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February 17, 2009

BY COURIER

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: EB-2008-0244 – PowerStream Inc. 2009 Rate Application
Late Intervention Request by the Smart Sub-Metering
Working Group and Request for Cost Eligibility**

We act for the Smart Sub-Metering Working Group ("**SSMWG**") which is made up of the following licenced smart sub-metering companies:

Carma Industries Inc.
Enbridge Electric Connections Inc.
Hydro Connection Inc.
Intellimeter Canada Inc.
Stratacon Inc.
Wyse Meter Solutions

This letter is in response to the Ontario Energy Board's ("**OEB**") Notice of Application and Hearing for an electricity distribution rate change by PowerStream Inc. ("**PowerStream**"). The SSMWG is applying for late intervenor status in the above-noted proceeding. The SSMWG intends to participate in the proceeding as is appropriate by any one or all of submitting interrogatories, filing evidence or submissions, undertaking cross-examination and/or filing argument.

Members of the SSMWG operate in the competitive smart sub-metering industry. Members offer smart sub-metering services ("**SSM Services**") to the developers and owners of multi-unit residential and commercial complexes. The SSM Services may include the installation of smart metering equipment in individual suites, data collection and storage, invoicing and bill collections and customer care functions. Members of the SSMWG must operate pursuant to the conditions of their OEB-issued licence and the Smart Sub-Metering Code.

Late Request for Intervenor Status

It has recently come to the attention of members of the SSMWG that PowerStream is seeking approval for funding, through rates, in respect of certain costs associated with providing smart suite metering in the place of the use of a bulk meter. Members of the SSMWG have questions about PowerStream's suite metering program from the perspective of its compliance with applicable codes and the availability and use of ratepayer funding in a competitive marketplace.

In particular, it appears to the SSMWG that PowerStream's five-year capital plan, as set out in its Application, contemplates a significant expenditure on individual suite metering systems. It is submitted that the funding of such costs may not be in the interests of existing ratepayers and may be inconsistent with the OEB's objective of promoting an economically efficient, cost-effective and financially viable electricity industry of which smart sub-metering is an increasingly important component.

It is only because the SSMWG just recently became aware of PowerStream's proposals in respect of smart suite metering that this intervention request is late. The SSMWG notes, however, that no Procedural Order has yet been issued in this Application and respectfully submits that no party will be harmed by its late intervention.

Accordingly, the SSMWG applies pursuant to Rule 23.05 for late intervention status. Please accept this letter as SSMWG's motion under Rule 23.05 of the OEB's Rules of Practice and Procedure.

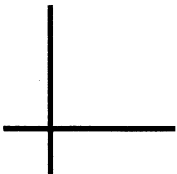
In response to the information required by Rule 23.03, the SSMWG states that:

1. the SSMWG wishes to participate in English;
2. the SSMWG requests that the Applicant and all intervenors forward a copy of all filings be served to:

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(Counsel to the SSMWG)

3. the SSMWG intends to seek an award of costs, being a party which represents a public interest relevant to the Board's mandate.



Request for Cost Eligibility

The SSMWG hereby applies for a determination by the OEB that it is eligible for an award of costs. This request is made pursuant to the OEB's Practice Direction on Cost Awards effective November 14, 2008.

The SSMWG submits that it should be eligible for costs in accordance with Subsections 3.03(b) and 3.04 of the OEB's Practice Direction for the following reasons:

- (a) It represents a public interest relevant to the OEB's mandate in that the issues germane to the SSMWG include:
 - (i) the Applicant's compliance with the *Distribution System Code* and, in particular, the requirement for economic evaluations;
 - (ii) the Applicant's compliance with requests by building owners and developers for the installation of bulk meters where the building owner/developer looks to engage a competitive SSM Service provider;
 - (iii) the determination of whether the funding sought by PowerStream is in the interest of the Applicant's ratepayers and the competitive market if it is determined that the Applicant is requesting that ratepayers subsidize the Applicant's activities in a competitive market; and
 - (iv) the protection of the integrity and viability of a participant in the electricity marketplace, namely, SSM Service providers, particularly at this point in time where the SSM industry is in its infancy.
- (b) The issues raised by the SSMWG are relevant from the perspective of the OEB's objectives as set out in Sections 1 of the *Ontario Energy Board Act* and the *Electricity Act*.
- (c) It appears that no other party has or purports to represent similar interests and no other party appears to have opposed prior applications by LDCs which appear to have made similar requests for rate recovery.¹

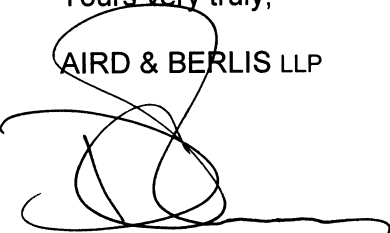
Absent the SSMWG being eligible for a costs award, certain members of the SSMWG may not have sufficient resources to participate and the SSMWG may be unable to intervene. In the event that the SSMWG is granted late intervenor status and eligibility for a costs award, the SSMWG intends to participate only to the extent of the issues identified in this letter.

¹ It appears that PowerStream has operated a smart suite metering capital cost program for several years as exhibited at Exhibit B1, T4, S2, page 2. The SSMWG believes that no intervenor took issue with what appears to be a similar request by Toronto Hydro in EB-2007-0680.

Should you require anything further in support of the late request for intervenor status or cost eligibility, please do not hesitate to call.

Yours very truly,

AIRD & BERLIS LLP



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DMO/ct

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