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VIA RESS AND COURIER

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Ms. Kirsten Walli
ONTARIO ENERGY BOARD
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, Ontario
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Dear Ms. Walli:

Re: EB-2014-0134: Demand Side Management Framework for Natural Gas Distributors.

Industrial Gas Users Association (IGUA) Comments on Draft Report of the Board.

Mindful that these comments are filed late, and of the extensive commentary provided by other stakeholders, this letter is focussed on brief addition of IGUA's perspective, as representative of industrial gas users, on the Draft Report of the Board and associated draft filing guidelines.

Large Gas User Self-Motivation for Input Efficiency.

IGUA's point of departure on ratepayer funded DSM remains that, in general, customers who consume the gas volumes that IGUA's members do, and for whom delivered gas supply costs are such a major component of their input costs, are already economically motivated to be as efficient in their fuel consumption as practical, given budget constraints and competitive pressures. That is, these types of gas users, properly informed, intrinsically strike an economically efficient balance between investments in gas use efficiency and associated costs, investing in energy efficiency wherever it is economically efficient to do so. Further, the significant portion of input costs that gas use represents for these customers generally ensures that they will inform themselves properly in order to make these determinations. For the most part, the in-house energy managers at these companies best understand their own equipment, processes, input costs and input uses.

An additional consideration, highlighted by other commenters, is that given the size of the investments in gas consumption efficiency that make a difference for industrial processes, ratepayer funded incentives have had little, if any, real impact on facilitating those investments.

***IGUA continues to endorse the Board's view that programs designed for large volume customers should not be mandatory.*[1]**

IGUA notes that this principle does not preclude the utilities from proposing large volume customer DSM programs, obtaining broad stakeholder agreement for those proposals (including that of large volume customers), and evidencing the value of those programs which render the associated rate funded costs of the programs appropriate.

Opt Out.

The principle that ratepayer funded DSM should not be mandatory for large volume customers, properly applied, will protect large volume customers as a class from DSM costs in return for which there is limited, if any, value at the class level. It does not, however, address the concern that those large volume customers who have already made significant investments in energy efficiency, of their own accord (and in a manner suited to their own processes and internal economic drivers) are forced, through ratepayer funded DSM, to subsidize those large volume customers who are less proactive on energy efficiency.

A number of commenters have proposed "opt out" provisions to address this circumstance. IGUA agrees that these models deserve further consideration, which consideration would benefit from review of energy efficiency opt out regimes adopted in several U.S. jurisdictions.

"Conservation First".

The phrase "conservation first" begs the question; "first" relative to what? It appears from the government's *Long Term Energy Plan* and from the Ministerial directive informing this DSM framework review that "first" should be thought of as relative to infrastructure investment. To this extent, IGUA fully endorses ratepayer funded conservation to the extent that it is the least cost option for meeting energy service requirements. In this context, conservation avoids infrastructure expansion and reduces costs for all gas consumers. The draft Board Report addresses the role of conservation in primacy to infrastructure investment on a preliminary basis, essentially indicating that the utilities should do more work on this.

There is an important distinction between "conservation first" as an integrated resource planning principle, and ratepayer funded DSM as a mechanism to achieve other objectives. The draft Report considers other objectives to be reducing customer bills (through reduced consumption rather than avoided infrastructure costs) and *"creating a culture of conservation"*. As indicated in IGUA's comment on the topic of DSM budgets, below, it is IGUA's view that *"creating a culture of conservation"* is not an appropriate, stand alone objective of the Board's economic regulation mandate. While the Board should be mindful that its policies do not work at cross-purposes to government policy, *"just and reasonable rates"* and the protection of consumer interests with respect to the price, reliability and quality of gas service should remain the primary focus of the Board. Ratepayer funded conservation should be considered against these appropriate objectives.

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[1] *Draft Filing Guidelines to the Demand Side Management Framework for Natural Gas Distributors*, section 2.5 at page 4.

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DSM Budget Determination as a First Step.

The Board should, as a starting point, determine the appropriate 5 year budget for utility DSM programs. The utilities should then file DSM plans in response, and should be free to propose higher budgets and to justify budget increases on the basis of value (and affordability) to customers.

The Board's primary responsibility is to determine utility service rates that are *"just and reasonable"*, and to protect the interests of gas consumers with respect to price, reliability and quality of gas service[2]. While the Board should discharge this primary mandate within the context of, and with due regard to, the government's energy policy, including the current "conservation first" element of that policy, implementation of government policy is not the Board's primary role. The extent to which the Board facilitates achievement of government policy should always be subject to, and an adjunct of, fulfillment of the Board's primary economic regulation mandate. Accordingly, starting with rate impact appropriate ratepayer funded DSM budgets should be the first step.

The utilities will then be able to respond with proposals to maximize the achievement of cost effective DSM within the overall constraint of rates which remain *"just and reasonable"*. As noted above, further budget allowances that fulfill policy objectives while maintaining rate affordability can properly be entertained.

IGUA endorses, as a starting point, a 5 year budget envelope determined by inflationary escalation of current DSM budgets. The utilities can then provide evidence of reasonably achievable gas efficiencies at this budget level, and as appropriate what level of budget increases would *"provide greater value to customers and how these costs will be offset with the benefits of the DSM programs offered"*[3].

Shareholder Incentives.

As the Board has recognized, the current level of shareholder incentives has resulted in DSM becoming a priority with the gas utilities and has achieved the desired shifts in behaviour.[4] There is no evidence that increased shareholder incentives are necessary to continue to drive successful conservation initiatives. (Indeed, there is no evidence that maintenance of current incentive levels is required.)

IGUA supports the Board's proposal for setting the level of shareholder incentives (section 6.3.1 of the draft Report). IGUA further endorses investigation, through appropriate pilot programs, of a pay for performance funding/incentive mechanism.

IGUA also endorses the Board's proposal for structuring of the incentive to more heavily reward the more difficult to achieve results; long-term (deep) savings, rational CDM/DSM coordination, and lost opportunities avoidance.[5] As noted above, IGUA views the cost/benefit analysis of

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[2] *Ontario Energy Board Act, 1998*, section 2.
[3] Draft Report, page 20, 2nd last paragraph.
[4] Draft Report, page 26, 2nd last paragraph.
[5] Draft Report, page 27.

avoided infrastructure to be different and distinct from ratepayer funded DSM *per se*. IGUA supports a decreased incentive emphasis on shorter term benefits, easier to achieve large industrial savings and more nebulous (and in some ways less utility appropriate) market transformation[6].

Longer Term Targets.

IGUA endorses the Board's proposed emphasis on longer term DSM targets, and incremental DSM program development and ramp up. This approach will provide certainty and consistency to the DSM framework ultimately adopted, facilitating reasonable and predictable planning, implementation, and ratepayer cost impacts.

Board Oversight.

It is not clear to IGUA what failing or gap the Board is seeking to address and rectify by proposing to assume control of planning and evaluation processes that are currently generally working well.

IGUA has noted the following statement in the draft Report:[7]

> *Recently, final program results have been challenged by stakeholders leading to longer adjudicative processes to determine the results applicable to the disposition of incentive and lost revenue amounts for both gas utilities. In order to increase transparency, objectivity and efficiency in final program evaluation results, the Board is of the view that it is in the best position to coordinate the evaluation process throughout the DSM Framework period (i.e. 2015 – 2020).*

This statement is puzzling. First, the fact that program results have been subject to recent challenge in one respect (verification studies for custom projects) in one proceeding for each of the distributors does not indicate a general trend to *"longer adjudicative processes"*. Second, this is particularly so given that *"longer"* in a proper historical context means longer than wholly uncontested applications which resulted from the collaborative processes that have characterized DSM evaluation for years, and have worked very well. Third, IGUA has seen no evidence of any gaps in transparency, objectivity or efficiency in final program evaluation results.

IGUA does not see any evidence or rationale supporting the proposition that the Board's assumption of this responsibility would lead to any benefit, and agrees with those commenters who suggest that the opposite might well result. It seems likely that taking these discussions inside the Board will result in reduced transparency to stakeholders/DSM funders, and would thus likely increase reliance on adjudicative processes to regain the transparency and broad understanding that has resulted from the current collaborative and inclusive processes. IGUA has the same concerns regarding the Board's proposal to assume control of Technical Review Manual updating.

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[6] Draft guidelines. Page 9, top.
[7] Draft Report, page 32, second last paragraph.

Reference in the draft Report to continued *"direct involvement of all key stakeholders"*[8] without any particulars does not provide any assurance that these retrograde consequences would not obtain.

Program Spending Reallocation (Guidelines section 2.8).

The Board has proposed that application of DSM funds to new programs would require prior Board approval, but reallocation of funds among existing programs in excess of 30% of the budget for a particular program would merely require advance notice.

The proposed metric for reallocation of funds among programs is unclear. IGUA assumes that either reduction of funds for any program in excess of 30% of the current funding for that program, or increase in funds for any program in excess of 30% of the current funding for that program, would trigger the proposed advance notice requirement. The mechanics of this metric should be clarified.

IGUA further submits that if the reallocation is material enough to trigger advance notice, it should (at least in respect of the program into which funds are being transferred) also be considered material enough to require advance approval.

Additional Comments.

IGUA endorses the following aspects of the draft guidelines:

- [Page 22, bottom] Custom projects should be assessed on a project specific basis, which assessment should include a professional engineering assessment of the savings and any additional relevant evidence.

- [Page 23] The verification studies provided by third party evaluators should be included in the public utility filings, subject to redaction, or otherwise genericizing, of information confidential to the customer whose project is being evaluated.

- [Page 24, bottom] The third party Custom Project Savings Verification work should be retained and overseen by the third party auditor (and not by the utilities).

[8] Draft Report, page 37, last paragraph.

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- [Page 26] Spillover effects should be included in savings calculations <u>only</u> to the extent supported by comprehensive and convincing empirical evidence, which clearly quantifies the spillover effects claimed for a specific program. (IGUA remains skeptical of quantification and inclusion of such effects in practice, and notes that no such applications have been brought forward or reviewed to date.)

ALL OF WHICH IS RESPECTFULLY SUBMITTED:
Gowling Lafleur Henderson LLP, per:

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