EB-2007-0791

Before the Ontario Energy Board

In the matter of: OPA 2008 Revenue Requirement Submission

Final Argument of GEC/OSEA/Pembina

The Green Energy Coalition (, David Suzuki Foundation, ENERACT, Greenpeace, Sierra Club, World Wildlife Fund), Pembina and the Ontario Sustainable Energy Association are pleased to offer the Board the following submissions on the outstanding issues in this case:

In this process the Board is charged with determining whether OPA's non-charges budget, i.e. its operating budget is at an appropriate level, is being managed in a cost-effective fashion and is directed at facilitating the cost-effective execution of the tasks for which OPA is responsible. The Board has been clear that this hearing is not about the charges budget and by implication is not about what OPA's goals should be or what particular programs they should pursue. Those matters are either set by legislation, government directives or are to be considered in the context of the IPSP process. Accordingly, with respect to our focus, CDM related spending, we have taken OPA's mission as a given and have not delved into program specifics. As we discuss below, that mission has been identified by OPA as the aggressive pursuit of all economic CDM.

We are not seeking to have this hearing determine what amount of technical and economic potential is actually achievable. Again, we start by accepting, *for the purposes of this process*, the assessments that OPA has offered of what is the achievable potential. Rather, we focus on whether OPA's planning and priorities are in conformity with its mission and goals. Accordingly, we limit our comments to matters where we submit that the Board's guidance will help ensure that OPA's operations budget is applied to the necessary research and analysis to support its broader mission and ensure that it functions cost-effectively; that OPA is managing its internal resources in conformity with the stated mission and the government's priorities; and that OPA is respecting the applicable regulatory and accountability structures.

Issue 1.2b (is the budget allocated to Local Area Supply and CDM activities appropriate?):

There is no dispute that addressing transmission constrained regions should be a priority for OPA. The role of CDM in that effort is also not disputed. In The EB-2005-0315 Decision (reproduced at Ex. K1.1 p. 3) OPA's commitment to "the aggressive pursuit of as much CDM as is economic" is recited as part of the context for the Board's consideration of transmission issues in York Region. At transcript page 13, line 8, Mr. Farmer confirms that Chairman Wetston correctly recited OPA's commitment to aggressively pursue all economic CDM.

Despite that commitment OPA's witnesses indicated that (with the exception of Toronto) OPA has developed no targeted CDM programs for transmission constrained areas apart from demand response (Tr. p. 14, l. 9). OPA claims that its province-wide programs cover the waterfront, but that claim is inconsistent with the existence of targeted Toronto programs and with Mr. Farmer's comment about prioritizing consideration of LDC proposed 'custom' (i.e. non-OPA designed) programs (p. 14, l. 22). It also implies that OPA's various programs saturate the market and are fully mature which is at odds with the numbers we will discuss below that demonstrate how OPA's program goals are far below its consultants' estimates of achievable CDM.

A more plausible description of the situation is that OPA has placed insufficient priority on avoiding the need for capital investment in single cycle gas plants that will (if we are lucky) run for very few hours each year and will do so at great capital cost and with remarkably poor efficiency.

Support for this interpretation can be found in the fact that OPA has not even calculated the added avoided costs faced in these transmission constrained areas. Nor has it determined peak losses for constrained regions (tr. p. 20 l. 23 to p. 21, l. 23 and p. 18, l. 14-17). Nor has OPA studied peak losses for the province as a whole (tr. p. 21, l. 28). How can OPA be exhausting cost effective CDM in these areas if it has not even determined what is cost effective and it has not adjusted province-wide programs to reflect the higher avoided costs experienced for these regions?

Further evidence lies in the fact that there has been no fuel switching program offered in the Northern York Region or the Kitchener Waterloo Cambridge Guelph region. When asked why no targeted fuel switching program had been offered in York Region, Mr. Farmer responded that OPA was relying on province-wide programs (tr. p. 16, l. 9-16). Yet at transcript page 15, line 15, Mr. Farmer noted that fuel switching has to date only been supported in Toronto[1]. Fuel switching is not a small concern as it accounts for 24% of the potential energy savings identified in the IPSP (tr. 46)[2]. Thus OPA has allowed the situation to deteriorate to the point where the government has had to call on OPA to procure low efficiency single cycle gas facilities before even attempting all cost effective efficiency and fuel switching in Northern York Region.

In our respectful submission, the Board should not stand by and allow OPA to fumble the ball in other transmission constrained regions. OPA's internal priorities should reflect the priority that this matter has been given by the Directives.

GEC/Pembina/OSEA respectfully submit that the Board should Direct OPA to prioritize the development and execution of plans to implement *all* economic CDM in transmission constrained areas including energy efficiency, demand management, demand response, fuel switching and high efficiency customer generation.

Issues 2.1, 2.2, 2.3 (CDM budget, targets and evaluation):

Use of unapproved and incomplete avoided costs:

In Ex. I-5-5 OPA indicated that it is no longer utilizing OEB approved avoided costs to screen CDM programs. Mr. Farmer indicated that it will not use the OEB values for LDC delivered CDM either, despite the OEB's recent re-release of those values for LDC initiated programs (Tr. 17, l. 16)[3]. This will certainly raise administrative costs and risk confusion for the LDCs.

In this proceeding we have filed illustrative examples of the impact of utilizing OPA's IPSP-based avoided costs rather than the approved OEB values at page 10 of Ex. K1.1. On the stand, the OPA witnesses were unable to confirm the comparison even on a directional basis (Tr. 24, l. 13). In response to Undertaking J1.1 OPA has since confirmed the directional difference and has not

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[1] It was subsequently indicated that OPA's board has this month approved a 52 MW fuel switching province-wide effort.

[2] Fuel switching can affect both base load energy and peak load. Water heating is an example of a fuel switching opportunity that has impact on both.

[3] See OEB Guidelines for LDC CDM released March 28, 2008

disputed the examples offered. In that response (which is untested evidence) OPA attempts to offer support for the correctness of its avoided costs. With respect, OPA misses the point. The correctness of the avoided costs is not realistically resolvable in this proceeding. It must await the IPSP hearing. The IPSP-based avoided costs are based on the assumptions in that plan. As the nuclear component forms more than half of the plan costs, the assumptions about nuclear cost and performance become critical assumptions embedded in the avoided supply costs. It was not denied that assumptions such as a 4% cost of capital and a projected capacity factor exceeding 90% are controversial. Accordingly, we submit that to allow OPA to curtail CDM efforts by ignoring the OEB's approved values (recently re-issued in its March 28th guidelines) in favour of values based on untested and highly controversial assumptions, would be entirely inappropriate as a matter of accountability and would err on the side of environmental damage rather than prudence.

The choice is not academic. As agreed by the witnesses (at page 25 *et seq.*), avoided costs can reduce the scope of cost-effective CDM at both the program design and delivery stages in both prescriptive and custom programs. Our concern is that OPA cannot be honouring its commitment to aggressively pursue all economic CDM if it has arbitrarily reduced the limit of cost-effectiveness.

While Mr. Farmer noted (at tr. p. 25-26) that OPA uses a portfolio TRC approach and that it is required to achieve certain levels of performance due to the Directives (regardless of cost-effectiveness), we trust that the Board will wish to encourage cost effectiveness and economic prudence. While OPA may have to pursue TRC failing measures to meet some of its specific Directives (for example to achieve 100MW of savings in the low income sector) we assume that in most cases it will not cross that threshold and that it will not do so to exceed the minimum targets contained in the directives. Certainly it is desirable that OPA pursue the more cost-effective measures where available.

The current period is of extreme importance due to OPA's strategy of 'wait and see' wherein OPA will base its supply side commitments in the second IPSP cycle on the performance of its CDM efforts in the early years[4]. Mr. Farmer agreed that such learning is a very important task for the 2008-2010 period (Tr. 32-33). Thus it seems clear that OPA should be including measures and measure applications in this initial period that press against the limits of cost-effectiveness if OPA and the public review process are to gain meaningful and timely insight.

In re-examination the witnesses were asked by Mr. Cass if anything would change in 2008 if the OPA were to use the OEB's avoided costs rather than the IPSP costs. They replied, no. This is a remarkable answer considering the fact that at that time the witnesses were unable to confirm,

[4] See K1.1 at pp. 4, 5, 6

even directionally, whether our portrayal of the OEB avoided costs versus OPA avoided costs was accurate. This seems a clear indication that OPA is either dishonouring its commitment to Chairman Wetston to aggressively pursue all economic CDM (i.e. up to the limits of cost-effectiveness) or it is utterly lacking in rigour in its determination of what is cost-effective. Either explanation is unacceptable. OPA should not be permitted to ignore CDM at the margin of cost-effectiveness at this critical juncture.

If OPA's witnesses are right, and OPA is aggressively pursuing all economic CDM and no measure or application falls in the roughly 20% spread between OPA and OEB avoided costs then they should have no objection to a requirement to utilize the OEB approved values pending the review of the IPSP. However, we submit that is an extremely unlikely scenario. There is a wide range of cost effectiveness for measures depending on duty cycle and installation costs[5] and the choice of economic screen will inevitably affect the availability of that savings *if OPA does aggressively pursue such savings,* as we submit they should. The fact that OPA has, apparently, not pushed hard enough to experience the situation where measures or applications press up against cost-effectiveness limits suggests that the problem has two facets – OPA is not aggressively pursuing all economic CDM and if it does do so it has imposed an unsupported barrier in the form of lower avoided costs.

We asked if OPA's proposed budget and resources could accommodate a direction from this Board to utilize OEB avoided costs supplemented by added values for transmission constraints and distribution peak losses. At transcript page 29 Mr. Farmer indicated that the OPA could accommodate such a request. We will address the need for more aggressive and comprehensive CDM below.

GEC/Pembina/OSEA respectfully submit that the Board should require, as a condition of budget approval, that OPA use the OEB avoided costs pending the IPSP review and to supplement them with analysis of added costs in transmission constrained zones and with added value for avoidance of peak distribution losses.

Failure to adequately address MWhrs as well as MWs.

In ex. I-5-4 OPA has admitted that its focus on peak (MWs) will result in lost opportunities to save energy (MWhrs) (tr. 49).

[5] See discussion at transcript pp. 25-26.

As noted above, OPA has earlier committed to this Board to aggressively pursue all economic CDM. By definition the OPA's tolerance for lost conservation opportunities means that OPA is dishonouring that commitment.

Failure to aggressively pursue MWhrs simultaneously with MWs also implies less than optimal costs of delivery as opportunities for economy of scope and scale are lost.

OPA's slow start on fuel switching is an example where considerable energy savings are being foregone. Every new home or building that has electric water heating, space heating or electric end uses that could be served by solar or high efficiency gas is a lost opportunity for many years or decades.

Mr. Cass suggested that the Directives act as a constraint but at tr. 51 the following exchange makes it clear that OPA has wide discretion under the Directives to pursue energy savings (MWhrs) while addressing peak savings (MWs):

> MR. POCH: Well, I am just asking you, though, and I think you have confirmed, but let's be clear.
> With those rare exceptions, there is nothing in the directives that says, when you are going after these sectors for these megawatts, that you shouldn't try to optimize the megawatt-hour savings and thereby achieve whatever is achievable and achieve what is cost effective, is there?
>
> MR. FARMER: I don't believe within the directives there is anything that precludes that.

OPA pleads that they and the market can only do so much at a time. While a lack of experienced delivery partners might limit the number of programs OPA can roll out quickly, in most cases it is irrelevant to the question of the scope of measures delivered in any given program. For example, it does not tax the delivery infrastructure or the market to allow building designers or constructors an incentive for both MWhr and MW savings. However, once built, energy savings may become inaccessible for decades. Similarly, it does not tax the limits of Home Depot to offer rebates for appliances that save more MWhrs not just for those that exacerbate peaking problems.

GEC/Pembina/OSEA respectfully submit that the Board should require OPA to aggressively pursue energy (MWhr) savings in addition to peak (MW) savings in the design and delivery of CDM programs with a view to eliminating all lost opportunities and enhancing cost effectiveness.

Need to develop a roadmap to achieve *all* achievable CDM

In the CBSAG consultation, GEC, Pembina and others repeated a call for OPA to develop a long term plan or roadmap to achieve all cost-effective CDM and for market transformation (tr. P. 39 *et seq*.). Mr. Farmer indicated that OPA has not in fact done so as yet but hopes to do so starting with residential and commercial markets (tr. 54). However, OPA has made no commitment to a timeframe for the development of such a plan and at present its goals do not target the achievement of all achievable CDM.

At present, OPA has set its sights on 65% of what its IPSP evidence tells us is achievable in the long term (Ex. B, tab 2, pp. 2&4 and tr. 34-35).[6] However, according to ICF, OPA's consultants in the CBSAG process, in industrial programs OPA's current program goals are just 5% of achievable (1% of economic), in commercial 36% of achievable (13% of economic), and in residential 14% of achievable (6% of economic) (Ex. I-5-7). In that exhibit OPA confirmed that it has not raised its program goals following the CBSAG process. With respect to fuel switching (the subject of a specific ADR agreement last year), OPA had a near term goal of 70 MW by 2010 and has just announced it will now seek to get 52 MW in that period (tr. P. 57). In contrast, its own consultants identified 122MWs as achievable by 2010 (tr. P. 45).

A company that markets widgets should have a business plan that includes a research, financing, manufacturing, distribution and marketing plan if it wants to be successful and capture a larger market share. We see no reason why this should not be true for a company charged with delivering CDM and such a plan should be developed early and comprehensively.

GEC/Pembina/OSEA respectfully submit that the Board should require OPA to develop roadmaps for the attainment of *all achievable* CDM *in all sectors* as a priority.

Issue 4 (Sector Development)

Environment Attribute Trading

OPA had been pursuing options and proposing to pilot efforts to garner income from environmental attribute trading. As discussed on Issues Day, and as elaborated to the IPSP panel, this is an extraordinarily complex and controversial matter which threatens to undermine the environmental gains that can flow from the government's policy directives and that can have grave impacts on private sector activities already underway, activities that seek to

[6] Consistent with its minimum target and plan goal of 65%, OPA has estimated it achieved 1410 MWs in the first period, slightly more than its 1350 MW initial minimum target. It has yet to adjust for actual free ridership to determine if it has met even that minimum goal.

increase renewable generation beyond OPA's procurement efforts. Presumably in response to such concerns, OPA was requested by government to suspend the activity. The budget for the environment attribute trading initiative is in the range of $32,000. Given the small amount involved we do not suggest that a fees recalculation is warranted. However, we are concerned that OPA appears reluctant to commit to any public process before it reinstitutes the initiative.

In Ex. I-5- 10 OPA was asked if it would agree to avoid reinstituting the activity prior to public review. OPA's response refers to a 'temporary' suspension and does not offer the commitment sought. This matter has now been included by the Board in the IPSP hearing issues and OPA should not be able to avoid timely public scrutiny and accountability to this Board before engaging in this potentially damaging activity.

GEC/Pembina/OSEA respectfully submit that a condition of approval of OPA's budget be that it will not re-institute spending on the environmental attribute trading program prior to the Board's review in the IPSP process unless specifically directed by government to do so.

Costs

GEC (World Wildlife Fund, David Suzuki Foundation, Sierra Club, Greenpeace, ENERACT), Pembina and OSEA have sought to inform the Board's consideration of the cost-effectiveness of OPA's proposed budget and priorities for the spending of its non-charges budget, including matters such as planning, research, screening, evaluation and administration. We have endeavoured to respect the Panel's guidance on level of detail and focus and have specifically avoided discussion of program level matters though general program direction and results have been relied upon to inform the discussion. We trust our intervention has helped to illustrate the issues for the Board.

These joint intervenors respectfully request that they be awarded 100% of their reasonably incurred costs.

All of which is respectfully submitted this 17th day of April, 2008.

David Poch
Counsel for GEC, Pembina and OSEA