

Demand-Side Measures Regulation, BC Reg 326/2008

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B.C. Reg. 326/2008
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Utilities Commission Act

DEMAND-SIDE MEASURES REGULATION

[includes amendments up to B.C. Reg. 117/2017, March 24, 2017]

Definitions

1 In this regulation:

"**Act**" means the *Utilities Commission Act*;

"**bulk electricity purchaser**" means a public utility that purchases electricity from the authority for resale to the public utility's customers;

"**charity program**" means a program to reduce energy consumption in buildings

- (a) owned and used by a charity that provides assistance to low-income persons, or
- (b) leased by a charity that provides assistance to low-income persons, if the benefits of the program accrue primarily to the charity;

"clean or renewable resource" has the same meaning as in the *Clean Energy Act*;

"community engagement program" means a program delivered by

- (a) a public utility to a public entity either
 - (i) to increase the public entity's awareness about ways to increase energy conservation and energy efficiency or to encourage the public entity to conserve energy or use energy efficiently, or
 - (ii) to assist the public entity to increase the public's awareness about ways to increase energy conservation and energy efficiency or to encourage the public to conserve energy or use energy efficiently, or
- (b) a public utility in cooperation with a public entity to increase the public's awareness about ways to increase energy conservation and energy efficiency or to encourage the public to conserve energy or use energy efficiently;

"education program" means an education program about energy conservation and efficiency, and includes the funding of the development of such a program;

"energy efficiency training" means training for persons who

- (a) manufacture, sell or install energy-efficient products or products that conserve energy,
- (b) design, construct or act as a real estate broker with respect to energy-efficient buildings,
- (c) manage energy systems,
- (d) conduct energy efficiency and conservation audits,
- (e) on behalf of an organization, manage or advise with respect to the conservation or efficient use of energy in the organization's facilities, or
- (f) in an organization, educate other persons about the benefits of energy efficiency and conservation;

"energy management program" means a program to assist customers to optimize energy use;

"energy-using product" has the same meaning as in the *Energy Efficiency Act (Canada)*;

"expenditure portfolio" means the class of demand-side measures that is composed of all of the demand-side measures proposed by a public utility in an expenditure schedule submitted under section 44.2 of the Act;

"low-income household" means a household whose residents receive service from the public utility and

- (a) the residents have, in a taxation year, a before-tax annual household income equal to or less than the low-income cut-off established by Statistics Canada for that

year for households of that size, multiplied by 1.3, or

- (b) the account holder receives one or more of the following:
- (i) guaranteed income supplement under the *Old Age Security Act* (Canada);
 - (ii) allowance under the *Old Age Security Act* (Canada) for persons aged 60 to 64 with spouses or common-law partners who receive a pension under that Act and are eligible for a guaranteed income supplement;
 - (iii) survivor's allowance under the *Old Age Security Act* (Canada);
 - (iv) disability benefits under the *Canada Pension Plan* (Canada);
 - (v) National Child Benefit Supplement;
 - (vi) shelter aid for elderly renters under the *Shelter Aid for Elderly Renters Act*;
 - (vii) income assistance for persons with persistent multiple barriers to employment under the *Employment and Assistance Act*;
 - (viii) Provincial senior's supplement under the *Employment and Assistance Act*;
 - (ix) income assistance under the *Employment and Assistance Act*;
 - (x) hardship assistance under the *Employment and Assistance Act*;
 - (xi) disability assistance under the *Employment and Assistance for Persons with Disabilities Act*;
 - (xii) rental assistance provided by the British Columbia Housing Management Commission;

"plan portfolio" means the class of demand-side measures that is composed of all of the demand-side measures proposed by a public utility in a plan submitted under section 44.1 of the Act;

"public awareness program" means a program delivered by a public utility

- (a) to increase the awareness of the public, including the public utility's customers, about ways to increase energy conservation and energy efficiency or to encourage the public, including the public utility's customers, to conserve energy or use energy efficiently, or
- (b) to increase participation by the public utility's customers in other demand-side measures proposed by the public utility in an expenditure portfolio or a plan portfolio

but does not include a program to increase the amount of energy sold or delivered by the public utility;

"public entity" means

- (a) a local government,
- (b) a first nation,

- (c) a society incorporated under the *Societies Act*, other than a member-funded society as defined in section 190 of that Act, or
- (d) a trade union;

"regulated item" means

- (a) a product or system that uses energy or controls or affects the use of energy,
- (b) an energy-using product,
- (c) a building design,
- (d) Repealed. [B.C. Reg. 228/2011, s. 1 (d).]
- (e) a building site design or building site selection plan, or
- (f) a community design;

"school" means a school regulated under the *School Act* or the *Independent School Act*;

"specified demand-side measure" means

- (a) a demand-side measure referred to in section 3 (c) or (d),
- (b) the funding of energy efficiency training,
- (c) a community engagement program,
- (c.1) an energy management program,
- (d) a technology innovation program, or
- (e) financial or other resources provided
 - (i) to a standards-making body to support the development of standards respecting energy conservation or the efficient use of energy, or
 - (ii) to a government or regulatory body to support the development of or compliance with a specified standard or a measure respecting energy conservation or the efficient use of energy in the Province;

"specified proposal" means

- (a) a proposal respecting an amendment to the regulation referred to in paragraph (a) of the definition of "specified standard", if the proposal is published by the government;
- (b) a proposal respecting an amendment to the regulations referred to in paragraph (b) of the definition of "specified standard", if the proposed amendment is published in the Canada Gazette;
- (c) a proposal respecting an amendment to the regulation referred to in paragraph (c) of the definition of "specified standard", if the proposal is published by the government;

(d) a proposal respecting

(i) a new bylaw, or

(ii) an amendment to a bylaw

referred to in paragraph (d) of the definition of "specified standard", if the proposal has been given first reading by the council of the local authority;

(e) a proposal respecting

(i) a new law, or

(ii) an amendment to a law

referred to in paragraph (e) of the definition of "specified standard", if the proposal has been published by the governing body referred to in that paragraph;

"specified standard" means a standard in any of the following:

(a) the Energy Efficiency Standards Regulation, B.C. Reg. 389/93;

(b) the Energy Efficiency Regulations SOR/94-651;

(c) the British Columbia Building Code, if the standard promotes energy conservation or the efficient use of energy;

(d) a bylaw of a local authority, if the standard promotes energy conservation or the efficient use of energy in the Province;

(e) a law passed by a governing body of a first nation, if the standard promotes energy conservation or the efficient use of energy in the Province;

"step code", in relation to a building to which Part 3 or 9 of the British Columbia Building Code (the Code) applies, means energy efficiency requirements in a regulation made under section 3 of the *Building Act* that are more stringent than the requirements in

(a) Sentence 10.2.1.1. (1) of the Code, for buildings to which Part 3 of the Code applies, or

(b) Subsections 9.36.2. to 9.36.4. of the Code, for buildings to which Part 9 of the Code applies;

"technology innovation program" means a program

(a) to develop, use or support the increased use of a technology, a system of technologies, a building design or an industrial facility design that is

(i) not commonly used in British Columbia, and

(ii) the use of which could directly or indirectly result in significant reductions of energy use or significantly more efficient use of energy,

(b) to do what is described in paragraph (a) and to give demonstrations to the public of any results of doing what is described in paragraph (a), or

- (c) to gather information about a technology, a system of technologies, a building design or an industrial design referred to in paragraph (a).

[am. B.C. Regs. 228/2011, s. 1; 141/2014, s. 1; 117/2017, Sch., s. 1.]

Application

2 (1) Repealed. [B.C. Reg. 326/2008, s. 2 (2).]

(2) Effective June 1, 2009,

- (a) subsection (1) is repealed, and
- (b) section 3 does not apply to a public utility that is owned or operated by a local government or has fewer than 10 000 customers.

Adequacy

- 3 (1) A public utility's plan portfolio is adequate for the purposes of section 44.1 (8) (c) of the Act only if the plan portfolio includes all of the following:
- (a) a demand-side measure intended specifically
 - (i) to assist residents of low-income households to reduce their energy consumption, or
 - (ii) to reduce energy consumption in housing owned or operated by
 - (A) a housing provider that is a local government, a society as defined in section 1 of the *Societies Act*, other than a member-funded society as defined in section 190 of that Act, or an association as defined in section 1 (1) of the *Cooperative Association Act*, or
 - (B) the governing body of a first nation,if the benefits of the reduction primarily accrue to
 - (C) the low-income households occupying the housing,
 - (D) a housing provider referred to in clause (A), or
 - (E) a governing body referred to in clause (B) if the households in the governing body's housing are primarily low-income households;
 - (b) if the plan portfolio is submitted on or after June 1, 2009, a demand-side measure intended specifically to improve the energy efficiency of rental accommodations;
 - (c) an education program for students enrolled in schools in the public utility's service area;
 - (d) if the plan portfolio is submitted on or after June 1, 2009, an education program for students enrolled in post-secondary institutions in the public utility's service area;

- (e) one or more demand-side measures to provide resources as set out in paragraph (e) of the definition of "specified demand-side measure", representing no less than
 - (i) an average of 1% of the public utility's plan portfolio's expenditures per year over the portfolio's period of expenditures, or
 - (ii) an average of \$2 million per year over the portfolio's period of expenditures;
 - (f) one or more demand-side measures intended to result in the adoption by local governments and first nations of a step code or more stringent requirements within a step code.
- (2) The commission, when considering whether a plan portfolio is adequate under subsection (1), may consider a demand-side measure that is not included in the plan portfolio to be a part of the plan portfolio.

[am. B.C. Reg. 141/2014, s. 2; 117/2017, Sch., s. 2.]

Cost effectiveness

- 4 (1) Subject to subsections (1.5), (4) and (5), the commission, in determining for the purposes of section 44.1 (8) (c) or 44.2 (5) (d) of the Act the cost-effectiveness of a demand-side measure proposed in an expenditure portfolio or a plan portfolio, may compare the costs and benefits of
- (a) the demand-side measure individually,
 - (b) the demand-side measure and other demand-side measures in the portfolio, or
 - (c) the portfolio as a whole.
- (1.1) Subject to subsection (2), the commission must make determinations of cost effectiveness by applying the total resource cost test as follows and in the order set out:
- (a) subject to subsections (1.2) and (1.3), the avoided natural gas cost, if any, respecting a demand-side measure, in addition to the avoided capacity cost, is the amount that the commission is satisfied represents the authority's long-run marginal cost of acquiring electricity generated from clean or renewable resources in British Columbia;
 - (b) subject to subsection (1.3), the avoided electricity cost, if any, respecting a demand-side measure, in addition to the avoided capacity cost, is
 - (i) in the case of a demand-side measure of FortisBC Inc., an amount that the commission is satisfied represents FortisBC Inc.'s long-run marginal cost of acquiring electricity generated from clean or renewable resources in British Columbia, and

- (ii) in the case of a demand-side measure not referred to in subparagraph (i), an amount that the commission is satisfied represents the authority's long-run marginal cost of acquiring electricity generated from clean or renewable resources in British Columbia;
- (c) with respect to a demand-side measure that is not referred to in section 3 (1) (a) and that is not a charity program, do the following:
 - (i) increase the benefits of the demand-side measure by an amount that does not exceed an amount proposed by the public utility for this purpose, if the commission is satisfied that the amount represents the participant or utility non-energy benefits of the demand-side measure;
 - (ii) if the benefits of a demand-side measure have not been increased under subparagraph (i) or if the benefits of the expenditure portfolio of which the demand-side measure is a part has not been increased by 15% or more as a result of an increase under subparagraph (i), increase the benefit of the demand-side measure by an amount that
 - (A) increases by 15% the benefits of the expenditure portfolio of which the demand-side measure is a part, and
 - (B) is equal to the increase made under this subparagraph for all the other demand-side measures that are part of the expenditure portfolio;
- (d) the benefit of the demand-side measure is what it would have been had no step code been adopted in the Province.

(1.2) Subsection (1.1) (a) does not apply to a demand-side measure that reduces the use of natural gas but does not reduce greenhouse gas emissions associated with that use of natural gas.

(1.3) Subsection (1.1) (a) and (b) does not apply to a demand-side measure that encourages a switch from the use of oil or propane to the use of natural gas or electricity such that the switch would decrease greenhouse gas emissions in British Columbia.

(1.4) In considering a demand-side measure that, in the commission's opinion, will increase the use of a regulated item with respect to which there is either

- (a) a specified standard that has not yet commenced, or
- (b) a specified proposal,

the commission, after applying subsection (1.1), may increase the benefit of the demand-side measure by an amount that represents a portion of the avoided capacity and energy costs that, in the commission's opinion, will result from the commencement and application of the specified standard, amendment or new bylaw proposed by the specified proposal, assuming that the standard, amendment or new bylaw comes into force.

(1.5) Despite subsection (1.1) and subject to subsections (1.9), (4) and (5), the commission must determine that a demand-side measure, other than a demand-side measure referred to in section 3 (1) (a) or a charity program, that is part of an expenditure portfolio and that is cost effective when applying subsection (1.1) is not cost effective if

(a) the demand-side measure is not cost-effective without applying subsection (1.1),
and

(b) the total expenditures respecting

(i) the demand-side measure, and

(ii) all other demand-side measures that are part of the expenditure portfolio,
that are not cost effective without applying subsection (1.1) and that are
cost effective when applying subsection (1.1),

are more than

(iii) 40% of the total expenditures for the expenditure portfolio, in the case of a
utility that recovers the expenditures in gas rates, or

(iv) 10% of the total expenditures for the expenditure portfolio, in the case of a
utility that recovers the expenditures in electricity rates.

(1.6) For greater certainty, if the commission determines under subsection (1.5) that a demand-side measure that is part of an expenditure portfolio is not cost effective, the commission must exclude that demand-side measure from consideration when determining under that subsection whether another demand-side measure that is part of the expenditure portfolio is cost effective.

(1.7) For the purposes of subsections (1.1) (c) and (1.5), the commission, when considering the benefits or expenditures respecting a public utility's expenditure portfolio, may consider a demand-side measure of the public utility that is not included in the expenditure portfolio to be a part of the expenditure portfolio.

(1.8) Despite subsection (1.1), the commission may determine that a demand-side measure, other than

(a) a specified demand-side measure,

(a.1) a charity program,

(b) a public awareness program,

(c) a demand-side measure referred to in section 3 (1) (a), or

(d) a demand-side measure that is cost effective without applying subsection (1.1) but
after applying subsection (1.4)

is not cost effective if the demand-side measure would not be considered cost-effective under the utility cost test.

- (1.9) The references in subsections (1.5) and (1.8) to subsection (1.1) must be read as references
- (a) to subsection (1.1) (a), (b) and (c) for the purposes of a demand-side measure that is part of an expenditure portfolio for any period before January 1, 2015, and
 - (b) to subsection (1.1) (a) and (c) for the purposes of a demand-side measure that is part of an expenditure portfolio for any period after December 31, 2014.
- (2) In determining whether a demand-side measure referred to in section 3 (1) (a) or a charity program is cost effective, the commission must,
- (a) in addition to conducting any other analysis the commission considers appropriate, use the total resource cost test, and
 - (b) in using the total resource cost test, make the adjustments referred to in subsection (1.1) (a) and (b) and then increase the value of the benefit of the demand-side measure by 40%.
- (3) Repealed. [B.C. Reg. 228/2011, s. 2 (d).]
- (4) The commission must determine the cost-effectiveness of a specified demand-side measure proposed in a plan portfolio or an expenditure portfolio by determining whether the portfolio is cost effective as a whole.
- (5) If the commission is satisfied that a public awareness program proposed in a plan portfolio or an expenditure portfolio is likely to accomplish the goals set out in paragraph (a) or (b) of the definition of "public awareness program", the commission must determine the cost-effectiveness of the program by determining whether the portfolio is cost-effective as a whole.
- (6) The commission may not determine that a proposed demand-side measure is not cost effective on the basis of the result obtained by using a ratepayer impact measure test to assess the demand-side measure.
- (7) Repealed. [B.C. Reg. 228/2011, s. 2 (d).]

[am. B.C. Regs. 228/2011, s. 2; 141/2014, s. 3; 117/2017, Sch., s. 3.]

[Provisions relevant to the enactment of this regulation: *Utilities Commission Act*, R.S.B.C. 1996, c. 473, section 125.1]