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Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli

**Re: Conservation and Demand Management Guidelines for Electricity
Distributors (EB-2012-0003)**

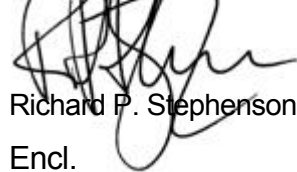
The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry. Attached please find a list of PWU employers.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on Conservation and Demand Management Guidelines for Electricity Distributors (EB-2012-0003).

We hope you will find the PWU's comments useful.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



Richard P. Stephenson

Encl.

cc: John Sprackett
Judy Kwik

Doc. No. 812161

List of PWU Employers

Algoma Power
AMEC Nuclear Safety Solutions
Atomic Energy of Canada Limited (Chalk River Laboratories)
BPC District Energy Investments Limited Partnership
Brant County Power Incorporated
Brighton Beach Power Limited
Brookfield Power – Mississagi Power Trust
Bruce Power Inc.
Atlantic Power - Calstock Power Plant
Atlantic Power - Kapuskasing Power Plant
Atlantic Power - Nipigon Power Plant
Atlantic Power - Tunis Power Plant
Coor Nuclear Services
Corporation of the City of Dryden – Dryden Municipal Telephone
Corporation of the County of Brant, The
Coulter Water Meter Service Inc.
CRU Solutions Inc.
Ecaliber (Canada)
Electrical Safety Authority
Erie Thames Services and Powerlines
ES Fox
Great Lakes Power Limited
Grimsby Power Incorporated
Halton Hills Hydro Inc.
Hydro One Inc.
Independent Electricity System Operator
Inergi LP
Innisfil Hydro Distribution Systems Limited
Kenora Hydro Electric Corporation Ltd.
Kincardine Cable TV Ltd.
Kinectrics Inc.
Kitchener-Wilmot Hydro Inc.
Lake Superior Power Inc. (A Brookfield Company)
London Hydro Corporation
Middlesex Power Distribution Corporation
Milton Hydro Distribution Inc.
New Horizon System Solutions
Newmarket Hydro Ltd.
Norfolk Power Distribution Inc.
Nuclear Waste Management Organization
Ontario Power Generation Inc.
Orangeville Hydro Limited
Portlands Energy Centre
PowerStream
PUC Services
Sioux Lookout Hydro Inc.
Sodexo Canada Ltd.
TransAlta Generation Partnership O.H.S.C.
Vertex Customer Management (Canada) Limited
Whitby Hydro Energy Services Corporation

EB-2012-0003

Conservation and Demand Management Guidelines for Electricity Distributors

Submission of the Power Workers' Union

1 Introduction

On September 16, 2010 the Ontario Energy Board (the “OEB” or “Board”) issued the Conservation and Demand Management (“CDM”) Code for electricity distributors that responds to the March 31, 2010 Minister’s Directive to the Board. The CDM Code sets out the obligations and requirements distributors must comply with in regard to the CDM targets set out in their licences. On January 5, 2012, the Board issued proposed CDM guidelines (“Proposed Guidelines”) intended to provide specific guidance to electricity distributors on provisions of the CDM Code and the evidence to be filed in support of applications for distributors’ CDM programs that require Board approval (“Board-Approved CDM Programs”). The proposed guidelines include provisions related to: CDM targets related to Time-of-Use (“TOU”) pricing; savings related to pre-2011 Ontario Power Authority (“OPA”)-contracted Province-Wide CDM Programs; duplication with OPA programs; OPA program establishment; reporting; types of Board-Approved CDM Programs; cost-effectiveness; accounting treatment; program evaluation, measurement and verification; program development costs; and, other funding sources for Board-Approved CDM programs. The Proposed Guidelines also provide details on the lost revenue adjustment mechanism (“LRAM”) that will be effective for the 2011 to 2014 period. The Board invites stakeholder comments on the Proposed Guidelines.

2 Power Workers' Union's Position

The Power Workers' Union ("PWU") appreciates the opportunity provided by the Board for stakeholders to share their views on issues related to defining and measuring the performance of electricity transmitters and distributors. The PWU's views on the proposed CDM guidelines stem from its energy policy statement:

Reliable, secure, safe, environmentally sustainable and reasonably priced electricity supply and service, supported by a financially viable energy industry and skilled labour force is essential for the continued prosperity and social welfare of the people of Ontario. In minimizing environmental impacts, due consideration must be given to economic impacts and the efficiency and sustainability of all energy sources and existing assets. A stable business environment and predictable and fair regulatory framework will promote investment in technical innovation that results in efficiency gains.

In the PWU's view the Board's regulatory responsibility for the electricity distributor's CDM targets is not only related to the promotion of government policy, but implicitly gives the Board regulatory responsibility for a component of the supply resources included in the Province's Long Term Electricity Plan ("LTEP"). The PWU's concerns articulated in this submission on the Proposed Guidelines relate to the evaluation of CDM results, including TOU pricing results, the determination of cost effectiveness of the CDM programs and the reconciliation of the CDM results towards the distributors' CDM targets reflect this view.

2.1 TOU Evaluations

Targets for capacity savings related to TOU pricing have been included in the distributors' CDM targets for 2011-2014. In the Proposed Guidelines the Board states that it sets TOU prices and has made the implementation of this pricing mechanism mandatory for distributors. Further, the Board states that it will consider the implementation to be a Board-Approved CDM Program as counting toward the achievement of the CDM targets with the implementation costs recoverable through distribution rates.

The Board is proposing that the evaluation of savings related to TOU pricing should be conducted by the OPA for the province, and then allocated to distributors. Permitting

distributors to conduct their own evaluations could add up to savings in excess of those assessed for the province as a whole. In the PWU's view, there are many concerns with this approach, not the least of which is the timing of an OPA evaluation of TOU impacts.

In the PWU's view, undertaking and completing the evaluations and fair allocation of the province-wide TOU pricing performance will depend on the timely flow of information and will require significant co-ordination of efforts. Slippage will result in delays and a strong likelihood that the OPA's TOU evaluation results will not be available in time for distributors to know the quantity of TOU-based savings they can count on until it is too late for them to attempt to fill-in shortfalls. The result would be that the distributors would be out of compliance with their licence conditions as a result of a program and evaluation process that is not in their control. The CDM guidelines need to accommodate this eventuality, including some provision to hold distributors harmless with regard to any shortfall in meeting their CDM target licence conditions related to the allocation of savings resulting from TOU pricing.

2.2 *Evaluation and Reconciliation of Results*

The PWU seeks transparency in the evaluation and reconciliation of the CDM results, including the TOU pricing results. CDM can be an effective resource for the electricity system, but it can also be subject to wishful thinking in terms of its actual system benefit. Evaluations that can be mapped against real load profiles are required to ensure that CDM provides real benefits. With the various sources of CDM programs in Ontario, including the federal and provincial governments, the OPA and distributors' Board-Approved Programs, all active in Ontario, reconciling the results towards the targets becomes a daunting, yet critical task.

The distributors' CDM achievement that is the matter of the Directive and their licence conditions is an essential supply component of the LTEP and is also a long term supply risk. Understanding the risk associated with the CDM targets is essential in mitigating supply risk. Over time, the evaluation and reconciliation of the distributors' CDM results

are key to understanding this risk. The Board's regulatory responsibility related to the distributors' CDM targets requires it to afford due rigour to the evaluation and reconciliation of the results. The annual Board reviews of the Board-Approved CDM Program results, stipulated in the Directive, are essential to ensure that the evaluation and reconciliation of the results can be relied on. The OEB CDM Code for electricity distributors requires independent third party reviews of the CDM results using the OPA's EM&V protocols. In the absence of a Board review of the independent third party's evaluation the Board would be consigning its regulatory responsibility to the third party. In this case, that regulatory responsibility goes beyond the Board's role as economic regulator of the distributors, and extends to the province's long term supply risk which can result in dire consequences for the province's economic and social welfare. The Board's CDM guidelines must make provision for Board reviews of the evaluations of the distributors' CDM results. Assuming that the OPA's EM&V protocols are adhered to, the distributors should have no problem explaining and defending evaluation results. The annual reviews would be consistent with section 9 of the Directive which states:

The Board shall annually review and publish the verified results of each individual distributor's CDM Programs and the consolidated results of all distributor CDM programs, both Board-Approved CDM Programs and OPA-Contracted Province-Wide CDM Programs and take steps to encourage distributors to improve CDM program performance.

All CDM program evaluation results are only credible if the methodologies used to validate the savings were credible in the first place. The Board's CDM Guidelines therefore need to establish the credibility of the evaluation protocols and need to confirm that they were followed in practice. The Board has made it clear that LDCs' evaluation of Board-Approved CDM Programs, which according to the Proposed Guidelines would include TOU pricing, must respect the protocols used by the OPA in the evaluation of its province-wide programs. The Board has not reviewed the OPA's protocols for reasonableness. In the PWU's view, the Board should review the reasonableness of the OPA's protocols that are to be used in the evaluation of or CDM programs over which the Board has regulatory responsibility. Further, the Proposed Guidelines do not provide for an audit process to determine whether or not the protocols were followed correctly. Given the Board's responsibility with regard to TOU pricing and

distributors' Board-Approved CDM programs, the PWU submits that the guidelines must include a provision for a Board review on the reasonableness of the OPA's EM&V protocols and the OPA's and distributors' adherence to the EM&V protocols.

Section 6(a) of the Directive states that "Board-Approved CDM Programs shall not duplicate OPA-Contracted Province-Wide CDM Programs that are available from the OPA at the time of Board approval". The PWU submits that the OEB's attempt at excluding any degree of duplication between distributors' Board-Approved CDM programs and OPA-Contracted Province-Wide CDM programs is unwarranted. While haphazard duplication, overlap and unintended gaps in CDM programming should be avoided, intended duplication is a normal part of CDM portfolios. For example, customers/participants often have more than one choice of retrofit approaches and funding streams. Moreover, advertisements and promotions from one distributor cross "borders" to other distributors' service territories. Competition amongst program administrators and even program offerings can lead to performance improvement if results are measured and rewarded appropriately.

In the PWU's view, the Board's interpretation of section 6(a) of the Directive reflected in the Proposed Guidelines on duplication gives the OPA primacy over the distributors in a way which minimizes the opportunity for distributors to implement Board-Approved CDM Programs in pursuit of their targets. If the distributors, alongside the OPA, could deliver a broad, but ultimately uncoordinated and overlapping suite of verifiable savings cost-effectively, then stringent guidelines to eliminate any degree of duplication are not warranted. It is more likely that cost-effectiveness evaluation will reveal that more co-ordination, and not less duplication, would lead to better cost-effectiveness.

Instead of the inordinate emphasis on preventing duplication, the CDM guidelines should focus on properly measuring and reconciling evaluation results across whatever range of programs exist, regardless of who is delivering them. Whether 100% funnelled through the OPA or via wide ranging offerings from multiple sources, the savings results of the range of initiatives need to be reconciled. This is especially crucial given that

sometime in late 2015 the Board will need to pronounce whether the distributors met their condition-of-licence targets. Therefore, the PWU repeats its submission for the Board to include provisions in the CDM guidelines for the annual review of the evaluation of Board-Approved CDM Program results, including TOU pricing, and the reconciliation of the distributors' Board-Approved CDM Programs and OPA-Contracted Province-wide CDM Program results consistent with section 9 of the Directive. The PWU encourages the Board to look to other jurisdictions that have similarly transitioned from a central agency to a combined central agency and local authority delivery of CDM programming for guidance on how to, in a transparent manner, include input from the range of appropriate stakeholders and participants in the system. New York State would be the most obvious example of such jurisdictions.

2.3 Cost Effectiveness

Section 8 of the Directive requires the Board, in approving Board-Approved CDM programs to protect the interest of consumers with respect to price:

The Board shall, in approving Board-Approved CDM Programs, continue to have regard to its statutory objectives, including protecting the interests of the consumers with respect to price.

CDM can be a cost effective resource, but only if the cost-effectiveness assumptions are understood and allow for direct comparisons to other resource options. In protecting the interests of consumers with respect to price it is the OEB's responsibility to ensure that the Board-Approved CDM Programs provide real benefits cost effectively.

Consistent with section 6(f) of the Directive, the Proposed Guidelines require the distributors to use the OPA's Cost Effectiveness Tests to determine the cost effectiveness of Board-Approved CDM programs. The OPA's current Cost Effectiveness Tests include the Total Resource Cost ("TRC") Test and the Program Administrator Cost ("PAC") Test.

Related to the PWU's comments above on the OPA's EM&V protocols, the PWU is not aware of any Board review on the OPA's assumptions in choosing only the TRC and

PAC tests versus others in the same family of standardized tests, nor the input assumptions (including discount rates, avoided supply parameters and costs, the lack of inclusion of non-energy benefits) that have a significant role in determining whether an initiative is “cost effective” or not. Only with clear and transparent cost-effectiveness evaluation can the true merits of CDM be explained and properly compared to supply options. The Board, in carrying out its responsibility of protecting consumers with respect to price, should include a provision in the CDM guidelines for a Board review on the OPA’s assumptions used in the cost-effectiveness tests and on changes that the OPA might make to the tests from time to time.

2.4 Conclusion

The achievement of the CDM targets that are distribution licence conditions is crucial to the province’s long-term supply plan. In carrying out its regulatory responsibility with regard to the distributors’ CDM targets (upon which the LTEP relies) the Board must ensure that its CDM guidelines provide for rigour in the evaluation of CDM results. The guidelines must ensure cost effectiveness determinations of the CDM programs that allow for direct comparisons with other resource options. With the many CDM programs and sources available in the province reconciliation of the results towards the savings targets is critical and the Board’s CDM guidelines should provide for the review of issues of attribution, overlap, spill-over and duplication. Board reviews on the evaluation protocols, cost effectiveness tests and reconciliation of results toward the savings targets will provide transparency to the Board’s implementation of its regulatory responsibility and the progress towards the targets that are essential to the province’s future economic and social welfare.