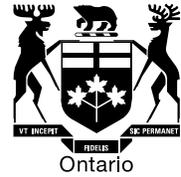


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**BY E-MAIL**

September 23, 2015

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: PowerStream Inc.  
Application for Rates  
Board File Number EB-2015-0003**

In accordance with Procedural Order No. 3 issued on September 18, 2015, please find attached the Ontario Energy Board staff submission on the threshold question of the proposed merger.

*Original Signed By*

Martin Davies  
Project Advisor, Electricity Rates & Accounting

Attachment

cc: Parties to EB-2015-0003

**ONTARIO ENERGY BOARD STAFF  
SUBMISSION**

POWERSTREAM INC.

EB-2015-0003

Threshold Issue of Potential Merger

**September 23, 2015**

## **Background**

On September 16, 2015, as directed by Procedural Order No. 1, OEB staff filed a letter with the OEB which attached a proposed agreed issues list containing non-disputed issues. OEB staff's letter noted that there was one disputed issue related to the announced merger between PowerStream, Enersource Hydro Mississauga Inc., Horizon Utilities Inc. and Hydro One Brampton Networks Inc.

On September 18, 2015, the OEB issued Procedural Order No. 3 which stated that the OEB considered that the proposed merger is a threshold question related to this application. As such, the OEB requested submissions from parties on the threshold question as to what, if any, consideration should be given to the announced merger as part of its review of the application.

## **Submission**

OEB staff notes that on March 26, 2015, the OEB issued its EB-2014-0138 *Report of the Board Rate-Making Associated with Distributor Consolidation* ("Report") which amended its policies with respect to rate-making associated with merger, amalgamation, acquisition and divestiture ("MAADs") transactions.

OEB staff considers the Report relevant to the OEB's determination of the threshold question and accordingly will first review the MAADs policies established by the Report and the OEB's justifications for them.

The OEB noted that on November 13, 2014, the Advisory Council on Government Assets had issued its findings including the view that consolidation was needed to encourage modernization of the electricity distribution system.

In the Report, the OEB stated that consolidating distributors may elect to defer rebasing for a period of up to ten years after the closing of a MAADs transaction, representing an increase from the deferral period of up to five years in the previous 2007 policy.

Furthermore, the OEB requires consolidating distributors applying for the extended 5 to 10 year period to implement an earnings sharing mechanism, involving a 50:50 sharing with customers where the return on equity for the consolidated distributor is greater than 300 basis points above the allowed rate of return for the consolidated distributor. The deferral request and earnings sharing plan would be part of the MAADs application.

The Report noted that the purpose of the MAADs policy when it was originally established in 2007 had been to allow the net savings of a consolidation to accrue to a distributor's shareholder(s) for an extended period, as the OEB had recognized that providing a

reasonable opportunity to use savings to offset costs of a MAADs transaction is an important factor in a utility's consideration of the merits of a given consolidation initiative.

The Report stated that the extension of the rebasing deferral period was due to distributor concerns regarding the length of time over which rebasing of a consolidated entity's rates could be deferred.

Distributors had expressed the view that the existing five-year policy might not provide sufficient time to achieve the savings and efficiency gains necessary to enable the recovery of transaction costs and that this risk for shareholders represented a significant impediment to consolidation.

By providing more options, the revised MAADs policy supports the OEB's own expectations, as well as those of the government, that the distribution sector should continue to seek out efficiencies, especially through consolidation.

OEB staff's submissions are made in the context of the OEB's MAADs policy as summarized above.

OEB staff notes that no application has been filed with the OEB for the proposed merger. While there have been public announcements, the specific details of the merger are as yet not known. For this reason, it is OEB staff's view that the merger is outside the scope of the current application and accordingly no consideration should be given to it at this time. It is further noted that MAADs policy is intended to encourage consolidation by allowing a utility to keep savings for a period of time. OEB staff is of the view that should the impacts of the potential merger on the current application be accepted as an issue in this application, such an approach would not be in accordance with the MAADs policy outlined in the Report.

OEB staff understands the concerns of intervenors with respect to the potential impact of the proposed merger on the current application. However, OEB staff is of the view that should the merger be successfully completed, the ensuing MAADs application would be the appropriate forum for issues related to the merger to be considered by the OEB rather than the current application.

OEB staff also notes that even if the OEB is persuaded that this matter should be on the issues list, there is insufficient information on the record in the absence of the details from a formal MAADs application.

*-All of which is respectfully submitted-*