

COMMENTS OF THE CONSUMERS COUNCIL OF CANADA

Re: Draft Report of the Board Demand Side Management Framework For Natural Gas Distributors

EB-2014-0134

INTRODUCTION:

On April 10, 2014, the Ontario Energy Board (“Board”) initiated a consultation process to develop a new Demand Side Management (“DSM”) policy framework for Ontario’s natural gas distributors. This was in response to a Directive to the Board from the Minister of Energy dated, March 31, 2014, requiring that a new framework be established for a six-year period from 2015 to 2020 (“the Directive”).

The Board established an industry working group to provide Board Staff with some initial input and advice on the development of a DSM framework. On September 15, 2014, the Board released a Draft Report on the new DSM Framework (“Draft Report”), Draft DSM Filing Guidelines (“Draft Guidelines”), and an update to a report prepared by Concentric Energy Advisors undertaken in 2010, which reviewed DSM in other jurisdictions. The Board is seeking written comments on the Draft Framework and Draft Guidelines.

These are the comments of the Consumers Council of Canada. Before providing detailed comments on the Draft Framework the Council will set out what it views to be important context for the Board in its consideration of natural gas DSM. The Council

COMMENTS:

The Council has, for many years, been supportive of natural gas DSM. The Council’s primary focus has been to ensure that in delivering DSM the natural gas utilities do so in a way that provides value to its ratepayers. We have, through various proceedings, consultation processes and the most current working group process stressed that DSM must be truly cost-effective and deliver real and sustainable bill savings for customers.

At the end of the day ratepayers fund every aspect of DSM: program costs; shareholder incentives; costs for monitoring, evaluation and audit; and lost revenue associated with DSM savings. It is also the ratepayers, those participating in programs, that benefit from DSM. It is critical, that in establishing a new framework, that the Board ensure that the money recovered from ratepayers is spent wisely and in the most cost-effective way possible. It is not about simply creating a “Conservation First Framework”, it is about creating a framework where the benefits clearly outweigh the costs.

With respect to the Board's proposals to put a DSM Framework in place for January 1, 2015, the Council is of the view that the Board should do so with a certain degree of flexibility. Although the Directive specifies that by January 1, 2015, the Board must implement a framework, the timeline for doing so is aggressive. There a great deal of important work that must be done. The Board must decide on the final parameters of a framework. It will then be up to the Union Gas Limited ("Union") and Enbridge Gas Distribution Inc. ("EGD") to develop plans based on that framework. Given the Draft Framework does not look like "business as usual", this will not be an easy task for the utilities. The plans must ultimately be subject to hearing process for approval.

In order to ensure real value for natural gas ratepayers the Board should proceed carefully and thoughtfully. The interaction between the various DSM framework elements like targets, budgets, and incentives is complex. It is for these reasons that 2015 should be treated as a transition year. It will take the Board and the utilities until at least mid-2015 to develop a framework, develop plans compliant with the framework, and approve them. Any budgets and target setting process should account for a transition period.

The Ontario Power Authority ("OPA") is currently developing a Conservation and Demand Management ("CDM") Framework for the Ontario electricity utilities ("CDM Framework"). The CDM Framework is for the same period January 1, 2015 to December 31, 2020. Although some coordination will be required regarding electric and natural gas initiatives, the Council urges the Board not to mirror the DSM Framework on the CDM Framework. The legislative authority is different for the two sectors and natural gas DSM has been going on for over 20 years. The natural gas utilities are far more experienced at developing and delivering programs. The natural gas model should harness the experience of the gas utilities and build on what has been accomplished to date. Consistency with the electricity model should only be undertaken where it makes good sense, and not simply for the sake of consistency.

The Board retained Concentric to undertake a jurisdictional review of DSM. Concentric's work involved a comprehensive look at other jurisdictions. The Council urges the Board to be cautious in terms of using those comparisons in determining what are appropriate targets and budgets for Union and EGD. The utilities and jurisdictions that were reviewed operate under different legislative authorities, have different climates, different customer mixes, and have different levels of experience developing and delivering DSM programs. This analysis can be informative, but not necessarily directly applicable to Ontario.

As set out below the Council submits that the Board has, in large measure, established the appropriate guiding principles for DSM in Ontario. As has been the case in the past, the Ontario natural gas utilities should be required to work with their stakeholders in order to develop DSM plans going forward. The Council supports the continuation of this collaborative approach.

With respect to this consultation process, the Council submits that the Board should consider giving parties an opportunity for a second round of submissions. Many of the stakeholders have raised additional issues and presented proposals that are being seen for the first time. Reply submissions will provide the Board with a more balanced perspective relative to process that allows for parties to comment only once.

FRAMEWORK ELEMENTS:

In the Draft Report the Board has set out the major elements of a DSM Framework:

- 1) Term
- 2) Guiding Principles
- 3) DSM Targets
- 4) Budgets
- 5) Shareholder Incentive
- 6) Program Types
- 7) Program Evaluation
- 8) Deferral and Variance Accounts – Recovery and Disposition of Amounts
- 9) Integration and Coordination of DSM and CDM
- 10) Future Infrastructure Planning Activities
- 11) Stakeholder Consultation

Term:

The Board has determined that the term of the DSM Framework will be for a six-year period commencing January 1, 2015. A six-year term was also mandated by the Minister in the Directive.

The Council supports a six-year term as long as it is very clear that the framework will allow for flexibility. The targets and budgets established should not be set in stone. The world of conservation and energy efficiency is always changing – customer behavior changes, technology changes and the cost of pursuing savings changes over time. The need for flexibility is critical.

The Board has suggested a mid-term review by June 2018. The Council supports this and submits the scope of the review not be limited in any way. All of the elements of the framework should be subject to review. This will ensure that the interests of the ratepayers are being protected and allow for a full consideration as to whether or not ratepayer money is being well spent.

Guiding Principles:

In the Draft Framework the Board has outlined a list of ten guiding principles. The Council accepts these as appropriate considerations for the utilities in designing their plans.

One of those principles advocates for “high customer participation levels”. Although this is commendable goal, it must be balanced. As set out below, the Council supports DSM spending levels that consider ratepayer impact, as ratepayers fund the programs. Achieving high participation rates that significantly impact rates would not be a balanced approach to program design.

DSM Targets and Budgets:

It has always been the case that DSM targets, budgets and programs are inextricably linked. If you set a target the utilities are in a position to develop a budget and propose programs in order to reach that target. If you set a budget the utilities can determine what level of savings it can achieve with that budget based on a suite of programs.

The Board is proposing to determine a long-term natural gas savings target (cubic meters) to be achieved by December 31, 2020, for each utility. This is a very similar approach to what the Government of Ontario has done for the electricity sector. The Council submits that it is premature, at this time, for either the Board or the utilities to establish a long-term target.

Like many of the stakeholders the Council supports an approach whereby the utilities work with their stakeholders to develop targets, budgets and programs consistent with the guiding principles set out by the Board. This should be done based on evidence (market potential studies) and Ontario experience to date having regard to ratepayer impacts. It is important to note that given the DSM landscape is continually changing long-term targets may be difficult to determine at all. If the Board does decide to establish long-term targets, these should be subject to mid-term review, and potentially reconsidered at that time.

With respect to budgets the starting point must be the current level of DSM budgets for Union and Enbridge. Significantly ramping up DSM without a consideration of ratepayer impacts is not acceptable. Given the Directive to pursue all cost-effective DSM, the budgets will be increased over time. However, this must be done at a reasonable pace, minimizing rate impacts, and ensuring as the plans proceed from year to year that verifiable results are actually being achieved.

Shareholder Incentives:

DSM programs have been offered by Union and Enbridge to their customers for over 20 years. From the Council’s perspective DSM programs are a service that the utilities should be providing their customers. The utilities get full recovery of their

DSM budgets and are kept financially whole in terms of lost revenues through the Lost Revenue Adjustment Mechanism (“LRAM”).

The Board has set out two options for shareholder incentives going forward. The first option is that the shareholder incentive be determined as a percentage of the gas utility’s annual DSM budget. The second option is for the utilities to propose a pay-for-performance funding and incentive recovery model, with applicable programs, which provides both funding recovery and incentive payment through a single rate to the utility, but only for verified natural gas savings.

The shareholder incentive must be reasonable from a rate impact perspective but be enough to attract the interest of management. The Council submits that the Board’s first option is a reasonable approach. Union and EGD currently prioritize DSM activities and, from the Council’s perspective, they should be offering DSM programs to their customers as a utility service provider. There is no evidence that they will be less focused on DSM with incentive mechanisms in the range of 15% of their total budgets. The review by Concentric demonstrates that utilities across North America are clearly achieving DSM results without the level of incentives that have been available to Union and EGD for the past several years.

The pay-for-performance proposal would, from the Council’s perspective be overly complex. In addition, it may incent the utilities to pursue the cheapest savings and not necessarily savings that may be more difficult, but equally important to achieve.

Program Types:

The Council is generally supportive of the program elements proposed by the Board with one exception. On-bill financing is an activity best left to other service providers. Over the past few years Union and EGD considered whether or not to provide on-bill financing. It became clear that there are many financing options available in the market. Given that is the case what void will the utilities be filling? In addition, a number of issues would arise with respect to on-bill financing regarding who provides the funding, whether the level of risk was appropriate for the utilities, and how to treat late or non-payment situations etc.

The Council supports the expectation set out by the Board that Union and EGD should choose program offerings that will provide customers with the greatest value for ratepayer dollars. This should include both resource acquisition programs and those focused on market transformation.

With respect to the Technical Evaluation Committee the Council supports its continuation, and its role in the development of the Technical Reference Manual.

Program Evaluation:

Evaluation, Measurement and Verification (“EM&V”) of DSM programs is a very important part of a DSM Framework. It is necessary to assess whether DSM spending is delivering real results and required in order to shareholder incentive and LRAM amounts. Currently Union and EGD undertake their own evaluation studies that are independently audited through a process that is overseen by a stakeholder audit committee. The Board is proposing that it take a more central role in the EM&V process primarily because in recent years the final program results have been challenged by stakeholders leading to contested hearings.

The Council is of the view that the current process has been working, with the exception of those cases where the audit results were contested before the Board. That has clearly been the exception and not the norm. The Council accepts that the current audit process could be more streamlined and focused, but this is something that should be worked out amongst stakeholders. The Council is of the view that a combined audit committee as proposed by SEC will go one step forward in terms of streamlining the process. It is not clear at the end of the day how this process would be enhanced if taken over by the Board. It is also not clear how, under an adjudicative model, issues raised by the Board or Board Staff would be resolved. If the Board takes over the evaluation and audit process, what role will stakeholders have in assessing DSM results? That is not clear.

With respect to screening the Council supports the continued use of the Total Resource Cost Test (“TRC Test”). The TRC should be used for screening and as a tool to measure results.

Deferral and Variance Accounts:

With respect to deferral and variance accounts the Council continues to support the use of an LRAM and a DSM Variance Account.

Integration and Coordination of DSM and CDM Programs:

Both Directives require there will be coordination and integration of DSM programs with electricity CDM programs. This is clearly a good idea. However, the Council submits that it would be premature at this stage for the Board to mandate how this is done. DSM activities are overseen by the Board and CDM activities are overseen by the OPA. In addition, the CDM Framework has not been fully fleshed out.

The Council is of the view that once the two frameworks have been finalized, the Board should re-convene the working group to resolve how best to coordinate and integrate programs. This is necessary in order to ensure that integration is carried out in way that represents the best use of ratepayer funds. With very different rules in place for both industry sectors, coordination and integration could be very complex.

Future Infrastructure and Planning Activities:

The Board has recommended that DSM be considered when developing regional and local infrastructure plans. The Council is of the view that DSM should be a consideration when evaluating future distribution and transmission needs. It is important to recognize, however, that pursuing DSM in order to avoid facilities would be embarking on new ground. This is something that should be explored, but not mandated at this time. We are supportive of the Board's proposal to require the utilities to each prepare a study, in time for the mid-term review, that would consider how DSM could be used in future infrastructure planning.

Stakeholder Consultation:

The Council supports a requirement for Union and EGD to continue to conduct meaningful consultations with stakeholders to gather input and feedback on programs and other relevant areas of DSM plan. In fact, as noted above, the Council is of the view that Union and EGD should collaborate with its stakeholders in order establish the detailed components of the DSM plans that must be put in place following finalization of the DSM Framework.