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July 15, 2015

VIA EMAIL

27235

Ms. Doreen Friis
Regulatory Affairs Officer/Clerk
Nova Scotia Utility and Review Board
1601 Lower Water Street, 3rd Floor
Halifax, NS B3J 3S3

Dear Ms. Friis:

Re: M06733 – EfficiencyOne – Application for Approval of a Supply Agreement for Electricity Efficiency and Conservation Activities between EfficiencyOne and Nova Scotia Power Inc., the establishment of a final agreement between the parties and approval of a 2016-2018 Demand Side Management ("DSM") Plan – E-ENS-R-15

The Consumer Advocate refers to the Closing Submissions of NSPI and of the Province. Both request that the Board reject the program proposed by EfficiencyOne and require submission of a new one. This is the reply of the Consumer Advocate to the following points advanced by them.

1 Distinction between regulatory perspective and political perspective

The Province refers to the recent public consultation process during which it heard from the public that ratepayers were concerned about rates and that supported the contention that the EfficiencyOne program was not affordable. It is not surprising that ratepayers have a concern about rates.

But for the purpose of this proceeding the issue is whether the cost of the EfficiencyOne DSM program is "affordable", reasonable and in the best interests of ratepayers. There was no attempt to canvass the views of ratepayers on this issue, other than the evidence produced to date in this hearing.

The evidence presented at the evening public session was supportive of ensuring a robust DSM program and infrastructure. There was no evidence of a general ratepayer rejection of the EfficiencyOne program.

In energy matters subject to regulatory oversight, there is a distinction between the regulatory perspective and the political perspective.

The perspective of the Board, and its mandate, is to assess the DSM program submitted by EfficiencyOne according to the regulatory criteria defined by the applicable legislative and regulatory provisions. The criteria to be applied by the Board involves consideration of concepts such as “affordability”, “reasonableness”, and “what is in the best interest of ratepayers”.

The political perspective may be influenced by any number of objectives. For example, the political perspective may seek to avoid any rate increase regardless of whether it can be justified on the grounds of “affordability”, “reasonableness” or “in the best interest of ratepayers” and be motivated to deliver on commitments made publicly for political reasons.

2 Affordability

Adding the provision of “affordability” does not significantly alter the existing legislative regime. If the cost of a DSM program is not affordable it would be considered unreasonable. While the terminology of reasonableness and best interest of ratepayers may not have the identical meaning to “affordability” there is sufficient overlap that any differential does not result in a significant change of legislative criteria or jurisprudence.

In light of the fact the proposed program involves a cost which is less than each of the approved DSM budgets for the last four years the question can be asked, what has changed to make such a program unaffordable?

There was no evidence placed before the Board which would support the conclusion that approval of the EfficiencyOne program would result in an application by NSPI for a rate increase.

The perception by ratepayers of affordability relates to the total cost to the rate payer. Ratepayers do not break down each component of rates in order to come to a perception of the affordability of each charge that goes into rates. Ratepayers form their perception of affordability on the bases of the whole rate.

For example, the present COMFIT program, which has been established by and continues to be promoted by the Province, is an expensive energy source and may be a significant factor in whether overall power rates are considered by ratepayers as “affordable”. Similarly with the “must run” biomass boiler at the facility in Port Hawkesbury. To the extent that ratepayers perceive rates as being unaffordable is no more attributable to DSM programming than it is to the COMFIT program.

3 Ramping DSM up and down has consequences

It is suggested that one of the advantages of DSM programs is their flexibility. When facing the need for generation capacity additions, DSM can be “ramped up” and when there is no need in the reasonably distant future for such additions the foot can be taken off the accelerator.

The establishment of the infrastructure that is needed for DSM programs to be successful does in fact take time. Successful programs are also dependant public attitudes that are developed over time. The Consumer Advocate refers to the evidence of the various businesses who attended at the public portion of the hearing. It is unrealistic to assume such business, or public attitudes, will respond quickly, if at all, to the expectation for their services to be ramped up and down.

> **Mr. Dunsky:** Yeah, all other things being equal, yes, with one really important caveat, and that is that any swings - - the really nice thing about DSM is that you can swing. The really unfortunate thing, the really tough part is that every swing costs you, and can cost you very significantly in the longer run.
>
> So, perhaps as an example, in Canada the Office of Energy Efficiency has done this a couple of times now for home retrofit programs. So they had very strong incentives, then they removed them, then they brought them back. And we do a lot of work - - well, with them, but also with individual utilities across the country.
>
> We have had - - I've personally been involved on a number of occasions with utilities across the country who want to accelerate home retrofit work in their province, and we go - - and I've had these conversations directly. We go and meet with contractors, we bring them in a room, we talk through, "You know, what's it going to take to get you back into this business?"
>
> And, you know, the old expression, you know, what - - you know, once burned - - I'm awful with expressions - - anyway, after being burned the first time they are extraordinarily reluctant to come back into it. And so I've - - I mean, I've seen this very, very close hand.
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> Transcript, pp. 492-493

The Consumer Advocate is concerned that there will be a detrimental impact caused to the existing DSM regime and infrastructure by a significant reduction in the DSM budget.

4 Avoiding Capacity Additions is not the Sole Objective of DSM Programs.

DSM programs are designed for more than the avoidance of capacity additions in the distant future.

The basic purpose is to reduce the level of energy required by Nova Scotia in the future, both short and long term. DSM programs are an integral component in meeting anticipated energy requirements. Having an effective DSM program giving a steady contribution to the control of energy costs is a prudent part of Nova Scotia's energy strategy.

5 The need for effective control of incentives

The Consumer Advocate agrees it is necessary to ensure a cost effective DSM program. That includes ensuring incentives are appropriate.

The issue of what level of incentive is appropriate for a particular measure is a complicated one.

Efficiency One has been challenged with respect to the level of incentives it is proposing by experts for both Nova Scotia Power and for the Industrial Group.

Legitimate questions have been raised about specific incentive levels for individual measures in relation to other jurisdictions.

We note the concern with respect to how incentive levels have and will be determined.

We have not seen any evidence that incentive levels proposed by EfficiencyOne are excessive *in the context of the Nova Scotia market* in order to achieve the energy savings targets proposed for 2016-18.

We would agree that sometimes measures with shorter paybacks should be incented if included as part of a package with longer paybacks.

In addition, where barriers are institutional rather than financial, incentives may be necessary that are greater than those required by a strict analysis of the payback criteria.

Financial barriers are significant with respect to implementation of energy efficiency measures.

Mr. Drazen has proposed that measures with paybacks of less than two years not be incented. No evidence has been presented on the impact on participation rates should this criteria be enforced nor on EfficiencyOne's savings targets.

None of the comments on incentive levels by either experts for the Industrial Group or Nova Scotia Power Inc. addressed incentive levels with respect to income levels of potential participants and the necessity of higher levels of incentives to encourage participation by lower income groups.

Mr. Pickles indicated incentive levels in US jurisdictions for some measures and specifically for LED lighting were significantly lower than incentive levels offered by EfficiencyOne. No comparison of participation rates in measures cited or energy prices for the jurisdictions cited and Nova Scotia were provided.

No evidence has been presented on participation rates in measures with two years or less payback where only information is provided rather than incentives.

EfficiencyOne tracks free ridership to determine how many participants would adopt measures without the incentives provided. This is an indication of whether or not incentive levels are excessive.

We would support a more rigorous process for determining incentive levels, especially where incentives levels are proposed that represent a significant percentage of the cost of the measure, where the payback is less than two years without incentives, or where significant total dollars are proposed to incent a measure.

We would agree that EfficiencyOne should acquire measures at lowest possible cost. EfficiencyOne should be instructed to the most current product costs and forecasts for short-term product prices in determining incentive levels.

Better documentation of how incentive levels were determined needs to be provided as well as any changes in incentive levels made by EfficiencyOne in response to participation rates.

We recommend the incentive programs of EfficiencyOne be referred to the Working Group in order to identify any changes that EfficiencyOne should make and any protocols that should be established. The Group should be required to report back by a deadline with any recommendations for change.

EfficiencyOne should be instructed to provide the DSM Advisory Group with information on how incentive levels were determined or where incentives are provided for measures with a simple payback of less than two years.

All of which is respectfully submitted.

Yours truly,

John Merrick

William L. Mahody

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