

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B, as amended;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an order or orders approving the balances and the clearance of certain Demand Side Management Variance Accounts into rates.

**INTERROGATORIES**  
**FROM THE**  
**SCHOOL ENERGY COALITION**

**Interrogatories for Union Gas**

**(Those that duplicate questions in EB-2017-0324 are marked \*. If the Applicant's answers to those questions are the same as those of Enbridge, please just so state.)**

1. [General] Please provide copies of all communications between Enbridge and Union relating to the positions taken in EB-2017-0323 and EB-2017-0324, including any co-ordination of those positions, any formal or informal agreements to support the positions of each other, and any agreements with respect to the provision of expert or other evidence.
2. [Exhibit A, Tab 1, p. 3.] \*Please provide an enumerated list of the benefits and disbenefits of the change in EM&V process from the previous approach, used for 2014 and prior years, and the OEB staff-led process commencing in 2015.
3. [A/1, p. 5] Please provide details of the “excessive project sampling relative to prior audits”, and the reasons it arose. Please confirm that the project sampling was discussed at length with the EAC before being done.
4. [A/1/A, p. 1] Please describe, with details, the shortcomings of the previous audit committees, including the extent if any to which the results were either not effective or not thorough.
5. [A/1/A, p. 4] Please provide a definition of the term “Secondary Attribution” used in the evidence.
6. [A/2, p. 1] Please provide details of the “customer complaints” referred to, and how they differed from customer complaints relating to the audit process in prior years. Please disaggregate changes in the level of customer complaints between those arising out of increased thoroughness of the 2015 audit, and those arising for other reasons.
7. [A/2, p. 6-7, 25-26] Please quantify each of the major causes of delays in the 2015 process, and identify the primary reason for each. For each of the audits for 2010 to 2014, please provide dates for each comparable step in those processes, including the involvement of the

AC or TEC in each such step, and identify why they took more or less time than for the 2015 year.

8. [A/2, p. 7] Please provide the empirical basis for the 46% custom program NTG adjustment factor, and file the research on which it is based, if any.
9. [A/2, p. 10] \*Please describe the extent of discussions between the members of the EAC with respect to i) how to apply the NTG study, and ii) what spillover component should be used for 2015. If there were disagreements between members of the EAC, please describe.
10. [A/2, p. 10] Please describe in detail the steps taken by the Applicant, both in program design and program implementation, to minimize free riders in the custom C&I program.
11. [A/2, p. 10] Please describe in detail the steps taken by the Applicant, both in program design and program implementation, to maximize spillover from the custom C&I program.
12. [A/2, p. 18] \*Please describe all instances in which OEB staff “directed” the EC to take material actions without consulting with the EAC.
13. [A/2, p. 18] \*Please provide a copy of all communications between the Applicant and OEB Staff in or before March 2016 relating to the application of the NTG study.
14. [A/2, p. 19] \*Please confirm that both the utilities complained about the delay in getting a spillover number for 2015.
15. [A/2, p. 20] \*Please file the draft Spillover study presented to the EAC in 2018.
16. [A/2, p. 21] \*Please identify all contacts relating to EC selection between OEB Staff and EAC members, including the two utilities, prior to the selection of the EC by OEB Staff. Please file copies of all objections to the selection of DNV GL by either of the utilities prior to or within three months of the DNV GL selection as EC.
17. [A/2, p. 24] \*Please file all communications between the Applicant and OEB Staff with respect to EM&V budgets and forecasts.
18. [A/2, p. 25] Please explain how the delays in the EM&V process were “prejudicial” to the Applicant.
19. [A/2, p. 28] \*Please provide copies of all drafts of reports or other documents that were annotated or commented on by OEB Staff prior to being delivered to the EAC, including all such annotations and comments. If the Applicant does not have those documents, please request them from OEB Staff.
20. [A/2, p. 30] \*Please advise the legal governance the Applicant proposes with respect to the activities of the EAC, e.g. consensus requirements, voting, weight of votes if any, OEB Staff role as arbiter or tie-breaker, etc.
21. [A/2, p. 30] \*Please advise to whom, if anyone, the Applicant believes that the EC should report. If the Applicant believes that the EC should not report to anyone, please describe how the Applicant believes the EC should get instructions on how to proceed with its work.

22. [A/2, p. 30] \*Attached to these interrogatories as Schedule 1 is a draft charter for the EAC prepared by OEB Staff in consultation with the EAC. Please advise whether the Applicant believes this draft charter would be acceptable. If there is anything in it that the Applicant does not believe is acceptable, please provide details, and provide a critical comparison to how the Union Gas charter deals with the impugned issue.
23. [A/2, p. 31] \*Please confirm that the Applicant believes neither OEB Staff nor the EAC is allowed to modify the objectives of the NTG study from that stated by the Scope of Work approved by the TEC, or make any other changes, including improvements, to that study.
24. [A/2, p. 31] \*Please provide details of the complaints by the utilities relating to the approach to the NTG study, including copies of any written communications in that regard. Please provide the dates of all such complaints, both before and after the draft results were provided to the EAC. Please provide details of all concerns expressed by the utilities as to the application of any NTG results to 2015.
25. [A/2, p. 32] \*Please provide evidence that the EAC reached a consensus to include spillover questions in the NTG study. Please explain why those questions were to be “less rigorous”.
26. [A/2, p. 32] Please provide details as to how Secondary Attribution was factored into the Applicant’s targets for the custom C&I program, including copies of the Applicant’s relevant planning documents so demonstrating.
27. [A/2, p. 35] Please explain why it is an auditor’s responsibility to provide their calculations to those being audited, rather than those being audited providing their calculations to the auditor. Please compare the “transparency” being proposed by the Applicant to the practices of auditors and audited companies in financial audits.
28. [A/2, p. 35] \*Please provide specific details of the information withheld by the EC from the Applicant, and the reasons the EC claimed the information had to be withheld.
29. [A/2, p. 36] Please confirm that, in past EM&V processes, many details of calculations were available to the auditor and the utility, but not to the non-utility members of the Audit Committee. Please describe the types of information that were withheld from the non-utility members.
30. [A/2, p. 36] \*Please describe the benefits and disbenefits of negotiated NTG results vs. empirically or independently derived NTG results.
31. [A/2, p. 38] Please advise whether the Applicant is proposing 100% free-ridership, 0% free-ridership, or some other number for Union’s Large Volume Direct Access Program.
32. [A/2/A. p. 1] Please advise whether the primary goal of the EM&V process should be the accuracy of the results, or the predictability of the results, or the a priori reasonableness of the assumptions used. If all are important, please rank in accordance with the Applicant’s views underlying the Applicant’s draft charter.
33. [A/2/A, p. 2] Please confirm that the Applicant is proposing that the utilities be the sole arbiters of what information is confidential.

- 34. [A/2/A, p. 4] Please confirm that the Applicant is proposing to restrict the role of OEB Staff to an administrative role, and that OEB Staff would not be allowed to provide input to the EAC or to the EC of a substantive nature. Please confirm that the Applicant is proposing that OEB Staff not be allowed to comment on, or suggest interpretations of, Board decisions or communications.
- 35. [A/3, p. 13] Please explain the very poor results for the Large Volume Program.
- 36. [A/3, p. 18] Please provide an update on the status of the Applicant's work in coordinating CDM and DSM programs.

**Interrogatories for Daniel M. Violette (all identical to EB-2017-0324)**

- 37. [A/2/E, p. 4] Please confirm that the "experts" interviewed for the case studies were three utility staff, three staff of regulators, and four energy efficiency consultants. Please advise how many of the regulatory staff and consultants were former utility or program administrator employees. Please advise how many of the consultants were representatives of customers or customer groups.
- 38. [A/2/E, p. 4, 14, 17] Please confirm that, in California, custom C&I NTG is measured by after-the-fact self-report surveys, which are then applied retrospectively.
- 39. [A/2/E, p. 8] Please confirm that all of the utility experts were included in those who complained about application of NTG retrospectively.
- 40. [A/2/E, p. 9] Please discuss the relative value of accuracy vs. predictability in deciding whether to apply NTG results prospectively or retrospectively.
- 41. [A/2/E, p. 10] Please discuss the extent to which it is appropriate for an EM&V contractor to withhold from utilities specific information from NTG surveys that could be used to identify individual customers. Please include discussion of the appropriate application of this issue in the context of custom C&I NTG studies.
- 42. [A/2/E, p. 15, 20] Please discuss the basis for the California 5% spillover adder, including any studies done and any variation in its application across various program types.
- 43. [A/2/E, p. 17] Please provide a summary of best practices for program administrators in pre-review and screening of custom C&I projects to "assess NTG and baselines prior to project approval".
- 44. [A/2/E, p. 18] Please provide a critical comparison of the California process outlined in Table 3 to the current process used in Ontario.
- 45. [A/2/E, p. 21] Please confirm that the Illinois SAG is a large group, is dominated by utility participants, and has only limited participation by customer groups.

46. [A/2/E, p. 22] Please explain why Illinois applies realization rates retrospectively, but NTG only prospectively.
47. [A/2/E, p. 23] Please advise whether the expert agrees with the statement “utilities have a decent amount of influence in terms of how they influence programs to push higher NTG or lower”. Please explain why.
48. [A/2/E, p. 23] Please advise whether the expert agrees with the statement “assessing net savings is particularly important for custom programs because it is common to pay for projects that would have happened otherwise”. Please explain why.
49. [A/2/E, p. 24] Please discuss the extent, if any, to which applying NTG results prospectively as opposed to retrospectively reduces the incentive on program administrators to design and implement programs with a view to improving NTG.
50. [A/2/E, p. 38] Please confirm that 24 of the states studied use net savings, 11 of those states apply the adjustment to custom C&I programs retrospectively, and 3 of the remaining 13 states have a fixed value. Please confirm that 10 states apply their net savings adjustment only prospectively.
51. [General] Please review the recommendations in Section 5.2.1 of the DNV GL report 2015 Annual Verification dated October 12, 2017, and advise in each case whether the expert agrees with the recommendation, and whether the recommendation, in the expert’s opinion, represents best practices.

Respectfully submitted on behalf of the School Energy Coalition this March 7, 2018.

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Jay Shepherd  
Counsel for the School Energy Coalition

# **Ontario Energy Board's**

## **Demand-side Management**

### **Evaluation Advisory Committee**

#### **Terms of Reference**

## **Background**

As outlined in the OEB's [2015-2020 DSM Framework](#), and operationalized in the OEB's [August 21, 2015 letter](#), the OEB is taking a central role in the Evaluation, Measurement, & Verification (EM&V) of Demand Side Management (DSM) programs.<sup>1</sup>

This Terms of Reference (ToR) is intended to set out the roles and responsibilities for the Evaluation Advisory Committee (EAC) committee as a whole, as well for individual members. The EAC is a key part of the OEB's governance structure for the EM&V process. This ToR reflects the governance structure set out in the August 21, 2015 letter, and also includes updates to reflect how the EAC's role has evolved through its first year of operation.

## **Purpose of EM&V**

EM&V is the process of undertaking studies and activities aimed at assessing the impacts (e.g. natural gas savings) and effectiveness (e.g., program delivery success) of an energy efficiency program on its participants and/or the market. EM&V also provides the opportunity to identify ways in which a program can be changed or refined to improve its performance in future years.

EM&V studies enable the pursuit of cost-effective DSM programs and support the OEB's review and approval of prudent DSM spending, and requests to recover lost revenues and shareholder incentive amounts claimed by the gas utilities.

## **EAC Purpose and Scope of Work**

The EAC provides input and advice on the EM&V of Ontario's DSM programs, as required throughout the OEB's DSM Evaluation process. Through the EAC consultation process, EAC members may provide input and advice on EM&V related matters, including, but not limited to:

- Development of an EM&V Plan
- Annual impact evaluation of DSM results
- Annual update of input assumptions

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<sup>1</sup> Demand Side Management programs refer to ratepayer-funded natural gas energy efficiency and conservation programs delivered by Ontario's natural gas utilities.

- Multi-year DSM program impact assessments and evaluation studies

EAC members act in an advisory role to the Evaluation Contractor (EC) and OEB staff.

The EAC's scope will not include process evaluation activities. As noted in the 2015-2020 DSM Guidelines, the natural gas utilities should continuously monitor new information and determine whether the design, delivery and set of DSM programs offered need to be adjusted based on that information.

## DSM Evaluation Governance

The evaluation governance structure describes the general role of the parties involved in the EM&V process. The roles of each party are as follows:

- OEB: The OEB is responsible for reviewing and making determinations on utilities' rate applications, including those that pertain to DSM programs. As part of the application process, an OEB Panel adjudicates and renders a decision on the gas utilities' applications to dispose of deferral and variance account balances related to their DSM programs.
- OEB staff: OEB staff is responsible for coordinating, overseeing, and providing input on the EM&V of DSM, including selecting the EC and other third party verification consultants, chairing the EAC and publishing the final DSM results of Ontario DSM programs on an annual basis.
- EC: The EC carries out EM&V activities for all DSM programs, including the development of the EM&V Plan, evaluation of each gas utility's annual DSM programs, annually updating input assumptions, and conducting or overseeing DSM verifications and program impact assessments. The EC will produce an EM&V report that will include the verified DSM results for each year.
- Natural Gas Utilities: In addition to participating in the EAC, the utilities provide program data and coordination support to the EC and to OEB staff, as requested. Annually, they are required to file draft DSM Evaluation Reports (DSM Draft Annual Reports). Following the completion of the EC-led EM&V process, they file applications with the OEB to dispose of deferral and variance account balances related to their DSM programs.
- EAC: The EAC provides input and advice to the OEB staff and to the EC on various matters related to the EM&V of utility programs. The input and advice provided includes, but is not limited to, program-specific evaluation activity scopes of work, methodologies, and reports as noted in the Documentation Management section below. The EAC consists of:

- Experts representing non-utility stakeholders
- Independent experts
- Representatives from each natural gas utility
- Observers from the Independent Electricity System Operator (IESO), Environmental Commissioner of Ontario (ECO) and the Ministry of Energy (MOE)

The names of current EAC members are shown in Appendix A.

Members of the EAC may have actual or potential conflicts of interest arising from their employment or engagement with a gas utility or stakeholder on matters related to the DSM Evaluation subject matter. EAC members should declare any actual or potential conflicts of interest prior to the next meeting of the EAC and provide an update at every subsequent meeting. **Issue Resolution**

Annual DSM EM&V results provide an expert opinion on the amount of shareholder incentive and lost revenue amounts that the utilities are able to recover from ratepayers. The disposition of DSM related deferral and variance account balance amounts are subject to an adjudicative process, during which an OEB Panel will determine final shareholder incentive and lost revenue amounts based on their examination of relevant evidence, including DSM EM&V reports.

EM&V of DSM programs involve decision points on technical, policy, and other issues. The EC, EAC, and OEB staff will attempt to achieve consensus on all EM&V related decision points. However, if a consensus is not possible, for the purpose of finalizing DSM EM&V results and reports without undue delay, the following parties will be relied upon to make decisions on each of these points.

#### Technical EM&V decisions

- EC, with input from the EAC and OEB staff as requested, makes decisions on technical issues related to EM&V reports, including recommended approaches or methodologies based on their expert opinion as evaluators in their capacity as the selected Evaluation Contractor.

#### Policy-related EM&V decisions

- EC and OEB staff, with input from the EAC as requested, identifies which EM&V issues are policy issues, rather than technical issues that the EC can resolve
  - OEB staff, with input from the EAC as requested, instructs EC how to proceed on policy issues, based on relevant OEB DSM Frameworks, Filing Guidelines and Decisions. In the event of ambiguity, OEB staff may request information from the EC in relation their experience with similar policies in other jurisdictions. These policy-related decisions are made to move the process forward and are not an OEB adjudication. They are to be documented for the EAC's reference.



### Procurement and Administrative EM&V decisions

- OEB staff, with input from the EAC as requested, makes decisions related to other issues, including but not limited to, procurement of DSM contractors (including selection, budget, etc.), and administrative matters (formatting and posting of final reports, etc.), with the exception of:
  - OEB staff may request input from the EAC on scopes of work developed to procure third party evaluation contractors
  - OEB staff may invite individual EAC members to participate in these decision-making processes (e.g., evaluation of DSM contractor proposals)

In addition, any EAC member or the EC may request to provide input on a decision.

### **Meeting Frequency and Preparation**

Meetings are held on a biweekly basis, unless otherwise noted. OEB staff are responsible for scheduling and cancelling meetings, with early notice whenever possible. EAC members should inform OEB staff if they are unable to attend a meeting for any reason.

Meetings will be held by teleconference unless otherwise noted by OEB staff. From time to time, OEB staff will host a face-to-face meeting for EAC members.

### **Committee Member Meeting Responsibilities**

#### OEB Staff

OEB staff will chair each committee meeting or designate the EC to chair the meeting, if required. OEB staff will coordinate attendance through online meeting invitations.

The chair of the committee will:

- Preside at all meetings of the committee.
- Provide (or ensure the EC provides) any materials for discussion in advance of the meeting.
- Circulate an agenda in advance of the meeting, noting the purpose of each item (for discussion, for information, etc.)
- Create and maintain an action item list, and follow up on actions items as assigned.
- Create and maintain a list of agreements made by the EAC.

- Create and maintain a list of policy-related decisions for which there was not full EAC agreement, but that OEB staff provided direction on to keep the process moving forward.

### EAC Members

All EAC members (and OEB staff) will:

- Attend and actively participate at meetings as appropriate.
- Treat each other with courtesy and respect.
- Share their expertise and knowledge as they relate to the topic areas being discussed, and provide comments for consideration.
- Expert members are to provide input and advice based on their experience and technical expertise and not to advocate position of parties they have represented before the OEB in various proceedings.

Abide by the OEB's rules on the treatment of confidential items brought forth for discussion. Follow up on action items as assigned.

### **Documentation Management**

A key input into the Evaluation Process by the EAC is to deliver feedback and advice on various evaluation activity scopes of work, methodologies, and reports, including:

- Scopes of work, EM&V activity and/or other RFPs used to engage a third party;<sup>2</sup>
- Scopes of work, EM&V activity, and/or other work conducted by a third party related to activities within this ToR:
  - Wherever possible, including verification reports, evaluation reports, summary spreadsheets, calculations and other materials used and/or generated for the purpose of EM&V activities
  - Timelines for provision of data and review

Any materials that are circulated by the EC for comment will be delivered to OEB staff and EAC members at the same time. Substantive comments from each of OEB staff and EAC members on significant documents will be recorded in a comment matrix by the EC and will be posted on the EC's document sharing website.

EAC members are asked to complete their review of draft reports and associated analysis within the comment period provided by the EC in as thorough a manner as

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<sup>2</sup> For clarity, "third party" referenced in this document includes the Evaluation Contractor, its subcontractors and/or any third party commissioned to undertake EM&V work specific to this ToR.

possible. If the comment period provided by the EC does not allow for enough time to complete the analysis, EAC members are to contact the EC for an extension to the comment period.

The EC is not to share any analysis of the utilities' annual results with the EAC until after the utilities have filed their DSM Draft Annual Reports with the OEB and the utilities have circulated those reports to the EC and the EAC.

OEB staff may circulate documentation to the EAC. Sometimes OEB staff will circulate documentation to the EAC and exclude the EC, particularly if the documentation is related to the procurement of contractors (i.e., an RFP that the EC may bid on). OEB staff may exclude other EAC members from circulation or discussions if there is a pertinent reason to do so (e.g., discuss utility responsiveness to data requests, or discuss a particular issue, etc.), but should let the rest of the EAC know the reason for the exclusion.

All EAC members have signed a Confidentiality Declaration and Undertaking, which applies to all information designated by the OEB to be confidential that they receive as a member of the EAC. The Confidentiality Declaration and Undertaking will be renewed when necessary.

This ToR is to be reviewed periodically as needed.

## **Participant Costs**

Cost awards will be available under Section 30 of the *Ontario Energy Board Act, 1998* to eligible persons in relation to their participation in the EAC or other consultations during the course of the DSM evaluation process. OEB staff will initiate a cost awards process on a regular basis to ensure that experts (both non-utility and independent) are compensated for their contributions to the EAC. Maximum cost claims will be set based on meeting hours (maximum cost award of 1.5 times meeting time to take into consideration preparation and follow-up time) and volume of documentation to review (maximum cost will vary, to be determined with input from those experts).

Additionally, individual EAC members may be assigned additional tasks by OEB staff, and eligible parties will be permitted to claim cost awards for the time to complete those additional tasks.

## **Appendix A: Evaluation Advisory Committee Membership**

Last updated: March 5, 2018

Role	Name
Experts nominated by non-utility stakeholders	Chris Neme, Energy Futures Group
	Marion Fraser, Marion Fraser Enterprises Inc.
	Jay Shepherd, Shepherd Rubenstein Professional Corporation
Independent Experts	Bob Wirtshafter, Wirtshafter Associates, Inc.
	Dr. Ted Kesik, University of Toronto
Representatives from IESO	Phil Bosco Kausar Ashraf
Representatives from ECO	Mike Parkes Kyra Bell-Pasht
Representative from MOE	Grant Cockburn
Representatives from Enbridge Gas Distribution	Deborah Bullock Ed Reimer Bailey Kaufman
Representatives from Union Gas Limited	Leslie Kulperger Eric Buan Erin Dunlop
OEB Staff	Pascale Duguay Josh Wasylyk Valerie Bennett Andrew Bishop

As representatives change from time to time, this list will be updated at least annually.