



November 10, 2011

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

Dear Ms. Walli:

RE: EB-2011-0327 – Union Gas Limited – 2012-2014 Demand Side Management Plan Settlement Agreement on Terms of Reference for Stakeholder Engagement

The DSM Guidelines issued by the Board on June 30, 2011 contemplate the development of Terms of Reference (“ToR”) for stakeholder engagement (page 42-43).

In cooperation with stakeholders, Union Gas Limited (“Union”) and Enbridge Gas Distribution Inc. have developed joint ToR for the period of 2012 through 2014. For Union, the joint ToR are incorporated into the attached Settlement Agreement which is hereby filed with the Board for its consideration and approval. For Enbridge, the ToR are incorporated into a separate Settlement Agreement dealing with its DSM Plan more broadly.

If you have any questions or concerns, please contact me at 519-436-4521.

Sincerely,

[Original signed by]

Marian Redford
Manager, Regulatory Initiatives

cc: Crawford Smith (Torys)
EB-2011-0327 Intervenors

**SETTLEMENT AGREEMENT
UNION GAS LIMITED
DEMAND SIDE MANAGEMENT**

**TERMS OF REFERENCE
ON STAKEHOLDER ENGAGEMENT**

November 10, 2011

BACKGROUND AND GENERAL TERMS OF THIS AGREEMENT

On June 30, 2011, the Ontario Energy Board (“OEB” or the “Board”) issued a letter (the “Letter”) and the new Demand Side Management (“DSM”) Guidelines for Natural Gas Utilities (“Guidelines”) developed in the EB-2008-0346 proceeding. The Letter provided that the natural gas utilities were expected to develop their Multi-year DSM Plans in accordance with the Guidelines and to submit them to the Board for approval by September 15, 2011. Union Gas Limited (“Union”) filed its Application as EB-2011-0327 on September 23, 2011.

The Guidelines contemplate that gas distributors will consult with their stakeholders with respect to their DSM Plans. The DSM Guidelines request, “Terms of reference (“ToR”) for the stakeholder engagement process should be developed by the natural gas utilities in cooperation with their stakeholders and submitted to the Board as part of the natural gas utilities’ multi-year DSM plan application. The ToR should build upon experience to date and reflect, to the extent possible, consensus views of the natural gas utilities and their stakeholders. The ToR should set out any revision to the process for selecting the members of any subcommittee or confirm the continuation of the current approach.”

Enbridge Gas Distribution (“Enbridge”) and Union (collectively, the “Utilities”) carried out a joint consultation with stakeholders on the issues set forth in the ToR. This Agreement is the result of those discussions, and is intended to establish the guidelines for program review, evaluation, audit, and all other aspects in which stakeholder engagement is involved.

For Enbridge, the Agreement for the ToR is reflected within the Enbridge Settlement Agreement for the DSM Plan dated on November 4, 2011. For Union, the Agreement for the ToR is reflected in this Settlement Agreement. Read together, the Enbridge Settlement Agreement and this Settlement Agreement reflect the agreement by all of the Parties to the ToR attached hereto and to the Enbridge Settlement Agreement.

In addition to the Utilities, the following parties participated in the consultation sessions. The Utilities and the Intervenors listed below are herein referred to as the “Parties”:

Building Owners and Managers Association (BOMA)

Consumers Council of Canada (CCC)

Canadian Manufacturers & Exporters (CME)
Energy Probe Research Foundation (Energy Probe)
EnviroCentre
Federation of Rental Providers of Ontario (FRPO)
Green Energy Coalition (GEC)
Industrial Gas Users Association (IGUA)
Low Income Energy Network (LIEN)
Pollution Probe
School Energy Coalition (SEC)
Vulnerable Energy Consumers Coalition (VECC)

The Parties jointly present this Agreement to the Board for its consideration. The Parties request that the Board accept the Agreement as evidence of their consensus on the issues reflected herein, and, subject to any further discovery or other process the Board requires to deal with the DSM applications filed by Enbridge and Union, deem it to be a Settlement Agreement under the Board's Rules in the Union application. (Throughout the remainder of this document it is referred to as a "Settlement Agreement" for ease of understanding.)

The Parties further request that the Board adopt this Agreement as part of the Board's Decision and Order in this application. While the consultative process, under which this Settlement Agreement was reached, was not formally initiated by the Board under Rule 31 of the *Ontario Energy Board Rules of Practice and Procedure*, the Parties agree that it is appropriate that Rules 31.09, 31.10 and all of 32 apply to the consultation process and to this Settlement Agreement.

The parties agree that all positions, information, documents, negotiations and discussion of any kind whatsoever which took place or were exchanged during the Settlement Conference are strictly confidential and without prejudice, and inadmissible unless relevant to the resolution of any ambiguity that subsequently arises with respect to the interpretation of any provision of this Agreement.

The evidence which supports this Settlement Agreement is found in the Plan Submissions of the two Utilities. The Parties are of the view, not only that this record supports this Settlement

Agreement, but also the quality and detail of the record provide a basis for the Board to approve this Settlement Agreement.

The Parties all agree that this Settlement Agreement is a package: the individual aspects of this agreement are inextricably linked to one another and none of the parts of this settlement are severable. As such, there is no agreement among the Parties to settle any aspect of the issues addressed in this Settlement Agreement in isolation from the balance of the issues addressed herein. The Parties agree, therefore, that in the event that the Board does not accept this Settlement Agreement in its entirety, then there is no agreement. If the Board does not accept this Settlement Agreement, all Parties will be at liberty to take such positions as they see fit in respect of this DSM Plan Application filing and to file such additional and further materials in support of such revised position. In addition, in the event that this Settlement Agreement is rejected by the Board, the position of each of the Parties will not be prejudiced by reason of their participation in settlement discussions and entry into this Settlement Agreement.

According to the Board's *Settlement Conference Guidelines* (p. 3), the Parties must consider whether a settlement proposal should include an appropriate adjustment mechanism for any settled issue that may be affected by external factors. The Parties consider that no settled issue requires an adjustment mechanism other than those expressly set forth herein.

None of the Parties can withdraw from the Settlement Agreement except in accordance with Rule 32 of the *Ontario Energy Board Rules of Practice and Procedure*. Finally, unless stated otherwise, a settlement of any particular issue in this proceeding is without prejudice to the positions Parties might take with respect to the same issue in future proceedings. However, any such position cannot have the effect of changing the result of this Agreement.

This Agreement is applicable for each of the 2012 through 2014 years.

III. TERMS OF SETTLEMENT

The detailed terms of this settlement are set out in the attached Terms of Reference.

**Joint Terms of Reference
on
Stakeholder Engagement
for
DSM Activities
by
Enbridge Gas Distribution Inc.
and
Union Gas Limited**

November 4, 2011

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1. Introduction and Background

i. Purpose of the Stakeholder Engagement Process

Stakeholder engagement in Natural Gas Demand Side Management (“DSM”) addresses needs of the intervenors that represent ratepayer and environmental groups, the utilities, their customers, and the Ontario Energy Board (the Board). For ratepayer and environmental groups, stakeholder engagement provides insights into the activities of the natural gas utilities and an opportunity to provide input and participate in the direction of certain of those activities. This instills confidence in the audit and evaluation processes, including the accuracy of reporting and the calculation of the DSM Variance Account (DSMVA), Lost Revenue Adjustment Mechanism (LRAM), and utility incentives. It also provides confidence that program results are calculated using sound assumptions based on best available information. For the utilities and their customers, as well as stakeholders, the collateral benefits of stakeholder engagement include the development and enhancement of utility DSM programs. For the Board and utilities, stakeholder engagement results in reduced regulatory burden and reassurance that the utilities continue to deliver successful and cost effective DSM programs.

ii. Definitions

For the purposes of these Terms of Reference the following definitions apply:

Intervenors: Organizations and their representatives who were participants in the Board’s consultation on the June 20, 2011 DSM Guidelines (EB-2008-0346) (the “Guidelines”) or who have been granted Intervenor status by the Board in any subsequent DSM proceeding.

DSM Consultative: Consists of representatives of the relevant natural gas utility and the group of Intervenors and stakeholders who have agreed to participate on the utility’s DSM Consultative.

Stakeholders: Groups or individuals who have an interest in Ontario DSM matters, including intervenors. Other stakeholders who are not intervenors may be customers, trade allies, delivery agents, experts and others.

iii. Objective of the Terms of Reference

The purpose of the Stakeholder Terms of Reference is to clarify and define the roles and responsibilities of Intervenors, other Stakeholders, the utilities, and the Board with respect to participating in the DSM stakeholder engagement processes proposed in this document. These include processes relating to program design, DSM measure input assumptions, evaluation research, and the audit of DSM program annual results. These Terms of Reference and the consensus approach outlined herein are expected to lead to both greater objectivity on DSM technical standards and improved efficiency and effectiveness of stakeholder engagement through the period of the 2012 – 2014 Multi-Year Plans of Enbridge and Union.

iv. Background to the Terms of Reference

As outlined in the Guidelines, Union and Enbridge have jointly developed Terms of Reference for Stakeholder Engagement in cooperation with their stakeholders. The Utilities consulted with intervenors to reach agreement on the Terms of Reference, and are submitting the Terms of Reference to the Board as part of their DSM Plans for 2012-2014.

In developing the Terms of Reference, the Intervenors and utilities held several negotiation sessions, first with an Intervenor nominated Working Group followed by two days of negotiation sessions with the broader DSM consultative members. This Terms of Reference represents an agreement between the parties listed below. To provide the Board context to the extent of the consultation process, the following dates represent sessions that were held with either the smaller Working Group or the broader members of the DSM Consultative:

- The Working Group held 4 half-day sessions on August 19, 22, 24, and 26 as well as a two hour conference call on August 31.
- Discussions resumed on October 3 and 4 with the full DSM Consultative and agreement was reached on the Terms of Reference as described in this document. The parties to the Settlement Agreement are:

Building Owners and Managers Association (BOMA)
Consumers Council of Canada (CCC)
Canadian Manufacturers & Exporters (CME)
Energy Probe Research Foundation (Energy Probe)
EnviroCentre
Federation of Rental Providers of Ontario (FRPO)
Green Energy Coalition (GEC)
Industrial Gas Users Association (IGUA)
Low Income Energy Network (LIEN)
Pollution Probe
School Energy Coalition (SEC)
Vulnerable Energy Consumers Coalition (VECC)

The Terms of Reference go beyond the minimum requirements for consultation as presented in the Board Guidelines, Section 16.1.

In addition to two plenary Consultative meetings each year, the Terms of Reference provide for collaborative involvement between utilities and intervenors in:

- development and update of input assumptions;
- evaluation research priorities and individual studies;
- the audit of DSM annual results; and

- development of new program ideas.

The Terms of Reference also provide for involvement of other stakeholders in:

- development and update of input assumptions, and
- development of program ideas

2. Models for Intervenor and Stakeholder Engagement in the Utilities' DSM Activities

The model for intervenor/stakeholder engagement in the 2007 Multi-year Plan involved separate processes for the two natural gas utilities as follows:

- a minimum of two Consultative meetings each year; and
- creation of utility specific Evaluation Audit Committees ("EAC") to address matters relating to evaluation research and the audit of DSM annual results.

In addition, throughout the Plan period, the utilities consulted with their respective EACs prior to filing applications to update the measure assumptions used in their DSM programs.

The model proposed through this Terms of Reference document involves:

- a minimum of two plenary Consultative meetings each year for each utility;
- a common Technical Evaluation Committee ("TEC"), and a common Technical Reference Manual ("TRM") to document measure assumptions;
- a separate Audit Committee ("AC") for each utility;
- separate consultation in relation to Low Income Programs with intervenors and stakeholders; and
- provision for other consultation initiatives relating to program ideas for other program types

The proposed model offers several benefits.

- The division of functions will streamline both the process to update input assumptions and the audit process.
- The primary responsibility for critical review of evaluation research and input assumptions will rest with the TEC, thus streamlining the DSM audit process.
- The TEC will establish a common natural gas DSM technical body that will facilitate collaboration on evaluation research, and harmonization of DSM programs across the two utilities.
- The development of a common TRM represents best practice in DSM administration.

- The proposed model aligns with the Guidelines regarding
 - a minimum of two Consultative meetings each year for each utility; and
 - a common annual submission by the utilities to the Board to update input assumptions.
- In addition, the proposed models align with the two Board processes of
 - Disposition of DSM Deferral Accounts; and
 - Annual filing of Updated Input Assumptions.

3. Principles for Intervenor and Stakeholder Engagement for the Natural Gas Utilities

The following principles will guide intervenor and stakeholder engagement activities of the natural gas utilities.

Roles and Accountability

The utilities are responsible and accountable to the Ontario Energy Board for all their DSM activities. The Ontario Energy Board is responsible for approving DSM programs and related matters.

General

- Stakeholder engagement activities are undertaken to inform all parties on DSM program activities, to obtain each party's perspectives on the utility proposed program activities, and to establish alignment among parties on each utility's annual results.
- Intervenors and Utilities involved in stakeholder engagement processes should work in a constructive manner to improve the design, development and implementation of DSM programs in a timely fashion.
- Utilities and Intervenors will ensure that each committee has timely and complete access to all information necessary to carry out their functions.
- All processes that involve evaluation research, input assumptions, or audit of results shall be characterized by independence and transparency.

Consensus

- Unless otherwise stated, achievement of consensus is an objective but not a requirement of committee processes outlined in this Terms of Reference.
- Consensus is reached when all parties can sign on to a recommendation or position as in a settlement agreement to a Board proceeding.
- Where consensus is not reached, parties may file their separate positions with the Board.

Conduct of Committees

- Each committee will establish at the outset of each year of a plan period, a set of business conduct rules that will be used as guidance to ensure the constructive operation of that committee. For example the business conduct rules could cover items such as meeting participation or providing substitute participants, providing documentation with appropriate lead times, and participation in a constructive manner to support positive outcomes.

Committee Meetings

- In order to meet Board set deadlines or committee defined work schedules, where scheduling does not permit full attendance at committee meetings, each committee will convene meetings based on quorum, where quorum is defined for the Audit Committee as the utility plus two thirds of the intervenors and for the Technical Evaluation Committee as two utilities and three of the five other members of which two must be intervenors. For the purposes of achieving a quorum, participation by conference call, video link, or other electronic format is acceptable.

Confidentiality

- Non-disclosure agreements must be signed by participants when dealing with draft reports and study working documents and other documents as referenced for individual Committees. (refer to Appendix A)
- If any confidential information could potentially give the recipient an unfair business advantage in competing for work from the utilities, the utilities will “flag” such concerns in advance of providing the information and the potential recipient will have to choose to either: (1) not review the confidential information and remove himself / herself from the portion of the engagement process related to the confidential item; or (2) accept and review the confidential information but commit to not pursuing the work opportunity.

Conflict of Interest

- In the case of a conflict of interest arising, it is the participant’s responsibility to declare the conflict to the Committee as early as possible.

4. Consultative Meetings

As outlined in the Guidelines, the utilities will each hold a minimum of two plenary meetings of their respective DSM Consultative in each calendar year and all intervenor participants in the Board’s consultation on the development of the Guidelines (EB-2008-0346) and the most recent or current proceeding will be invited to the Consultative meetings.

The subject of the meetings may include:

- reviewing annual DSM results;
- selecting any subcommittee that may be part of the processes described in this Agreement (the TEC and the two ACs); and
- providing advice on the development and operation of the natural gas utilities' DSM Plan as well as on the design and development of new programs.

5. Technical Evaluation Committee Terms of Reference

There will be one Technical Evaluation Committee (TEC) for both natural gas utilities which will act as an independent body.

i. Goal

The goal of the TEC is to establish DSM technical and evaluation standards for natural gas utilities in Ontario.

ii. Scope of Work

- The TEC will make recommendations to the OEB on the annual Technical Reference Manual (TRM) Update.
- The TEC has accountability to:
 - produce and maintain a prioritized annual work list (by consensus)
 - establish evaluation priorities and specify future evaluation studies to be undertaken – execution of all work defined by the TEC is subject to the utilities' resource constraints (such as funding, personnel resources, time limitations); and
 - Review and reach consensus on the design and implementation of evaluation studies to be carried out including determination of whether the work is done by utility staff, the TEC technical consultant or third party firms.

iii. Composition and Selection

The Technical Evaluation Committee shall consist of seven individuals:

- three intervenor members selected by intervenors in accordance with footnote 34 of Subsection 16.1 of the Guidelines;
- two utility members - one from Union and one from EGD, self selected by each utility. (Other representatives from the utilities may attend Committee meetings from time to time but are not voting Committee members.); and
- two independent members with technical and other relevant expertise, selected from the public, to add independence and objective perspective to the TEC. Selection is by

consensus among utility and intervenor members or no one is appointed and the Committee does not become established until a consensus is achieved.

The structure of the Committee is to be similar to a corporate Board of Directors which has representation from shareholders, management, and independent members.

The independent members are expected to provide professional expertise in relation to evaluation and to the development of input assumptions, encompassing experience in residential, commercial and industrial applications such as energy efficiency in low rise buildings, commercial buildings, industrial processes, market transformation, and so on.

iv. Term

For the first year, independent members and intervenor members will be appointed for one year with an opportunity for reappointment. The goal is to achieve continuity in the longer term.

v. Process

- It is anticipated that approximately twelve monthly meetings (1/2 to a full day each) will be held in the first year. Fewer meetings may be required in years two and three.
- Any member may call for a meeting on reasonable notice and bring items forward for discussion by the TEC. The utilities shall be jointly responsible for scheduling meetings.
- Regarding confidentiality: Committee members will be expected to review Final Evaluation Reports and to review draft reports and other study work products as determined by the Committee's workplan. Regarding evaluation studies, Final Reports will not be considered confidential unless necessary to prevent disclosure of sensitive customer data (including data that could be potentially linked to individual customers even if the customers' names are redacted). Draft reports and study work products will initially be considered confidential unless otherwise determined by the Board in a proceeding and will be available on signing the Declaration and Undertaking attached as Appendix "A".
- The Committee will endeavour to reach consensus on its recommendations. Where consensus is not reached, the Committee members will outline their respective positions in the appropriate Board processes (application to clear DSM Deferral Accounts, annual submission to Update Input Assumptions, or DSM Plan application).
- One firm will be secured as a general technical consultant for the TEC to meet a workload as defined by consensus of the Committee but will not be considered a Committee member. The technical consultant is to be selected by consensus or no one is hired.
- Additional technical consulting firms may be secured based on the TEC's identification and prioritization.

- The assigned utility or technical consultant supervises the effort to complete the scope of work assigned by the TEC.
- The Technical Consulting firm will have a team that demonstrates a depth and breadth of technical and evaluation competencies for the purpose of managing the TRM and assisting with additional evaluation requirements as requested by the TEC.

vi. Outputs / Deliverables

Technical Reference Manual

- The TRM will be common to both Union and EGD and will document efficiency measure savings assumptions (and/or formulae) and all other assumptions (other than avoided costs) necessary for cost-effectiveness screening and program metrics. Input assumptions and formulae may be unique for each utility.
- The TRM may also include such other reference material as the Committee deems appropriate.
- The TEC will produce an annual Update to the TRM for the two utilities to file with the Board as per the Guidelines. This submission may be on a consensus or non-consensus basis.
- The Committee may also provide consensus recommendations to the Board throughout the year regarding TRM updates (e.g. new program input assumptions, free ridership rates).

vii. Timing and Interface with the Audit

In accordance with the Guidelines, the utilities will file the annual TRM Update submission as soon as practical after the completion of the annual audit process. The TEC will provide the latest Board approved TRM and any TRM recommendations from the TEC to the Auditor for the purpose of the audit. Unless the auditor brings forward new information with evidence, the updated TRM as approved by the Board, along with any TEC recommendations, will be considered best available information at the time of the audit.

viii. Fee Guidelines

Intervenor and independent members serving on the TEC will invoice the utilities for meeting attendance and preparation up to the appropriate rate established by the OEB. The invoices will document activities and intervenor and independent member time, and the cost will be equally shared between the two utilities. It is expected that the level of commitment for participation in this process will be on the order of 150 hours in the first year for each intervenor or independent member; it may be less in subsequent years. In the event additional hours are required, the Committee can re-visit the Committee's budget requirements.

ix. Roles and Responsibilities

Intervenor members

In addition to participating on the Committee, the intervenor participants will:

- report back to the intervenor members of the larger DSM Consultative in such manner as the intervenors determine;
- liaise with intervenor representatives on the AC; and
- at their discretion, file comments with the Board – particularly in the event that the Committee fails to reach consensus on the annual TRM update and/or the conduct of any evaluation work.

Utilities

In addition to participating on the Committee, the utilities will:

- alternate (between EGD and Union) as the Chair of TEC meetings;
- support the reasonable costs claims advanced by Committee members and costs of the technical consultant(s) retained;
- support all costs associated with the conduct of all evaluation research studies;
- bring draft evaluation research designs to the Committee for review and oversee the implementation of evaluation research studies in consultation with the Committee; and
- submit to the Board the annual application for the TRM Update as soon as practical after the audit's completion. The TRM Update will identify all changes to existing assumptions, all new assumptions and make clear whether any of the changes and additions were not the product of a Committee consensus.

Independent Members

The independent members will:

- provide professional expertise in relation to evaluation, the development of input assumptions and other DSM related technical matters brought before the Committee; and
- review the design and implementation of evaluation studies to be carried out by the utility.

Technical Consultant

The technical consultant will:

- be responsible for completing identified work as defined by the TEC.

The Ontario Energy Board

The role of the Ontario Energy Board is to:

- review recommendations relating to the annual filing of the Update to Input Assumptions; and
- where a consensus on the Update to Input Assumptions or the conduct of evaluation work is not achieved, to resolve any such dispute by way of Board Decision at the Board's discretion.

6. Audit Committee Terms of Reference

Each utility will have an Audit Committee.

i. Goal

The goal of the AC is to ensure that there is, each year, an effective and thorough audit of the utility's DSM results.

ii. Scope of Work

- The AC will establish, as part of the 2012 audit, the standard scope of the annual audit for the term 2012 to 2014 ("goals" versus "tasks").
- The standard scope will be used for the 2012 to 2014 term as part of the RFP and the AC may alter the scope annually based on consensus. The AC will provide the auditor with input and guidance (such as scope of work, review work plan/draft report and provide advice and direction).
- The AC will make recommendations based on the Audit Report regarding the utility's claims regarding DSM results and DSMVA, LRAM, utility incentives and any target adjustments through the AC Report submitted to the Board.

iii. Composition and Selection

Each utility will have an AC, which shall consist of four members:

- three intervenor members selected by intervenors in accordance with footnote 34 of Subsection 16.1 of the Guidelines. Intervenors selected may also sit on the TEC for continuity.

- one representative from the utility, self selected by each utility. Other representatives from the utility may attend Committee meetings from time to time but are not voting Committee members.

iv. Term

Intervenor members will be appointed for each year's audit process, eligible for reappointment for successive audits. In the event that a member must resign, the same process will be used to nominate and appoint a replacement.

v. Auditor Selection Process:

- Utilities will issue and maintain an ongoing RFQ to qualify audit firms to their pre-approval list
- Utilities and intervenors will seek consensus to identify a pre-approved list (from the RFQ) of a minimum of nine audit firms for consensus selection.
 - Where consensus on a firm for the pre-approved list is not achieved, the utility decides the firms on the pre-approved list, while ensuring that the minimum number of firms is still obtained.
 - Where disputes arise from a firm not being added to the bidders' list by the utilities, the intervenors may pursue this issue with the Board for decision at the time of the audit filing. (This may result in a potential delay of one year in a firm being added to the list.)
 - By consensus of the Committee, the minimum number of nine audit firms for bidding on the annual audit can be reduced.
 - Because of utility procurement policies, no feedback will be provided to unsuccessful bidders, nor to any firm being excluded from the bidders' list.
- The utility will issue an RFP to hire an auditor, with the RFP being distributed to all of the firms on the pre-approved list. The RFP will make clear the criteria that will be used to select a winning bidder and that the selection is by a committee of intervenors and the utility. The standard set of selection criteria (categories, descriptions, and relative importance) for auditor selection will be established prior to the RFQ process for the 2012 audit.
- Utilities and intervenors will seek consensus on auditor selection
 - Where consensus on an audit firm selection from the proposals submitted is not achieved, the intervenors will decide the firm from among the proposals submitted by pre approved bidders.

- Disputes arising from a non-consensus firm selected as the auditor will be given to the Board for consideration when the audit report is filed following completion of the audit.

vi. Process:

- The utility member will act as chair of the AC. The Chair does not have any extra powers or votes, but will chair the meetings.
- The utility will administer the audit contract and hold the auditor accountable to the terms of the contract.
- All communications are transparent to all AC members (exceptions will be identified by the AC at the beginning of the annual audit).
- The auditor, utility, and intervenors will work to ensure that the original scope of the audit is maintained and not allow “scope creep”.
- The auditor will receive guidance and direction from the AC (e.g. on the scope of work, draft work plans, and draft work products). However, the Auditor’s report and effort will be independent of utility or intervenor control or influence. (The AC cannot, for example, instruct the auditor on “how” to engage in their work, such as tools to use, methodology, processes used in the audit, how the auditor conducts the work and forms their opinion) and the final Audit Report must be filed with the Board without adjustment. For greater certainty, the utility and the intervenors may, at AC meetings, provide comments to the Auditor on drafts of the report, which the Auditor is free to accept or reject, but the Final Report must represent the independent professional opinion of the Auditor.
- Any member of the AC may call for a meeting on reasonable notice. It is the role of the utility to provide administrative support in the scheduling of all meetings.
- Meetings will be held from December through June, including possible joint meetings of the two audit committees, when necessary. It is expected that 9-10 meetings will normally be sufficient.
- The AC will endeavour to reach consensus on recommendations concerning the utility’s claims regarding DSM annual results. Where consensus is not reached, the Committee will outline areas of disagreement in the AC’s Report to the Board.
- Consistent with the principle of transparency, all verification reports, evaluation reports, summary spreadsheets, and other materials made available to the auditor, will be available on request, for review by all Committee members (with utility defined redaction of information to maintain privacy considerations) and on signing the Declaration and Undertaking attached as Appendix “A”.

vii. Outputs / Deliverables

The utility will file with the Board the

- Final Auditor's Report, having been reviewed by the Audit Committee, by June 30th as required by the Board's Natural Gas Reporting and Record Keeping Requirements Rules for Gas Utilities per page 41 of the Guidelines (EB-2008-0346).

The utility will also file the following reports by July 31st with the Board:

- the Audit Committee's Report, and
- the updated Final Annual Report.

viii. Fee Guidelines

Intervenor members will invoice the utility for time spent on Committee matters including meeting attendance and preparation up to the appropriate rate established by the OEB. The invoice will document activities. Intervenors will submit separate invoices to each utility with respect to the AC of that utility. It is expected that the level of commitment for participation in this process will normally not exceed 60 hours per year for each intervenor member. In the event additional hours are required, the Committee can revisit the Committee's budget requirements.

ix. Roles and Responsibilities

Intervenors

In addition to participation on the AC, the intervenor members of the Committee will:

- represent the larger Consultative's comments arising out of the Draft Annual Report and bring forth any issues/concerns expressed
- review and submit to the Auditor comments on the utility's draft Annual Report; and
- at their discretion, file comments with the Board – particularly in the event that the Committee fails to reach consensus on the selection of the auditor, the conduct of the Audit, the Final Annual Report, and/or the Audit Committee Report filed by the utility.

The Utilities

In addition to participating on the Committee, the utilities will:

- act as chair of the AC and provide the Draft Annual Report to the DSM Consultative and to Committee members;
- respond to issues that arise out of the audit process;
- update the Annual Report after the audit has been completed;
- support all costs associated with the Auditor and the Audit through the DSM evaluation budget;
- support the reasonable cost claims advanced by Committee members;

- file with the Board the Audit Report, the Final Annual Report and the Audit Committee Report, noting in the process if any elements of the Final Annual Report and the Audit Committee Report do not represent the consensus of the AC.

The Auditors

The Auditors shall, at a minimum:

- provide an audit opinion on the DSMVA, LRAM and utility performance incentive amounts proposed by the natural gas utility and any amendment thereto;
- confirm any target adjustments have been correctly calculated and applied;
- identify any input assumptions that either warrant further research or that should be updated with new best available information;
- review the reasonableness of any verification work that has been undertaken to inform utility results; and
- recommend any forward-looking evaluation work to be considered.

The Ontario Energy Board

The role of the Ontario Energy Board is to:

- review recommendations relating to the Audit Committee Report and utility application for clearance of DSM Deferral accounts; and
- where a consensus on the Audit Committee Report is not achieved, the Board will resolve any disputes by way of Board Decision at its discretion.

7. Program Consultation

Each utility will undertake separate utility-led consultation initiatives.

i. Objective

The objective of stakeholder engagement in DSM programs is to enhance the development of effective and innovative DSM programs. The utilities will establish DSM programs through individual consultation processes engaging intervenors and stakeholders.

ii. Scope of Program Consultation

Each utility commits to holding at least two plenary consultations with intervenors each year.

In addition, the utilities commit to holding two joint full day meetings a year for consultation on Low Income programs (one in the first quarter and one in the fall). The meetings will be structured to allow for plenary discussion as well as breakout sessions to discuss matters specific to each utility. The meetings will include intervenor representatives as well as other

stakeholders. The overall focus of the meetings will be on program design and implementation rather than program status and regulatory matters. The objectives of the consultation sessions are:

- For intervenors and other stakeholders to provide their perspective on the delivery of current programs
- To learn from intervenor groups and stakeholders how they can support the utilities in achieving the targets for Low Income DSM Programs
- To discuss ideas presented by intervenors and stakeholders for new / improved Low Income DSM Programs.

The utilities will consult with representatives of LIEN and VECC regarding the agendas and invitation lists for the Low Income sessions.

The utilities may also, at their discretion, consult with Intervenors and stakeholders on program design and implementation relating to other program types in their DSM portfolios.

Appendix “A”

IN THE MATTER OF THE *Ontario Energy Board Act*
1998, 1998, s. 15 (Schedule B);

AND IN THE MATTER OF an Application or
Applications by **[insert Utility Name]** (“ ”) for an Order
or Orders granting approval of initiatives and amounts
related to **[Utility’s]** Demand Side Management Activities
(“DSM”) and all related and associated DSM Consultatives
and Technical and Audit Committees

DECLARATION AND UNDERTAKING TO (insert Utility Name or Names)

I, _____, am counsel of record or a consultant for
_____. In the event that I serve on **[Name of Utility]**
DSM Consultative, Audit Committee, or Technical Evaluation Committee (singularly or
collectively the “Committee”), I agree to be bound by the Declaration and Undertaking.

DECLARATION

I declare that:

1. I have read the *Rules of Practice and Procedure* of the Ontario Energy Board (the “Board”).
2. I am not a director or employee of a party to any Board proceeding for which I act or of any other person known by me to be a party in any Board proceeding.
3. I understand that this Declaration and Undertaking applies to all information that has not already been made public and in respect of which **[Utility]** makes a written claim of confidentiality that I receive in a Committee process and any subsequent Board proceeding dealing with the subject matter of the Committee process (“Confidential Information”). It is the intention of the undersigned and **[Utility]** that this Declaration and Undertaking apply to all of the undersigned’s future participation or service on any Committee.
4. I understand that this Declaration and Undertaking is being made to **[Utility]** at this time. In the event that, in the course of a subsequent Board proceeding dealing with the subject matter of a Committee process, the Board determines that any Confidential Information held by me under this Declaration and Undertaking:

- (a) shall be considered to be confidential under the Board's Practice Direction on Confidential Filings, and I file a Declaration and Undertaking pursuant to that Practice Direction, or
- (b) shall not be considered by the Board to be confidential and is to be placed on the public record;

this Declaration and Undertaking shall thereafter be null and void with respect to that Confidential Information.

UNDERTAKING

I undertake that:

1. I will use Confidential Information exclusively for duties performed in respect of each Committee process and any subsequent Board proceeding dealing with the subject matter of that Committee process.
2. I will not divulge Confidential Information except to a person granted access by [Utility] to such Confidential Information.
3. I will not reproduce, in any manner, Confidential Information without the prior written approval of [Utility]. For this purpose, reproducing Confidential Information includes scanning paper copies of Confidential Information, copying the Confidential Information onto a diskette or other machine-readable media and saving the Confidential Information onto a computer system. I understand that I may reproduce a hard copy of electronic data received solely for internal purposes, and I undertake to destroy such copies in accordance with this Declaration and Undertaking. For clarity, this prohibition does not preclude the forwarding of electronic Confidential Information material received from one computer to another for the personal use of the undersigned.
4. I will protect Confidential Information from unauthorized access.
5. I will not use Confidential Information in any commercial application or for any monetary or personal benefit, with the exception of remuneration for my participation on any Committee.
6. I will, promptly following the end of each Committee process or the end of any subsequent Board proceeding dealing with the subject matter of a Committee process, whichever shall be later, or within 10 days after the end of my participation in a Committee process or any subsequent Board proceeding dealing with the subject matter of the Committee process:

- (a) return to **[Utility]**, all documents and materials in all media containing Confidential Information, including notes, charts, memoranda, transcripts and submissions based on such Confidential Information; or
- (b) destroy such documents and materials and file with **[Utility]** a certification of destruction in the form prescribed by the Board pertaining to the destroyed documents and materials.

For this purpose, the end of any subsequent Board proceeding is the date on which the period for filing a review or appeal of the Board's final order in that proceeding expires or, if a review or appeal is filed, upon issuance of a final decision on the review or appeal from which no further review or appeal can or has been taken.

In respect of those Intervenorors that serve on the same Committee for more than one term, the obligation to destroy Confidential Information arises as of the date of the Intervenor's retirement from the Committee.

7. I will inform **[Utility]** immediately of any changes in the facts referred to in this Declaration and Undertaking.

Dated at Toronto, this ____ day of _____, 2011.

Signature: _____

Name:

Company/Firm:

Address:

Telephone:

Email:

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