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June 20, 2011

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, Suite 2700  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: PowerStream Inc. – Extension to Mandated Time-of-Use Pricing Date for  
Certain Regulated Price Plan Consumers  
Board File No.: EB-2011-0117**

Please find enclosed Board Staff's submission respecting the above application.

Please forward the submission along with this cover letter to the applicant in this proceeding.

Yours truly,

*Original signed by*

George Dimitropoulos  
Advisor, Licence Applications

Attachment

# **ONTARIO ENERGY BOARD**

## **BOARD STAFF SUBMISSION**

**Application for Extension to Mandated Time  
of Use Pricing Date for Certain Regulated  
Price Plan Consumers**

**PowerStream Inc.**

**EB-2011-0117**

June 20, 2011

## **BACKGROUND**

PowerStream Inc. ("PowerStream") filed an application dated April 19, 2011 with the Ontario Energy Board for a licence amendment granting an extension in relation to the mandated date for the implementation of time-of-use ("TOU") pricing rates for its GS<50kW Regulated Price Plan ("RPP") consumers.

Under cover of a letter to all Ontario electricity distributors dated August 4, 2010, the Ontario Energy Board provided its determination of mandatory dates by which each distributor must bill those of its RPP customers that have eligible TOU meters using TOU pricing. The determination stated that the Board "acknowledges that distributors may encounter extraordinary and unanticipated circumstances during the implementation of TOU pricing. The Board requests that any distributor encountering such circumstances bring these matters to the Board's attention without delay in order that the Board can assess the impact on the distributor's mandatory TOU date and assess whether any adjustment in that date is warranted."

PowerStream has applied for an extension to its June 2011 mandated TOU pricing date for its GS<50kW customers and requests a new date of February 2012. PowerStream states that it is "ready to implement TOU rates for these customers," but an extension is necessary due to "concerns about potential bill increases".

The Board issued a Notice of Application and Hearing on May 3, 2011. The Canadian Federation of Independent Business ("CFIB") filed interrogatories on the application on May 20, 2011. Board staff filed interrogatories on the application on May 30, 2011. PowerStream responded to these interrogatories on June 13, 2011.

This submission is being provided by Board staff following a review of the application and evidence filed in this proceeding.

## **STAFF SUBMISSION**

Board staff is of the view that PowerStream's application for a TOU implementation extension should be denied. In Board staff's estimation the

rationale given by PowerStream is neither unique nor specific to PowerStream and does not represent an unanticipated and extraordinary circumstance to justify an extension to PowerStream's mandated TOU pricing date.

Staff notes that PowerStream faces no barriers to TOU implementation. PowerStream stated in response to staff interrogatories that:

*"The comment in our application that we were "ready to implement TOU rates for these customers" referred to the fact that the smart meters were installed and the 'back office' infrastructure and processes were in place to start TOU billing."*

Moreover, PowerStream is already billing some GS<50kW customers on a TOU basis. According to the most recently published monthly reports to the Board on TOU implementation, as of April 31, 2011, PowerStream was billing 279,296 residential customers (out of 286,000 customers) and 339 GS<50kW customers (out of 26,000 customers) on a TOU basis.<sup>1</sup>

PowerStream's reason for requesting an extension is a wholly discretionary choice and not as a result of extraordinary or unanticipated circumstances that hindered PowerStream's implementation of TOU pricing. In response to Board staff's interrogatory requesting information on PowerStream's extraordinary and unanticipated circumstance warranting a TOU extension, PowerStream states that:

*"As a result the bill impacts were not known until February following the installation of the smart meters and subsequent analysis. The extent of the bill impacts were not anticipated."*

*Given the current customer sensitivity to electricity prices and the OEB's concerns with rate mitigation, PowerStream considers an average total bill increase of 6.1% and a highest total bill increase anticipated at 24% to be extraordinary. "*

PowerStream's request to delay its mandated TOU pricing date is as a result of a business decision to attempt to inform customers and mitigate bill impacts. Board staff is of the view that anticipated bill impacts and average total bill increases do not represent extraordinary or unanticipated circumstances related

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<sup>1</sup> PowerStream Monthly TOU Implementation Report:  
[http://www.ontarioenergyboard.ca/html/touimplementation/toufilings\\_monthly\\_read.cfm?utility=PowerStream Inc.&mthdate=30-APR-11&tab=1](http://www.ontarioenergyboard.ca/html/touimplementation/toufilings_monthly_read.cfm?utility=PowerStream Inc.&mthdate=30-APR-11&tab=1)

to TOU implementation in that these matters have no influence on PowerStream's technical ability to bill its customers on a TOU basis. Board staff cannot identify any TOU implementation related issue in PowerStream's application that would delay PowerStream's TOU pricing.

Further, in its response to interrogatories from the CFIB, PowerStream states that:

*PowerStream has about 25,000 GS<50kW customers that will be migrated to TOU rates. Hourly consumption data was taken from a sample of 11,568 of these customers. TOU rates were applied to these data to determine the bill impacts as compared to two-tiered pricing.*

*The analysis showed that 59% of the customers would experience an increase in their bills. The average total bill for this group was \$84.22 per month. The average increase in the total bill was 6.1% or \$5.12 per month. The highest increase in the total bill was 24% or \$20.21.*

*The analysis also showed that 41% of the customers would experience a decrease in their bills. The average total bill for this group was \$269.60 per month. The average decrease in the total bill was 8.2% or \$22.12 per month. The highest decrease in total bill was 31% or \$83.58.*

Based on the analysis provided, certain GS<50kW customers are expected to experience a bill decrease. Staff notes that according to PowerStream's interrogatory response #1 to CFIB, 41% of the customers would experience a decrease in their bills. Staff is of the view that 41% of customers represents a large contingent of customers who will not be able to save on TOU pricing during the requested seven month extension. If the Board were to grant PowerStream's request for a TOU extension, the customers experiencing a decrease in their bills would be unfairly prejudiced losing out on valuable and possibly vital cost savings for their respective small businesses.

Further, staff notes that PowerStream's application would suggest that rate mitigation supersedes Board policy. While the Board's policy on mitigation is currently under review, previous Board decisions have used judgement on whether mitigation was warranted when implementing Board policy. For example, in its Decision on Peterborough Distribution Inc.'s application for 2009 distribution rates the Board determined that mitigation was not required for several non-residential classes since the rate increase was a result of bringing revenue-to-cost ratios more in line with the Board's target range to reduce inter-

class cross-subsidization.<sup>2</sup> The Board made similar conclusions in the context of an application by Tillsonburg Hydro Inc. for distribution rates for the 2009 rate year<sup>3</sup>, where the bill impacts resulted from revisions to cost allocation and rate design to reflect the Board's guidelines in relation to those matters.

Staff also notes that PowerStream provides no evidence that customers experiencing a bill increase from TOU pricing will change their behaviour in response to additional communications or CDM programs. PowerStream states in its responses to the CFIB that "We cannot predict, however, the extent to which the three OPA programs will be implemented by these customers by February 1, 2012. In some cases, customers can also increase consumption due to other factors at the same time that CDM measures are implemented with a net increase in consumption and bills."

In closing, staff sees no compelling reason for PowerStream's GS<50kW customers to receive special treatment regarding TOU implementation. Staff submits that it is not unexpected for major policy initiatives such as TOU pricing to bring about disparate financial impacts on specific customers or customer groups in the short term as illustrated in PowerStream's evidence. As a result, staff is of the view that providing a specific class of customers with special treatment, even on a temporary basis, is not in the public interest in this case. In addition, staff submits that bill mitigation is not an example of an extraordinary or unanticipated circumstance that hinders an applicant in TOU implementation and does not warrant a TOU extension.

Therefore, for the reasons stated in this submission, staff is of the view that this application should be denied.

All which is respectfully submitted.

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<sup>2</sup> Ontario Energy Board. EB-2008-0241. Decision, in the Matter of an application by Peterborough Distribution Inc. for an order approving or fixing just and reasonable rates and other charges for the distribution of electricity to be effective May 1, 2009. June 1, 2009.

<sup>3</sup> Ontario Energy Board. EB-2008-0246. Decision, in the matter of an application by Tillsonburg Hydro Inc. For an order approving or fixing just and reasonable rates and other charges for the distribution of electricity to be effective May 1, 2009. July 10, 2009.