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February 20, 2009

Ms Kirsten Walli
Board Secretary
Ontario Energy Board
27th floor
2300 Yonge Street
Toronto, ON
M4P 1E4

RE: EB-2008-0346
GEC Comments
on Draft Gas DSM Guidelines

Dear Ms Walli,

I enclose three hard copies of GEC's comments on the draft guidelines. They have also been uploaded to the RESS site and distributed to all parties. GEC is working with many other intervenors to retain a common expert to prepare comments on the Assumptions study prepared by Navigant for March 6th.

Sincerely,

(Mr.) Kai Millyard
Case Manager for the
Green Energy Coalition

encls.

EC: All parties.

EB-2008-0346

GEC Comments

on Board Staff's Draft Natural Gas DSM Guidelines

February 19, 2009

2.3 Inputs and Assumptions:

GEC suggests that the following be added: Where a distributor proposes to utilize inputs and assumptions (data) other than that on the Board's website, such inputs and assumptions should be noted in filings, and the independent reviewer/auditor must opine on their appropriateness at year's end.

2.5.1 Free Riders:

The requirement that is proposed for review and updating of free rider rates on an annual basis is critical. Free ridership has been a major issue. Mandatory annual evaluation with independent review will be of great value in improving the quality of results and avoiding disputes The guidelines should make clear that in cases where a new program is being introduced and no free rider rate information is available a 30% placeholder rate is to be utilized for a period not exceeding three years.

2.5.2 Attribution:

GEC does not view the 100% attribution 'centrality' rule as fair to ratepayers, particularly where such a claim may persist for many years. For example, a utility that assists in initiating a program could then claim benefits, perhaps growing benefits, for many years due to the ongoing efforts of others with no further utility contribution and despite the fact that such a program might have since arisen without the utility's involvement. *The default rule for attribution should be* *based upon the proportion of financial contribution.* Claims in higher proportion should require an independent evaluation of attribution. Attributing benefits of a program to a utility in a future test period should be based on the utility's contribution in that test period, and not due to past actions.

2.5.2 Spillover:

GEC notes that the addition of spillover does not increase ratepayer or societal benefits, it merely increases the TRC and increases the potential for controversy and debate.

To avoid a windfall for the utilities, the Guidelines should specify that the introduction of spillover in the TRC calculation should be accompanied by an adjustment to the TRC reward curve recognizing the addition.

Further, GEC suggests that the following be added: Where a distributor proposes to claim spillover, as with all assumptions it should be noted in filings, subject to annual evaluation, and the reviewer/auditor must opine on its appropriateness.

2.5.4 Persistence:

GEC agrees that this should be explicitly accounted for. However, persistence is not a new or distinct adjustment to account for, but rather is an important factor to consider in establishing a measure lifetime. It has always been treated this way to date, and does not require any separate policy. If clarification is desired in the Guidelines, it could simply be incorporated into the description of Measure Life ('N' in the TRC formula).

2.7 Pilot programs

One of the purposes of operating pilot programs is to gather information to support appropriate input assumptions, since LDCs are often in a position of beginning new programs with poorly supported input assumptions. This should be stated. In addition, given the uncertainties in inputs at pilot stage, savings/losses should not be recorded during a pilot year. The LDCs have often used this rule, but it should be formalized.

Further, the results and knowledge gained from pilots should be available to any stakeholder, not only the Board and other utilities. This wording which could be read to limit information access appears elsewhere in the Guidelines, and should be broadened to "publically available" or "any stakeholder" in all locations: see pages 29 and 35.

3.2 Budget Term and Reporting:

GEC has in the past and continues to propose that budgets (and targets) should increase steadily to enable and encourage distributors to pursue all cost-effective savings. Without guidance from the Board on these items utilities will have little incentive to pursue DSM in an aggressive fashion as it will simply increase risk with little added reward. We refer the Board to our evidence and submissions in the generic review.

The specific wording refers only to the 'term of the DSM budget' being subject to rate proceeding review. The wording should be changed to clarify that the term and level of the budget are to be determined in rate proceedings along with SSM incentive details.

3.7 Low Income Programs

The draft suggests that low income programs tend to be less TRC cost-effective than other programs, but this is not necessarily the case. These programs do tend to have high O&M costs due to the high incentive levels involved, but this does not affect TRC cost-effectiveness. It is due to this high O&M cost reality that it is appropriate that low income should not have to continually compete with other programs for budget resources, and we applaud the suggestion to create a separate 'bin' within which to consider low income programming.

4.2 Calculation of LRAM

LRAM volumes should be calculated as half of the annual fully effective savings volume. This is the method ordered by the OEB and used by Union – it is simple and transparent. Enbridge uses a complicated month by month approach which is more expensive to operate, complex and difficult to audit. For transparency sake GEC suggests the OEB require both LDCs use the Union approach.

5.1 Shareholder Incentives

The Draft makes reference to inclusion of programs with negative benefits in shareholder incentive claims. This may appear to conflict with the 2006 guideline that no programs shall be operated that are not cost effective. However, GEC understands that while a program may be planned and screened as cost-effective, a negative result may occur. The section should be worded to indicate that it is these results that should always be included, not that the Board is now suggesting that non cost-effective programs are acceptable.

Having said this, new resource acquisition programs may not be cost-effective in the first or second years, and may require a ramp-up period before producing positive net benefits. GEC suggests that the Guideline be amended to require resource acquisition program cost-effectiveness once a program is in full scale operation.

5.1.1 SSM for Resource Acquisition Programs:

GEC welcomes the proposal to base SSM on actual results rather than forecasts. This will reduce gaming, be fairer to ratepayers, encourage real savings and reduce disputes at the EAC. The distributors have ample experience to cope with the change. GEC continues to submit that a threshold is appropriate to safeguard against unfair rewards for mediocre performance.

However, this proposal was made by a number of parties in concert with the proposal to shift control of evaluation work from the LDCs to the Board. If the Board accepts one proposal but not the other, as Board Staff suggests, a powerful incentive is created for the LDCs to avoid conducting meaningful evaluation studies, since doing so will only add risk to their shareholder incentive prospects. Under the current rules utilities have little incentive to do good evaluation and perhaps a negative incentive to the extent that poor results may be exposed. (This has certainly been the experience to date with Enbridge – see GEC's submissions in the recent DSM Variance account clearance case.) Under the "SSM based on actuals" proposal, the disincentive grows as evaluation can immediately reduce SSM rewards. Accordingly, the need for truly independent decisions about what to evaluate and oversight of the studies is greater.

GEC submits that a move to clearance of SSM based on actual results and independent, credible evaluation can increase fairness, increase energy and economic efficiency, lead to better planning, lead to less controversy and less regulatory burden, and lead to faster program improvement. Accordingly, we submit that the Board should adopt both the proposal to use actuals and heightened requirements for timely and credible evaluation.

In regard to evaluation and audit GEC has suggested that the evaluation function be moved outside the utility's control (to rest with a committee lead by OEB Staff that includes the EAC and utilities). If the Board does not accept that proposal we would suggest that the choice of auditor and the instruction of the auditor be moved to the EAC committee in a non-advisory capacity as a check on the evaluation function.

5.1.2 Market Transformation Incentive:

GEC suggests that the Guideline specifically encourage the use of easily determined metrics that reflect lasting changes in market behaviour, the purpose of MT programs. Metrics such as attendance at seminars are not in themselves sufficient to demonstrate changes in the marketplace. While evaluation may be done using these 'soft' metrics to monitor program progress, GEC submits that shareholder incentives should be based on bottom-line results that are clearly related to market shifts that will produce savings.

6.1 Evaluation Plan:

GEC agrees that a proper evaluation plan should be a prerequisite for program funding. GEC prefers independent evaluation with EAC involvement in retaining and instructing the evaluators. If the guidelines do not specify such independence, it is vital that the guidelines require that the evaluation plan be specific.

6.2 Program Type Specific Guidelines

This section repeats the definition of market transformation programming, including the reference to having "a long time horizon." GEC submits that the LDCs are beginning to interpret this to mean that they can operate the same MT program for a very long time since they require a long time to succeed. In GECs view, at least in some cases quite the opposite should be expected. The objective of an MT program is to operate a program for a short term, accomplish the goal, and retreat from the market so that ratepayer funds are not needed indefinitely to obtain the benefits of these savings. The OEB should direct the LDCs when proposing MT programs to conduct their planning with this approach in mind. The reference to a long time horizon refers therefore to the stream of savings produced, not to the term of the program.

In some cases MT accomplishments may well require a longer time horizon. In order to determine whether a MT program is making meaningful progress GEC believes the recommendation made by the auditor for Enbridge's 2007 results should be adopted: design all MT programs using program logic models and include this information with the program proposals. These models describe how a MT program's activities will indeed transform the market over time. Such plans should identify which market indicators will be changed, how much they will be changed at different points in time, how the changes are linked to each other (e.g. increased consumer awareness leads to increased demand which leads to increased frequency with which a product is stocked, which leads to lower product incremental cost, which leads to further increases in demand...), etc. That way annual evaluation work can identify and measure the parameters that really matter and companies can be held accountable if their MT programs are not producing results.

6.3 Implementation of Updated Input Assumptions:

As discussed above under 5.1.1 GEC submits that the change to reliance on actuals will have several benefits.

6.4 Evaluation Report

Board Staff introduces the idea that LDCs can launch new, not-approved programs or measures during a year, and should be allowed to use TRC input assumptions from a "proxy technology" in its evaluation report. This appears to GEC to be asking for controversy, and an alternative approach would be more consistent with other proposals in the Draft Guidelines. In the final section "Adjustments to an Approved Plan" LDCs are expected to come forward to the Board for budget reallocation and new program approval. In GECs view, LDCs should be expected to provide input assumptions and supporting evidence along with their filing at this stage for information only, and update it if necessary in the Annual report, so that detailed review and approval would occur at year's end.

6.5 Independent Third Party Review:

This section should specify that all claims must be based on an unqualified opinion of the reviewer/auditor.

An important task for the Auditor is missing from the bulleted lists of audit tasks and should be added in the final guidelines. The Auditor should verify that calculations leading up to savings, LRAM and SSM claims are correct.

7.0 Consultative:

In the bulleted list of matters on the EAC's agenda reviewing the results of evaluation work on new programs is mentioned. In GECs view, review of evaluation work should not be restricted to new programs.

8.1 Funding for DSM Programs

Should additional funds become available to LDCs from third parties to support their DSM programs the Draft suggests this should automatically displace ratepayer funds with the expectation that ratepayer funds would be returned and the third party funds used instead. If this policy is approved, it is likely to eliminate any incentive that third parties would have to contribute funds, since the expectation that additional funds would be made available to produce additional savings would be defeated. It should be the presumption that additional funds are allocated to expand participation and program savings.

9.0 Annual Reporting Guidelines

The specificity offered in this section is helpful. However, we suggest the content be incorporated into section 6.4 which also describes requirements for the annual report.

Missing is a basic requirement that should be added to the Final Guidelines. "All input information necessary for a third party to replicate the TRC, SSM and LRAM calculations."

10. Filing guidelines

Again, the specificity of this section is welcomed. GEC submits that the requirements in subsection 3 for class specific DSM cost calculation, calculation of class specific rate rider and rate comparisons are appropriate so long as these items do not appear on the end user bill. Inclusion on the bill of this particular component of rates while numerous other components are not broken out (such as marketing, executive compensation, regulatory costs...) would be an invitation to stakeholders to place undue focus on reducing such costs.

Consistent with comments above on attribution (2.5.2) wherever an LDC intends to claim credit for a portion of the benefits of a shared-sponsorship program using the attribution rules, it should prefile information with respect to the other parties involved in the program and the funding each is providing.

Finally, the prefiling requirements for MT programs should include the program logic model information as discussed in 6.2 above.

10.1.4Adjustments to an Approved Plan

Consistent with our discussion above regarding the use of assumptions from a "proxy technology" for new measures or programs, GEC proposes that in addition to the requirements listed, an application for adjustments to an approved plan to support a new program should also include the program proposal information as described in 10.1.1 (2). However, we suggest that these filings for new programs (assuming spending falls below the 20% threshold) be for information purposes only, and that approval be dealt with when the LDC is next before the Board to clear DSM-related accounts. As long as these filings are made, we suggest that the LDC should not be at risk for their spending on the new initiative pending approval. Further, LDCs should be encouraged for new programs or significant assumption changes to consult their Evaluation and Audit Committees prior to implementation.