

October 31, 2008

Robert B. Warren
T: 416-947-5075
rwarren@weirfoulds.com

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Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto ON M4P 1E4

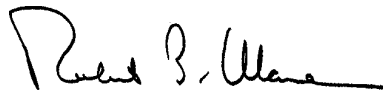
Dear Ms Walli:

Re: EB-2008-0150/Consultation on Issues Relating to Low Income Consumers

We are counsel to the Consumers Council of Canada. On behalf of our client we enclose herewith its Submissions in this matter.

Yours very truly,

WeirFoulds LLP



Robert B. Warren

RBW/dh

cc: Joan Huzar
cc: Julie Girvan
cc: All Parties
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ONTARIO ENERGY BOARD

CONSULTATION ON ISSUES RELATING TO LOW INCOME CONSUMERS EB-2008-0150

October 31, 2008

Submissions of the Consumers Council of Canada

I. INTRODUCTION:

On July 2, 2008, the Ontario Energy Board (“Board”) announced that it was initiating a consultation process to examine issues associated with low income energy consumers in relation to their use of natural gas and electricity. The Board held a stakeholder conference during the week of September 22. The purpose of the stakeholder conference was to give interested parties an opportunity to make presentations and facilitate discussion on a pre-determined set of issues. Through that process the Board indicated it was seeking to gain a better understanding of the energy cost issues associated with low income consumers, and assistance for its consideration of the need for, and nature of, policies or measures to address those issues. The Board is now seeking further comments from stakeholders on the same issues.

The Consumers Council of Canada (“Council”) made a presentation at the stakeholder consultation on September 22, 2008, and its representatives participated in the four-day discussions. The Council found the stakeholder conference useful and appreciated the opportunity to participate. What follows are the Council’s comments on the issues. The Council will present some overview comments before specifically addressing the issues set out in the Board’s issues list dated August 8, 2008.

II. OVERVIEW:

The Council acknowledges that increasing energy costs are a concern for all consumers, but particularly problematic for low-income energy consumers. There is no question of whether a broad range of programs to alleviate the burden of energy costs for these consumers should be put in place. Current programs should be continued and enhanced.

It is the Council’s position that it should be the provincial, federal and municipal governments that should be primarily responsible for these initiatives. Programs that provide support for energy costs are by their nature social welfare programs. As such, they are clearly the responsibility of government. Relief for low income energy consumers should be included within the existing social safety net and coordinated with more general assistance programs. Energy costs alone are not the only burden faced by low income households. These programs should not be mandated by the Board or run by the Ontario natural gas and electric local distribution companies (“LDCs”).

In its presentation before the Board, the Council set out several reasons as to why a low income rate assistance program should not be mandated by the Board and delivered by the Ontario natural gas and electric LDCs. Many of the other stakeholders, including most of the LDCs and ratepayer groups, raised the same points. Those key points can be summarized as follows:

1. The Board only regulates the component that represents approximately 25% of the overall gas or electric bill. The most significant factor contributing to rising energy costs is the cost of the commodity itself, which is essentially a pass-through item in the Ontario natural gas and electricity sectors;
2. The Board does not regulate other energy forms like propane and heating oil. Consumers using those forms of energy would not receive any assistance from a program mandated by the Board and delivered by the LDCs. Among other adverse consequences, the energy market would be distorted;
3. Utilities have indicated they do not have the expertise or infrastructure to determine eligibility, monitor eligibility or deliver low income programs. There have been no estimates provided as to what costs would be incurred to develop and maintain that expertise and infrastructure;
4. Some LDCs in the Province would have a larger proportion of low income customers in their franchise area, placing an unfair burden on its other customers to fund the program;
5. Providing rate assistance through the LDCs would have customers that do not qualify subsidizing those that do – even when their income levels, or relative wealth might be very similar to that of the customers receiving the subsidies. This form of rate assistance is in essence a regressive tax. Imposing it would be a sharp departure from accepted public policy norms, and should only be mandated by the legislature;
6. Many low income consumers rent their homes and may not actually pay their utility bills. Providing rate relief to landlords would not guarantee that the tenants see a benefit;
7. Low income residential consumers may be only one group of many that require or desire assistance with their energy bills. Hospitals, churches, schools, charities, and even those in the manufacturing sector would almost certainly demand the same type of relief;
8. The unique structure of the Ontario electricity sector makes it difficult and costly to have utilities deliver low income energy assistance

programs. There are more than 80 electric LDCs in the Province. The cost of each LDC delivering and monitoring a rate relief program could be significant and outweigh any benefits flowing from the program.

During the consultation there were many examples of programs in place to assist low income consumers with their energy bills. From the Council's perspective it would be premature to implement a broad based rate relief program in the absence of information about those existing programs. The Council recommends that a full inventory of existing programs be developed. Key information gathered should include, but not be limited to answering the following questions:

1. What are all of the programs in Ontario that provide low income households assistance with energy costs?
2. What are the more broad based social assistance programs that include assistance for energy costs to low income households?
3. Are these programs reaching customers and providing appropriate relief with respect to energy costs?
4. Is there overlap between the broad based social assistance programs and the programs which target energy costs?
5. Is the money allocated to these energy cost programs being fully used by those in need, or is some of it not being used and/or redirected?
6. How much are these energy cost relief programs costing overall?
7. How do the service providers for energy cost relief programs determine and monitor eligibility?

The Concentric Report sponsored by Board Staff provided some very useful information regarding existing programs, but indicated that its report presented a representative sample, rather than an exhaustive compilation of low income programs in Canada. The Council believes that a comprehensive review of actual programs in place is a necessary precondition for the Board, and the Ontario Government, prior to establishing any further low income energy assistance programs.

The Council does believe there are steps that the Board can take to ensure that the utilities that it regulates assist their customers to the extent possible using existing mechanisms with the payment of their bills. These measures, which include the delivery of demand side management programs, changes to existing customer service policies, and the development of various types of payment plans, are discussed in more detail below. In addition, the Council submits that the Board could, and should, play a role in providing ongoing information to utilities, customers and other social service providers regarding programs that are in place throughout the Province. We also recommend that the Board

establish a working group to consider how existing LDC policies and procedures could be modified, and potentially standardized, to better accommodate the needs of low income consumers.

Before summarizing the Council's recommendations we will make submissions on the some of the specific issues set out by the Board.

III. SPECIFIC ISSUES:

A. Rate Related Measures:

As noted above, the Council does not support the introduction of a rate relief program for low consumers that is mandated by the Board and implemented by the Ontario natural gas and electric LDCs. In the event that the Board does determine that direct rate relief programs are warranted the Council has some comments regarding the various options discussed during the consultation.

As discussed during the consultation, subsidized rates could come in the form of a special rate for low income customers, inverted rate structures that have lower rates for lower usage, elimination of the customer charge, or some form of rate rebate.

With respect to special rates Concentric did not find any evidence that a separate rate class has been implemented anywhere for the benefit of low-income consumers. (p. 21). A special rate class brings a whole host of problems for utilities. It has similar customers, with identical load characteristics paying different rates, which is contrary to traditional rate making principles. This Board has, consistently, rejected the implementation of rate classes based on end-use characteristics on the basis that it violates the fundamental rate making principle of cost causality. In addition, there are issues regarding the establishment of eligibility criteria, and monitoring the extent to which customers would continue to qualify. It also involves one group of customers (either all non-qualifying residential ratepayers or all ratepayers) explicitly subsidizing another group of ratepayers in order to achieve a public policy goal. A rate class, designed specifically for low income consumers, would also present the LDCs with increased billing and administrative costs.

One of the other key problems with a special rate for low income customers is that the Board only has the jurisdiction to set rates for distribution, which represents about 25% of a customers' natural gas or electricity bill. A more general low income assistance program would be more appropriate, and potentially more effective, assisting low income households with all of their expenses.

Inverted rate structures allow for lower rates at lower levels of consumption. As the volume increases so do the rates. If the Board were to adopt inverted rate structures there would be an explicit assumption that low income consumers always use less energy than other residential ratepayers. There was no evidence provided during the consultation to support that proposition. In fact, as Concentric has pointed out, the

opposite is often true. Seniors or the unemployed may spend more time at home relative to those who are working, thereby using more energy. In addition, some low income consumers live in homes that in fact may use more energy due to poor insulation, outdated windows, inefficient appliances etc.

With respect to assisting low income households by eliminating the fixed customer charge or providing bill discounts, many of the same problems arise as with a special rate class. This would include the fact that subsidies from other customers would be required, increased costs would be incurred and traditional rate making principles would be abandoned. The difficulties associated with determining and monitoring eligibility for such programs are inherent in any of these models.

B. Customer Service Issues:

1. Customer Security Deposits:

Customer security deposits are often required when new accounts are established and/or when good payment history is compromised. The deposits are intended to protect the utility when customers default on their bills. The LDCs that participated in this consultation indicated that some require security deposits for all new customers, whereas others do not. The range of security deposit levels varies from utility to utility.

The Council believes that a more relaxed policy regarding security deposits may ultimately reduce arrears and ease the energy cost burden for low income consumers. Security deposits should not necessarily be a prerequisite to service. In addition, customers should be able to pay for a security deposit over several months. Hydro One indicated that the average amount held for a customer is \$515.00, which as a lump sum payment, could represent a significant burden for customers on a fixed income. If customers could pay that as a part of an equal billing plan, or over several months the burden would be reduced.

Establishing a more relaxed policy regarding security deposits and a consistent policy throughout the Province should be considered. In assessing the viability of a more relaxed policy, the increased costs to the system regarding arrears should also be considered.

2. Billing Due Dates:

There was some suggestion at the consultation that utility customers that receive social assistance cheques would like the option to choose utility payment dates to better align the payment of their bills with the receipt of their assistance cheques. The Council believes that there should be some consideration of this proposal and believes the working group should consider if this is a viable option to be implemented across the Province. Enbridge indicated that it provides seniors with the option of choosing their billing dates. We recognize that this may be unworkable as many LDCs spread billing throughout their billing period, and the costs of allowing customers to choose could

significantly outweigh the benefit. Nevertheless, if there was a demand for this, and if it could be accommodated, it may help certain low income consumers with their bill payments.

3. Disconnection/Reconnection Policies:

Many utilities have indicated that they currently work with customers in order to avoid disconnection through payment plans. The information filed by Union Gas and Hydro One following the stakeholder meetings was that although on an annual basis many disconnections notices are issued, actual disconnections are relatively infrequent. In 2007 Hydro One issued 137,221 disconnection notices, but only disconnected 8,614 customers. (see letter dated, October 3, 2008)

Many LDCs do not disconnect customers during extreme weather conditions or when a disconnection could compromise an individual's medical condition. With respect to disconnection and reconnection there is typically a fee is reflective of the fact that physically disconnecting or reconnecting a customer involves a cost of the part of the utility. There should be some consideration as to whether these fees could be waived in certain circumstances.

There does not appear to be a common policy for either the Ontario electric LDCs or the natural gas LDCs regarding disconnection and reconnection. They all have the right to disconnect and potentially charge fees, but not all LDCs exercise this right. The Council supports the development of a common policy that may be more sensitive to the concerns and needs of low income households. We believe that the working group should consider if changes are warranted, and to what extent common policies across the Province might be desirable. The balance is to ensure that any policy is sensitive to low income needs, while at the same time maximizing timely bill payments and keeping customers connected to the system.

4. Budget Billing:

"Budget Billing" or "Equal Billing" plans are prevalent throughout Ontario. They allow customers to pay the same amount each month with some form of a true-up mechanism to ensure actual payments track actual costs. The focus is to allow customers to budget monthly or bi-monthly payments. It is not clear as to whether or not all LDCs in the Province offer these plans or what the eligibility requirements are. The Council supports budget billing plans, and believes they should be offered to as many customers as possible. Although they do not effectively reduce the energy cost burden for consumers, they allow those with tight budgets to balance payments throughout the year. This is particularly significant for those on fixed incomes. To the extent budget billing could be offered to more customers, large heating bills in the winter may not put as many customers in arrears.

5. Special Arrears Management Programs:

Hydro One, among others, indicated that they do work with customers to ease the burden of large bills. If it takes several months to deal with arrears, a payment plan can benefit both the LDC (in terms of actually getting the money) and the customer (keeping them connected). The Council sees merit in allowing for payment plans to keep customers connected to the system and to maximize the amount of arrears eventually collected by the utility. The Board should permit, and encourage LDCs to establish arrears management programs.

C. Low Income Conservation and Demand Management Programs:

The Ontario Power Authority (“OPA”) is actively developing and delivering low income conservation and demand management programs. It is undertaking market research, launching pilot programs and carrying out consultations with its stakeholders regarding the development of programs across Ontario. The current programs are targeting multi-family buildings and low income homes. It is expected that the OPA will continue to expand its efforts in the low income area and extend its reach into new program areas.

The OPA undertakes consultation with its stakeholders regarding the development of its program portfolios. The Council encourages the OPA to continue that consultation process and look to expand its effort to target programs specifically to low income consumers. A key element of those efforts should be communication, education and outreach. In addition, the OPA should be encouraged to work with existing social assistance agencies and program delivery agents in an effort to expand access to its programs by low income households.

The Board has mandated that the Ontario natural gas utilities, Enbridge and Union, spend a proportion of their overall demand side management program budget on low income programs. Both LDCs are involved in a broad range of programs specifically directed to low income customers and more general programs that benefit all residential consumers. A key characteristic of some low income programs is that they are not necessarily cost effective. In essence, the costs significantly outweigh the benefits. Although further programs might be warranted, simply ramping up some of these programs could impose a significant burden on the other LDC customers.

The Ontario natural gas LDCs have longstanding stakeholder consultative processes in place to assist them in the development of their DSM program portfolios. The Council encourages the LDCs to continue using those processes to consider ways to expand and enhance their low income initiatives. In addition, the LDCs should take further steps to coordinate their efforts with social assistance agencies in their respective franchise areas. To the extent that low income CDM and DSM programs are successful all energy consumers ultimately benefit.

D. Emergency Assistance Programs:

The Emergency Energy Fund provides financial assistance to low income Ontario households who are facing an energy related emergency. It covers all forms of energy including gas, electricity and oil. Funding is provided by the Ontario Ministry of Community and Social Services. The Council supports enhancement of this program for a number of reasons. First, it is funded through general revenue, an appropriate approach given it represents a broad based social assistance program. Second, it covers all forms of energy, not just gas and electricity. Third, it is delivered by the municipalities who have experience with administering social assistance programs and processes in place to determine eligibility.

E. Program Funding Mechanisms:

With respect to programs for low income energy households a number of funding mechanisms were discussed during the consultation process. On the one end of the spectrum is a model where all funding comes from general tax revenues and at the other end of the spectrum is a model where all funding comes from utility distribution rates.

As noted in earlier sections, the Council believes that any low income energy cost assistance programs should be funded through general revenue. It is simply not fair to tax electricity and natural gas ratepayers through rates to support social assistance programs. This would be particularly unfair for ratepayers that are just on the other side of any eligibility line, or for those in communities where there are larger proportions of low income consumers.

Some parties that have participated in the consultation, although opposed to rate relief programs, have made it clear that any funding for low income residential customers should come from the residential class as a whole. The Council disagrees, as this would place an enormous financial burden on those that do not qualify. The funding of any government mandated social assistance program through rates should come from all customers, not just the residential classes.

If the Board decides that a special rate relief program is warranted, and the costs are to be recovered by electricity and natural gas customers, the most equitable approach would be through a province-wide charge. This would be similar to the current Rural and Remote Rate Protection (“RRRP”) program that provides a subsidy to customers served by Hydro One and Great Lakes Power. The implementation of a province-wide charge would ensure that customers in communities that have a larger proportion of low income customers would not be bearing a disproportional amount of the subsidy. Funds collected through system wide charge could then be distributed through a centralized agency.

IV. RECOMMENDATIONS:

The Council believes that this consultation has been extremely useful in terms of informing the Board and the various stakeholders about the issues relevant to low income energy consumers. Obviously, more work needs to be carried out to assess what is currently being done to assist these customers with their energy bills and to ensure they remain connected to the natural gas and electricity systems. In addition, more work needs to be done to consider how utility policies and programs overseen by the Board can be enhanced or modified in order to better address the issues faced by low income energy consumers. Accordingly, the Council makes the following recommendations:

1. The Board, in conjunction with the Ministry of Energy, should undertake a comprehensive review and inventory of all programs in the Province aimed at, either directly or indirectly, providing assistance low income households with respect to their energy costs. That review should include, but not be limited to: a review of the overall cost of the programs; the extent to which they are reaching those in need; the extent to which there are overlapping programs; the extent to which the funds allocated to those programs are being delivered; and the ways in which program eligibility and effectiveness are assessed and monitored.
2. The Board, in conjunction with the Ministry of Energy, should develop a low income assistance resource centre for utilities, customers and social service agencies. The purpose of the resource centre would be to maintain an inventory of programs in place throughout Ontario, and to provide information as to how to access those programs. The resource centre should be funded through general tax revenues.
3. The Board should establish a working group to consider and recommend changes to utility customer service policies and procedures that will assist low income energy consumers in terms of remaining connected to utility service and with managing the payment of their bills. The policies to be examined should include, but not be limited to: customer security deposits; disconnection/reconnection policies; budget/equal billing plans; billing dates; and arrears management plans. Developing consistent policies for all LDCs should be one of the ultimate goals.
4. The Board should continue to encourage and mandate CDM and DSM programs. The OPA should continue to be charged with piloting, developing and funding low income CDM programs in the electricity sector. The natural gas LDCs should continue working with its stakeholders to develop cost-effective DSM programs aimed at low income households. They should also look at ways to facilitate the availability of existing broad based programs for low income households.

5. The Board should not mandate a rate relief program for low income consumers funded through utility distribution rates. Any rate relief programs should be funded through general revenue and delivered by provincial and municipal social service agencies.