

October 31, 2008

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Suite 2700
Toronto, ON M4P 1E4

Via RESS and by courier

Dear Ms. Walli:

Re: EB-2008-0150 OEB Consultation on Energy Issues relating to Low Income Consumers

The Electricity Distributors Association (EDA) would like to provide the attached comments on the key issues from the OEB consultation on energy issues relating to low income consumers.

Yours truly,

“original signed”

Richard Zebrowski
Vice President, Policy & Corporate Affairs

Attach.

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EDA Comments on Energy Issues Relating to Low Income Consumers

The EDA welcomes the opportunity to provide a summary of its views on the issue of low income assistance having now had the benefit of hearing from other participants in the OEB consultation held in September.

The EDA notes that some advocates at the consultation proposed that rates to low income customers should be subsidized. The EDA believes these proposals to subsidize the rates of low income customers are in conflict with longstanding regulatory rate principles. Prof. James Bonbright's *Principles of Public Utility Rates* notes that two key principles are fairness amongst customers and avoidance of undue discrimination.

It has generally been accepted that the preferred means to achieve the fairness principle has been to track costs through rates to the greatest extent practical. With respect to the obligation to avoid undue or unjust discrimination, ensuring rates do not distinguish between customers receiving the same service is widely regarded as the best approach. Discrimination is typically defined as different charges to customers for the same services.

These principles are consistent with the goal of having “just and reasonable” rates. Consequently cost-based ratemaking has been accepted in Ontario as the basis for having rates that are “just and reasonable.” These principles have had a significant influence on the views of utility staff, regulatory staff and ratepayer groups for many decades.

The advocates for assisting low income consumers are indicating that it may be time to revisit these principles and are asking that “ability-to-pay” should be a new principle that should be given priority over the other conflicting principles.

It was clear from the consultations that the utility representatives continued to support the existing rate principles and expressed concerns with the implications of using a new “ability-to-pay” principle. They noted that the “ability-to-pay” principle conflicts with traditional cost of service ratemaking principles and the fundamentals of economic regulation. They indicated that rates based on income or other demographic thresholds were discriminatory and that the goal of wealth redistribution is more appropriately accomplished through the tax system, and not utility rate design. In particular, there is a concern that discounting the bills of one specific group will result in increased bills to others, and that elected officials, accountable to voters, were better able to judge whether the public in general supported providing electricity at a discount to low income customers.

If “ability-to-pay” is accepted as a new principle, it is expected that more groups will come forward with requests for special rate treatment and bill discounts. The concern is that the utility sector will be used to address a number of social issues. This would conflict with the restructured industry model where utilities were set up to run as businesses and not public agencies.

The “ability-to-pay” principle also conflicts with the goal of setting rates that are comparable to those provided by competitive markets. In competitive markets “ability-to-pay” is not used to discriminate between customers.

In the past there have been situations where rates have been offered at a discount with the rationale that all customers would ultimately benefit. In each occasion there was considerable disagreement on whether there would be overall benefits. With the industry moving to a new business structure it was believed that there would no longer be requests from customers for special treatment.

Despite these industry concerns regarding rate funded subsidies, the EDA understands that groups that work with and represent low income consumers would support providing financial assistance to low income customers. They argue these customers do not have the ability to pay for all their essential energy needs. Most EDA members have an understanding of the needs of low income consumers and many have been working with social agencies in assisting low income consumers. The distributors have some experience with the problems of social agencies assisting low income customers and customers in crisis due to changed circumstances. In many cases, the problems of social agencies have been related to inadequate funding. Distributors have voluntarily provided charitable contributions to social agencies to help address the funding issues.

Distributors believe social agencies are and continue to be the best vehicle for assisting customers in need. The delivery of these social programs has been the responsibility and expertise of social service agencies and government. These social agencies have experience in determining eligibility and the amount of required assistance.

Stakeholders at the consultation have rightly questioned whether placing responsibility upon utilities to deliver bill assistance programs is the most efficient and effective manner to assist low income consumers. Given the number of utilities and the expected costs of each utility implementing and administering these programs on an ongoing basis, there could be very significant costs that would be considered by many as redundant with existing administrative costs of social service agencies.

Utilities have little expertise in administering social programs, but if they were required to, a number of issues would arise. Utilities would need to dedicate employees and other resources to administer the social program, and deal with low income related inquiries and related correspondences. Utilities would be required to submit additional reports to the regulatory authority concerning customer participation, in order to evaluate the effectiveness of the program. Utilities would need to collect confidential information from various agencies regarding customers who apply for assistance under the program. Utilities would need to make significant changes to their customer accounting system and billing systems in order to track low income energy customers and address confidentiality requirements. In order to reduce the potential for abuse, utilities would need to coordinate with social service agencies or charitable organizations to determine eligibility and whether the customer has already received adequate assistance. All these activities add costs that are presently not included in rates.

Utilities in general have difficulty distinguishing between consumers who do not have the ability to pay due to low income or personal crisis and those who do not want to pay for other reasons. Social agencies are also better able to assess a customer's status regarding income level or situation, and monitor any ongoing changes to ensure the customers remain qualified.

The EDA's preferred approach to assisting low income customers would be to leverage existing processes. The EDA believes that social agencies should continue their role. Low income issues are complex and require a coordinated approach involving government (provincial and municipal) and social service agencies. Low income consumers are facing increased prices for many expenses, including food, transportation, and accommodations as well as energy. Social agencies are directly engaged with low income customers and are better positioned to provide the necessary support for all these cost impacts. The EDA believes having social agencies assist low income customers would avoid duplication of programs and ensure coordination with existing programs.

The EDA supports the idea of reviewing the activities of social service agencies to help identify how the agencies can be more effective in providing assistance and to improve the support system for low income customers. For example, in the letter filed by Aird & Berlis on October 17, 2008, it was indicated that the United Way Toronto has retained a consultant to identify the reasons why there has been relatively low uptake in Toronto for the Winter Warmth program and to identify best practices that can be shared with other communities for general improvement of the Winter Warmth program. They indicated that potential changes to the program could be made for this winter season. A better understanding of potential best practices for the Winter Warmth program will help determine whether additional funding is required.

Should a decision be made that social agencies should be provided additional funds, then the question is whether these funds should come from government or the utilities or both. The stakeholder consultation identified four funding approaches:

- government grants;
- system benefit charges;
- charitable contributions; and
- voluntary or mandatory charges assessed on local utility customers.

Many stakeholders argued that since funding of low income programs is a matter of social policy, and governments are accountable to the public for matters of social policy, then government funding would be the preferred approach. Because low income support programs are the responsibility of government it appears the best approach would be additional tax payer funded support.

If additional funding was provided through a system benefit charge, the costs of the program would be spread across all customers in the province in portion to their energy consumption, much like Rural Rate Assistance. Funding through a system benefit charge would require some type of legislative direction. As a result, establishing a new system benefit charge would appropriately involve a government decision on the total amount of funding and accountability to the public.

Obtaining charitable donations was also recognized as a means to provide additional funds to social agencies. Many distributors already provide donations.

If funding was provided locally through local distribution rates, it was noted that it would have an unfair impact on the customers of certain distributors, which have a higher proportion of low income consumers. Most stakeholders at the consultation recognized that this would be unfair and did not support this approach.

The EDA agrees that rising energy prices are a concern for consumers in Ontario and a particular challenge for low income consumers. However, the key question of the stakeholder consultation has been who should be responsible for assisting low income consumers. The EDA believes placing responsibility upon utilities to deliver subsidized bills is the least efficient and effective manner to assist low income consumers. Because there is a need for broad based programs to assist consumers in Ontario with their cost of living and energy bills regardless of the energy source, the EDA believes social agencies should continue the role they have in assisting people in need, and a supplemental system focused solely on providing electricity assistance should be avoided.