ONTARIO ENERGY BOARD

DSM Mid-Term Review

PART 1 COMMENTS OF INDUSTRIAL GAS USERS ASSOCIATION (IGUA)

1. In its June 20, 2017 letter to parties the Ontario Energy Board (OEB or Board) has laid out a process and revised timeline for its mid-term review of the *2015-2020 Demand Side Management (DSM) Framework for Natural Gas Distributors* (2015-20 DSM Framework). For Part 1 of its review, the Board has invited comments on two issues regarding the interface between cap & trade and DSM.

2. The Board's letter to parties indicates a revised timeline for conclusion of the DSM mid-term review with the issuance of a report by December 1, 2018, rather than the initially contemplated June, 2018 completion date. The report is currently intended by the Board to *"outlin[e] its conclusions on the Mid-Term Review and any associated regulatory requirements"*.

3. If the Board's report is issued at the end of 2018, and changes to the 2015-20 DSM Framework are not indicated until then, such changes might not be implementable until 2020.

4. The 2015-20 DSM Framework was promulgated prior to the implementation of Ontario's cap & trade framework. The crystallization of carbon regulation and monetization under that framework has rendered ratepayer funded DSM for large volume gas customers (LVCs) not only redundant, but also potentially counterproductive to the achievement of the objectives of the cap & trade framework in respect of energy intensive trade exposed (EITE) large final emitters (LFEs) as defined by that framework.

5. ***IGUA respectfully submits that the 2015-20 DSM Framework should be modified effective January 1, 2018 to discontinue ratepayer funded DSM activities in respect of LFEs.***

History of the Board's LVC DSM Policy

6. The Board's LVC DSM policy was first articulated in the June, 2011 *Demand Side Management Guidelines for Natural Gas Utilities* [EB-2008-0346]. Following extensive consultation, the Board determined in 2011 that[1]:

> *.... large industrial customers possess the expertise to undertake energy efficiency programs on their own. As a result, ratepayer funded DSM programs for large industrial customers are no longer mandatory. If any are proposed, they will be considered on their merits.*

7. In the 2015-20 DSM Framework the Board reiterated its previous determination regarding LVCs, stating that:

> *....rate funded DSM programs for large volume customers should not be mandated as these customers are sophisticated and typically competitively motivated to ensure their systems are efficient"[2].The Board directed that its conclusions regarding DSM for LVCs were to be applied to EGD's Rate 125 and Union's Rates T1, T2 and 100. The Board specifically noted that these rate classes had "a very limited number of customers" (ranging from 5 in the case of rate 125 to 38 in the case of Union's T1 rate class).*[3]

8. In filing its 2015-20 DSM Plan[4] in response to the 2015-20 DSM Framework, EGD followed the Board's direction and did not propose any DSM programs for its rate 125 customers. The OEB accepted EGD's position on this.[5]

9. Union's proposed 2015-20 DSM Plan[6] did not follow the Board's direction, instead proposing a relatively narrow LVC DSM program with a budget ranging between

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[1] Page 26.
[2] EB-2014-0134, Report of the Board *Demand Side Management Framework for Natural Gas Distributors (2015-2020)*, page 27.
[3] *Ibid.*, page 29
[4] EB-2015-0049
[5] In so doing, the Board noted that *"Enbridge's customer mix is distinct from Union's"*; EB-2015-0029/0049 *Decision and Order*, January 20, 2016, page 51.
[6] EB-2015-0029

approximately $350,000 and $420,000 annually[7] to be funded through LVC delivery rates. Union was not proposing a shareholder incentive for its new LVC DSM program.

10. In its 2015-20 DSM Plan decision the Hearing Panel directed an LVC DSM program for Union. In so doing the Hearing Panel;

   (a) reversed the Board's earlier 2015-20 DSM Framework determination and its longer term policy of excusing LVCs from mandatory ratepayer funded DSM programs; and

   (b) directed an expansion, relative to Union's proposal, of Union's LVC DSM program, directing that Union reinstate its LVC "self-direct" DSM program and increase funding to $4 million per year (inclusive of overheads), plus lost revenue adjustment revenues and funding of a shareholder incentive in connection with this program.[8]

11. In the result, Union's large volume customers will pay $4 million annually to fund Union's LVC DSM program. Of this, 32% ($1.28 million per year) will cover Union's program administration costs.[9] Only the balance is available for LVC customers to recover by implementing Union approved "self-direct" energy efficiency initiatives.

12. Accordingly, under the current regime, from 2018 through 2020 Union is expected to include in LVC rates $12 million (not including LRAM or shareholder incentive amounts) to fund an LVC DSM program, of which $8.16 will be returned to customers either through incentives for customer efficiency initiatives or through the DSM variance account if the funds remain unused. Over these 3 years, $3.84 million will be spent by LVCs to cover Union's LVC DSM program costs, and additional millions will be recovered from LVCs for lost revenues and shareholder incentive payments.

13. When available, IGUA expects that the 2015 and 2016 DSM results for LVCs will show that very little of these funds have actually been taken up in Union approved DSM initiatives, and less still will actually make a difference to LVC efficiency projects proceeding. IGUA understands that LVC DSM program take up has been very low, and that LVC free ridership has been found to be quite high.

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[7] EB-2015-0029/0049 *Decision and Order*, January 20, 2016, page 49.
[8] *Ibid.*, pages 50-52.
[9] EB-2015-0029, Exhibit J4.7.

The Purpose of DSM

14. What is the intended result from the LVC DSM expenditures? As recognized by the Board in introducing its updated 2015-20 DSM Framework; *"it's important to reflect on why the Board believes that DSM is important and to consider what we are trying to achieve by providing ratepayer-funded DSM programs"*.[10]

15. In its decision on Union's and EGD's 2015-20 DSM Plans, the Hearing Panel characterized the purpose of the 2015-20 DSM Framework broadly as designed to reduce natural gas consumption.[11] Reducing gas consumption is, however, a means, not an end.

16. As more fully articulated in the 2015-20 DSM Framework report, the ultimate goals of DSM are:

    (a) assisting customers to lower their gas bills[12];

    (b) avoiding more costly system expansion or reinforcement[13]; and

    (c) reducing the environmental impact of energy services[14].

17. It is the third of these benefits – reduced environmental impact of energy services – that is related to cap & trade. (IGUA comments further on the first two of these benefits later in these submissions.)

The Implications of Cap & Trade for LVC DSM

18. The Board has requested comments on:

    The relationship between the current suite of DSM programs and actual C&T activities of customers with their own compliance obligations.

19. Each of IGUA's members in Union's service territory consumes tens of millions of cubic meters of gas annually. As such, these gas customers are all designated as "large final emitters" (LFEs) under the Ontario cap & trade regime. This means that they have their own carbon emission limits and are directly responsible for compliance with those limits.

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[10] DSM Framework, p.5.
[11] Decision and Order, EB-2015-0029/0049, page 2.
[12] *DSM Framework*, page 5.
[13] *DSM Framework*, page 5.
[14] DSM Framework, page 8.

As those limits decrease over time, these industrials will be required by law to reduce their emissions, or pay to acquire emissions reductions from another party.

20. The Board's direction to Union to reinstate its LVC self-directed DSM program, which Union had proposed to discontinue, and increase its proposed LVC DSM budget from approximately $400,000 per year to $4 million per year[15] was provided prior to the enactment of Ontario's cap & trade legislation.

21. It has been IGUA's position for some years that ratepayer funded DSM programs for LVCs are redundant. The operational initiatives engaged in by IGUA's members are funded from annual budgets in the hundreds of thousands or millions of dollars. In contrast, funds available from Union's LVC DSM programs to defray the costs of these operational initiatives have been in the range of thousands, and in some cases perhaps several thousand or tens of thousands, of dollars. DSM program initiatives in this range simply do not materially impact investment decisions of LVCs who manage annual budgets in the hundreds of millions of dollars. IGUA understands that the 2015 DSM program results, when they are finally made available, will reveal very little LVC DSM program take up, and very high reported free ridership rates, all of which will validate what IGUA's members have been telling us for years.

22. The fact that these customers will in future be legally obligated to reduce their gas consumption or otherwise obtain carbon emission offsets under the new cap & trade scheme renders Union's ratepayer funded LVC DSM programs even more clearly redundant going forward.

23. Up to the value of carbon reduction now determined by the legislature as Ontario government policy, there is no need for utility programs to encourage or incent LVC LFE gas consumption reductions. The cap & trade regime has fully occupied that field insofar as the environmental benefits of reduced gas consumption are concerned.

24. Further, all of IGUA's members who are Union LVC customers are classified under the cap & trade regime as Energy Intensive Trade Exposed (EITE) LFEs. As such, during the current cap & trade compliance period, these industrials are granted carbon emission allowances, rather than having to procure them at auction (or otherwise). This mechanism

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[15] Decision and Order, EB-2015-0029/0049, p.49.

to ease EITE LFEs into the cap & trade regime is a calculated policy initiative by the government in order to balance environmental objectives with the imperative to avoid an industrial hollowing out of Ontario. That is, the treatment of EITE LFEs under the Ontario cap & trade regime is an express balancing of environmental and economic policy by the Ontario legislature, which purposefully determines how and how fast to implement energy efficiency requirements for EITE LFEs.

25. As an economic regulator, the OEB's basic function is to step in where there is a "market failure" in the provision of energy services and address that market failure in "the public interest".

26. In the energy regulatory context, the "public interest" entails a balance between the interests of ratepayers in reliable and reasonably priced utility services and the interests of the utilities in a reasonable opportunity to earn a return of, and a fair return on, their investment in the provision of regulated utility service.

27. This basic economic regulatory mandate is expressly recognized in the OEB's statutory objectives in relation to gas. Included in these statutory objectives are directions to the OEB:

(a) *To protect the interests of consumers with respect to prices and the reliability and quality of gas service*[16]

(b) *To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas.*[17]

28. Of course, in respect of the 2015-20 DSM Framework the following statutory objective is also relevant:

> *To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.*[18]

29. Through this statutory objective, the Board is directed, in fulfilling its basic responsibility to protect the interest of natural gas consumers with respect to prices and the reliability and quality of gas services, to consider the promotion of energy conservation. However,

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[16] *Ontario Energy Board Act, 1998*, section 2, paragraph 2.
[17] *Ontario Energy Board Act, 1998*, section 2, paragraph 5.1.
[18] *Ontario Energy Board Act, 1998*, section 2, paragraph 5.

energy conservation is not to be promoted at all costs. Rather, in accord with the policies of the Government of Ontario, including the Ministerial directive that is the basis for the 2015-20 DSM Framework, DSM is to be promoted where DSM is a “cost effective” way for consumers to obtain reliable and appropriate quality energy service, and having regard to the consumer’s economic circumstances.

30. Considered in light of the Board’s essential economic regulatory function, to the extent that there are market failures which stand in the way of adoption by customers of cost effective DSM, the Board’s regulatory mandate, as informed by its statutory objectives and the Minister’s DSM directive, is to address those market failures.

31. One such failure was the lack of quantification in energy service costs of the environmental impact of gas consumption and the societal environmental value of its avoidance. To address that failure, the 2015-20 DSM Framework mandated promotion of DSM determined to be “cost effective” with the addition of a 15% adder.

32. That failure has now been resolved through the Ontario government’s carefully crafted cap & trade framework, which provides a legislatively determined and implemented value for avoided carbon emissions.

33. In respect of LFEs who are responsible for their own cap & trade compliance in particular, the Board need no longer be concerned with the monetization in the gas use decisions of these customers of the environmental benefits of DSM. The monetization of carbon costs through Ontario’s cap & trade regime and the purposive balancing of the environmental and economic impacts of that regime when it comes in particular to EITE LFEs, wholly addresses the market dynamics of natural gas consumption for Union’s LVCs.

34. Continued application of mandatory ratepayer funded DSM programs for Union’s LVCs would not only be redundant, it would undermine the policy balance between environmental objectives and industrial competitiveness expressly and purposefully struck by the government in implementation of its cap & trade regime. Not only would the OEB not be *“promot[ing] energy conservation and energy efficiency <u>in accordance with the policies of the Government of Ontario</u>”* (emphasis added), it would in fact be undermining those policies and potentially acting contrary to the policies of the government of Ontario in respect of EITE LFEs, and thus contrary to that aspect of the Board’s legislative mandate which requires that it *“hav[e] regard to the consumer’s economic circumstances”*.

35. As noted above, Union's current LVC DSM program results in a net loss of resources to LVCs. Less than 68% of the funds collected from Union's LVCs through rates for DSM initiatives are recovered by those customers, even if they implement Union approved efficiency programs. Union's LVC DSM program permanently drains more than 30% of the funds which would otherwise be available to LVCs to meet their cap & trade compliance obligations while maintaining their competitive positions. Further, while the balance of those funds are ultimately returned to LVCs, there is a lag of up to two or more years in doing so.

36. During the 2015-20 DSM Plans approval proceedings Union's Ms. Lynch agreed that large industrial gas customers directly subject to cap & trade won't need any incentives or encouragement to implement energy efficiency in order to reduce carbon emissions.[19] Ms. Lynch also agreed that it would be appropriate for the Board to review this issue once there is clarity on how the cap & trade regime works.[20]

37. ***Now that there is clarity on how the Ontario cap & trade regime works, and in particular in light of the policy balance between carbon reduction and industrial competitiveness purposefully and carefully struck by the government's carbon policy, the OEB should direct that as of January, 2018 ratepayer funded DSM for LFEs be discontinued.***

The Additional DSM Objectives: No Further Rationale for Maintaining LVC DSM

38. The other two objectives identified in the 2015-20 DSM Framework for ratepayer funded DSM are:

(a) assisting customers to lower their gas bills[21]; and

(b) avoiding more costly system expansion or reinforcement[22].

39. The utilities are not currently undertaking DSM programs specifically designed to, or evaluated on the basis of, avoiding more costly system expansion or reinforcement.

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[19] Transcript Volume 4, page 96, lines 9 through 14.
[20] Transcript Volume 4, page 97, lines 2 through 5.
[21] *Ibid*. See also *DSM Framework Report*, page 5.
[22] *DSM Framework*, page 5.

40. To the extent that future ratepayer funded efficiency programs are developed specifically in order to avoid system expansion or reinforcement, all customers who would benefit from avoiding expansion costs should pay the associated utility costs of such efficiency programs (in accord with how the costs of such expansion/reinforcement would otherwise have been allocated for recovery). This type of efficiency program benefits large volume industrial customers if facilities to serve them are thereby avoided, and in that event they should, and would be happy to, contribute to recovery of the utility costs for such programs. Such efficiency programs do not divert financial resources from other customer imperatives and priorities. Rather they provide a net reduction in the costs of energy service.

41. In respect of the DSM objective of assisting customers to lower their gas bills, the Board has repeatedly recognized that IGUA's members are not in need of assistance.

42. For small and medium size customers without expertise or resources dedicated to managing their gas consumption choices, it may well be that utility DSM programs can assist them by providing them with pre-packaged options to reduce their gas bills. These customers may not otherwise have the expertise, or inclination, to investigate, price and implement cost effective gas saving measures. For these customers, ratepayer funded DSM programs may well point them in the right direction for saving gas and reducing their bills. It may well be that properly designed DSM programs can provide these customers with tools that might not be otherwise readily available to them. This is a matter for representatives of those customer groups to consider and opine on.

43. For LVCs for whom energy is a major input cost, and who are thus centrally aware of, and engaged in, their energy consumption options and choices, utility run DSM is an unnecessary and redundant service. These largest gas customers:

(a) Already have access to, and pay the costs of, utility account representatives familiar with their businesses, to the extent that they have questions about their gas services.

(b) Can pay energy management or equipment consultants, to the extent that doing so would, in the customer's view, be a good investment in order to lower energy input costs.

44. Unlike for smaller volume customers for whom energy management is not top of mind and who benefit from shared cost energy management support and advice, these larger

volume customers can and do seek their own energy management direction and advice, or develop their own energy management expertise, to the extent that it is economic for them to do so given competing uses for their limited capital. Forced funding of utility programs and shareholder incentives provides no incremental benefit to these customers.

45. Mandating ratepayer funded utility DSM programs for these customers forces these customers to cover utility administration and incentive costs which consume funds which would otherwise be available to these customers for other investments, including investments in energy efficiency if the customer deems such investments economically efficient, or, going forward, legally required to meet carbon limits to which they will be increasingly subject.

46. The fact that these customers participate in DSM programs that they are forced to pay for in any event indicates only that there is some value that they can retrieve from these payment obligations by participating. This does <u>not</u> demonstrate that these programs provide incremental value to these customers in the first place.

Summary

47. In summary:

(a) In respect of energy efficiency to economically avoid infrastructure costs, there have been no such activities to date, and this is not a current driver for ratepayer funded DSM programs.

(b) In respect of customers lowering their energy bills, LVCs can make their own decisions, and as they deem warranted their own investments, to do so.

(c) In respect of broader environmental benefits, Union's LVCs who are LFEs will be legally required to adhere to government determined carbon emission limits. Further, they will be better able to do so while remaining competitive without the requirement to hand more than 30% of their funds available for this purpose over to Union to support its DSM group and hold its shareholder harmless.

48. ***Union's LVC self-directed DSM program is completely redundant to, and undermining of, actual C&T activities of customers with their own compliance obligations, and should be discontinued.***

ALL OF WHICH IS RESPECTFULLY SUBMITTED by:

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