A Review of Efficiency Nova Scotia's Business Energy Solutions Program
May 2015

Summary

Efficiency Nova Scotia offers Nova Scotians and businesses a range of programs to help them reduce their energy use and save money. The Business Energy Solutions program is an incentive program available to small- and medium-sized businesses that want to improve their energy efficiency.

The Department of Energy undertook a review of the Business Energy Solutions program following complaints from two local LED lighting suppliers.

As a result of this review, Efficiency Nova Scotia has agreed to accelerate plans to change the Business Energy Solutions program to allow greater transparency, consistency and fairness. These changes are outlined in this report and will be effective August 1, 2015.

Summary of Complaints

The Department of Energy ("the department") was asked to review the Business Energy Solutions (BES) program offered by Efficiency Nova Scotia (ENS) following complaints about high incentives, unfair pricing, and unfair practice. The complaints made by two LED lighting companies suggest the BES program has established "winners and losers" in the local marketplace.

The companies claim:

1. BES incentives offered discounts as high as 90% or more off normal retail pricing, making it impossible for local LED supply companies to compete on price.
2. Sales from local supply companies to the program's authorized delivery agents had virtually stopped, suggesting they were excluded through the adoption of purchasing agreements with larger lighting companies.
3. ENS required specific brands of LED lights to qualify for incentives, which limited product options available from local suppliers.
4. Businesses who were not eligible for the program received BES incentives.

The Department's Review Process

The department reviewed the BES program in light of the complaints outlined above. To this end, the department:

- met with representatives of ENS to learn about the BES program to understand the issues relating to the complaints and to discuss information that arose during the review period.
- conducted phone conversations and meetings with the two LED companies to better understand their complaints and facilitated meetings between the companies and ENS.
- sought technical advice to determine whether the UARB has a mandate over the issues raised in the complaints.
- reviewed the content of UARB filings (internal audits, third-party verified evaluation reports and Demand Side Management plans).

This report concludes the department's review process.

Summary of Avenues Outlined to the Complainants

The department confirmed with the LED lighting supply companies that they were aware of several avenues to have their complaints examined. These are noted below.

- **Department of Energy**
  The department may review the complaints to fully understand the concerns and determine whether it is possible to resolve these issues informally. This is largely what has taken place to date. The department has the ability to follow up with the UARB formally as interveners in a UARB hearing, or informally through a written request.
- **Competition Bureau**
  This federal agency governs business conduct in Canada with a view to preventing anti-competitive practices. A victim of an anti-competitive act or a person with direct evidence of such an act could make a complaint to the Competition Bureau.
- **Utility and Review Board (UARB)**
  Although market conditions are generally out of the scope of the UARB's mandate, the UARB has the ability to review ENS's procurement policies and practices if they are acting in a way that may result in ratepayers not receiving the greatest value for funds expended on ENS programs. The UARB may investigate ENS's conduct of its own accord or in response to a complaint.

  The two LED companies making the above complaints have registered as interveners in a current UARB hearing for ENS's Electricity Demand Side Management 2016–2018 Plan to put their complaints before the UARB.

The Current Business Energy Solutions (BES) Program

The BES program is available to small- and medium-sized businesses that use less than 400,000 kWh of electricity per year and who have operated for at least 12 months at their current location. The program is accessed by a wide range of businesses and organizations, such as small offices and retail shops, restaurants, hotels, farms, non-profits, community organizations, municipalities, and facilities. Efficiency upgrades can include: indoor and outdoor lighting, electric hot water tanks and pipe insulation, faucet aerators, pre-rinse spray valves, heat pumps, controls for vending machines, outdoor air economizers, and specialized motors.

The BES program currently involves a three-step process for businesses to access energy efficiency upgrades:

- **Step 1:** Businesses submit an application to the program, contact a delivery agent to set up an energy audit, and receive customized recommendations for upgrades to improve energy efficiency.
- **Step 2:** Businesses review the recommendations and associated costs. Businesses select upgrades they want to complete and decide their payment terms (payments are remitted to ENS, either through a lump-sum payment or over 24-months of interest-free payments on their power bills, pending financing approval).
- **Step 3:** ENS coordinates with one of their three delivery agents to order and install energy efficient products and dispose of or recycle old materials.

Project costs include the energy audit, products, shipment, installation, labour, disposal of and/or recycling of old materials, and project oversight. Project costs are paid by the business owner who receives discounts, or incentives, which are covered by ENS to encourage participation in the program.

Delivery Agents

Currently delivery agents are responsible for carrying out energy audits and the services described in Step 3. Installation is often sub-contracted to other companies.

Delivery agents were contracted by ENS using a competitive request for proposal (RFP) process. Contracts were awarded using criteria such as price, safety certification, and the use of local goods and services. There are currently three delivery agents in Nova Scotia who each work within specific geographic boundaries. These agents have the exclusive right to offer incentives through the BES program.

At the time the BES program was designed, ENS said their decision to limit the number of delivery agents was to help achieve more comprehensive retrofits to a wider range of participants. As well, ENS believed service quality standards needed to be consistent for energy audits and for all aspects of the program, including heating, ventilation, air conditioning, refrigeration, and lighting services.

In July 2014 local LED lighting supply companies suspected that delivery agents had entered into exclusive or quasi-exclusive purchasing agreements with major lighting companies. This issue came to light when their sales to the BES program began to fall. Agreements such as these are common retail practice as they can reduce costs through volume purchasing. Prior to July 2014, we understand that delivery agents were purchasing products from a variety of sources. Delivery agents are not restricted in their ability to select preferred suppliers and negotiate pricing.

Incentives

ENS has an obligation to meet specific, annual energy savings (or efficiency) targets; efficiency programs must be delivered at a cost that is at or below the cost of the energy savings they are expected to generate during their first year in operation. These targets are outlined in ENS's Electricity Demand Side Management plan (the current plan is for 2015), which was approved by the UARB.

In order to encourage participation in their programs, Efficiency Nova Scotia offers incentives (or discounts) for efficiency upgrades.

Currently, incentives are structured using the following three considerations:

1. Pricing, including products, installation and audit costs
2. Energy savings expected to result from the upgrades
3. Local market assessments and program uptake

The energy-savings component considers how to incentivize the value of the energy saved, which includes consideration of 'run times.' In the case of lighting, run time can have a significant impact on the expected energy savings and therefore have a significant financial impact on the businesses' decision to invest. Incentive setting considers the risk of investing with the value of the upgrades (short- and long-term payback).

The third consideration has introduced variability into incentive setting, making it difficult to compare BES incentives among BES participants. The market assessment allows ENS to offer higher incentives to motivate more businesses to purchase BES upgrades if they determine that participation is low. This variability has resulted in some discounts of 90% or more of total project costs. In 2014, the participants received incentives that ranged from 10% to 100%. High incentives were also used to encourage companies to make a decision to complete upgrades for projects that remained uncompleted for a significant period of time (in some cases 1–2 years).

These incentives must meet the criteria of ENS's energy savings target, as outlined in its Demand Side Management plan, approved by the UARB, and verified by a third-party evaluator. The UARB has the ability to review conduct or circumstances that could result in unreasonable rates or service.

Incentives are reviewed and adjusted when ENS receives new information about evaluated program results, market intelligence, or technology advancements.

Changes to the BES Program

The department recommended changes to the BES program as soon as possible. The new program will be implemented beginning August 1, 2015 following a brief pilot to test the role of a Small Business (Energy) Auditor and time to develop internal program supports and controls to ensure a smooth transition.

The new BES program will involve several key changes to program design and implementation.

Highlights include:

- The delivery agent model will be eliminated through a gradual process to be completed by July 31, 2015.
- ENS will develop a list of qualified contractors and post it on their website providing choice for program participants in requesting quotes and selecting contractors. The process to qualify contractors began in May 2015, and the list of qualified contractors is expected to be posted within a few months. Additional contractors can qualify on an on-going basis.
- Energy audits will be conducted by qualified Small Business (Energy) Auditors, contracted by ENS through a publically-tendered open process. Auditors will not sell product to BES participants.
- Businesses will have two options to complete their energy upgrades:
  - a "Do It Yourself" (DIY) option where BES participants request quotes and manage the work to complete the upgrades themselves without the guidance of an auditor; and
  - a "Project Support" option where the auditor completes an energy audit and coordinates the work to be completed. This option allows for a more "turnkey" solution than is currently offered by the delivery agents. The auditor does not sell product or select contractors.
- Incentives offered will undergo several changes:
  - Incentives will be standardized so all contractors will have access to the same incentives.

- The cost of the energy savings incentive for the Project Support or 'turnkey" option has been capped.
- The cost of the energy savings incentive for participants who choose the DIY option will be capped at a lesser amount, as there are no associated auditor costs.
- High incentives which considered market conditions and program uptake will be eliminated.

Aspects of these changes have been introduced in a pilot program that will be available to a limited number of BES participants in the Halifax area. Full transition to the new model is expected by August 1, 2015. During this transition, total incentives available through delivery agents have been capped at 60% of the total project costs.

ENS will continue to monitor the new BES program after August 1, 2015.

In preparing for these changes, ENS hosted Industry Engagement sessions in Dartmouth, Truro, Sydney, Bridgewater and Yarmouth to outline the new BES program model and get feedback from industry. Contractors (some of whom are installation subcontractors to the current delivery agents), members of the public interested in entering the efficiency industry, and companies interested in the auditor role attended.

ENS reported to the department that feedback on the new model was generally positive. A common concern expressed during each session involved the role of the auditor and its independence. ENS advised the RFP will clearly mandate its independence.

Results of this Review

The BES program offered by ENS met performance standards as approved by the UARB. However LED companies raised complaints about uncompetitive pricing and limited market access.

The department's findings are as follows:

1. In 2014, ENS offered BES participants incentives that ranged from 10% to 100%.
2. Delivery agents made changes to the way they purchased LED light bulbs and were no longer purchasing bulbs from some local LED lighting suppliers.
3. ENS requires light bulbs to meet an international quality standard (DLC standard); there are no other restrictions on light bulbs for use in ENS's programs.
4. Large industrial companies normally qualify for a custom efficiency program when they use more than 400,000 kWh per year. Occasionally ENS has moved these industrial customers into the BES program. This has occurred when upgrades for projects have remained uncompleted for a significant period of time and the work can be completed within ENS's cost of energy saved per kWh target for the BES program. Moving these customers into the BES program allowed ENS to offer these companies higher incentives and motivate them to complete the efficiency upgrades. The energy savings target program model provides ENS with flexibility to meet its target and does not conflict with its UARB performance targets.

In response, the department recommended changes to BES program incentives and the delivery agent model, as soon as possible. While some of these program changes were being contemplated by ENS prior to this review, their implementation schedule was shortened to address these concerns more quickly.

The department also recommends that ENS provide industry with more detail about the efficiency programs available for businesses to improve clarity about product eligibility and programming options.

The department is satisfied that the new BES program, to be fully implemented on August 1, 2015, will address concerns raised by the LED lighting companies. This assessment is based on the following:

- The incentive package has been redesigned to ensure all contractors have access to the same incentives and the incentive level has been capped at a lower level.
- The delivery agent model, which resulted in limited product choices for BES participants to the exclusion of local suppliers, is being eliminated. The (new) auditors will not be able to sell products and participating businesses will select their own contractors.

The department expects ENS will engage with local suppliers and contractors to ensure a smooth transition to the new model and that it works for industry. In addition, suppliers are looking for timely information about the program that will help them better prepare and adapt sales plans and inventory throughout the year.

The department has written to the UARB and provided them with a copy of this report. We would expect that the board would continue its oversight of ENS (EfficiencyOne as franchise holder) under the terms of their responsibilities under the Electricity Efficiency and Conservation Restructuring Act (2014) and the Public Utilities Act. If further action is required, we would expect this to be handled by the UARB.

Although the LED lighting companies are interested in a faster transition to the new model, the department recognizes there are processes that need to be put in place and internal controls that need to be developed. The department expects ENS to maintain its firm commitment to make the transition to a more open procurement process no later than August 1, 2015.

After three months of the release of this report, the department will follow up with ENS and industry to ensure changes have been implemented.

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