



THE BOARD OF DIRECTORS

Chair, GAIL REGAN
President, Cara Holdings Ltd.

President, PATRICIA ADAMS
MAX ALLEN
Producer, IDEAS, CBC Radio
GEORGE CONNELL
President Emeritus, University of Toronto
ANDREW COYNE
Journalist
IAN GRAY
President, St. Lawrence Starch Co.

Secretary Treasurer, ANNETTA TURNER
DAVID NOWLAN
Professor Emeritus, Economics, University of Toronto
CLIFFORD ORWIN
Professor of Political Science, University of Toronto
ANDREW ROMAN
Barrister & Solicitor, Miller Thomson
MARGARET WENTE
Columnist, Globe and Mail

June 18, 2009

BY EMAIL & BY COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

Board File No. EB-2008-0244
PowerStream Inc. – 2009 Rates Rebasing Application
Argument of Energy Probe

Pursuant to directions by the Board during the Oral Hearing of June 15, 2009, please find attached two hard copies of the Argument of Energy Probe Research Foundation (Energy Probe) in respect of the EB-2008-0244 proceeding for the Board's consideration. An electronic version of this communication will be forwarded in PDF format.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc: Paula W. Conboy, PowerStream Inc. (By email)
Colin A. Macdonald, PowerStream Inc. (By email)
Helen T. Newland, Fraser Milner Casgrain LLP (By email)
Randy Aiken, Aiken & Associates (By email)
Intervenors of Record (By email)

Energy Probe Research Foundation 225 BRUNSWICK AVE., TORONTO, ONTARIO M5S 2M6

Phone: (416) 964-9223 Fax: (416) 964-8239 E-mail: EnergyProbe@nextcity.com Internet: www.EnergyProbe.org

IN THE MATTER OF the *Ontario Energy Board Act*,
1998, S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an application by
PowerStream Inc. for an order approving just and
reasonable rates and other charges for electricity
distribution to be effective May 1, 2009.

ENERGY PROBE RESEARCH FOUNDATION
(“ENERGY PROBE”)

ARGUMENT

June 18, 2009

**POWERSTREAM INC.
2009 RATES**

EB-2008-0244

ARGUMENT OF ENERGY PROBE RESEARCH FOUNDATION

INTRODUCTION

This is the Argument of the Energy Probe Research Foundation (“Energy Probe”) in respect of the unsettled sub-issue related to the setting of 2009 rates for PowerStream Inc. (“PowerStream”) effective May 1, 2009. This unsettled sub-issue is the matter of PowerStream’s individual suite metering activities, as described in Section *VII*. *UNSETTLED SUB-ISSUE* at page 8 of the May 29, 2009 Settlement Proposal.

In Procedural Order No. 5 dated June 3, 2009, the Board approved the Settlement Proposal and noted that the unsettled sub-issue remaining concerned PowerStream’s individual suite metering activities and the revenue requirement impacts of these activities.

As described in the Settlement Proposal, the Smart Sub-Metering Working Group (“SSMWG”) took the position that the revenue requirement impacts of those activities should not be included in rates in the 2009 test year.

SUITE SUB-METERING ACTIVITIES OF POWERSTREAM

a) Terminology

Energy Probe submits that there needs to be a clear and concise meaning associated with the terms “smart metering” and “smart sub-metering” in relation to condominiums. Ms. Conboy provided the terminology used by PowerStream (Tr. Vol. 1, pages 61-62). Energy Probe accepts and adopts these terms.

In particular, the term “smart metering” with respect to condominiums describes a situation in which a licensed distributor, such as PowerStream, individually meters every condominium unit, including common areas. There is no bulk master meter required and there is no sub-metering taking place. Under this option each condominium unit becomes a customer of the distributor and is subject to regulated rates.

The term “smart sub-metering” describes the situation in which the licensed distributor provides service to the condominium by way of a bulk master meter. The smart sub-metering provider then allocates the bill to each unit in the building on behalf of the condominium corporation. The rates charged by the sub-meter provider are not regulated.

b) Obligation to Connect

Energy Probe submits that it is clear that PowerStream, as a licensed distributor, has a statutory obligation to connect a building that lies along the lines of its distribution system.

Energy Probe submits that the Distribution System Code is quite clear on the obligation of a licensed distributor. In particular, Section 5.1.9 states:

“When requested by either:

- (a) the board of directors of a condominium corporation; or*
- (b) the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the Condominium Act, 1998, a distributor shall install smart metering that meets the functional specification of Ontario Regulation 425/06—Criteria and Requirements for Meters and Metering Equipment, Systems and Technology (made under the Electricity Act).”*

Regulation 442/07 has similar language, making it mandatory that a distributor shall install smart meters.

Energy Probe submits that the installation of smart meters when requested by the Board of Directors of a condominium corporation or the developer of a building that will be registered as a condominium is a mandatory regulated activity. As such, PowerStream should be allowed to recover all reasonable costs associated with their smart metering activities.

c) Customer Choice

Energy Probe notes that it is the choice of the customer (through the Board of Directors of a condominium corporation, or the developer of a condominium) as to whether they want individual unit metering from the licensed distributor or a bulk master meter. If the latter is chosen, the second choice is then the selection of a sub-metering provider and how the bill will be allocated to each unit in the building.

Energy Probe supports the continued choice by the customer of the path they wish to take. No customer or potential customer is being forced to opt for individual unit metering directly with the licensed distributor. Neither are they being forced to accept a bulk master meter and required to select a sub-metering provider. If sub-metering providers have a service they wish to sell, they need to convince the customer of the value of their offering relative to that of the licensed distributor. That choice is part of a competitive market. Once the choice has been made, the licensed distributor is required to connect the customer, either through individually metered units or a bulk meter.

Further, as stated by Mr. Chattan, if the condominium corporation wants to switch from a smart suite metering system to a smart sub-metering system, it is able to do so (Tr. Vol. 1, page 185). This preserves the customer's choice.

d) Separate Rate Category

Energy Probe submits that there has been no evidence provided by any party to this proceeding that a separate rate category is needed or required to serve residential customers in a condominium. While there is evidence that the meter costs are more for

these residential customers, there is no evidence to indicate whether the overall costs to serve these customers is more or less than for other residential customers. While the meters may have a higher initial capital cost, there may be operating and maintenance cost savings associated with having meters centralized in a secure location.

PowerStream serves a large number of residential customers. These customers, while similar, are not homogenous. As discussed by Mr. Warren and Ms. Conboy (Tr. Vol. 1, page 174-176) some live in large houses, some in small; some are located in densely packed subdivisions, others are more spread out. These residential customers cause different costs to be incurred for things like bad debt charges, and the length of wire and number of poles to get to their neighbourhoods. Ms. Conboy agreed that within the large residential rate class there may be a number of subsidies going from one kind of residential customer to another. This is not unique to PowerStream, but rather is the norm. No evidence has been provided to suggest that residential customers in a condominium are any more different from the “typical” residential customers than any other group of residential customers.

Even if there was evidence or rationale for a separate rate category, this is not the proper proceeding to deal with this issue. Such an issue is generic in nature and the Board should treat it as such.

e) Cross-Subsidization

Energy Probe submits that there is no credible evidence on the record in this proceeding to determine that any cross-subsidization is taking place, and certainly no credible evidence to quantify the level of any cross-subsidization. Ms. Conboy agreed that there was not enough information upon which the Board could calculate with any reasonable degree of precision an amount by which residential consumers at large were subsidizing the suite meter customers in condominiums (Tr. Vol. 1, page 175). Energy Probe agrees with this statement.

Further, it is not clear to Energy Probe, based on the evidence in this proceeding, which way any potential cross-subsidization may be flowing. Under cross examination from Mr. Buonaguro, the SSMWG witness, Mr. Maclure indicated that based on the evidence the OM&A cost per residential customer was \$110 (Tr. Vol. 1, page 135) instead of \$178 per all customers, there is a reduction in costs of more than \$320,000 in the fully allocated cost calculation he had provided in Exhibit K1.6 (Tr. Vol. 1, pages 206-208). The change in the OM&A cost by the reduction of \$68 per customer changes the analysis from a deficiency of approximately \$120,000 to a sufficiency of about \$200,000.

Under examination from Ms. Newland, it was further revealed that Mr. Maclure had incorrectly included the amortization expense as a controllable expense in the calculation of the working capital allowance component of rate base (Tr. Vol. 1, pages 218-219). As a result, the rate base has been over estimated by approximately \$30,000. At a weighted average cost of capital of approximately 7.3%, this would reduce the revenue requirement by about \$2,000. It would also reduce the grossed up taxes.

Energy Probe further submits that in the calculation of the revenue requirement impact on the 2009 test year, the cost of capital would be lower, as it would reflect 4% of rate base at the short term debt rate and it would also reflect a return on equity of less than 9.0%.

Mr. Maclure was asked directly by Ms. Newland if the SSMWG was asking the Board to reduce the revenue requirement stipulated in the settlement agreement of \$114.56 million by the figure of the deficiency shown in Exhibit K1.6 of \$119,000. His response was that he did not think the Board has enough information to do that.

Energy Probe submits that both PowerStream and the SSMWG agree that there is not enough information in this proceeding to allow the Board to make any adjustments to PowerStream's revenue requirement. Indeed, based on the SSMWG analysis, updated to include more accurate OM&A per residential customer costs, there would be a sufficiency. This would mean that the residential condominium customers are actually subsidizing other residential customers.

Energy Probe believes that it is clear that there is no credible evidence on who is subsidizing who. There is no credible evidence on the actual level of any subsidy, and in any case, the figures provided in the case, which range from a deficiency of \$120,000 to a sufficiency of about \$200,000, are de minimis. The deficiency represents approximately 0.1% of the total revenue requirement.

f) Summary

In summary, Energy Probe submits that the Board should approve the revenue requirement implications of PowerStream's individual smart metering activities. They are required to provide this service when requested and there is no evidence of any cross-subsidization as a result of these activities.

COSTS

Energy Probe requests that it be awarded 100% of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

June 18, 2009

Randy Aiken

Consultant to Energy Probe