



By EMAIL

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Our File: EB20210002

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2021-0002 – Enbridge 2023-25 DSM Plan – Contestability of Next Plan

We are counsel to the School Energy Coalition (“SEC”), and were active participants in EB-2021-0002.

(You will also be aware that the undersigned is a member of the DSM Stakeholder Advisory Group (“SAG”) and the IRP Working Group, although the subject of this letter is not expected to be within the scope of those two advisory bodies.)

This letter is a followup to the 2023-25 DSM Plan proceeding. We are asking that the OEB explore whether the next DSM Plan can be made contestable, in whole or in part.

Briefly, we would urge the OEB to take the following steps as soon as possible, and well in advance of the next DSM Plan filing by Enbridge, expected to be in late 2024:

- Ascertain, through a request for expressions of interest, or some other process or processes, including direct investigations, what organizations, if any, are willing and able to take on the role of independent, fuel agnostic program administrator of all, or a segment of, DSM programs in Ontario.
- Assuming the response to the first step is strong enough, seek and obtain detailed proposals from qualified and interested organizations to deliver some or all of the DSM programming in Ontario.

The goal would be that, when Enbridge files its next DSM Plan, the OEB will have full visibility into the alternatives available to it in the event that the Commissioners determine it is in the public interest if the DSM Plan would be made contestable, in whole or in part. In essence, the OEB would green light the market to communicate to the OEB what it can do.

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Background

Enbridge Gas and its predecessors have, for more than 20 years, delivered DSM programs to natural gas customers in Ontario. Recently, Enbridge has started to deliver both natural gas and electricity programs to residential customers under an agreement with NR-Can.

In EB-2021-0002, Enbridge applied for what was ultimately a five year DSM plan application, largely the continuation and expansion of existing programs. The Application was intensely contested, with certain ratepayer and environmental groups (including SEC) expressing concern that a) the high-cost Enbridge DSM programs were not delivering net reductions in natural gas use, and b) an underlying conflict existed for Enbridge in delivering programs that would reduce gas use. (We note that, as the energy transition gathers steam, this basic conflict has the potential to grow in importance.)

Some parties argued that an independent, fuel-agnostic program administrator should be appointed to deliver DSM programs instead of Enbridge Gas. In effect, its sole goal would be to reduce natural gas use in the most cost-effective way consistent with the interests of the customers and the province. However, it was noted (including by SEC) that the OEB did not at that time have a proposal from anyone other than Enbridge Gas to deliver DSM, and thus did not have a strong evidentiary foundation for such an important change. It was therefore not practical for the OEB to go in the direction of an independent, fuel neutral delivery agent in that case.

The Decision in EB-2021-0002 agreed with many of us that DSM has to deliver higher levels of efficiency, including absolute reductions in natural gas use. The Commissioners approved a shorter term plan, with the stated expectation that the next DSM Plan will be significantly more ambitious. The Decision also set up the SAG, to provide advice and input during the development of the next plan by Enbridge.

However, the Decision did not comment on whether an independent, fuel-agnostic program administrator should be explored.

We would like to ensure that the lack of alternatives to program delivery by Enbridge Gas does not continue with the next plan, expected to be filed by Enbridge later in 2024. To that end, we are asking that the OEB invite potential program administrators other than Enbridge Gas to communicate their interest, if any, in delivering some or all of the DSM programs in Ontario.

If there is sufficient interest (as we think there will be), then as a next step the OEB could invite proposals from those interested parties. This would allow the OEB to understand the Enbridge application for its next plan in context, and to consider whether one or more of the alternative delivery agents could be a better choice, either in parallel with or in place of Enbridge.

Types of Contestability

We note that conservation and energy efficiency programs (gas and electric) are delivered in a variety of different ways around North America. Many are delivered by utilities, and in fact conflict issues often come up in those cases. Several are delivered state-wide by a state-sponsored “efficiency utility”. Other programs are delivered in smaller geographic areas, or by entities who address a particular market segment. There are also various combinations of those approaches, only limited by the creativity of the stakeholders in each jurisdiction.

Single Program Administrator. At the highest level, there will likely be some entities that will, individually or in groups, be interested in replacing Enbridge as the sole delivery agent for gas

DSM throughout the province. The Consortium for Energy Efficiency, a US trade group of which Enbridge is a member, will have resources on independent program administrators who may be interested in expanding into Ontario. Vermont Energy Investment Corporation, which has delivered the Efficiency Vermont programs for decades after winning competitive bids, may be one such example.

In addition, there may be energy efficiency consultants (like Dunsky, or DNV, or others like that) who could take on the responsibility for program delivery. Another possibility may be more general energy consulting groups, like Guidehouse or Accenture, who have experience running this kind of business activity.

Anyone who actually took over as the single program administrator would likely hire many of the staff delivering DSM at Enbridge today. The OEB will note that Enbridge has spun off business activities, together with large groups of staff, to third party owners in the past, including at least the equipment business and customer care.

Smaller Geographic Areas. There are a number of places in the province where there are potential program delivery agents whose knowledge of their local area could be invaluable. Toronto Hydro, for example, may well be interested in delivering energy efficiency programs to natural gas customers, especially if they can arrange to deliver electricity and gas conservation together. There is also the potential that they could work with Alectra, and/or Elexicon, to cover a large part of the Golden Horseshoe.

In Ottawa, where you have Hydro Ottawa already interested in conservation programming, and the City of Ottawa fully engaged in long term GHG reductions, a combination of those entities, perhaps with outside assistance or even with federal government support, may have an interest.

End User Segments. Much of current and potential energy efficiency programming is specific to an end user group, and there are organizations that already work with significant end user segments throughout the province. Some have experience delivering conservation. Some or all of BOMA, CME, IGUA, FRPO, LPMA, and other organizations may be well-placed, either alone or in a consortium, to deliver programs to those important segments. The same may be true of organizations supporting low-income individuals, new home builders, etc.

The general point is that the range of potential information the OEB can gather from those already in the market, and the services they may be able to provide, is quite broad. We believe that finding out what else is available – other than a single-sourced DSM program from Enbridge – could be highly beneficial.

Conclusion

We therefore ask that the OEB

- Through market wide communications and direct contact, engage potential program administrators who could deliver some or all of the DSM programs, and find out the extent and types of interest and capabilities that those in the market may have.
- If the response is sufficiently strong, consider next steps, including an RFP, a competitive procurement process, or some other approach that brings to the regulator detailed information on what the market could deliver by way of independent, fuel agnostic DSM program delivery.



We believe that this is urgent, since within the next twelve months Enbridge will file a new DSM application. It is important that the OEB not, at that time, be in the same situation of having no choice but to once more sole source DSM to Enbridge.

All of which is respectfully submitted.

Yours very truly,

Shepherd Rubenstein Professional Corporation

A handwritten signature in dark ink, appearing to read "Jay Shepherd", written over a light blue rectangular background.

Jay Shepherd

cc: Brian McKay, SEC
Josh Wasylk, OEB
Chris Humphries, OEB
Susanna Zagar, OEB
Members of the DSM SAG
Malini Giridhar, EGI
Interested parties