February 14, 2011

Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, Ontario
M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

RE: EB-2008-0346 – Union Gas Limited – Comments on Revised Draft Demand Side Management Guidelines for Natural Gas Utilities

Dear Ms. Walli:

On January 21, 2011 the Board posted for comment a staff discussion paper along with the Revised Draft Demand Side Management Guidelines for Natural Gas Utilities (the "Draft Guidelines"). Please find attached Union's submission on the options and recommendations contained in the staff discussion paper and the Draft Guidelines.

As requested, Union's comments follow the format of the Draft Guidelines. There has been significant collaboration with Enbridge Gas Distribution which has resulted in alignment in the majority of positions.

If you have any questions, please contact me at 519-436-4521.

Yours truly,

[original signed by]

Marian Redford
Manager, Regulatory Initiatives

cc: Crawford Smith (Torys)
EB-2008-0346 Intervenors

1. INTRODUCTION

Throughout the consultation process, Union has maintained that the existing DSM framework has worked well, to the benefit of all parties. The framework has provided the gas utilities with the necessary flexibility and stability to create and deliver effective DSM programs, producing significant energy savings for Ontario's energy consumers. In general, the Draft Guidelines provide a framework for the next multi-year DSM plan that will continue to provide the gas utilities with the flexibility needed to respond to changes in the market. For this reason, Union is largely supportive of the Draft Guidelines.

There are areas where Union believes that the Draft Guidelines require amending to allow Union to build on its experience to-date in developing and delivering successful DSM programs. Union's detailed submissions on each of the guidelines are provided below.

As requested, Union's comments follow the format of the Draft Guidelines.

2. TERM OF THE PLAN

Union supports a three year term for the multi-year plan. Should the Board extend the term of the DSM Guidelines past 2014, a review of the budget, target and incentive levels should be undertaken.

3. PROGRAM AND PORTFOLIO DESIGN

Union supports the four objectives outlined by Board staff to guide its DSM programs and the inclusion in the Draft Guidelines of fuel-switching opportunities that contribute to net greenhouse gas reduction.

Union further supports the recognition in the Draft Guidelines that sufficient flexibility is required to ensure the natural gas utilities can continuously react and adapt to current and anticipated market conditions. Union therefore disagrees with the proposed requirement for the gas utilities to apply to the Board for approval to re-allocate funds to new programs, or for cumulative fund transfers among programs that exceed 30% of the approved budget for an individual program. Union does not believe this restriction is warranted. Union notes that this restriction was not recommended within the report prepared for the Board by Concentric Energy Advisors ("CEA") which noted "the utilities are in the best position to determine which DSM programs and measures will meet the specific DSM metrics and targets that have been established by the Board because they have more interaction with customers and they understand how customers respond to various programs."

Union submits that this restriction significantly hinders its ability to respond to changes in the market or changes in input assumptions. Further, the proposed guideline does not support the Board's guiding objectives to prevent lost opportunities and maximize cost effective natural gas savings. It would impact joint program opportunities with regulated and non-regulated entities as no firm agreements will be established for new programs until the filing and approval process is complete.

The current process whereby the DSM budget allocation is filed in the Annual Report and trued up through the annual deferral account disposition process is the appropriate forum to address budget variances. Union supports the principle of providing access to DSM programs across its residential, commercial and industrial distribution contract rate sectors and will continue to inform stakeholders of any material changes to solicit feedback as necessary.

4. PROGRAM TYPES

4.1 Resource Acquisition Programs

Union supports the continuation of resource acquisition programs. Resource acquisition programs, however, are not limited to the installation of energy efficient technologies. Direct resource savings are also achieved through process and operational changes, including initiatives such as building optimization. Union recommends that the Draft Guidelines be broadened to include theses other activities.

4.2 Low-Income Programs

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

4.3 Market Transformation Programs

Union supports the continuation of market transformation programs. The Draft Guidelines, however, narrowly define what types of programs qualify as market transformation programs. As noted in the Draft Guidelines, market transformation programs must be assessed on their own merits based on the specific objectives of the program. Utilities should be allowed to propose a range of potential programs for consideration.

4.4 Research and Development ("R&D") and Pilot Programs

Union supports the inclusion of R&D and pilot programs in the Draft Guidelines. However, Union does not agree with the characterization of these programs within the Draft Guidelines. R&D and pilot programs not only serve as an opportunity for the utility to advance technologies, but also methodologies or market strategies that are not widely accepted. They provide the ability to explore innovative approaches to conservation and support the next level of efficiency through opportunities such as integrated energy systems, which promote planning at the neighbourhood and community levels.

Union recommends that the Board allow the utilities to establish a development fund within the DSM budget. The utilities require the ability to allocate a percentage of their DSM budget in a fund dedicated to R&D, pilot initiatives and capacity building to ensure there is no disincentive to undertake these activities. These initiatives are inherently longer-term in nature and do not necessarily generate resource savings within the given program year. Activities undertaken within this fund will be reported in the utilities' Annual Report but will not be subject to assessment within a performance scorecard. The amount dedicated to this fund will be established in Union's DSM planning process.

Establishing a budget dedicated to these initiatives will allow Union to undertake activities to establish a green workforce in Ontario and to actively participate in joint initiatives with the Ontario Power Authority ("OPA") to enhance their planned training activities with important information on natural gas conservation. Coordination between the electric and natural gas sectors in Ontario will evolve the initiative into a comprehensive fuel-neutral energy conservation capacity building program. The gas utilities would lead in the design and implementation of all information related to natural gas to ensure it aligns with the market's requirements and Union's program portfolio. The costs for this initiative should be appropriately shared between the electric and gas sectors to avoid cross subsidization between fuel types. Absent a standalone dedicated budget, Union's participation in these activities will be limited due to the scale of the OPA's capacity building initiatives.

Should Union require additional funding for R&D, pilot programs and/or capacity building/training initiatives within the multi-year Plan term a separate application would be filed with the Board for approval.

5. SCREENING AND PRIORITIZATION

5.1 Screening Test

5.1.1 Net Equipment Costs

Union supports the Board staff's recommendation with respect to net equipment costs. The TRC test does not differentiate between who (natural gas utility, customer, or third party) pays the cost of the equipment. For equipment bulk purchased by the utility, this actual cost should be used in the net equipment cost calculation, rather than the retail cost.

5.1.2 Program Costs

Union supports the assessment in the DSM Guidelines that some evaluation and verification costs will be assigned to a specific program or multiple programs, while a portion of the costs are more appropriately assigned across all programs at the DSM portfolio level. Specifically, it may be appropriate to associate an annual verification study with an individual program. Similarly, some Market Transformation programs may require specific activities annually to assess program results. All other evaluation, monitoring and administrative costs should be considered at the portfolio level consistent with the current practice. It is not practical to assign these costs to an individual program. For example, a cost effective program should not be screened out of the DSM portfolio if a significant evaluation study is conducted in a given year.

5.1.3 Modified TRC Test Calculation

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

5.2 Market Transformation Programs

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

5.3 Research & Development ("R&D") and Pilot Programs

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

5.4.1 Prioritization

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

6. DEVELOPMENT, UPDATING AND USE OF ASSUMPTIONS

6.1 Input Assumptions

Union supports the Board's proposal to retain an independent consultant to review and update a common set of assumptions. Union further supports the engagement of a Board-retained consultant in the input assumption process on an annual basis. This independent technical professional could serve on the Evaluation Coordinating Committee on behalf of the Board as proposed in section 16 below.

6.1.1 Base Case Assumptions

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

6.1.2 Updates to Input Assumptions During the DSM Plan

Union supports the Board's oversight in coordinating the input assumption update process between Union and Enbridge. Union further supports continued oversight through the Board-retained consultant over the term of the plan. The current stakeholder review process for input assumption updates is not appropriate or efficient given that the parties involved do not necessarily have the requisite technical expertise. In Union's view, it is not appropriate for members of the Evaluation and Audit Committee ("EAC") who typically lack this expertise to be charged with the review and confirmation of technical input assumptions. Therefore, Union does not support Draft Guidelines that result in the continuation of the current approach.

Changes to input assumptions are a product of evaluation studies, and other research where applicable. Input assumptions for new measures are a product of recently conducted research. Union recommends the Board-retained consultant's role include reviewing all studies that effect the existing input assumptions and review new input assumptions proposed during the term of the plan.

Union also proposes establishing an Ontario-wide Evaluation Coordinating Committee, as described in section 16, to oversee all energy conservation evaluation and verification activities. Once an evaluation study is completed the results would be assessed by the Committee which would have the technical expertise to vet these studies. The Board-retained consultant would be a member of the committee. Input assumptions would be confirmed by the Evaluation Coordinating Committee for the gas utilities and for the OPA in the case of related measures. This approach would address the current disconnect between the input assumptions used by the natural gas utilities and the OPA for associated measures to develop a common set of inputs for Ontario. The updated input assumptions would be used to measure the utility results for the given technology, on a go-forward basis, once confirmed by the Committee. This process ensures coordination of input assumptions among the natural gas utilities and the OPA, ensures relevant stakeholders are represented in the process, and engages technical experts to achieve the most accurate results. The annual process outlined by Board staff in the Draft Guidelines would be replaced with this process.

Union proposes to work with Board staff, Enbridge, the OPA and stakeholders to further develop its proposal in 2011for implementation for the 2012 – 2014 DSM Plan. Should the Evaluation Coordinating Committee not be established prior to 2012, evaluation, monitoring and verification ("EM&V") oversight would reside with the Board-retained consultant until such time that the Committee is established.

6.1.3 Use of Input Assumptions

Union disagrees with Board staff's proposal to use the best available input assumptions at the time of the audit to determine incentive amounts. While the utilities should continuously make adjustments to the design, delivery, and portfolio of DSM programs offered based on the information available during the year, applying changes to input assumptions retroactively at the time of the audit does not support this process. Often the results of evaluation studies are not available until after the year to which they would be applied. The utilities cannot make adjustments based on new information until the information is available. Therefore, evaluation studies should not be applied retroactively to utility program results.

As the targets would be based on the same assumptions used for the actual results, the utility would not be over or under rewarded for actual performance relative to the target when inputs are not retroactively changed. This principle was recognized during the stakeholder engagement process between Union, Enbridge and the Low-Income sub-committee, composed of members of the utilities' Consultative, convened to consult on the Incremental 2011 Low-Income DSM Plan.

Within the Incremental Low-Income Plan, Union allocated funds to undertake a contractor assessment. This study was intended to verify the inputs used to calculate the Home Weatherization program's energy savings are calculated for 2011 in a manner consistent with the basis from 2009-2010. This was required as the utility historical results were used in the development of the natural gas savings targets established in Union's 2011 Home Weatherization

Scorecard. The evaluation study, requested by the stakeholders in the Low-Income sub-committee, is intended to verify the *consistency* of 2011 measured results relative to the scorecard target, not the *accuracy* of the savings estimates.

A change in the measurement inputs relative to the target, even where it improves accuracy of reported savings, would lead to achievement of the scorecard incentive which is over or understated relative to the assumptions used in the target. This would be inappropriate.

It is important to note that CEA did not support retroactive input assumptions. CEA ultimately determined that "the input assumptions used to calculate the utility incentive payment achieved should not be adjusted retrospectively for the prior program year that the Evaluation Report covered."[1] CEA's report highlighted the risks involved in updating input assumptions used to measure utility performance through outlining the issues this process caused for the utilities in California in confirming their earnings claims.

Best available input assumptions have, historically, been applied retroactively in California to determine the energy savings for the utility shareholder incentive mechanism. The state of California Public Utilities Commission ("CPUC") is in the process of amending the mechanism to utilize locked-in input assumptions to cover the entire 2010-2012 program cycle. The draft version of the *Decision Regarding Risk/Reward Incentive Mechanism Reforms*, released November 15, 2010 by the CPUC summarizes the utilities' arguments as to why the current process introduces unwarranted complexity and controversy. The CPUC is in agreement with the utility position. In explaining the rationale for the change, the CPUC notes:

> *"Undue attention on the detailed calculations of ex post energy savings as the basis for incentive awards has diverted the focus away from the overarching goal of delivering exceptional programs that reduce energy consumption and carbon emissions, helping to foster fundamental changes in how Californians use energy.*
>
> …
>
> *A significant measure of dispute over RRIM earnings determinations can be neutralized by modifying the process for measuring performance metrics used to determine incentive awards. Instead of making incentive earnings dependent on detailed ex post calculations, we modify the incentive calculation by measuring performance by applying the same ex ante assumptions utilized in developing the adopted 2010-2012 energy efficiency portfolio."*[2]

Should the Board require a change in the current process and move to input assumptions based on best available information, it is only appropriate to adjust input assumptions on a prospective basis when the results of evaluation studies are confirmed. This process would ensure the utility is not penalized or unduly rewarded on a retroactive basis for information not available at the time when the programs were being developed.

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[1] Concentric Energy Advisors Inc. *Response to Stakeholders' Written Questions*, May 20, 2010. P.19
[2] State of California Public Utilities Commission. *Decision Regarding Risk/Reward Incentive Mechanism Reforms*. 15 November 2010. <http://docs.cpuc.ca.gov/efile/PD/126428.pdf> p. 21 - 22.

Union proposes a best available "going forward" approach that would update input assumptions[3], for the purpose of determining incentive amounts, as they are confirmed. To illustrate, if a new input assumption becomes available in May, that new input assumption will be used from the point it is confirmed for the remainder of the year. From January to its confirmation date, however, the incentive amount would be based on the input assumption that was known during that period. This approach would serve to provide assurance to the Board and stakeholders that the utility will, in response to changing input assumptions, adjust its program design, and program mix to the extent reasonable, based on the most accurate information available. Finally, Union notes that using best available information on a going forward basis would be consistent with the Board's well-established practice in respect of prudence reviews. There, decisions made by management are assessed based on the information available at the time; not through the application of hindsight.

It should be noted that if a program screens as TRC negative due to an update in input assumptions, Union would require a program withdrawal period without being penalized. This requirement is to prevent market disruption and manage contracting commitments.

Union agrees with Board staff that LRAM input assumptions should continue to be based on the best available information at the time of the audit as this mechanism is intended to be an accurate true-up of lost volumes experienced in the preceding program year.

6.2 Avoided Costs

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

6.2.1 Updating of Avoided Costs

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

6.2.2 Costs of Carbon Dioxide Equivalent ("CO_2e") Emissions

Union supports including a value for the reduction of greenhouse gas emissions in the calculations of total resource cost used to screen DSM programs. The value for avoided CO_2e emissions proposed by Board staff of $15 per tonne is, however, too low to have a material impact on the screening of DSM programs for inclusion in Union's DSM portfolio.

6.2.3 Discount Rate

Union agrees that a common discount rate should be used by the natural gas utilities. Furthermore, Union supports aligning the natural gas utilities' discount rate with the discount rate used to screen electricity conservation programs. The alignment of discount rates is of particular importance for potential collaboration arrangements on energy efficiency programs with electric LDC's that involve a sizeable capital investment. Without this, initiatives may be deemed acceptable for electric utilities, but not pass the screening test for the natural gas utilities. Alignment will address

[3] For prescriptive measures, "input assumptions" refers to resource savings, equipment life, equipment costs, free ridership (where applicable), and spillover (where applicable). For custom projects this refers to free ridership and spillover (where applicable).

current screening inequities and will aid in the potential collaboration of natural gas and electric conservation programs. Union therefore supports the application of the OPA discount rate for the term of the Plan.

7. ADJUSTMENT FACTORS OR SCREENING AND RESULT EVALUATION

As outlined in section 6.1.3 above, Union disagrees with applying best available input assumptions retroactively at the time of the audit to determine incentive amounts. A best available "going forward" approach is more appropriate.

7.1 Free Ridership and Spillover Effects

Union agrees with CEA's position that free ridership is offset by the effect of spillover. Determining these adjustment factors reliably would become increasingly complex as more program administrators enter the Ontario marketplace. Free ridership and spillover studies are complex, difficult to implement, have inconsistencies in methodologies and are fraught with uncertainty and debates. Furthermore, they are costly, time consuming and present a burden on program participants. In Union's experience, studies have cost a minimum of $90,000 and a single study has taken over a year to complete. Assuming free ridership is offset by the effect of spillover will simplify the program evaluation process and allow the utility to focus on effective program planning and implementation.

Should the Board require the continuation of the current assessment process for free ridership with the inclusion of spillover, the level of research into the studies the utilities undertake will be weighed against other evaluation priorities, taking budget limitations and customer and market barriers into account. Union must ensure the administrative requirements to determine these adjustment factors are balanced with the need to be mindful of survey fatigue and ensuring a positive customer experience.

If the continued application of these factors is required, free ridership and spillover should be treated consistently for approval purposes, as they are opposite effects of the same nature. Free ridership and spillover studies from other jurisdictions should not be applied, as these rates vary from jurisdiction to jurisdiction and are not reliable indicators when transferred.

7.2 Attribution

Union notes that the Draft Guidelines did not address the situation of a partnership between more than two parties. In the event that the partnership is established between a natural gas utility, a rate-regulated electricity distributor, and one or more non-rate regulated parties, Union proposes that attribution follows the rules outlined in section 7.2.2 below.

7.2.1 Attribution Between Rate-Regulated Natural Gas Utilities and Rate-Regulated Electricity Distributors

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

7.2.2 Attribution Between Rate-Regulated Natural Gas Utilities and Other Parties

Union supports attribution of m^3 savings based on the partnership agreement between parties, guided by the principle of financial contribution as outlined below. Union does not agree with the requirement to file program share budget information when a partnership agreement is established before the program is launched. Partnership agreements, and appropriate allocation of results, should be reviewed by the Auditor during the annual DSM audit. This would reduce administrative requirements for the Board while providing all parties reassurance that the appropriate results have been claimed in Union's Annual Report.

The percentage of m^3 savings Union is entitled to claim with the Board should be based on the percentage of the overall modified TRC value for a program as opposed to the percentage of natural gas savings alone. Union's financial contribution generates all resource savings that result from the program, not just natural gas. Additional resource savings may include electricity, water, propane and heating fuel oil. This approach recognizes the full value of a program to society and ensures partnerships with non-regulated entities are not discouraged. This point will become increasingly relevant as the marketplace evolves.

Where Union's allocated share in a partnership agreement is not more than 20% of its financial contribution on a TRC basis, no explanation should be required. For clarity, where Union contributes 30% of a program's costs, and the natural gas savings account for 50% of the TRC benefits for the program, Union should be entitled to claim 100%[4] of the gas savings without any additional regulatory review.

When no partnership agreement exists, the attribution of natural gas savings should be calculated on the modified TRC value of benefits based on the total dollars spent by the natural gas utility. Where Union contributes 30% of the program's costs, and the natural gas savings account for 50% of the modified TRC benefits for the program, Union should be entitled to claim 60%[5] of the gas savings.

In contrast, under the attribution rules proposed in the Draft DSM Guidelines, the natural gas utility in the examples above would only be allowed to claim up to 50% of m^3 savings with a partnership agreement (before an explanation would be required), and only 30% of m^3 savings without a partnership agreement. This approach does not adequately recognize the derived value of the program to society. By doing so, it discourages collaborations with non-regulated parties such as water utilities, non-profits, government agencies, retailers, and manufacturers.

[4] % Program m^3 Savings Claimed = (% of Dollars Spent + 20%) / (% Natural Gas Savings on TRC Basis). In this example the calculation is (30% + 20%)/50% = 100%

[5] % Program m^3 Savings Claimed = (% of Dollars Spent) /(% Natural Gas Savings on TRC Basis). In this example the calculation is 30%/50% = 60%

Union's recommendation would also ensure the natural gas utilities are not incented to cross subsidize other resource savings generated by the program. Through basing the share of m3 saved on the TRC value for a program, Union would have little incentive to finance any portion of the program beyond the percentage of m3 savings generated by the program. If 70% of the savings on a TRC basis are generated by natural gas and 30% are generated by water, it would only be in Union's interests to fund 70% of the program to claim all gas savings, with the partnering water utility funding the remaining 30%.

By contrast, the proposal in the Draft Guidelines of basing the share of m3 claimed solely as a percentage of the gas savings alone would provide an incentive for Union to fund other resource savings, as absent a partnership agreement Union would have to fund 90% of the entire program to claim 90% of the gas savings. Union's ratepayers would therefore fund a larger percentage of the savings, while the decrease in overall rates realized by customers is based on the natural gas resource savings alone.

7.3 Persistence

While Union acknowledges that persistence is an important factor in measuring a program's true impact on savings, the trade-off between accuracy and costs associated with developing persistence factors must be considered. The level of research into persistence factors that the utilities undertake should be weighed against other evaluation priorities, taking budget limitations and customer and market barriers into account. This is consistent with the current process. Currently, persistence studies are conducted on low-cost measures to confirm they were installed and have not been removed. Union contracts third party independent evaluators to conduct detailed primary research with a high degree of statistical confidence to determine appropriate persistence factors for a given program year. For technologies that would not reasonably be uninstalled prior to the end of their useful life, persistence savings are already captured by "measure life". To go beyond this level of detail would be complex and provide little value.

It is not appropriate to include dynamic free ridership as contemplated in the Draft Guidelines and outlined in the Board staff discussion paper within the context of persistence. Partial free ridership is appropriately included in the scope of free rider studies. To include this factor in a persistence adjustment would result in double counting. Furthermore, it is not practical to review historic usage patterns for participants of large custom commercial and industrial projects to assess persistence adjustments going forward. An increase or decrease in gas usage based on bill analysis may be related to a number of factors not directly linked to the custom initiative delivered by Union. In addition, Ontario has experienced a period of unprecedented economic uncertainty that may have an impact on the results, as industrial output was reduced over this period, which will not be experienced for custom initiatives undertaken over the term of the multi-year Plan. It would further be extremely difficult to accurately identify the impacts and trace the equipment. For example, where a customer had closed down its processes, any equipment installed through the Union DSM program may have been sold to another facility. As Union's large commercial and industrial market is relatively stable over the long term and custom projects are long-term in nature, the complexities associated with undertaking such an assessment to any degree of certainty are not warranted.

Ultimately, the process of weighing evaluation priorities should be based on recommendations from evaluation experts, with input from relevant stakeholders. This aligns with the Evaluation Coordinating Committee concept outlined in section 16 below.

8. BUDGETS

Union supports the establishment of multi-year funding at the outset of the Plan term to increase certainty for all parties while maintaining flexibility for the utility to deliver energy savings towards its DSM targets.

Union supports the budget path proposed in the Draft Guidelines. As the annual budget escalation for Union is lower than Enbridge, Union expects activities that do not vary directly with program participation rates (such as research, evaluation, audit, administration, program costs, salaries and overhead) will make up a larger proportion of its DSM budget relative to Enbridge over time. This will be required to maintain a degree of consistency in fixed-cost practices, such as evaluation activities, provide funding to participate in joint initiatives, and provide for alignment in program scope. This implication will be reflected in the DSM targets for Union relative to those for Enbridge.

The actual budgets for Union’s resource acquisition, low-income and market transformation programs, as well as the budget for EM&V, will be developed in the DSM planning process and will be filed with the Board for approval. This process will determine the share of the overall budget allocated between the program types.

Union further recommends the Board allow each utility to establish a development fund within the DSM budget dedicated to R&D, pilot initiatives and capacity building. As outlined in section 4.4 above, the utilities require the ability to allocate a percentage of their DSM budget in this fund to ensure there is no disincentive to undertake these activities. These initiatives are inherently longer-term in nature and do not necessarily generate resource savings within the given program year. Activities undertaken within this fund will be reported in the utilities’ Annual Report but will not be subject to assessment within a performance scorecard. The amount dedicated to this fund will be established in Union’s DSM planning process and filed in the multi-year DSM Plan for approval.

9. METRICS

9.1 Resource Acquisition Programs

Union supports the flexibility outlined in the Draft Guidelines for the utilities to develop scorecard metrics, and the weight associated with each metric, in the DSM planning process. Union will file the metrics and metric weights for its resource acquisition scorecard(s) in its 2012 – 2014 DSM Plan.

9.2 Low-Income Programs

Union supports the flexibility outlined in the Draft Guidelines for the utilities to develop scorecard metrics, and the weight associated with each metric, in the DSM planning process. Union will file the metrics and metric weights for its low-income scorecard(s) in its 2012 – 2014 DSM Plan.

9.3 Market Transformation Programs

Union supports the flexibility outlined in the Draft Guidelines for the utilities to develop scorecard metrics, and the weight associated with each metric, in the DSM planning process. The metrics for market transformation programs must be developed in line with the stage and specific objectives of the program. Union will file the metrics and metric weights for its market transformation scorecard(s) in its 2012 – 2014 DSM Plan.

10. DSM TARGETS

Union supports the continuation of annual DSM targets. Union further supports the recognition in the Draft Guidelines that some multi-year programs may require an initial ramp-up period, and consideration must be given to ensure the metrics reflect the stage of the program. The metric targets for resource acquisition, low-income and market transformation program types will be developed for the 50%, 100% and 150% achievement levels. DSM achievement above 150% will be interpolated using the 100% and 150% targets.

It will be important for Union to have targets for year two and three of the multi-year DSM Plan term established prior to the beginning of the program year. Union contemplates establishing targets for year two and three over the fall of the preceding year. The scorecard for year two and three of the Plan term will be filed with the Board in Q4 of the preceding year. As this process will be undertaken annually within the term of the multi-year Plan, it has been included in section 18.2 below.

11. INCENTIVE PAYMENTS

Union has significant concerns with the structure and amount of incentive payments proposed in the Draft Guidelines. Specifically, Union has concerns with the following:

1. Structure of incentive payments relative to achievement
2. Fixed incentive amounts over the three year term
3. Incentive at 50% achievement level
4. Incentive cap at 150% achievement level
5. Proposed incentive structure

First, while Union supports Board’s staff’s recognition that, at a minimum, the 150% incentive amount for the natural gas utilities should not be lowered relative to the existing framework, Union would like to note that the maximum incentive available as calculated in footnote 51 of the discussion paper is inaccurate. The maximum incentive amount available to Union in 2011 is $10.34 million[6]. Union will use this value as Board staff's proposal in the remainder of this section to correct for the calculation error.

1. Structure of Incentive Payments Relative to Achievement

While Board staff has recognized the 150% incentive should not be lowered relative to 2011, the proposal included in the Draft Guidelines to implement a 40/60 split in eligible incentive payments below and above the 100% achievement level would reduce the incentive amount achieved for successfully reaching the 100% target for the DSM portfolio. This achievement level would provide Union with an incentive of $5.65 million in 2011 under the existing methodology while the same achievement level would result in an incentive of $4.14 million using the methodology in the Draft Guidelines. The current incentive amount was the subject of a negotiated settlement in 2006[7] and extensive low-income consultation process in 2010[8], which were reviewed and approved by the Board.

This decline of almost 27% is without merit. There is no evidence that lowering the 100% incentive level is required "to encourage performance beyond the 100% target level"[9] as evidenced by the historic approved DSM results from 2007 – 2009. The increase in the incentive available under the existing DSM framework relative to 2006 drove Union to generate savings for its customers which far exceeded the utility incentive. Over this three year period alone, Union generated energy bill savings of over $780 million for Ontario's energy consumers through its DSM programs.

In addition, Union submits the use of pivot points for a scorecard incentive line is not appropriate. Scorecard measurement performance is driven through establishing appropriate targets at each individual achievement level, not a pivot point at the 100% scorecard performance level. This is an important distinction from the shared savings incentive structure within the existing DSM framework and in use by the electric utilities. As opposed to a shared savings model, the spread between individual scorecard metrics may change between the 50%-100% and 100% - 150% metric targets. These goal-stretches will be imbedded in the metric targets, which reflect the appropriate level of effort required to meet a given target. Therefore, it is the individual metrics that may have a pivot point at the 100% performance level based on the target setting process, not the overall incentive structure. The incentive amount for a given level of m^3 savings will be driven by the metric targets, not a pivot point on the overall incentive line. To introduce the additional layer of complexity of a pivot point at the 100% scorecard performance level is redundant and is not an appropriate element in a performance scorecard model. It is for this reason both Union's current Market Transformation and Low-Income Home Weatherization scorecards use a straight-line incentive structure.

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[6] This amount is comprised of $9.243367 million (the 2007 $8.5 million incentive cap escalated by the CPI as determined in October of the preceding year), the $0.5 million for market transformation programs, and the $0.6 million for low-income weatherization.

[7] Generic Proceeding Phase 1 Decision with Reasons (EB-2006-0021) Issue 5.2 and 10.4.

[8] Incremental 2011 Low-Income DSM Plan (EB-2010-0055)

[9] Appendix A: Revised Draft DSM Guidelines for Natural Gas Utilities, January 21, 2001, p. 34

To introduce a pivot point at the 100% overall incentive line for programs measured under a performance scorecard may lead to unintended consequences as it layers the individual metric curves onto an overall scorecard curve. One such outcome results when the change in slope above a 100% pivot point for the overall incentive line offsets the change in slope above the 100% pivot point for an individual metric, negating the ability of the target setting process to determine the appropriate reward for a given level of achievement. The other potential outcome is that the slope in the overall incentive line could exaggerate the effect of the metric incentive line's pivot point, increasing the incentive per unit of achievement above that which was intended in the target setting process. Introducing a pivot point in the overall incentive line introduces a level of complexity that is neither beneficial nor logical.

The current straight-line scorecard incentive structure has been very successful in driving Union to focus on maximizing its performance towards the limit of the incentive cap for Union's Market Transformation program and Union submits that this structure should be implemented in the next DSM framework.

2. Fixed Incentive Amounts over the Three Year Term

There is no question that the budget increases and greater focus on initiatives that generate deep energy savings included in the Draft Guidelines will necessitate a significantly higher level of effort and management focus within the natural gas utilities. The link between budget increases and incentives was recognized by Board staff in their proposal that any deviation in magnitude from the approved budget path of each utility would require the incentive to be scaled accordingly - a requirement contemplated to ensure the incentive is consistent with the expected level of effort to achieve the approved targets.[10] By 2014, Union's DSM budget will have increased by over 50%, driving a significant ramp-up in Union's DSM program portfolio.

While the Guidelines have taken appropriate steps to allow the utilities to undertake broader initiatives that address lost opportunities and more deep and comprehensive energy saving opportunities, these programs will require more planning, evaluation and a greater overall level of sophistication on the part of the utilities. In addition, the entry of additional program administrators, such as the electric utilities, has introduced further complexities as Union seeks opportunities for collaboration and potential program efficiencies.

The utility DSM incentive must have a relationship to the benefits achieved, be reflective of utility activity and effort, and be large enough to attract management attention. These principles were most recently confirmed as the consensus position of the Board-initiated Low-Income Conservation Working Group.[11] The increasing depth and scale of Union's DSM programs in the next multi-year Plan term require an increase rather than decline in the utility incentive at the 100% achievement level to ensure senior management continues to place sufficient emphasis on DSM.

[10] Appendix A: Revised Draft DSM Guidelines for Natural Gas Utilities, January 21, 2001, p. 33
[11] IndEco. Report on the Proposed Short Term Framework for Natural Gas Low-Income DSM Final Report. August 12 2009.

Union submits an increase to the incentive level within the multi-year Plan is appropriate and reasonable given the renewed focus on deep savings for energy consumers, increased efforts and significant challenges Union will face in achieving its targets. Union submits that a 15% year over year increase in the incentive available at the 100% achievement level, which aligns with the 15% year over year escalation budget path proposed by Board staff, is appropriate. As noted above, this is consistent with Board staff's recognition of the link between the magnitude of the DSM budget, as a proxy for the expected level of utility effort, and the resulting overall incentive. The increase in the incentive will ensure Union is driven to maximize savings for its energy consumers.

3. Incentive at 50% Achievement Level

Under a scorecard measurement model, it is inappropriate to set an incentive threshold at the 50% target level. The scorecard incentive structure is fundamentally different from the shared savings model utilized under the existing DSM framework and approved for the electric utilities for 2011 – 2014. Unlike a shared savings model, under scorecard measurement the utility does not inherently have the potential to earn an incentive from the first unit of savings achieved. There is a threshold built into the scorecard model at the 0% level as the 0% achievement score for each metric is dependent on the linear relationship between the 50% and 100% targets set. Therefore, there is a level of effort and difficulty built into the scorecard before the Utilities are eligible to earn an incentive. Using the simple example from footnote 27 within the Draft Guidelines[12], a metric score of 0% would be achieved when the utility program had tracked 20 units.

Union therefore opposes no payout at the 50% overall incentive achievement level. Earning an incentive for achieving the 50% incentive target is an appropriate element of any performance-based scorecard model. Notwithstanding that Union does not agree with a threshold before it is eligible for an incentive, Union proposes Union proposes that, although utilities would not be eligible for an incentive payment below the 50% threshold, there should be an incentive payment awarded to the utility once the 50% threshold is met. For 2012, the incentive amount at the 50% performance level would be \$1.0 million, which is slightly lower than the \$1.1[13] million incentive available under the existing DSM framework at the 50% DSM portfolio performance level.

4. Incentive Cap at 150% Achievement Level

The maximum incentive cap represents a disincentive for the utility to maximize DSM results. This is the practical consequence of limiting the incentive to the 150% DSM achievement level as the utilities are not rewarded for additional DSM results. The utilities should be driven to achieve additional cost-effective DSM savings regardless of where they are relative to the target. The appropriate limitation to further savings imposed by the framework is the available remaining DSM budget, not DSM savings. Therefore, there should be no overall incentive cap, or incentive cap on each program type, at the 150% achievement level. The incentive should continue above the 150% performance level on a straight-line basis.

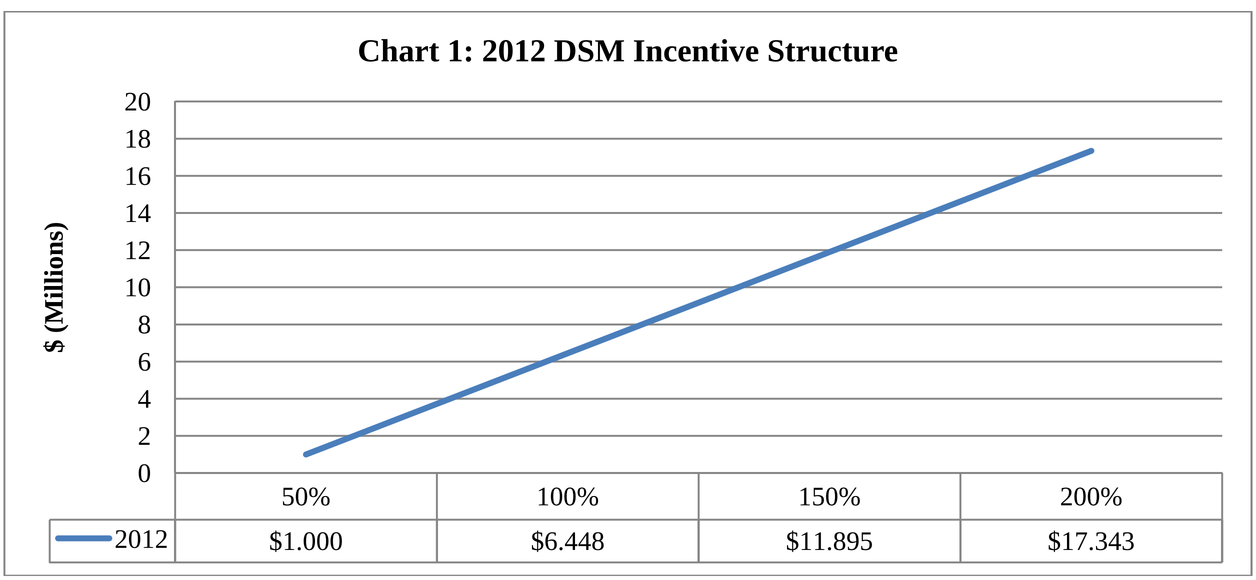
[12] Appendix A: Revised Draft DSM Guidelines for Natural Gas Utilities, January 21, 2001, p. 34
[13] This amount is comprised of \$0.68 million for resource acquisition, \$0.25 million for market transformation programs, and \$0.20 million for low-income weatherization.

Union should be driven to maximize DSM results in each program type as cost-effectively as possible. This will be accomplished through using the percentage budget share allocated to each program type as the basis for the weight applied to the score achieved, not as the absolute maximum incentive. For example, in the event the low-income program type budget share is 25% of the overall DSM budget, this percentage would be applied as the weight to the low-income scorecard score achieved to determine its contribution to the overall incentive. This is consistent with the principle applied in the Metric element of the Draft Guidelines in section 9. It is also consistent with the treatment of both metrics and scorecards as outlined in this section, which are not arbitrarily capped at the 150% level.

5. Proposed Incentive Structure

For the reasons outlined above, Union requests a straight line incentive structure with a threshold below the 50% overall incentive target level. For 2012, the incentive amount at the 50% performance level would be 1.0 million and the 150% performance level would be $11.895 million. The 150% incentive for 2012 is calculated as the 2011 150% incentive of $10.343 escalated by 15%. The incentive between the 50% and 150% incentive levels would be linearly interpolated, and the incentive amounts above the 150% incentive level would be linearly calculated on the same straight line basis. The 100% incentive amount for Union should increase by 15% on an annual basis, and the straight-line incentive structure will shift accordingly. Further, the percentage share of the overall DSM budget allocated to each program type would serve as the weight applied to the scorecard score achieved to calculate Union's overall incentive level.

The incentive structure for 2012 is provided in Chart 1 below.



Union does not support the recommendation that the maximum incentive available for market transformation programs be set at 5% of an annual cap, as proposed in the Board staff discussion paper. As the Draft Guidelines link the incentive allocation with the approved budget shares, this recommendation attempts to set the budget for a program type prior to the planning process. As stated in section 8 above, Union will develop the budget for its market transformation program(s) in its DSM planning process and will file the budget with the Board for approval. As outlined above, Union is strongly opposed to a maximum incentive cap. The budget share allocated to the program type should be the basis for the weight applied to the score achieved, not used to determine the absolute maximum incentive available for the program type.

12. LOST REVENUE ADJUSTMENT MECHANISM ("LRAM")

Union agrees that LRAM input assumptions should continue to be based on the best available information at the time of the audit.

Union does not support a monthly LRAM calculation process. This method adds complexity to the process of confirming the LRAM claim. Furthermore, it does not ensure that LRAM amounts more accurately reflect the actual timing of DSM measure implementation. In practice, the exact implementation timing for a measure is difficult for the utility to pinpoint. There is a window between when the participant installed the technology and when the participant was entered into the tracking system. The installation date may also not coincide with the activation date, as is the case for initiatives delivered in the new build market.

The added effort of precisely determining when the measure was implemented, combined with the added administrative requirements, costs and review of the results in the audit, adds complexity without material benefit. Union supports the current approach of dividing the first year impacts in half, on the assumption that measures are implemented consistently throughout the year.

13. ACCOUNTING TREATMENT

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

13.1 Revenue Allocation

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

13.2 Demand-Side Management Variance Account ("DSMVA")

Union is in agreement with this section. Union supports the flexibility continued in the Draft DSM Guidelines to spend an additional 15% above its approved annual DSM budget provided it has achieved the 100% overall target for a scorecard on a pre-audited basis.

13.3 LRAM Variance Account ("LRAMVA")

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

13.4 DSM Incentive Deferral Account ("DSMIDA")

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

13.5 Carbon Dioxide Offset Credits Deferral Account

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

13.6 DSM Activities Not Funded Through Distribution Rates

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

14. ANNUAL APPLICATION FOR DISPOSITION OF BALANCES IN THE LRAMVA, DSMIDA AND DSMVA

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

15. PROGRAM EVALUATION

Union agrees that effective EM&V is critical to ensure programs are cost effective, generate desired outcomes, and identify ways in which a program can be refined to improve its performance. Union has conducted impact evaluation and proactively undertaken process evaluation through a third-party evaluation firm and internal process assessments. Union currently assesses evaluation requirements based on the Auditor's recommendations and in consultation with the EAC. The current approach has not been an effective way of directing evaluation activities due to a lack of expert engagement. Also, the current approach does not allow for evaluation coordination between the natural gas utilities and electricity conservation activities.

Through moving oversight of evaluation activities to the Board-retained consultant, or the Evaluation Coordinating Committee approach (as described in section 16) all evaluation activities would be guided by evaluation professionals in agreement with the natural gas utilities, the OPA, and other relevant stakeholders. This ensures that the most effective EM&V activities are undertaken properly, while allowing for evaluation coordination with electricity conservation activities.

15.1 Evaluation Plan

Union agrees to the additional Evaluation Plan filing requirement included in the Draft Guidelines. The Evaluation Plan presents a formalized document which captures the considerations Union proactively undertakes for its DSM portfolio. The level of evaluation that Union undertakes will be assessed taking budget limitations and customer and market barriers into account. This is consistent with the current process.

As it is Union's understanding that a updated version of the OPA Evaluation Protocols are in development but are not yet publicly available, Union is not in a position to comment on the appropriateness of the following these protocols at this time.

15.2 Evaluation Report

Union is in agreement with this section, other than in reference to section 6.1.3. As outlined in section 6.1.3 above, Union disagrees with using best available input assumptions to determine incentive amounts retroactively, and instead supports the best available "going forward" approach described.

15.3 Independent Third Party Audit

Changes are required to the current DSM audit process. The parties engaged in the audit process are not necessarily subject matter experts on the evaluation work undertaken over the course of the year. In addition, the stakeholders involved in the audit process are not evaluation or technical experts. This has resulted in ambiguity and subjective debates amongst the parties, at times resulting in the application of adjustments that are not thoroughly substantiated. Furthermore, having separate input assumptions and evaluation audits for each natural gas utility, and without coordination with electricity conservation evaluation, results in misalignment, does not optimize evaluation investments and makes program collaboration difficult.

The input assumption, evaluation, and verification process should be removed from the scope of the audit. Oversight and input on these activities should be undertaken by the Board-retained consultant or the Evaluation Coordinating Committee. Having evaluation experts involved in the direction and review of all evaluation and verification activities on an ongoing basis will result in a considerable improvement from the current evaluation process. Furthermore, aligning the review of evaluation activities and results between the natural gas utilities and the electric utility programs will result in more straightforward program collaboration and avoid duplicate evaluation studies and the resulting inconsistencies in evaluation results.

The DSM audit should follow the model of a financial audit with the mandate of verifying all inputs have been applied correctly to confirm financial results. Union's EAC had requested this model be considered for future DSM audits.

15.4 Finalization of the Evaluation Report

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

16. STAKEHOLDER INPUT AND CONSULTATION PROCESS

Union believes that the program evaluation and input assumption development process needs to be modified to: 1) utilize deep subject matter expertise to elevate the level of rigour and objectivity in the area of evaluation and input development, 2) coordinate evaluation activities between the natural gas utilities and electricity conservation activities, and 3) optimize limited funds available for increasingly sophisticated and expensive evaluation studies.

Union believes that the Board retained consultant should be engaged in establishing evaluation priorities, and in the establishment of input assumptions. Union further suggests the establishment of an Evaluation Coordinating Committee consisting of Union, Enbridge, the OPA, stakeholders, and evaluation experts. This Committee would include the Board-retained evaluation consultant to maintain regulatory oversight of the input assumption process.

As outlined in sections 6 and 15 above, the responsibility of the Ontario-wide Evaluation Coordinating Committee would be to guide all EM&V activities and determine the input assumptions and adjustment factors to be used. The Committee would continuously involve evaluation experts, in contrast to the brief annual involvement of the evaluation auditor in the current process. As the Committee would oversee all evaluation and verification work undertaken by the gas utilities and OPA, it would provide for coordination of evaluation activities and alignment of input assumptions for related technologies. This will help enable program collaboration and will optimize funds spent on evaluation projects – a goal becoming increasingly important to the cost effectiveness of conservation activity.

Union believes that this new approach to evaluation, verification and input assumptions would be a positive step forward for conservation in Ontario. Union proposes to work with Board staff, Enbridge, the OPA and relevant stakeholders to develop its proposal in 2011 for implementation for the 2012 – 2014 DSM Plan.

16.1 Stakeholder Engagement Process

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

17. COORDINATION AND INTEGRATION OF NATURAL GAS AND ELECTRIC CONSERVATION PROGRAMS

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines..

17.1 Electricity CDM Activities Undertaken by a Natural Gas Utility

Union does not agree with Board staff's recommendation to continue the deferral and 50/50 sharing of net revenues associated with electricity conservation activities undertaken by natural gas utilities. In Union's view, the revenues from these activities should be treated in the same manner as other regulated revenue streams and included in the earnings sharing calculation.

18. ADDITIONAL GUIDANCE ON MULTI-YEAR PLAN FILING REQUIREMENTS

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

18.1 Filing of Multi-year DSM Plan

Union agrees with Board staff's recommendation and has no comment on this section of the Draft Guidelines.

18.2 Mid-Term Updates

As indicated in above, Union disagrees with the proposed requirement for the natural gas utilities to apply to the Board for approval to re-allocate funds to new programs, or in the event that cumulative fund transfers among programs exceed 30% of the approved budget for an individual program.

An additional filing process not contemplated in the Draft Guidelines will be the annual filing of the scorecard targets for year two and three of the multi-year Plan for Board approval. Union will develop its scorecard targets for year two and three of the Plan term over the fall of the preceding year. The scorecard for year two and three of the Plan term will be filed with the Board in Q4 of the preceding year.