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Ontario

BY EMAIL

February 5, 2010

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

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Board Staff Submission on PowerStream Inc.
2010 Electricity Distribution Rates Application
Board File Number EB-2009-0246

Please see attached Board staff's submission for the above proceeding. Please forward the attached to PowerStream Inc. and any intervenors in this proceeding.

PowerStream Inc. reply to submissions is due February 26, 2010.

Yours truly,

Original signed by

Martin Benum
Advisor, Applications and Regulatory Audit

Ontario

ONTARIO ENERGY BOARD

STAFF SUBMISSION

2010 ELECTRICITY DISTRIBUTION RATES

PowerStream Inc.

EB-2009-0246

February 5, 2010

Board Staff Submission
PowerStream Inc.
2010 IRM3 Rate Application
EB-2009-0246

Introduction

PowerStream Inc. ("PowerStream") filed an application with the Ontario Energy Board (the "Board"), received on October 21, 2009, under section 78 of the Ontario Energy Board Act, 1998, seeking approval for changes to the distribution rates that PowerStream charges for electricity distribution, to be effective May 1, 2010. The application is based on the 2010 3rd Generation Incentive Regulation Mechanism.

The purpose of this document is to provide the Board with the submissions of Board staff based on its review of the evidence submitted by PowerStream.

Board staff makes submissions on the following matters:

- Disposition of Deferral and Variance Accounts as per the Electricity Distributors' Deferral and Variance Account Review Report (the "EDDVAR Report");
- Treatment of Smart Meter Funding Adder;
- Adjustments to the Large User Class;
- Adjustments to the Retail Transmission Service Rates; and
- Accounting for the implementation of the Harmonized Sales Tax ("HST").

DISPOSITION OF DEFERRAL AND VARIANCE ACCOUNTS AS PER THE EDDVAR REPORT

General Background

For purposes of 2010 IRM applications, the EDDVAR Report requires a distributor to determine the value of its December 31, 2008 Group 1 Deferral and Variance account balance and determine whether the balance exceeded the preset disposition threshold of $0.001 per kWh using the 2008 annual kWh consumption reported to the Board. When the preset disposition threshold is exceeded, a distributor is required to file a proposal for the disposition of Group 1 account balances (including carrying charges) and include the associated rate riders in its 2010 IRM Rate Generator for the disposition of the balances in these accounts. The onus is on the distributor to justify why any account balance in excess of the threshold should not be cleared.

Any distributor exceeding the preset disposition threshold was required to file a Deferral and Variance Account Workform.

PowerStream Specific Background

Annual Disposition

PowerStream has not requested the dispostion of its Group 1 account balance. PowerStream stated that the preset disposition threshold set by the Board was not exceeded and therefore is not seeking the disposition of its Group 1 account balance at this time.

Board staff interrogatory # 5a requested that PowerStream complete and submit an updated version 4 of the Deferral Variance Account Workform. PowerStream has complied with this request.

Global Adjustment

In response to Board staff interrogatory # 1a, PowerStream stated it had reviewed the Regulatory Audit & Accounting Bulletin 200901 and confirmed that it had accounted for its Account 1588 RSVA power and global adjustment sub-account in accordance with this Bulletin. In response to Board staff interrogatory # 1b, PowerStream confirmed that it had not made adjustments subsequent to its initial application to comply with the Regulatory Audit & Accounting Bulletin 200901 with respect to account 1588 and the global adjustment sub-account.

Submission

Board staff submits that PowerStream has complied with the filing requirements of the 2010 Deferral Variance Account Workform and has demonstrated that it is not required to dispose of its Group 1 account balances.

TREATMENT OF SMART METER FUNDING ADDER

Background

PowerStream has a current Board-approved smart meter funding adder of $1.04 per month per metered customer. In its application, PowerStream is requesting an increase in its rate adder to $1.81 per month per metered customer. PowerStream filed evidence in accordance with section 1.4 of the Guideline G-2008-0002: Smart Meter Funding and Cost Recovery (the “Smart Meter Guideline”), issued October 22, 2008. PowerStream is authorized for smart meter deployment under the amended Regulation pursuant to and in compliance with the London Hydro RFP process.

PowerStream is not seeking approval for capital and operating costs incurred to date or in 2010 in this application, but will track actual costs, and revenues received from the funding adder, in the established deferral accounts for review and disposition in a subsequent application.

Submission

Board staff submits that PowerStream has complied with the policies and filing requirements of the Smart Meter Guideline. Actual smart meter expenditures will be subject to review when PowerStream makes application for disposition of the account balances in a subsequent proceeding. Hence, Board staff takes no issue with

PowerStream's proposal to increase its smart meter funding adder to $1.81 per month per metered customer.

ADJUSTMENT TO THE LARGE USER CLASS

Background

PowerStream's Large Use class contains a small number of customers. In 2004 there were five customers. Currently there is only one customer. In this application, PowerStream is proposing to re-classify two customers from the General Service 50 to 4,999 kW ("GS>50") class to the Large User class.

At the time of preparing its 2009 Cost of Service rate filing, PowerStream updated its Cost Allocation Study to reflect that the Large Use class consisted of a single customer using a short dedicated connection to a transformer station. This resulted in a revenue-to-cost ratio that exceeded the upper limit of the Board approved range. The adjustment approved by the Board to bring this to the approved range resulted in a significant reduction in rates. In the 2009 application, PowerStream indicated that that the revised rates may not be appropriate for any new Large Use customers. Accordingly, PowerStream indicated that no customers would be moved from the GS>50 class to the Large Use class without making adjustments to the Large Use rates to better reflect the cost of serving those customers.

Based on a recent review of customer consumption levels, PowerStream identified two customers that have an average demand in excess of 5,000 kW and therefore should be re-classified to the Large User class. PowerStream indicated that these two customers utilize most components of its distribution system. PowerStream further noted that the 2009 Large Use rates "need to be adjusted to reflect a different cost allocation than the current one which is based on one customer making very limited use of PowerStream's distribution system.

In the absence of an updated cost allocation study, the cost of serving these two customers is best approximated by the GS>50 revenue allocated to them."

Accordingly, PowerStream re-calibrated the rates for the Large Use class by transferring the billing determinants and revenues associated with these two customers. Conversely, the billing determinants and revenues were removed from the GS>50 rate class. PowerStream indicated that this process was revenue neutral as the revenue allocated to the Large Use class is offset by a reduction to the GS>50 class of the same amount.

Submission

Based on section 2.5.5 of the Distribution System Code, a distributor can assign a non-residential customer to a different rate class as a result of a review initiated by the distributor as long as the distributor gives the customer written notice of the reclassification no less than one billing cycle before the reclassification takes effect for billing purposes.

Board staff has reviewed PowerStream's request and agrees that the proposed adjustments to the GS>50 and Large Use rate classes are overall revenue neutral from the perspective of the distributor.

However, Board staff has several other concerns with this proposal.

First, Board staff notes that these adjustments may not be revenue neutral at the customer level. PowerStream should confirm whether or not, all else being equal, the rates of the existing Large Use customer would increase and the rates paid by the two customers currently in the GS>50 rate class would decrease. This may arise as a result of blending the revenues associated with the two GS>50 customers with the revenue of the existing Large Use customer to derive a single set of rates that would be applicable to all three customers. Board staff estimates that the impact on the existing Large Use customer would be approximately $96,000 per year or an increase of about 86% of the distribution component of the customers bill.

Second, PowerStream provided no evidence that the revenue associated with the existing GS>50 customers is representative of the costs that would have been allocated to the Large Use class were a cost of service study conducted that would reflect the characteristics of these customers. It is also unclear whether it is appropriate to include these two customers in the Large Use rate class given the specific characteristics of the existing customer currently in that class.

Third, associated with the customer re-classification is presumably an increase in load which will generate additional revenues for PowerStream under a price cap regime. Based on staff's review of the evidence, this was not taken into account.

Fourth, parties agreed in PowerStream's 2009 Settlement Agreement (EB-2008-0244) that the revenue-to-cost ratio for the Large Use class be adjusted down to 115%. There is no evidence that demonstrates compliance with this Agreement or that supports any departure from it.

Board staff submits that the Board may wish to consider denying PowerStream's request pending a full review of this matter on the basis of a lack of supporting evidence that demonstrates the reasonableness of this proposal from a cost causality standpoint, and the impact of this proposal on affected customers.

ADJUSTMENTS TO THE RETAIL TRANSMISSION SERVICE RATES (RTSR)

General Background

Electricity transmitters in Ontario charge Uniform Transmission Rates (UTR) to their transmission connected customers. These UTRs are charges for network, line connection and transformation connection services. Based on the Decision and Rate

Order of the Board in the EB-2008-0272 proceeding, the new UTRs effective July 1, 2009 were as follows:

- Network Service Rate was increased from $2.57 to $2.66 per kW per month, a 3.5% increase;
- Line Connection Service Rate remained unchanged at $0.70 per kW per month; and
- Transformation Connection Service Rate was decreased from $1.62 to $1.57 per kW per month, for a combined Line and Transformation Connection Service Rates reduction of 2.2%.

On July 22, 2009 the Board issued an amended "Guideline for *Electricity Distribution Retail Transmission Service Rates*" ("RTSR Guideline"), which provided electricity distributors with instructions on the evidence needed, and the process to be used, to adjust Retail Transmission Service Rates ("RTSRs") to reflect the changes in the UTRs effective July 1, 2009. The Board set as a proxy at that time an increase of 3.5% for the Network Service Rate and reduction of 2.2% for the combined Line and Transformation Connection Service Rates. The Board also noted that there would be further changes to the UTRs in January 2010.

Based on the Decision and Rate Order of the Board in the EB-2008-0272 proceeding, a Rate Order issued January 21, 2010 revised the UTRs effective January 1, 2010 as follows:

- Network Service Rate has increased from $2.66 to $2.97 per kW per month, an 11.7% increase over the July 1, 2009 level or 15.6% over the rate in effect prior to July 1, 2009;
- Line Connection Service Rate has increased from $0.70 to $0.73 per kW per month; and
- Transformation Connection Service Rate has increased from $1.57 to $1.71 per kW per month, for a combined Line and Transformation Connection Service

Rates increase of 7.5% over the July 1, 2009 level or 5.2% over the rate in effect prior to July 1, 2009.

PowerStream Specific Background

PowerStream has applied for an adjustment to its RTSR rates that is based on a comparison of RTS revenue under existing rates and adjusted wholesale transmission costs. PowerStream is requesting an increase of 3.8% for its Network Service Rate and a decrease of 0.7% for its Line and Transformation Connection Service Rate. In Board staff's view, PowerStream has provided a reasonable analysis and explanation as part of its original application.

Submission

Board staff notes that very few distributors, including PowerStream, included in their 2009 rates the July 1, 2009 level of UTRs since for most of them, distribution rates would have been implemented on May 1, 2009. Therefore, in accordance with the July 22, 2009 RTSR Guideline, Board staff submits that the revisions to the RTSRs ought to reflect the changes from the current level to the January 1, 2010 level, that is an increase of about 15.6% to the RTSR Network Service rate, and an increase of about 5.2% to the RTSR Line and Transformation Connection Service Rate.

Board staff submits that the proposal by PowerStream may no longer be reasonable, based on the January 1, 2010 level of the UTRs. Board staff asks PowerStream to clarify if it wishes to continue with its original proposal or will include as part of its reply submission updated calculations to reflect the January 1, 2010 UTR adjustments.

ACCOUNTING FOR THE IMPLEMENTATION OF THE HARMONIZED SALES TAX

General Background

The Ontario provincial sales tax (“PST”) (currently at 8%) and the Federal goods and services tax (“GST”) (currently at 5%) will be harmonized effective July 1, 2010, at 13%, pursuant to Ontario Bill 218 which received Royal Assent on December 15, 2009.

The PST is currently an incremental cost applied to the price of goods purchased by an electricity distributor and is included in a distributor’s OM&A expenses and capital expenditures. The PST is therefore included in the distributor’s revenue requirement and is recovered from ratepayers through the application of distribution rates.

When the PST and GST are harmonized, distributors will pay the HST on purchased goods and service but will now claim an input tax credit for the PST portion. The mechanics of HST as a value added tax means that the distributor will no longer incur that portion of the tax that was formerly applied as PST (i.e. the 8%) on goods purchased. However, the current rates as applied will continue to effect cost recovery as if the PST was still in place. If no action is taken, the distributor will realize a savings in the cost of goods purchased while applying rates which do not reflect those savings.

PowerStream Specific Background

In response to Board staff interrogatory #10a which asked if PowerStream agrees that a deferral account should be established to capture the reductions in OM&A and capital expenditures, PowerStream stated that:

> “Please note that PowerStream did not address the harmonization of the PST and the GST in the evidence in its application. PowerStream has not fully examined the impact of the harmonization of the PST and the GST, but early indications are that it may not be possible to identify the cost impact. Although vendors will no longer charge the PST effective July 1, 2010 there is no certainty, due to market forces, that their prices will be correspondingly reduced by 8%. There is also a multi-year transitional period in which an amount equivalent to the PST will not be eligible for the Input Tax Credit for certain supplies and services

such as energy costs and vehicles with a weight under 3,000kg. PowerStream has also not yet determined the cost or cash flow impacts associated with implementing the harmonized tax. It does not appear that meaningful accounting entries could be made in operating and capital deferral accounts.

It is also anticipated that during an incentive regulation period, some costs may increase while other costs may decrease and a distributor is expected to manage these changes."

Submission

Board staff notes that many distributors' comments on the administrative burden and costs of sales tax harmonization are at odds with the provincial and Federal governments' pronouncements regarding the stimulative and competitive results of harmonization. Because the costs and savings are not clear at this point, Board staff submits that tracking of these is warranted at this point to quantify, per government pronouncements, that the potential savings for corporations like PowerStream could be significant. Accordingly, Board staff submits that the Board may wish to consider establishing a deferral account to record the amounts, after July 1, 2010 and until PowerStream's next cost-of-service rebasing application, that were formerly incorporated as the 8% PST on capital expenditures and expenses incurred, but which will now be eligible for an HST Input Tax Credit ("ITC"). The intention of this account would be to track the incremental change due to the introduction of the HST that incorporates an ITC from the 5% to the 13% level. To qualify for this treatment, the cost of the subject items must be in the category of distribution revenue requirement. Tracking of these amounts would continue in the deferral account until PowerStream's next cost of service application is determined by the Board or until the Board provides guidance on this matter, whichever occurs first.

PowerStream would apply to clear the balance in the account as a credit to customers at the next opportunity for a rate change after the account balance information becomes available and is supported by audited financial statements.

All of which is respectfully submitted