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June 8, 2009

DELIVERED AND VIA EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E5

Dear Ms. Walli:

**Re: PowerStream Inc. 2009 Cost of Service Electricity Distribution Rates
Board File No. EB-2008-0244
Intervenor: Smart Sub-Metering Working Group ("SSMWG")**

We are counsel to the Smart Sub-metering Working Group ("SSMWG"). Pursuant to Procedural Order No. 5, we confirm that Mr. Allen Maclure will be the witness on behalf of the SSMWG at the oral hearing scheduled for June 15, 2009.

We enclose two copies of the Witness Statement filed on behalf of the SSMWG and Mr. Maclure's *Curriculum Vitae*.

Yours very truly,

AIRD & BERLIS LLP

Original signed by,

Dennis M. O'Leary

DMO/ct
Enclosures

cc: The Applicant (via email)
Intervenors (via email)

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ONTARIO ENERGY BOARD

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.

WITNESS STATEMENT ON BEHALF OF THE SMART SUB-METERING WORKING GROUP (“SSMWG”)

1. There are currently 16 licensed smart sub-metering companies in Ontario. Several are affiliates of licensed distributors.
2. The SSMWG is an informal association of the majority of the private-sector smart sub-metering companies licensed by the OEB. None are affiliated with licensed electric local distribution companies (“LDCs”). Its purpose is to articulate an industry perspective on issues before the OEB and government where commonality exists. The SSMWG consists of Carma Industries Inc., Enbridge Electric Connections Inc., Hydro Connection Inc., Intellimeter Canada Inc., Provident Energy Management Inc., Stratacon Inc., and Wyse Meter Solutions. Each of these entities is licensed by the Ontario Energy Board (“OEB”) and operates within the competitive smart sub-metering (“SSM”) industry.
3. In respect of new and existing condominiums, the business model of each competitive SSM company varies. As a result, the service offerings to condominium developers and condominium corporations are not identical from one SSM provider to another. This allows developers and condominium corporations to select the service offering which they believe best meets their needs.
4. For example, in some SSM business models, the condominium developer pays for the metering equipment and engages the SSM company to manage the system and provide billing services. The condominium developer then turns the SSM system over to the condominium corporation that will own the system. The SSM provider may not assume

certain risks and associated costs, such as bad debt. This allows the SSM provider to provide metering and billing services at a cost less than would otherwise be the case.

5. Another business model involves the SSM company owning the SSM system and providing customer services, including billing, collections, managing bad debt, maintaining the system and disconnections. Under either business model, members of the SSMWG include in their Connection Agreements termination provisions which permit a condominium corporation to switch SSM providers in future. The competitive market therefore continues. This is different than what appears to be the case in respect of PowerStream.
6. It is important to recognize that smart metering in multi-unit condominiums occurs on private property; thus the entity that undertakes the metering must have the authorization of the developer or condominium corporation to proceed. There is no natural monopoly. Indeed, for many years, LDCs in Ontario were hesitant to get into the individual suite metering business. Private-sector metering companies filled the gap. These companies are now licensed by the OEB. The business of providing metering services to multi-unit condominiums is well established.
7. Another fact which is important to highlight is that whether described as “smart suite metering” or “smart sub-metering”, in many instances there is no material difference. For example, PowerStream uses Quadlogic electronic meters, the very same equipment used by some SSMWG members. Often the only difference between a smart suite metering system and a SSM system is the fact that in respect to the latter, there is a master revenue meter which determines the amount, for billing purposes, payable to the host LDC. This being said, particularly in respect of existing condominiums, even where a LDC installs smart suite metering, a bulk meter may still be required to be able to determine the amount payable in respect of the common elements. It is at times necessary to aggregate the usage by individual units and subtract this amount from the building’s total usage to determine the remainder which is payable in respect of the common elements. In these situations, the operation by the LDC of the system is virtually identical to what transpires in a SSM situation.

8. Members of the SSMWG view other licensed SSM companies and local LDCs as their competitors. However, the SSMWG is greatly concerned by the potential for anti-competitive impacts and the significant financial and economic advantages LDCs will have if permitted to recover the costs of their suite metering programs in rates. The fact is there is a competitive market for metering multi-unit buildings. While the Government of Ontario has mandated that units in new condominium buildings be individually smart metered, this requirement does not mean that other ratepayers of a LDC like PowerStream should be obligated to subsidize the capital and installation costs of costly smart suite metering systems. By comparison, the average cost for PowerStream to install smart meters at individual residences is about \$122. The Quadlogic electronic suite metering systems which PowerStream uses cost more than 5.5 times this amount. The SSMWG questions why other ratepayers should be required to subsidize these amounts when an industry exists which will install exactly the same equipment at no additional cost to other ratepayers.
9. Private-sector SSM companies operate like all other commercial businesses. They set targets for revenues, growth, and develop budgets which include operating and maintenance costs. Competitive market forces influence a SSM company's spending and drive out inefficiencies and promote improvement. SSM companies believe that they can provide the same or better level of services to condominium developers, condominium corporations, and unit owners than existing LDCs, and at lower cost.
10. The SSMWG is concerned about the anti-competitive impact of rate-regulated utilities recovering suite metering costs in rates because it will have a detrimental impact on the competitive market which could, in time, prove fatal to the market. LDCs are required to provide connection to their distribution system, which means that condominium developers will continue to approach LDCs in this respect. The SSMWG is concerned about the opportunities this provides for LDCs to express "preferences" to their own suite metering program versus a competitive SSM provider. The SSMWG has concern about the advertising undertaken by PowerStream in respect of their suite metering program through the development and circulation of brochures, promotional materials included on their website, promotional materials included as mail inserts, and elsewhere, the costs of which are all proposed to be recoverable in rates.

11. Private-sector SSM companies must raise required capital to carry on their business without being able to advise lenders and shareholders that monies borrowed or invested will be recovered in future with the same certainty as PowerStream. SSM providers do not operate in a risk-free environment. They must manage their business and operate efficiently to be successful. If PowerStream is entitled to recover all of its suite metering costs in rates, it assumes and faces little risk. This gives PowerStream a huge economic advantage by knowing that all of its capital and OM&A costs will be recovered in rates, regardless of how efficient or inefficient its suite metering program is operated. Indeed, PowerStream is assured of a guaranteed return on its suite metering program. The SSMWG believes that these economic advantages do not promote efficiencies within the Utility and, to the contrary, will distort and erode the competitive market. The playing field must be leveled.
12. It is also important to note that condominium developers and condominium corporations that request electronic smart metering do so because of the benefits to them. The electronic meters being used by PowerStream and members of the SSMWG can be installed in a much smaller meter room than would otherwise be the case if other types of smart meters were used. This space savings means that there is additional floor space for sale and, in respect of existing condominiums, less of the existing common elements space needs to be devoted to the new metering room. Stated differently, there are economic advantages to the condominium developer and the condominium corporation. To the extent that they are not required to pay any additional costs for these benefits, and such costs are borne by PowerStream's other ratepayers, the SSMWG believes that this amounts to cross-subsidization.
13. In terms of PowerStream's suite metering program, the SSMWG questions whether the projected OM&A for 2009 of only \$127,000¹ truly accounts for all of the costs associated with PowerStream's suite metering program. For example, does this amount include all of the billing and collections costs, bad debt, disconnection and reconnection costs, and overhead, all on a fully allocated basis? PowerStream has advised that it metered 4,700

¹ SSMWG IR #12 Revised

units in 2007 and 2008, and estimates that a further 1,600 will be metered in 2009.² Taking half of the 2009 figure (i.e. 800 units), the total number of unit customers that relate to the suite metering program, to date, is 5,500. This works out to less than \$2.00 per month, per customer, based upon an OM&A of \$127,000. The SSMWG therefore questions whether all the customer care functions, data collection, storage and other costs associated with servicing these customers have been included in the \$127,000 figure.

14. The SSMWG is aware of situations where PowerStream has required a capital contribution from a condominium developer if it installs a bulk meter and utilizes a private-sector SSM company, but does not require a capital contribution if PowerStream installs the same suite metering system. Intuitively, this makes no economic sense and may indicate that PowerStream is not including all of its costs (on a fully allocated basis) for the purposes of determining whether a capital contribution is required. For example, if the fully allocated costs to provide all customer care functions, bad debt, disconnection and reconnection are not included, as appears to be the case given PowerStream's OM&A of \$127,000 for 2009, then any economic evaluation undertaken is distorted in that not all of the costs associated with suite metering have been used for the purposes of the evaluation. The SSMWG further questions how PowerStream can promise in its suite metering promotional materials that it will smart suite meter every new and existing project at no cost to the condominium corporation or developer. This suggests that a predetermination has been made that under no circumstance will a capital contribution ever be required. This cannot be correct, particularly in respect of the conversion of an existing bulk metered condominium where installation of a smart suite metering system will, due to the expected conservation effects, actually reduce the building's aggregate electricity consumption and hence revenues by as much as 20 percent.
15. Not surprisingly, building developers and condominium corporations will be highly incented to choose PowerStream over a competitive SSM provider if no capital contribution is required if PowerStream installs the smart suite metering system, but a capital contribution is required if a SSM provider installs the same system. In such

² SSMWG IR#5, Revised

circumstances, it is vital that, in the interests of protecting the existing competitive SSM market, it be determined that economic evaluations are undertaken in all multi-unit condominium situations and that the inputs used in the economic evaluations include both any projected impact on revenues and all costs associated with the suite metering program, on a fully allocated basis.

16. To ensure that cross-subsidization does not continue in future, and to eliminate any concern about whether PowerStream is undertaking economic evaluations appropriately, or at all, in respect of new and existing condominiums that are being converted, the SSMWG submits that PowerStream's smart suite metering program should be undertaken either through an affiliate or as a non-utility activity, using a fully allocated cost model. This will put PowerStream's smart suite metering program on the same levelized playing field as the competitive SSM providers. Accordingly, the SSMWG submits that all impacts to PowerStream's revenue requirement arising from its suite metering program should be eliminated.

Date: June 8, 2009

CURRICULUM VITAE OF
ALLEN J. MACLURE

Education:

1979: Gas Distribution Engineering, Institute of Gas Technology

1973: Bachelor of Science (Civil Engineering), University of
New Brunswick

Professional Affiliation:

Professional Engineers of Ontario

Business Experience:

2002-Present: Employed by Enbridge Electric Connections Inc.

Director, Regulatory and Customer Care

Responsible for the customer service, customer communication and relations, meter data management and the regulatory functions of this licensed smart sub-metering company

1985-2002: Employed by Enbridge Gas Distribution (The Consumers' Gas Company Ltd.)

2001-2002 Manager, Knowledge Management & Customer Communication

Responsible for the market and corporate research functions, relationship management, customer communication and community relations

1999-2000 Manager, Regulatory Administration (secondment)
Enbridge Gas New Brunswick

Seconded to Enbridge Gas New Brunswick to manage the start up regulatory and gas supply functions of this greenfield natural gas distributor.

1997-2001 Manager, Market Administration

Responsible for the development and administration of all the gas sales and direct purchase contracts.

1995-1997: Manager, Rate Research and Design

In addition to responsibilities below as the Manager Rate Design and Revenue Forecasting took on the additional responsibilities for cost

allocation.

- 1985 - 1995: Manager, Rate Design and Revenue Forecasting
- Responsible for rate design and analysis as well as revenue forecasting.
- 1982-1985: Employed by Congas Engineering Canada Ltd.
- Senior Consultant
- Participated in numerous projects with respect to the energy industry, including market analysis and forecasting, cost of service, distribution design, and costing.
- 1976-1982: Employed by W. H. Crandall Associates (Management) Ltd. & Crandall Energy Consultants Ltd.
- Project Engineer
- Participated in numerous projects evaluating the introduction of gaseous energy into non-serviced areas of Eastern and Western Canada.
- 1973-1975: Employed by Sarawak Department of Public Works
- Assistant Executive Engineer

Witness at the following Ontario Energy Board hearings:

EBRO 497
EBRO 495
EBRO 492-02
EBRO 492
EBRO 490
EBRO 487
EBRO 487-01
EBRO 485-03
EBRO 476-06, EBRO 485-02, EBRO 483, EBRO 484
EBRO 485-01
EBRO 485
EBRO 479
EBRO 473-A
EBRO 473
EBRO 465
EBRO 464
EBRO 452-3
EBRO 452

EBRO 410-III/414-II/417
EBRO 410-III/414-II

Witness at the following Régie du gaz naturel hearings:

R-3332-95
R-3299-94
R-3270-93
R-3231-92
R-3230-92
R-3203-91
R-3179-90

Witness at the following New Brunswick Public Utility Board Hearings:

Board Hearing to consider Rules and Regulations Regarding the Conduct of Gas
Distributors and Marketers in New Brunswick

NBPUB 299

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