

BY EMAIL

September 22, 2023

Tam Wagner
Director, Demand Side Management, IESO
LDC/IESO CDM Working Group Co-Chair

Tim Wilson
President and CEO, Synergy North
LDC/IESO CDM Working Group Co-Chair

Dear Ms. Wagner and Mr. Wilson:

Re: **LDC/IESO Conservation and Demand Management (CDM) Working Group
Recommendations Report**

OEB staff have reviewed the August 2023 *LDC/IESO Conservation and Demand Management (CDM) Working Group Recommendations Report* ("Recommendations Report") provided to the Minister of Energy, and I am writing to provide some feedback in relation to the sections of the report that relate to the role proposed for the OEB.

I appreciate the work done by the CDM Working Group to consider a new approach to funding CDM programs with both bulk and local system benefits (described in the Recommendations Report as Stream 2 CDM programs), and the Working Group's efforts to keep OEB staff informed as it developed the Recommendations Report.

The Working Group recommends *"that the OEB determine an implementation mechanism for LDCs to access funding from distribution rates to support the implementation of Stream 2, including a cost sharing mechanism based on the principle of beneficiary pays"* and notes that *"the CDM WG's preference is for appropriate measures to be taken by the government and/or the OEB to ensure this process happens in a timely manner."* The Working Group report expresses a preference for a generic hearing initiated by the OEB as the desired implementation mechanism.

More information on the Working Group's proposal for Stream 2 CDM programs is needed before the OEB can consider initiating a proceeding or provide an opinion as to whether a generic hearing is the appropriate approach to consider a proposed Stream 2 implementation mechanism. OEB staff is therefore providing some suggestions in respect of potential next steps for the Working Group to consider.

Next Steps

The preferred next step is for the Working Group to develop a proposal, with substantial detail, describing its perspective on how key aspects of Stream 2 CDM programming (and the OEB's approach to approving distribution rate funding for Stream 2 programs) would work. This more detailed proposal could serve as the starting point for an OEB regulatory proceeding, whether ultimately initiated by the OEB or through an application. As an alternative, an LDC or group of LDCs could prepare an application for CDM funding through distribution rates. This approach would enable consideration of specific proposals that could be a model for future funding.

The OEB's role as the independent regulator of Ontario's electricity sector means the role of OEB staff is limited to providing the Working Group with guidance of a general nature.

Attached are two documents:

1. ***Refining The LDC/IESO Working Group's CDM Proposal***. This document includes questions that OEB staff believe may aid the Working Group in converting the principles identified in the Recommendations Report into a more detailed proposal for Stream 2 CDM programming that could be considered by the OEB. OEB staff are not endorsing or recommending a specific approach to any of these questions, but believe these are questions that should be considered by the Working Group in developing its proposal. The Working Group is responsible for creating a proposal for Stream 2 CDM programming that it believes is appropriate.
2. ***Procedural Options to Advance the Development of a Funding Stream for "Stream 2" CDM Activities***. Once a more substantive proposal for Stream 2 CDM programming is developed, the next step would be for the Working Group to consider the appropriate procedural approach to recommend that the OEB consider the proposal, or for one or more LDCs to file an application with the OEB.

The Recommendations Report discusses three options:

- a distributor application tied to a specific CDM program funding request
- a generic hearing
- an OEB consultation

This document provides some general considerations regarding distinctions between a generic hearing and OEB consultation for the Working Group to consider with regard to its determination of the most appropriate procedural approach to advance its proposal, in the event that no distributor is prepared to advance a program-specific application.

Cost sharing mechanism and related OEB work on Benefit-Cost Analysis

The OEB notes that the Working Group recommends that funding for Stream 2 CDM programs be based on “*a cost sharing mechanism based on the principle of beneficiary pays.*” The OEB is developing a benefit-cost analysis (BCA) Framework for electricity distributed energy resources (DERs) and other non-wires alternatives. Phase one of this work is primarily focused on assessing distribution-level benefits and costs, but is also likely to include a simplified energy system test that values the relative benefits to the distribution system and to the bulk system. This work may be of assistance to the CDM Working Group in providing a basis for a proposed cost-sharing mechanism for Stream 2 programs. The OEB is planning to hold an initial stakeholder session on the BCA Framework on October 13, 2023. More details can be found [here](#).

In conclusion, I hope that the information provided is of assistance to the Working Group in developing a more detailed proposal for Stream 2 CDM programs.

Yours truly,



Kevin Mancherjee
Director - Operations Decision Support, Ontario Energy Board

Attachments:

1. Refining The LDC-IESO Working Group's CDM Proposal
2. Procedural Options to Advance the Development of a Funding Stream for “Stream 2” CDM Activities

c: The Hon. Todd Smith, Minister of Energy
David Donovan, Chief of Staff, Ministry of Energy
Jason Fitzsimmons, Deputy Minister of Energy, Ministry of Energy
Tamara Gilbert, Assistant Deputy Minister, Conservation and Renewable Energy Division, Ministry of Energy,
Lesley Gallinger, President and CEO, IESO
Chuck Farmer, Vice President, Planning, Conservation, and Resource Acquisition, IESO
Teresa Sarkesian, President and CEO, Electricity Distributors Association
Vince Brescia, President and CEO, Ontario Energy Association
Susanna Zagar, Chief Executive Officer, Ontario Energy Board

Attachment 1: Refining The LDC/IESO Working Group's CDM Proposal

OEB staff suggest that considering the following questions may aid the CDM Working Group in converting the identified principles in the Recommendations Report into a more detailed proposal for Stream 2 CDM programming that could be considered by the OEB. Note that this reflects only the high-level initial thoughts of OEB staff and does not guarantee any outcome to the extent any proposals are submitted to the OEB. OEB staff are not endorsing or recommending a specific approach to any of these questions, but believe these are questions that should be considered by the Working Group in developing its proposal. This list is not intended to be comprehensive. The Working Group is responsible for creating a proposal for Stream 2 CDM programming that it believes is appropriate.

Hearing/Consultation Process and Distribution Rates Cost Recovery Mechanism

The Recommendations Report notes a preference for a generic hearing, with “The expected outcome being an enduring OEB-accepted mechanism that all distributors could follow with the necessary implementation instructions”.

Is the Working Group proposing that the generic hearing would lead directly to a rate order for distributors, enabling recovery of Stream 2 program costs?

- If so, how does the Working Group propose that the rate order design address the fact that the level of participation and requested program budget for Stream 2 CDM programs are likely to vary greatly across distributors, and that details at the distributor level may not be known at the time of the generic hearing?
- If it is not proposed that the generic hearing would lead directly to a rate order, what follow-up mechanism is proposed to enable distributors to recover Stream 2 program costs from distribution rates?

Potential options might include:

- A distributor-specific application (based on guidance from generic hearing) requesting advance approval of program spending and rate recovery approach (e.g., rate rider), for distributors delivering Stream 2 programs, brought forward at the time a distributor has a Stream 2 program it wishes to implement.
 - Would this approach include a variance account to true-up actual and forecast spending?
 - If a rate rider approach is proposed, how long would it remain in place (annually, indefinitely, etc.), and would this vary by distributor?

- A deferral account available to distributors without application to the OEB (based on guidance from generic hearing), with OEB approval required only at the time of disposition of any balance in the deferral account in a future rates proceeding.

Is any form of shareholder incentive proposed?

Will distributors expect to be made whole for lost revenues?

CDM Definition

Is the definition of CDM suitably clear? Does the term “effective electrification” require more definition to determine which activities would be eligible for funding? The definition in the Recommendations Report states that “CDM is defined as activities funded by government ...”. If certain programs under Stream 2 are contemplated to be funded by distribution rates, does this definition need to be broader to encompass funding by electricity consumers?

Program Budget

Is some form of budget cap for Stream 2 proposed, with respect to Global Adjustment funding and/or distribution rate funding?

- If a cap on Global Adjustment Funding for Stream 2 is proposed, how would distributors access the funding (first come, first served; merit-based based on program cost-effectiveness, reserves held for each distributor, etc.)?
- If a cap on distribution rate funding is proposed, how would this be set, e.g., maximum % change in distribution rate?
- If no cap is proposed, how would the OEB ensure that any bill impacts to customers are just and reasonable?

Would distributors be required to dedicate a portion of their program budgets to CDM programs targeting any specific group(s) of customers (e.g., low-income, residential, commercial, industrial customers)?

Program Effectiveness

Upfront program review: How does the IESO propose to vet expected program cost-effectiveness and the assumptions in a distributor’s CDM business case?

Measurement of actual program performance and results (post-implementation): What level and frequency of EMV for Stream 2 programs is envisioned and what is intended by the reference to “streamlined administration, tracking, reporting, evaluation and auditing” within the Recommendations Report? How would the EMV results be used? – e.g., would there be guardrails to cease delivery of programs that were not proving cost-effective in practice? Would cost recovery for distributors from distribution rates be fully guaranteed, regardless of actual program performance, or would there be penalties/incentives for underperformance/overperformance?

Would program EMV always be done by the IESO, or is there another, more cost-effective, option for program EMV than the IESO in some cases (e.g., the OEB)?

What will the remedy be for programs that are found to partially or substantially duplicate programs offered by the IESO and funded through the global adjustment mechanism? What process will be used to assess and implement this remedy?

Assessment of Local/Regional Need

Is there a requirement to demonstrate a specific regional and/or local distribution need for Stream 2 programs? If so, what information does the distributor and/or IESO need to provide to address this requirement?

CDM Funding Ratio

Is the Working Group proposing an unvarying generic ratio between IESO and distributor funding that would be used for all Stream 2 programs, or just a defined methodological approach to cost-sharing, that may yield different cost-sharing ratios for individual programs, based on the proportion of local vs. bulk/regional benefits (e.g., programs in areas of regional need may have greater regional avoided costs, if distributors able to defer specific infrastructure may have higher distribution avoided costs, etc.)?

Does the Working Group have a proposal for the specifics of the methodological approach or the basis for the generic cost recovery ratio? Would it be based on value to the distribution system vs. value to the bulk/regional system (likely yielding a relatively low share of costs borne by distributors, based on avoided distribution costs), or would it also account for the fact that many of the bulk system benefits (i.e., reductions in commodity costs) end up being realized by the distributor’s customers (those who participate in the CDM program)? Do any distributors on the Working Group have recent studies of the value of avoided distribution capacity to the utility that will be used as a starting point? How does the Working Group see the value of avoided distribution capacity changing given the expectation of increasing electrification and load growth?

Third-Party Solutions

How, if at all, would distributors address the OEB's expectation (from the Framework for Energy Innovation) that any proposals for a rate-funded, distributor-owned distributed energy resource (DER) solution demonstrate that a distributor has meaningfully explored contracting services from non-utility-owned DERs? Would distributors propose that Stream 2 CDM programs be exempt from this requirement?

Attachment 2:

Procedural Options to Advance the Development of a Funding Stream for “Stream 2” CDM Activities

OEB staff recognize the CDM Working Group’s desire for a mechanism whereby distributors could access funding from distribution rates to support the implementation of “Stream 2” CDM programs with both bulk and local benefits, which could include a cost sharing mechanism based on the principle of beneficiary pays. A generic hearing of the OEB and an OEB-led consultation are two potential paths to do so; OEB staff have provided background on and potential considerations associated with each below. Another option could be an application by a distributor or group of distributors using existing mechanisms.

It is important to note that either a generic hearing or consultation approach is likely to depend on the Working Group preparing a substantive proposal for OEB/OEB staff/stakeholder consideration. Both a generic hearing and a policy proceeding can only be initiated by the OEB, and sufficient information and reasonable justification is necessary for the OEB to initiate either type of proceeding. Any outcome from either process (e.g., orders resulting from a generic hearing, or guidelines resulting from a policy consultation) would also be determined by the OEB, which should not be expected to automatically adopt whatever proposals the Working Group (or any other stakeholder) provides. OEB staff are also providing general advice to the Working Group on the types of information that a detailed proposal for Stream 2 CDM programs might contain (Attachment 1). However, this advice does not bind the OEB in any proceeding that may follow, and ultimately it is up to the Working Group (and any other interested parties) to determine what matters they wish to propose.

OEB staff also notes that distributor(s) have the option of filing a program-specific application based on the Working Group’s proposal for the OEB’s consideration. This option also provides the most flexibility to the applicant in terms of the approvals sought. Information on the alternative options (generic hearing and OEB policy consultation) is provided below, in the event that no distributor is prepared to advance a program-specific application.

OEB staff remains available to discuss general process matters with the Working Group related to the options outlined below.

Key considerations that the OEB is likely to take into account in determining whether to review the Working Group proposal, either through a generic hearing or a consultation/policy proceeding, are:

- Whether the Working Group's proposal necessitates a rate order or other specific regulatory relief that can be provided on a generic basis, such that a binding order from the OEB is required. If so, only a hearing can provide this.
- Whether the IESO and/or a distributor(s) are willing to file the Working Group proposal as formal evidence and respond to interrogatories. If not, then a generic hearing is most likely not appropriate.

Option 1: Generic OEB Hearing

Summary:

The OEB decides to initiate a generic proceeding to consider the Working Group's proposal (or possibly some other stakeholder's proposal{s}). Although the determination to commence a generic proceeding could be in response to these proposals, the exact scope of the hearing would be determined by the OEB. As is typically the case with all hearings, intervenors can be expected to participate and question, challenge, or propose revisions to the initial proposals, and the OEB will render a final decision (typically through binding orders) based on the evidence presented. Some examples of generic hearings:

- [EB-2021-0243](#) established the Export Transmission Service rate for Ontario transmitters.
- [EB-2022-0094](#) is an ongoing generic proceeding, reviewing the price paid by rate-regulated natural gas distributors and their customers for natural gas produced in Ontario.

Mechanism to Initiate

- Although only the OEB can initiate a generic proceeding, the Working Group (or the IESO and/or a distributor(s)) could submit a request to the OEB for a generic proceeding to establish a given framework/funding mechanism referencing a (public) Working Group proposal.
 - Any Notice of Hearing initiating a generic proceeding could reference the Working Group proposal, to assist in establishing the issues list and scope of the proceeding, and to assist other intervenors who may wish to file evidence. However, OEB staff would expect that the IESO and/or a distributor(s) would subsequently formally adopt this proposal as their evidence; OEB staff would not be acting as an advocate for the proposal.

Potential Outcomes:

A generic hearing can result in a variety of (typically binding) outcomes at the discretion of the panel hearing the matter. For example:

- A rate order or variance account(s) could be created,
- A binding framework could be established
- The panel could determine that there is insufficient evidence to proceed and refer the matter to OEB staff for further development (e.g., by directing OEB staff to conduct a consultation to further develop the proposal) or terminate the proceeding,
- The panel could determine that, based on available evidence, a proposal does not have merit and decline to make any orders in respect of the proposal, or
- The panel could revise a proposal as it sees fit prior to approval.

Considerations

- The specific scope and outcome of any generic hearing would be determined by the panel hearing the case.
 - In OEB staff's experience, the scope, direction, and timeline of generic proceedings can vary.
 - The IESO and/or a distributor(s) should be prepared to file the Working Group proposal as evidence (possibly also with supporting evidence), and respond to interrogatories and cross-examination as appropriate, to support a framework/funding mechanism/decision they wish to see approved.
 - Other parties may also seek to file evidence.
 - OEB staff is not able to say at this point whether it would support or advocate for any specific aspect of the proposal.
 - In the absence of information on which distributors propose to offer CDM, and what their proposed budget would be, the OEB may determine that it is not possible or desirable to issue a rate order that applies to all rate-regulated distributors.

Option 2: OEB Policy Consultation**Summary**

The OEB could initiate a consultative process to solicit stakeholder feedback on OEB staff-proposed changes to the existing CDM Guidelines or new OEB policy related to CDM.

- Staff-proposed changes to the CDM guidelines or new CDM policy would be developed with an understanding of the Working Group's ideas and recommendations for "Stream 2" but may or may not be aligned with them.

Mechanism to Initiate

The existing Working Group or other stakeholder(s) could request that the OEB lead a policy process, potentially noting the preferred outcome (e.g., CDM guideline changes or a new policy framework) for OEB consideration. The OEB could also choose to move forward on its own once a Working Group proposal is developed. The OEB would then determine whether to initiate such a process, the appropriate approach, and the product that would result from the process (e.g., guidelines).

Potential Outcomes:

The most likely outcome of a policy proceeding is new official OEB policy related to CDM. Any CDM policy/guidelines issued by the OEB as an outcome from the policy proceeding would presumably serve to guide LDC applicants in applications they might make for Stream 2 CDM funding.

Considerations

- A consultative process cannot result in binding orders or create a process by which distributors could mechanistically recover “Stream 2” CDM costs from rates without any OEB review.