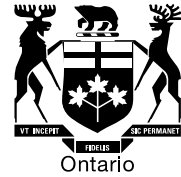


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BY EMAIL

June 19, 2009

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: PowerStream Inc. 2009 Cost of Service Electricity Distribution Rates
Application
Board File Number EB-2008-0244
Board Staff Submissions on Suite Metering**

Dear Ms. Walli:

Please see attached Board staff submissions pursuant to Board directions at the PowerStream Inc. Oral Hearing on June 15, 2009.

Please forward the attached to PowerStream Inc. and all intervenors in this proceeding.

Yours truly,

Harold Thiessen
Board Staff - Case Manager
EB-2008-0244

Enclosure

ONTARIO ENERGY BOARD

STAFF SUBMISSION

POWERSTREAM INC.

2009 ELECTRICITY DISTRIBUTION RATES

EB-2008-0244

June 19, 2009

Introduction

In the EB-2008-0244 proceeding, PowerStream Inc. (“PowerStream”) is requesting that the Board accept, for rate-making purposes, a revenue requirement of \$114,563,000 as set out in the Settlement Proposal dated May 29, 2009, accepted by the Board in Procedural Order #5 and amended on June 15, 2009. This revenue requirement includes the costs of PowerStream’s individual suite metering activities. This amount was accepted by all the parties subject to a sub-issue raised by the Smart Sub-Metering Working Group (“SSMWG”) as set out below.

These submissions relate to this unsettled sub-issue, the matter of PowerStream’s individual suite metering activities as described on page 8 of the Settlement Proposal. The figures set forth in the Settlement Proposal include the costs associated with suite metering activities which are included in rate base, OM&A, and potentially other consequential aspects of the calculation of the total revenue requirement.

It was agreed by the parties that, after a hearing on this issue, if the Board determines that all or any portion of those costs should not be included in revenue requirement, the amounts for each component of revenue requirement that may be affected will be adjusted to reflect the Board’s decision, and that the adjusted figures shall be deemed to be the figures agreed to by the parties.

Submissions

These submissions relate to two issues:

1. whether the revenue requirement impacts of PowerStream’s suite metering activities should be included in distribution rates in the 2009 test year, and
2. should suite metering be done on the basis of fully allocated costing, which can be characterized as a cross subsidization argument.

1. Revenue Requirement

a) Distribution System Code and Related Regulations

At the June 15, 2009 oral hearing, Board staff addressed (TR pp 30-31) the provisions in the Distribution System Code, specifically Section 5.1.9 that require licensed distributors to install smart meters in condominiums when requested to do so. Section 5.1.9 reads:

“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)."

In addition, Board staff pointed out that Regulation 442/07 has similar language, which provides that a distributor shall install smart meters when requested to do so. Regulation 442/07 states that licensed distributors shall install smart meters of a type authorized by an order or code issued by the Board.

Board staff submits that this language indicates that this is a regulated activity and a utility activity. PowerStream is authorized by the Ontario Government to implement the Government's objective of the installation of smart meters. Board staff submits that suite metering is clearly a regulated activity undertaken by distributors pursuant to their distribution licences.

Board staff also points out that in the Notice of Proposal to Amend a Code and the Notice of Proposal to Issue a New Code, EB-2007-0772 (the "January 8, 2008 Notice"), issued on January 8, 2008, specifically with respect to s. 71.1 and 71.2 of the Act, it is clear that the Board has indicated that this is a regulated activity. As shown on page 3 of the Notice:

"Section 71 (1) of the Act states that distributors cannot carry on any business activity other than the distributing of electricity except through an affiliate. However, section 71 (2) of the Act provides an exception from the general rule. Section 71 (2) states that a distributor may provide services in accordance with section 29.1 of the that would assist the government of Ontario in meeting its objectives in relation to electricity conservation. "

Board staff submits that as installation of suite metering in condominiums is a requirement of distributors, therefore, distributors ought to be allowed to recover costs associated with these smart metering activities. In addition, this activity is tied to the implementation of the government's conservation initiatives.

In summary, Board staff takes the position that through the Distribution Code, through regulation, and through the January 8, 2008 Notice, a distributor is required to install such metering as a regulated activity. Therefore, the cost related to these activities, if deemed prudent by the Board, should be included in PowerStream's revenue requirement and recovered in rates.

b) Toronto Hydro Decision EB-2007-0680

On May 15, 2008 the Board issued its decision on Toronto Hydro-Electric System Limited's distribution rates for 2008, EB-2007-0680 (the "Toronto Hydro Decision") (Exhibit K1.8). At page 19, the Board stated:

"The Company's proposed expenditures in this category relate to installing smart meters for condominiums, an alternative to smart sub-metering for which there are alternative providers. These smart meter conversions establish the condominium owners as customers of Toronto Hydro as the regulated monopoly

distributor rather than as customers of an alternative smart sub-meter provider.”

At page 20, the Board made reference to and approved the distributor’s expenditure forecasts for smart metering activities in condominiums contained therein, noting that these activities are consistent with the (then) proposed Smart Sub-Metering Code, specifically section 5.1.9. Board staff submits that the Toronto Hydro Decision indicates that the Board has considered this issue in a previous proceeding and ruled that these costs are to be included in a distributor’s revenue requirement.

2. Cross – Subsidization

With respect to the second issue, concerning cross-subsidization, fully allocated costing, cost allocation and a possible separate rate class for condominiums, Board staff takes the view that this is a broader issue, which is not the subject matter for this specific rate proceeding.

This proceeding is a cost-of-service application for PowerStream and, as noted in the Toronto Hydro Decision, the Board provided some guidance on the issue of whether or not there should be separate rate classes and the issue of cross-subsidization. The Board indicated that these issues are more appropriately dealt with in a generic hearing where all of the affected parties would have an opportunity to make submissions.

As noted by the Board in the Toronto Hydro Decision on page 20:

“It is true that there can be many elements of distribution costs that are not driven uniformly by sub groups of a given rate classification. At this time, for the purposes of this Decision, the Board will not consider differentiation in metering costs to be a pivotal consideration in entertaining the separation of the existing residential class or to direct the institution of contributions, capital or otherwise.

This is an issue that requires consideration in a more generic proceeding with appropriate notice to effected parties, directed towards rate design and cost allocation.”

Board staff notes that in the present proceeding, there was no evidence presented that showed that overall costs of condominium suite metering were higher or lower than the costs to serve other residential customers. While some evidence was presented that indicated that the capital cost of the meters was higher, no evidence was provided to indicate that operating, billing or maintenance costs were higher or lower.

PowerStream witness, Ms. Conboy, testified to the diversity of customers within the residential class and how there may be subsidies between various residential customers (TR pp 174 – 176). Board staff submits that there is no reason to believe that the costs of suite metering are any more significant than the various other possible costs mentioned by the witness.

Both PowerStream and the SSMWG provided calculations which showed the cost impacts of the condominium suite metering program. SSMWG's analysis was provided to show that condominium customers were being subsidized by other customers (Exhibit 1.6). PowerStream's analysis was provided to show that other residential customers may be subsidized by condominium customers (Exhibit 1.4).

Under cross examination by Mr. Buonaguro (TR pp 206-208) the SSMWG witness, Mr. Maclure, indicated that if the OM&A cost per customer was \$110 (Evidence of Mr. MacDonald, TR page 135) instead of the previously assumed \$178 per customer, the deficiency in Exhibit 1.6 would become a sufficiency. Further cross examination by Ms. Newland revealed the fact that there was an error in the working capital allowance calculation which would further increase the sufficiency (TR pp 218-219).

In summary, Board staff submits that there is insufficient evidence in this proceeding to determine a clear cross subsidization between suite metered condominiums and other residential customers.

Summary

1. Board staff submits that PowerStream should be allowed to include the costs of its suite metering program in its revenue requirement. Board staff submits that PowerStream is following the requirements of the Distribution System Code and the intention of other regulations.
2. Board staff submits that there is insufficient evidence in this proceeding to conclude that there is a resulting cross subsidization of condominium customers in PowerStream's service territory.

All of which is respectfully submitted