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April 23, 2026

Ritchie Murray
Acting Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Mr. Murray:

**Re: Joint Submissions of the Low-Income Energy Network and the Vulnerable Energy Consumers Coalition re Consultation on the Regulatory Treatment of Local Electricity Demand-side Management (Stream 2) Programs
OEB File No. EB-2025-0156**

Willms & Shier Environmental Lawyers LLP is counsel for the Low-Income Energy Network (“LIEN”). LIEN is a participant in the above referenced consultation along with the Vulnerable Energy Consumers Coalition (“VECC”).

LIEN and VECC enclose their joint submissions below, in response to the OEB’s Letter of March 31, 2026 inviting comments on draft amendments to the Non-Wires Solutions (NWS) Guidelines, including new guidance for Stream 2 local electricity demand-side management (eDSM) programs.

LIEN’S CO-ORDINATION WITH VECC

To promote efficiency in this proceeding, LIEN and VECC have made reasonable efforts to co-ordinate their intervention to the extent that LIEN’s interests align with those of VECC, resulting in the enclosed joint submissions.

Yours truly,



Matthew Gardner
Partner

*Certified as a Specialist in Environmental Law
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cc: LIEN Legal Subcommittee
Judy Simon – Consultant for LIEN
William Harper – Consultant for VECC

1414-0710-2495, v. 1

Regulatory Treatment of Local Electricity
Demand-Side Management (Stream 2) Programs
Ontario Energy Board File No.: EB-2025-0156

**LIEN and VECC Joint Comments on Draft Amendments to the
Non-Wires Solutions (NWS) Guidelines, including new Appendix for
Stream 2 Local Electricity Demand-side Management (eDSM) Programs**

The Low-Income Energy Network (“LIEN”) and the Vulnerable Energy Consumers Coalition (“VECC”) make the following joint comments in response to the OEB’s Letter of March 31, 2026 inviting comments on draft amendments to the Non-Wires Solutions (NWS) Guidelines, including new guidance for Stream 2 local electricity demand-side management (eDSM) programs.

In an accompanying document titled “Next Steps on the Regulatory Treatment of Local Electricity Demand-Side Management (Stream 2) Programs – Additional Details” (the “Additional Details Document”) the OEB has provided additional details on many of the key areas, particularly those where the draft Stream 2 eDSM Appendix modifies the proposed framework described by the DSM Regulatory Working Group (Working Group). We generally agree with the OEB’s proposed changes and clarifications to the Working Group’s proposed framework. In particular, we support:

- The OEB’s determination that review by delegated authority (“DA”) will not be the default approach for Stream 2 eDSM applications; instead the OEB will consider delegation of applications containing Stream 2 eDSM program funding requests on a case-by-case basis, with a determination made by the Chief Commissioner, informed by a list of questions and related considerations contained in the NWS Guidelines that the Chief Commissioner will take into account in making this determination.
- The OEB’s determination that its existing Complex IRM performance standard (165-day cycle time) will apply to Stream 2 local eDSM program funding requests, whether filed as stand-alone applications or as part of an annual rate adjustment application.
- The OEB’s determination that, as with other NWS funding applications filed outside of rebasing, it will require a distributor to identify whether any funding to address the identified system need is already included in existing rates.
- The OEB’s determination that the cost allocation approach should be based on the cost driver(s) that relate to the distribution system benefits of the Stream 2 local eDSM program, e.g., by adopting the cost allocation approach for the types of assets/costs the Stream 2 local eDSM program is avoiding or deferring.

- The OEB’s determination that Stream 2 eDSM programs targeting on-reserve First Nation communities or income-qualified customers will not be required to achieve a specific minimum benefit-to-cost ratio using the BCA Framework.

Below, we propose some clarifications and suggested modifications to the draft NWS Guidelines (the “Guidelines”) and the accompanying Draft Appendix to Non-Wires Solutions Guidelines: Stream 2 Local eDSM Programs (the “Appendix”). The comments are provided in two parts. The first part sets out the key changes/modifications we believe are required, while the second part provides further suggestions that we believe will improve understanding of the content of the documents.

A. LIEN’s and VECC’s Key Points

1. Delegated Authority

a) Default Approach

At pages 18-19 the Appendix sets out various questions the Chief Commissioner will consider when determining whether a Program funding request will be reviewed by a Panel of OEB commissioners or by delegated authority. In each case the question is accompanied by a description as to how the information provided would be used to determine whether the Program application “may warrant consideration of Panel review”. In our view this approach effectively establishes review by delegated authority as the “default approach” and is inconsistent with the OEB’s determination¹ that “review by Delegated Authority (“DA”) will not be the default approach for Stream 2 eDSM applications”.

In order to be consistent with the OEB’s determination regarding the use of delegated authority, the supporting descriptions should be revised so that they indicate the circumstances under which the Application may warrant consideration by delegated authority. For example, for the first question regarding the size of the Program funding request, the supporting discussion should be revised as follows:

As a guideline, a Program funding request of less than approximately 2.5% of the base revenue requirement may warrant consideration for review by delegated authority.

In our view, these changes are more than simply just rewording. As noted in the OEB’s initial letter of July 23, 2025 requesting comments on the Working Group’s Report:

“The types of applications currently delegated under this authority (i.e. delegated authority) are for reviews that are primarily mechanistic or administrative in nature.”

¹ OEB’s Letter “Next Steps on the Regulatory Treatment of Local Electricity Demand-Side Management (Stream 2) Programs – Additional Details” dated March 31, 2026 (the “Additional Details Document”), page 4.

As a result, the recommended changes are critical in properly positioning the question before the Chief Commissioner as to one of when the Program funding application is sufficiently straight forward and substantiated that delegated authority is appropriate.

Furthermore, to assist parties and, particularly, distributors considering future eDSM Program funding applications in more fully understanding the circumstances under which they can expect delegated authority or Panel review, we recommend that supporting explanation/rationale accompany the Chief Commissioner's determination of the type of review required. Providing this supporting explanation/rationale could be done in a similar manner to explanations provided by the OEB regarding the proposed changes to the NWS Guidelines.

b) Benefit-to-Cost Ratio Considerations (Question #3)

In order to address the uncertainties that will be associated with both the cost estimates for the wires-based alternative and the cost, participation and savings assumptions associated with the Stream 2 eDSM Program and the fact that, under delegated authority these elements will likely be subject to less scrutiny, the OEB should, as guideline, use $>1.15^2$ as the benefit-to-cost ratio threshold when assessing whether a Program application³ may warrant consideration for delegated authority review. It is noted that the 1.15 threshold aligns with proposed 15% overspending provision (i.e., per page 48 of the Appendix⁴, subject to the agreement of the IESO, a distributor does not need to seek reapproval from the OEB for budget increases provided they do not exceed 15%).

In the case of Programs targeting income-qualified customers or on-reserve First Nation communities, as the Minister's Directive does not set any benefit-to-cost ratio threshold, it is reasonable to provide more flexibility as to when review by delegated authority is considered. As such, the currently proposed provision whereby a benefit-to-cost ratio > 0.7 may warrant consideration for delegated authority review is appropriate.

c) Funding Through Existing Rates (Question #5)

It is our view that only those Program applications where there is no request for incremental funding through distribution rates may warrant consideration for delegated authority review. In its Additional Details Document, the OEB states⁵ that it will determine, on a case-by-case basis, whether the proposed spending is incremental to base rates and should be eligible for cost recovery. We note that, in the case of ICM applications such determinations are not necessarily a straightforward matter and related applications are subject to Panel review. We anticipate that such will be the case for Stream 2 eDSM Program applications, particularly those initially filed with the OEB.

d) Identified Traditional Investment (Question #6)

² Absent any notional benefits based on qualitative distribution service benefits or the inclusion of additional quantified benefits associated with reliability, resilience, planning value, innovation & market transformation.

³ Excluding those Programs targeting income-qualified customers or on-reserve First Nation communities.

⁴ OEB's Draft "Appendix to Non-Wires Solutions Guidelines: Stream 2 Local eDSM Programs" dated March 31, 2026. (the "Appendix").

⁵ Additional Details Document, pages 5-6.

Even if there is a well-defined viable traditional investment alternative, in our view there also needs to be a well-founded and credible basis for the costs attributed to the traditional investment alternative (e.g. third-party validation, benchmarking against like projects or assessment/acceptance of the costs by the OEB in a previous proceeding) before the application may warrant consideration for delegated authority review. As noted elsewhere⁶ in the Appendix, distribution service benefits are not within the scope of the IESO's review and their review is solely the responsibility of the OEB. As result, the Chief Commissioner should be fully satisfied that traditional wires-based alternative has not only been well-defined but also appropriately costed when assessing whether an eDSM Program funding request may warrant consideration for delegated authority review.

2. Incremental Funding of eDSM Spending

At page 33, the Appendix states:

“If a distributor identifies that some funding to address the identified system need is already included in existing rates, it may optionally propose a revenue adjustment (e.g., a reduction in the incremental revenue that would be recovered from distribution rates for the Program) or propose that no such adjustment is necessary, with supporting rationale.”

This wording suggests that unless the distributor specifically identifies that funding for the eDSM Program is included in existing rates the distributor would be eligible to recover the incremental costs of the Program through an eDSM rate rider (per page 49). In our view the onus should be on the distributor to demonstrate no funding (or only partial funding) to address the identified system need is already included in existing rate and only be allowed to recover incremental revenue through a rate rider after doing so. Such a requirement would be consistent with the OEB's policies with respect to the ACM/ICM and Z-factors. It would also be consistent with the OEB's statutory objective to protect consumers' interests with respect to price.

3. IESO Role

According to the Appendix⁷ the scope of the IESO's review includes:

- *“Any identified qualitative impacts associated with the upstream energy system, including transmission impacts.*
- *Any identified qualitative benefits (including societal benefits) for a Program targeting income-qualified customers or on-reserve First Nation communities that does not have an EST \geq 1.0. The IESO may take these benefits into consideration in determining whether to endorse the Program.*

⁶ Appendix, page 12.

⁷ Appendix, page 12.

- *A risk mitigation strategy to address key risks identified as BCA considerations, including risks to the Program achieving stated outcomes.”*

In each of the first two bullets the wording suggests the review will be limited to the qualitative benefits identified by the distributor. Similarly, the wording of the last bullet suggests that the IESO’s review of the distributor’s risk mitigation strategy will be limited to those risks identified by the distributor. Given the IESO’s experience and expertise in developing and implementing eDSM-type programs, the scope of the IESO review should include commenting on whether there are any additional upstream energy system benefits that should be considered. Similarly, for Programs targeting income-qualified customers or on-reserve First Nation communities, as well as reviewing the appropriateness of any qualitative benefits impacts that have been identified by the distributor, the scope of the IESO’s review should include commenting on whether there are any additional qualitative benefits (particularly societal benefits) that should be considered. Finally, as well as reviewing the risk mitigation and management strategies that the distributor has proposed for addressing the risks it has identified, the IESO should be expected to consider and comment on whether or not there are any additional risks associated with the eDSM program that have not been identified in the distributor’s Program proposal.

4. Program Performance

At page 15, the Appendix states:

“Under defined conditions, underperformance will require a distributor to develop a mitigation plan (which could include Program adjustments) that must be endorsed by the IESO for the Program to continue.”

Later, the Appendix⁸ states that:

“If IESO EM&V reports show that Program performance is significantly below participation forecasts and/or energy/demand savings targets or is below a benefit-to-cost ratio of 1.0 for two consecutive years, a distributor would be required to provide a performance mitigation plan to the IESO to address underperformance, which could include Program modifications, including rescoping or discontinuing elements of the Program.”

Maintaining satisfactory Program performance in terms of spending, participation and actual saving per participant is critical not only for the Program to remain cost-effective but also for the Program to deliver the savings required to address the identified system need. As a result, we have significant concerns with requiring that the calculations for the two consecutive years of benefit-to-cost ratio being <1.0 before the distributor is expected to provide a performance mitigation plan be based on actual EM&V results.

Given that there may be a delay of close to two years before EM&V results for a given year are reported, requiring two years of benefit-to-cost ratios being <1.0 using the EM&V results means the need for Program modifications would not be triggered until

⁸ Appendix, pages 21-22.

the Program's term was almost completed. As part of their monitoring of Program performance, distributors should be expected to annually assess the Program's benefit-to-cost ratio based on actual participation, actual costs and the originally forecasted demand/energy savings until EM&V results are available. As well, distributors should identify and implement program delivery improvements based on this assessment. For Save on Energy programs, the IESO in at least some, if not all, cases receives from its delivery partners monthly and quarterly program status reports and recommendations for program delivery improvement. The OEB should encourage the IESO to apply this practice to all Stream 2 eDSM programs through its contract with each distributor so that a process of continual improvement is embedded in the delivery of Stream 2 eDSM programs. Adopting this practice should help to minimize the need for mitigation plans. Distributors should be expected to provide a performance mitigation plan when the ratios are <1.0 for two consecutive years and even earlier if target achievement is significantly below that originally forecasted.

Furthermore, the OEB should provide a guideline regarding what is to be considered "Program performance is significantly below participation forecasts and/or energy/demand savings targets". As a starting point we suggest that the OEB use a variance of 15% or more as the threshold, as this aligns with the OEB's proposed 15% overspending threshold.

5. Cost Allocation

a) eDSM Rate Rider Determination

At pages 49-50, the Appendix states:

"The cost allocation approach should be based on the cost driver(s) that relate to the distribution service benefits of the Program; for example:

- Adopting the cost allocation approach approved in the most recent Cost of Service proceeding (or proposed in the current Cost of Service proceeding, if the Program funding request is filed as part of this proceeding) for accounts for the types of assets/costs the eDSM program is avoiding or deferring.*
- Allocating costs based on demand allocators approved in the most recent cost-of-service proceeding, if the system need addressed by the Program is demand-driven."*

In the OEB's Cost Allocation Model most traditional wires-based investments are allocated to customer classes using a combination of customer count and demand, where the demand allocators have been adjusted to account for those costs allocated based on customer count. As a result, it would be incorrect to simply use the demand allocator established for purposes of cost allocation as the sole basis for allocating the cost of the Program to be recovered through the eDSM rate rider to customer classes as suggested in the second bullet. Rather, consistent with the OEB's determination as set out in its Additional Details Document⁹, the allocation should reflect the same

⁹ Page 8

approach as used in the most recent Cost Allocation Model filed with/approved by the OEB.

b) eDSMVA Rate Rider Determination

At page 54, the Appendix states:

“While distributors are requested to propose an approach for how the cost of the original eDSM rate rider would be allocated between rate classes based on cost drivers (see Section 4.4, Cost Allocation Between Rate Classes), the allocator for the eDSMVA balance is distribution revenue.”

It is not clear why the allocator used for the eDSMVA balance should differ from that used to allocate the cost of the original eDSM rate rider between rate classes.

6. Reporting

a) Annual Reporting

At pages 14-15, the Appendix describes the distributor’s annual reporting to the IESO and the OEB and indicates that the reporting to the OEB will include the information provided to the IESO. The Appendix also states:

“Reporting to the IESO supports disbursement of Global Adjustment funds and IESO EM&V activities. The IESO conducts Program EM&V that includes annual reporting on verified peak demand and energy savings and program cost-effectiveness. Reporting to the IESO also supports Program monitoring, including identification if a Program is underperforming.”

What is not clear from the description is whether distributor’s annual reports to the IESO are expected to include an assessment of the Program’s cost-effectiveness (i.e., benefit-to-cost ratios) based on known results for the year in question or whether this assessment will be done by the IESO based on the information provided. It is our view if the distributors are not required to provide updated benefit-to-cost ratio calculations (i.e., program cost-effectiveness based on actual participation rates, costs and the originally forecasted demand/energy savings until EM&V results are available) as part of their annual reporting requirements to the IESO then the distributor should be required to provide such information separately as part of the OEB’s annual filing requirements.

We consider the annual reporting of updated cost-effectiveness results and any Program adjustments made (per page 15 of the Appendix) to be critical in demonstrating, at the time of the Program close out, that the Program has been prudently managed throughout its term.

b) Program Close-Out

At page 53, the Appendix states that *“a request for disposition of the eDSMVA upon Program close-out is expected to include similar information as to what has been provided in annual reporting”*. Earlier on the same page of the Appendix, the OEB notes that, prior to seeking disposition of the eDSMVA, the variance between the forecast and final Program costs will be allocated between a distributor and the IESO in

proportion to distribution benefits versus upstream energy system benefits, using an updated calculation of benefits based on actual Program results that make use of the IESO's Program EM&V. While this information will presumably be available to the OEB, it represents only part of the inputs required to perform a final benefit-to-cost analysis.

The subsequent listing as to the types of final information to be provided does not include a final benefit-to-cost ratio analysis based on actual Program results. We consider this to be a critical piece of information when the OEB is considering the final disposition of the eDSMVA balance and should be specifically noted in the Appendix.

B. Additional Comments to Improve Understanding

1. eDSM Program Definition

On page 6 of the Draft Non-Wires Solutions Guidelines for Electricity Distributors (the "Guidelines")¹⁰ reference is made to "eDSM programs". However, eDSM programs are only defined in the Appendix. It would be helpful to readers if this section (or elsewhere in the Guidelines if more appropriate) provided a definition of what activities were considered to be eDSM.

2. EST/DST Calculation Order

At page 30, the Appendix states:

"The completed Program BCA must include both the Distribution Service Test (DST) and Energy System Test (EST) as described in the OEB's BCA Framework. Methodologically, the EST should be calculated first, because the benefits identified in the EST determine cost allocation between distribution rates and the Global Adjustment, and the costs allocated to distribution rates are then used as an input to the DST. If done correctly, the calculated benefit-to-cost ratios for the DST and EST will be identical. The IESO's cost-effectiveness calculator will automatically calculate both the DST and EST results."

However, the allocation of Program costs between distribution rates and the Global Adjustment also requires the benefits value from the DST. As a result, the upstream energy system benefits and the benefits used for the DST both need to be calculated before the funding available for the Global Adjustment can be allocated and resulting DST and EST values can be determined. The paragraph should be reworded accordingly.

3. EST and DST Impact Categories

At page 37, the Appendix notes that:

"For costs listed as quantitative in Table 2, EST Impact Categories (DST Costs, NWS Acquisition Cost, NWS OM&A Costs), these values are determined based on the cost allocation of overall Program costs between the distributor and the

¹⁰ OEB's Draft "Non-Wires Solutions Guidelines for Electricity Distributors" dated March 31, 2026 (the "Guidelines").

Global Adjustment, with the first category representing the costs paid for by the distributor, and the sum of the second and third categories representing the costs paid for through the Global Adjustment.”

The description of the DST Impact Categories (per page 36 and Table 1) should similarly indicate that the NWS Acquisition Cost is to only include those costs to be paid for by distributor (i.e., should exclude the portion of the acquisition costs funded by the Global Adjustment).