

September 1, 2017

BY COURIER (2 COPIES) AND RESS

Ms. Kirsten Walli

Board Secretary

Ontario Energy Board

2300 Yonge Street, Suite 2700, P.O. Box 2319

Toronto, Ontario M4P 1E4

Dear Ms. Walli:

Re: EB-2017-0127 & EB-2017-0128 – DSM Mid-Term Review

I am writing on behalf of Environmental Defence to provide submissions regarding the issues in part 1 of the mid-term review and to request clarification regarding the scope of the mid-term review.

Issue 1: Customers with Compliance Obligations

The Board requested comments on “the relationship between the current suite of DSM programs and actual C&T activities of customers with their own compliance obligations.” Environmental Defence submits that DSM programs relating to these customers (i.e. Large Final Emitters and Voluntary Participants) should continue and be expanded to ensure that all cost-effective DSM is achieved as required by the Conservation First Framework and the Minister’s March 26, 2014 directive to the Ontario Energy Board (the “Conservation Directive”).

The fact that these Large Final Emitters or Voluntary Participants may pursue additional conservation measures to achieve their compliance obligations would not justify a reduction in the budgets or programs under the DSM Framework for these customers. Programs for these customers are extremely important, including for the reasons expressed by the Board in deciding that Union’s large volume program should continue.¹ If other participants propose a reduction or fundamental change in the DSM programs for customers with their own compliance obligations, Environmental Defence requests the opportunity to provide a response at that time.

Cap and trade should lead to expanded conservation programs for all customer classes because it makes the economic case for conservation that much stronger by putting a price on carbon (thus increasing the savings from conservation). At the moment, this additional conservation can be funded in the utilities’ Cap and Trade Plans (where the utilities bear the compliance obligations) or outside board-approved rates (i.e. private

¹ Decision and Order in EB-2015-0029/0049 (2015-2020 DSM Plans), pp. 50-52.

investment or government programs).² In both cases there is an avenue for additional investment in conservation to capture the increased economic benefits arising from a carbon price.

There are strong reasons for expanding conservation programs under the DSM Framework for all customer classes. The advent of cap and trade is just one of those reasons. The DSM Framework has been developed and honed over decades to address many complex issues and is therefore a good vehicle for increased conservation that is justified by carbon pricing. However, this is a broader issue that would need to be addressed at a later stage of this proceeding based on our understanding of Board's letter of June 20, 2017.

Issue 2: Attribution of Costs and Savings

The Board requested comments on “the attribution of costs and savings to ratepayer-funded DSM programs where natural gas utilities offer carbon abatement programs in the market.” Environmental Defence does not propose any modifications to the DSM Framework to ensure the proper attribution of costs and savings between conservation under the DSM framework and conservation under the utilities' cap and trade plans.

The utilities are already addressing this issue because they are delivering conservation programs with funding from the Green Investment Fund at the same time as delivering conservation programs under the DSM Framework.³ In other words, the utilities are already in the process of attributing costs and savings between ratepayer-funded DSM programs and other carbon abatement programs. Although careful attention to this issue is needed in audit/verification processes, we assume that the utilities are aware that they must avoid double-counting and must ensure that costs and savings are properly allocated as between different programs.

Issue 3: Clarification Regarding Scope

Environmental Defence requests clarification from the Board regarding the scope of the mid-term review. In particular, Environmental Defence believes that budget levels and shareholder incentives should be expressly addressed in the mid-term review, and requests further clarification in this regard.

A review of budget levels and shareholder incentives at the mid-term review is clearly mandated by the Board's DSM Framework, which states as follows:

² Conservation under the Cap and Trade Framework is clearly incremental to conservation under the DSM Framework. The Board explicitly and unambiguously stated this four times in the Cap and Trade Framework and Filing Guidelines. See OEB, *Regulatory Framework for the Assessment of Costs of Natural Gas Utilities' Cap and Trade Activities*, September 26, 2016, p. 23 [“The customer-related GHG abatement activities must be incremental to the Utilities' 2015-2020 multi-year DSM plans”], Appendix A: v [“DSM forecasts and customer-related abatement activities forecasts must be shown separately”], see also the footnotes Appendix A, p. v and vii.

³ For further details see the Cap and Trade Compliance Plans in EB-2016-0296 and EB-2016-0300.

The mid-term review will allow the Board to assess the gas utilities' performance, and the appropriateness of the long-term DSM targets. The review will examine annual metrics, **budget levels**, impact on customer rates and **shareholder incentives**. The mid-term review will ensure that the DSM framework is reasonable and contributing to effective natural gas conservation programs to Ontario customers, while achieving annual and long-term targets for reduced consumption. (emphasis added)⁴

A review of budget levels and shareholder incentives is also required by the March 26, 2016 Conservation Directive. The Conservation Directive states that the DSM Framework must include "a mid-term review **to align with the mid-term review of the Conservation First Framework**" (emphasis added).⁵ The mid-term review of the Conservation First Framework is required to examine, among other things, the "overall budget" and the "performance incentive mechanisms."⁶ For the mid-term DSM review to "align" with this (as required by the Conservation Directive), it presumably should include similar elements in its scope.

A review of budgets and shareholder incentives is also warranted by the importance of these issues. Budgets and incentives are key elements in ensuring that the DSM Framework will "enable the achievement of all cost-effective DSM."⁷ They are the "big picture" elements that need to be designed carefully for the DSM Framework to meet the requirements in the Conservation Directive.

With respect to shareholder incentives, Environmental Defence wishes to comment in part two of this review on what it sees as a fundamental gap in the current structure. At the moment, utilities do not have an incentive to develop aggressive DSM plans that maximize the net benefits to consumers. This is because the total incentives are capped and do not increase if the utilities propose more aggressive or more efficient plans with higher expected gas savings.

In addition, incentives are awarded based on meeting or beating pre-set targets, focusing solely on the *execution* of DSM plans, not on the *development* of high-quality plans. Therefore, utilities have a perverse incentive to propose only modest targets in their DSM plans that are easier to achieve and beat. Environmental Defence believes utilities should be rewarded if they achieve more net benefits for consumers via more aggressive and efficient plans, which is not the case now.

⁴ Ontario Energy Board, *Demand Side Management Framework for Natural Gas Distributors (2015-2020)*, December 22, 2014 (EB-2014-0134), p. 3; At p. 25, the DSM Framework also states that "The Board will review all shareholder incentive components at the mid-term review to ensure they are producing the anticipated and expected results and have helped to appropriately align the efforts of the gas utilities with the guiding principles and key priorities outlined in the framework."

⁵ Directive from the Minister of Energy to the Ontario Energy Board, March 26, 2014, para. 4(i).

⁶ Directive from the Minister of Energy re: 2015-2020 Conservation First Framework, March 31, 2014, para. 6.1.

⁷ Directive from the Minister of Energy to the Ontario Energy Board, March 26, 2014, para. 4(ii).

With respect to budget levels, Environmental Defence wishes to comment in part two on the budget levels that are needed to enable the achievement all cost-effective DSM. The recent Natural Gas Conservation Potential Study commissioned by the Board shows that the current DSM plans and budgets are very far from achieving all cost-effective DSM.⁸ According to this ICF report, implementing all cost-effective achievable DSM would result in **\$37 billion in additional savings** in avoided gas costs when compared to the current plans and budget levels.⁹ Even the modest budget increases in ICF's "semi-constrained" scenario would the increase savings in avoided gas costs by **\$20 billion**.¹⁰ In light of the very large gap between the current plans and achievable cost-effective DSM potential, further review of the budget levels is warranted.

Finally, a review of budget levels and shareholder incentives is warranted based on new information that is or will be available, including the 2015 and 2016 results of the utilities' DSM plans and the DSM potential study discussed above.

The Board may already intend to address budget levels and the shareholder incentives in part two of this mid-term review. Environmental Defence is seeking clarification because of the statement that "the scope of the review will be limited" as noted in the Board's letter of June 20, 2017. If budget levels and incentives are currently included in the scope, Environmental Defence respectfully requests clarification on when submissions on these topics should be made by the utilities and by other participants.

If budget levels and shareholder incentives are not currently included in the scope, Environmental Defence asks that the scope be expanded for the reasons set out above.

Yours truly,



Kent Elson

Cc: Participants in this proceeding

⁸ ICF International, *Natural Gas Conservation Potential*, July 7, 2016, p. iv.

⁹ *Ibid.*, p. v (\$37 billion is the difference between the value of savings by 2030 based on current budgets (58,628 million \$) and the value of savings for the achievable potential (96,600 million \$)); The savings are the avoided costs from decreased gas usage and do not include the avoided carbon cost.

¹⁰ *Ibid.*