



**EB-2010-0131**

**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 Horizon Utilities Corporation for an order approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2011.

### **PROCEDURAL ORDER No. 1**

Horizon Utilities Corporation (“Horizon” or “the Applicant”) filed an application with the Ontario Energy Board (the “Board”), received on August 26, 2010 under section 78 of the *Ontario Energy Board Act, 1998*, (the “Act”) seeking approval for changes to the rates that Horizon charges for electricity distribution, to be effective January 1, 2011. The Board has assigned the application File Number EB-2010-0131.

The Board issued a Notice of Application and Hearing dated September 20, 2010. Energy Probe Research Foundation (“Energy Probe”), Vulnerable Energy Consumers Coalition (“VECC”), and School Energy Coalition (“SEC”) applied for intervenor status and cost eligibility. PowerStream Inc. also applied for intervenor status, however, did not seek cost awards. The Consumers’ Council of Canada (“CCC”) filed a late letter of intervention, but indicated that Horizon, through the latter’s counsel, did not oppose the intervention. No objections were received. The Board also received two letters of comment from individual ratepayers opposing the Applicant’s rate adjustment. Three requests for observer status were also received by the Board.

The Board has determined that Energy Probe, VECC, CCC, SEC and PowerStream Inc. will be granted intervenor status. The list of intervenors in this proceeding is attached as Appendix A to this Order. The Board has also determined that intervenors, except PowerStream Inc., are each eligible to apply for an award of costs under the Board’s *Practice and Direction on Cost Awards*.

In a letter sent to distributors on April 20, 2010 (the “Letter”), the Board stated:

A distributor, including the four distributors referred to above, that seeks to have its rates rebased in advance of its next regularly scheduled cost of service proceeding must justify, in its cost of service application, why an early rebasing is required notwithstanding that the “off ramp” conditions have not been met. Specifically, the distributor must clearly demonstrate why and how it cannot adequately manage its resources and financial needs during the remainder of its IRM plan period. Distributors are advised that the panel of the Board hearing the application may consider it appropriate to determine, as a preliminary issue, whether the application for rebasing is justified or whether the application as framed should be dismissed.

Distributors are also advised that the Board may, where an application for early rebasing does not appear to have been justified, disallow some or all of the regulatory costs associated with the preparation and hearing of that application, including the Board’s costs and intervenor costs. In other words, the Board may order that some or all of those costs be borne by the shareholder.

Horizon rebased its distribution rates in 2008 and would normally come in for rebasing in 2012 under the third Generation Incentive Regulation Mechanism plan. In its application, and specifically at Exhibit 1/Tab2/Schedule 1/pp. 6-10, Horizon has provided its reasons and support for filing for an early rebasing of rates for 2011.

The Board has determined that it will consider Horizon’s application for early rebasing for 2011 distribution rates (the “Preliminary Issue”) in advance of further procedural steps. To accomplish this, the Board will allow an initial round of interrogatories by registered intervenors and Board staff to seek, if they wish, additional information specifically related to the Preliminary Issue and Horizon’s evidence on the Preliminary Issue. Following Horizon filing its responses to these interrogatories, Board staff and intervenors may file submissions on whether Horizon’s application is justified based on the Board’s letter of April 20, 2010, with Horizon being allowed to file a reply submission if it so wishes.

If, following its determination on the Preliminary Issue, the Board decides to proceed with its consideration of Horizon's application, the Board will shortly thereafter issue a further Procedural Order to allow for submissions on Horizon's claim for confidentiality with respect to certain information filed in the application and to allow for further discovery on the application.

The Board considers it necessary to make provision for the following matters related to this proceeding.

**THE BOARD ORDERS THAT:**

1. Board staff and intervenors shall file with the Board and deliver to Horizon Utilities Corporation any interrogatories with respect to the Preliminary Issue on or before **October 28, 2010**.
2. Horizon Utilities Corporation shall file with the Board and deliver to all intervenors any responses to interrogatories filed with it with respect to the Preliminary Issue on or before **November 4, 2010**.
3. Board staff and intervenors shall file with the Board and deliver to all intervenors any written submissions pursuant to the Preliminary Issue and Horizon Utilities Corporation's submission on or before **November 11, 2010**.
4. Horizon Utilities Corporation shall file any written reply submissions on the Preliminary Issue with the Board and deliver them to all other intervenors on or before **November 18, 2010**.

All filings to the Board must quote the file number, EB-2010-0131, be made through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca/OEB/Industry](http://www.oeb.gov.on.ca/OEB/Industry). If the web portal is not available, parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

**ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4  
Attention: Board Secretary

E-mail: [Boardsec@oeb.gov.on.ca](mailto:Boardsec@oeb.gov.on.ca)  
Tel: 1-888-632-6273 (toll free)  
Fax: 416-440-7656

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Keith Ritchie at [keith.ritchie@oeb.gov.on.ca](mailto:keith.ritchie@oeb.gov.on.ca) and Board Counsel, Maureen Helt at [maureen.helt@oeb.gov.on.ca](mailto:maureen.helt@oeb.gov.on.ca).

**DATED** at Toronto, October 21, 2010

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

Appendix 'A'

To

Procedural Order No. 1

Horizon Utilities Corporation

EB-2010-0131

Applicant and List of Intervenors

October 21, 2010

**Horizon Utilities Corporation  
EB-2010-0131**

**APPLICANT & LIST OF INTERVENORS**

October 21, 2010

**APPLICANT**

**Rep. and Address for Service**

**Horizon Utilities Corporation**

**Indy Butany-DeSouza**

Vice President  
Horizon Utilities Corporation  
55 John Street North  
Hamilton, ON L8G 5G5

Tel: 905-317-4785  
Fax: Not Provided  
[indy.butany@horizonutilities.com](mailto:indy.butany@horizonutilities.com)

**APPLICANT COUNSEL**

**James Sidlofsky**

Partner  
Borden Ladner Gervais LLP  
40 King Street West Suite 4100, Scotia  
Toronto ON M5H 3Y4  
Tel: 416-367-6277  
Fax: 416-361-2751  
[jsidlofsky@blgcanada.com](mailto:jsidlofsky@blgcanada.com)

**INTERVENORS**

**Rep. and Address for Service**

**Consumers Council of  
Canada**

**Julie Girvan**

Consultant  
Consumers Council of Canada  
62 Hillside Ave. East  
Toronto ON M4S 1T5  
Tel: 416-322-7936  
Fax: 416-322-9703  
[jgirvan@ca.inter.net](mailto:jgirvan@ca.inter.net)

**Horizon Utilities Corporation**

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**APPLICANT & LIST OF INTERVENORS**

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**Energy Probe Research  
Foundation**

**Randy Aiken**

Aiken & Associates  
578 McNaughton Ave. W.  
Chatham ON N7L 4J6  
Tel: 519-351-8624  
Fax: 519-351-4331  
[randy.aiken@sympatico.ca](mailto:randy.aiken@sympatico.ca)

**Peter Faye**

Counsel  
Consultant  
42 Eastwood Crescent  
Markham ON L3P 5Z7  
Tel: 905-294-2013  
Fax: Not Provided  
[pfaye@rogers.com](mailto:pfaye@rogers.com)

**David MacIntosh**

Case Manager  
Energy Probe Research Foundation  
225 Brunswick Avenue  
Toronto ON M5S 2M6  
Tel: 416-964-9223 Ext: 235  
Fax: 416-964-8239  
[DavidMacIntosh@nextcity.com](mailto:DavidMacIntosh@nextcity.com)

**PowerStream Inc.**

**Christine Dade**

Manager  
PowerStream Inc.  
161 Cityview Boulevard  
Vaughan ON L4H 0A9  
Tel: 905-532-1052  
Fax: 905-532-4616  
[Christine.dade@powerstream.ca](mailto:Christine.dade@powerstream.ca)

**Horizon Utilities Corporation  
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**APPLICANT & LIST OF INTERVENORS**

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October 21, 2010

**PowerStream Inc.**

**Colin Macdonald**

Vice President  
PowerStream Inc.  
161 Cityview Boulevard  
Vaughan ON L4H 0A9  
Tel: 905-532-4649  
Fax: 905-532-4557  
[colin.macdonald@powerstream.ca](mailto:colin.macdonald@powerstream.ca)

**School Energy Coalition**

**Wayne McNally**

SEC Coordinator  
Ontario Public School Boards' Association  
439 University Avenue, 18th Floor  
Toronto ON M5G 1Y8  
Tel: 416-340-2540  
Fax: 416-340-7571  
[wmcnally@opsba.org](mailto:wmcnally@opsba.org)

**Jay Shepherd**

Jay Shepherd Professional Corporation  
2300 Yonge St.  
8th Floor, Suite 806  
Toronto ON M4P 1E4  
Tel: 416-483-3300  
Fax: 416-483-3305  
[jay.shepherd@canadianenergylawyers.com](mailto:jay.shepherd@canadianenergylawyers.com)

**Vulnerable Energy  
Consumers Coalition**

**Michael Buonaguro**

Counsel  
Public Interest Advocacy Centre  
34 King St. E., Suite 1102  
Toronto ON M5C 2X8  
Tel: 416-767-1666  
Fax: 416-348-0641  
[mbuonaguro@piac.ca](mailto:mbuonaguro@piac.ca)



**Horizon Utilities Corporation  
EB-2010-0131**

**APPLICANT & LIST OF INTERVENORS**

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October 21, 2010

**Vulnerable Energy  
Consumers Coalition**

**Bill Harper**

Econalysis Consulting Services Inc.  
34 King Street East Suite 1102  
Toronto On M5C 2X8  
Tel: 416-348 0193  
Fax: 416-348-0641  
[bharper@econalysis.ca](mailto:bharper@econalysis.ca)