0.00
2007	124.6	84.3	45.2	111.5	79.6	45.9	81.4	40.8	0.00	0.00	0.00	0.00
2008	115.4	86.8	48.9	110.6	83.6	50.1	90.4	44.9	74.65	5.62	0.00	144.84
2009	111.9	77.1	48.9	104.5	79.5	47.6	85.8	43.4	83.57	5.76	0.00	146.70
2010	113.5	77.4	52.1	107.0	80.5	48.2	83.5	43.4	71.49	5.90	0.00	148.55
2011	110.2	77.3	52.7	103.2	81.3	48.5	84.2	43.0	85.42	6.05	0.00	150.41
2012	112.4	78.9	53.3	113.1	84.6	51.2	86.5	47.8	81.20	6.20	0.00	152.27
2013	125.2	86.4	59.9	116.9	91.3	54.0	92.5	51.9	61.60	6.36	0.00	154.25
2014	125.7	92.4	62.8	127.9	96.8	56.7	98.9	54.4	46.63	6.52	0.00	156.23
2015	127.4	94.7	59.6	151.6	106.7	62.5	102.8	59.9	23.16	6.68	0.00	158.22
2016	131.7	97.3	70.9	152.5	108.1	63.9	104.5	61.4	26.88	6.85	0.00	160.21
2017	136.0	100.0	72.1	153.5	109.5	65.3	106.2	62.8	29.94	7.02	0.00	162.33
2018	140.3	102.7	73.4	154.4	110.9	66.8	108.0	64.3	31.66	7.19	0.00	164.32
2019	144.6	105.4	74.6	155.3	112.3	68.2	109.7	65.7	32.41	7.37	0.00	166.59
2020	148.9	108.1	75.9	156.3	113.6	69.6	111.4	67.2	31.85	7.56	0.00	168.73
2021	152.4	110.4	78.0	157.1	116.5	71.5	114.7	69.1	38.27	7.74	0.00	170.87
2022	155.8	112.7	80.0	157.9	119.4	73.4	117.9	71.0	41.97	7.94	0.00	173.16
2023	159.3	115.0	82.1	158.7	122.4	75.3	121.1	72.9	44.22	8.14	0.00	175.46
2024	162.7	117.3	84.2	159.5	125.3	77.2	124.3	74.8	44.56	8.34	0.00	177.77
2025	166.1	119.7	86.3	160.3	128.2	79.1	127.5	76.7	42.02	8.55	0.00	180.06

[1] Navigant Consulting Ltd. on behalf of Hydro One Network Inc. "Avoided Cost Study for the Evaluation of CDM Measures" June 14, 2005 inflated at 2.5% and Hydro One Networks Inc. "Preliminary Distribution Cost Assessment for Hydro One" June 14, 2005 inflated at 2.5%.

[2] Please refer to the cover document titled "Avoided Cost of Energy, and of Generation, Transmission and Distribution Capacity" and Attachment 2 for instructions.

UNDER ADVISEMENT JT 1.5

EXHIBIT 2: COPY PROGRAM COST RECOVERY OUTLINE- ORIGINAL

rogram Cost Recovery

Policy Intent: Energy Efficiency program costs, regardless of who delivers, should have *appropriate costs* allocated to the electricity or natural gas rate base *in proportion to the benefits* which result with a *suitable accountability framework* for the use of such funds.

This is the case for CDM projects delivered by OPA and LDCs as well as DSM by Union Gas and Enbridge. Savings from government initiated programs have no such mechanism.

Benefits: a measure of acceptable rate impact which may include consideration of provincial policy objectives related to GHG emission reduction or other factors (e.g. social equity, R&D). Test such as TRC, RIM, participant tests will need to be reviewed and modified as required. Tests would be used as a matter of program discipline, not for debate before a regulator.

Appropriate Costs: up to the benefit calculated above. Direct program costs would be allocated by electricity and natural gas savings achieved, by rate category as required. Costs related to staffing and administration would remain with the MEI and not charged back.

Suitable accountability framework: may vary by option depending on depth of reporting requirements but features public reporting not subject to comment by the regulator.

Options:

1. Charge back for government program costs - Each of Union Gas/Enbridge and OPA would be directed to pay allocated costs and recover funds (through gas rates for natural gas and GAM for electricity costs).

2. SBC for government programs only – government would direct OEB to recover pre-determined funds (annually or multi-year budgets) by Union Gas/Enbridge and OPA. 27.1 of OEB Act would be amended such that hearings would not be required.

3. SBC for all programs regardless of who delivers – Guided by government policy, OEB would direct recovery of funds following a board hearing which would establish a pool of funds available for DSM and rules for accessing funds. A share would be allocated to government programs. Same process for CDM but featuring a consolidation of charges (including -----)

For each:

Further elaborate on description, mechanics of implementation

Pros/Cons

Considerations

Anticipated Stakeholder reaction