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**ONE Nicholas Street, Suite 1204, Ottawa, Ontario, Canada K1N 7B7**

Tel: (613) 562-4002. Fax: (613) 562-0007. e-mail: [piac@piac.ca](mailto:piac@piac.ca). <http://www.piac.ca>

Michael Buonaguro  
Counsel for VECC  
(416) 767-1666

January 20, 2012

**VIA MAIL and E-MAIL**

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

Dear Ms. Walli:

**Re: Vulnerable Energy Consumers Coalition (VECC)**  
**PowerStream Inc. EB-2011-0005**  
**Final Submissions of VECC**

Please find enclosed the submissions of VECC in the above-noted proceeding. We have also directed a copy of the same to the Applicant.

Thank you.

Yours truly,

Michael Buonaguro  
Counsel for VECC  
Encl.

cc: PowerStream Inc.  
Mr. Tom Barrett

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15 (Schedule B), as amended;

**AND IN THE MATTER OF** an Application by PowerStream Inc. for an order or orders approving or fixing just and reasonable distribution rates to be effective May 1, 2012.

**FINAL SUBMISSIONS**

**On Behalf of The**

**Vulnerable Energy Consumers Coalition (VECC)**

**January 20, 2012**

**Michael Buonaguro**  
**Public Interest Advocacy Centre**  
34 King Street East  
Suite 1102  
Toronto, Ontario  
M5C 2X8

Tel: 416-767-1666  
Email: [mbuonaguro@piac.ca](mailto:mbuonaguro@piac.ca)

# **Vulnerable Energy Consumers Coalition (VECC)**

## **Final Argument**

### **1 The Application**

- 1.1 PowerStream Inc. (“PowerStream”, “the Applicant”, or “the Utility”) filed an application (“the Application”) with the Ontario Energy Board (“the Board” or “the OEB”), under section 78 of the *Ontario Energy Board Act, 1998* for electricity distribution rates effective May 1, 2012. The Application was filed in accordance with the OEB’s guidelines for 3<sup>rd</sup> Generation Incentive Regulation which provides for a mechanistic and formulaic adjustment to distribution rates between cost of service applications.
- 1.2 As part of its application, PowerStream included the recovery of the impact of lost revenues associated with various conservation and demand management (CDM) activities (i.e. an LRAM recovery). The following section set out VECC’s final submissions regarding this aspect of the application.

### **2 Lost Revenue Adjustment Mechanism (LRAM)**

- 2.1 PowerStream is applying to the Board in this application for the recovery of lost revenue of \$554,020 including carrying costs, through one year rate riders effective May 1, 2012, for the impact of CDM program activities in the Barrie rate zone only.
- 2.2 In its 2011 IRM application (EB-2010-0365), the Board approved PowerStream’s (North-Barrie) request for \$209,821 of LRAM from 2007-2008 Third Tranche and OPA funded programs, during the period January 1, 2007 to December 31, 2008. In 2011, PowerStream had additional LRAM claims related to its South rate zone.<sup>1</sup>
- 2.3 In this application, PowerStream seeks lost revenue from 2007-2010 OPA CDM programs, for the period January 1, 2009 through December 31, 2011.
- 2.4 PowerStream confirmed that the LRAM amounts in this application are new amounts not included in past LRAM claims.<sup>2</sup>
- 2.5 The LRAM amount was calculated based on 2006-2009 Final OPA CDM Program Results and 2010 Final OPA CDM Results: Summary.<sup>3</sup>

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<sup>1</sup>Manager’s Summary, Lost Revenue Adjustment Application (LRAM) Application, Page 8- 9

<sup>2</sup> Response to VECC Interrogatory # 2 (b)

<sup>3</sup> Manager’s Summary, Lost Revenue Adjustment Application (LRAM) Application, Page 11

- 2.6 In the Board's Decision in the Horizon Application (EB-2009-0192), the Board indicated that distributors are to use the most current input assumptions which have been adopted by the Board when preparing their LRAM recovery as these assumptions represent the best estimate of the impacts of the programs.
- 2.7 VECC accepts for LRAM purposes, the OPA verification of the energy savings for PowerStream's 2007 to 2010 OPA-funded CDM programs.

### Load Forecast

- 2.8 As part of PowerStream's 2007 Cost of Service (COS) Application (EB-2007-0746), the load forecast was updated for rates effective May 1, 2008. PowerStream indicates that the load forecast underpinning 2008 rates did not include load reductions due to any CDM programs.<sup>4</sup>
- 2.9 The Board's Guideline states "The LRAM is determined by calculating the energy savings by customer class and valuing those energy savings using the distributor's Board-approved variable distribution charge appropriate to the class. The calculation does not include any Regulatory Asset Recovery rate riders, as these funds are subject to their own independent true-up process. Lost revenues are only accruable until new rates (based on a new revenue requirement and load forecast) are set by the Board, as the savings would be assumed to be incorporated in the load forecast at that time."<sup>5</sup>
- 2.10 In the recent Hydro Ottawa Decision (EB-2011-0054), the Board disallowed a true-up of the effects of CDM. The Board noted firstly, that the Board's CDM Guidelines do not consider symmetry with respect to LRAM; and secondly, that there have been expectations related to LRAM including no-true up of the effects of CDM activities embedded in a rebasing year.<sup>6</sup>
- 2.11 VECC notes that in other recent Decisions, the Board disallowed LRAM claims in the rebasing year and beyond for CDM programs implemented prior to (and including) the rebasing year.
- 2.12 In the Whitby Hydro Decision (EB-2011-0206), the Board disallowed the LRAM claim for the rebasing year as the Board is of the view that it is not appropriate to vary from the stated policy which states that lost revenues are only accruable until new rates are set by the Board, as the CDM savings would be assumed to be incorporated in the load forecast at that time.<sup>7</sup> In the Hydro One Brampton Decision (EB-2011-0174), the Board found the request for LRAM in 2011 (its

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<sup>4</sup> Manager's Summary, Lost Revenue Adjustment Application (LRAM) Application, Page 11

<sup>5</sup> Guidelines for Electricity Distributor Conservation and Demand Management (EB-3008-0037), Page 18

<sup>6</sup> EB-2011-0054 Hydro Ottawa Decision, Page 24

<sup>7</sup> EB-2011-0206 Whitby Hydro Decision, Page 14

rebasing year) inconsistent with the Guidelines and agreed these savings should have been incorporated into the 2011 load forecast at the time of rebasing.<sup>8</sup>

#### 2007 and 2008 CDM Programs – Recovery of Lost Revenue in 2009, 2010, 2011

- 2.13 In accordance with the Board's guidelines and recent Decisions, VECC submits that energy savings from CDM programs implemented in 2007 and 2008 are not accruable in 2009 through 2011 as savings should have been incorporated in the 2008 load forecast at the time of rebasing.

#### 2009 and 2010 CDM Programs – Recovery of Lost Revenue in 2009 and 2010

- 2.14 VECC supports the approval of the lost revenues requested by PowerStream in 2009 and 2010 for OPA CDM programs implemented in 2009 and 2010, as PowerStream has not yet collected this revenue while under IRM.

#### 2009 and 2010 CDM Programs in 2011

- 2.15 VECC does not support the approval of lost revenue in 2011 for CDM Programs implemented in 2009 and 2010.

- 2.16 The Board's Guidelines indicate that "LRAM is a retrospective adjustment, which is designed to recover revenues lost from distributor supported CDM activities in a prior year."<sup>9</sup>

- 2.17 VECC submits that PowerStream is calculating estimated lost revenues for 2011 based on the OPA's Measures and Assumptions list and OPA verified results available at the timing of this application, which is not appropriate or in accordance with the Guidelines.

- 2.18 Page 34 of the Board's Chapter 2 Filing Guidelines for Transmission and Distribution Applications dated June 22, 2011:

*"Distributors intending to file an LRAM or SSM application for CDM Programs funded through distribution rates, or an LRAM application for CDM Programs funded by the OPA between 2005 and 2010, shall do so as part of their 2012 rate application filings, either cost-of-service or IRM. If a distributor does not file for the recovery of LRAM or SSM amounts in its 2012 rate application, it will forego the opportunity to recover LRAM or SSM for this legacy period of CDM activity."*

- 2.19 VECC submits that the Board's updated Chapter 2 Guidelines do not specify the LRAM recovery period. VECC interprets the Board's guideline to mean that if a distributor does not file for the recovery of LRAM/SSM for 2005 to 2010 CDM programs, to the end of the program implementation period, i.e. to the end of

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<sup>8</sup> EB-2011-0174 Hydro Brampton Decision, Page 13

<sup>9</sup> Guidelines for Electricity Distributor Conservation and Demand Management, EB-2008-0037, Page 18

2010, it would forgo the opportunity to do so. VECC does not believe the Chapter 2 update is intended to override the requirement that the most current OPA Measures and Assumptions lists, as updated by the OPA from time to time, represent the best estimate of losses associated with a distributor's CDM programs.

- 2.20 In the absence of OPA input assumptions and verified final results for 2011, and in accordance with the Board's Guidelines that LRAM is a retrospective adjustment, VECC submits that an LRAM claim in 2011 is not appropriate. Thus, the LRAM claim for 2009 and 2010 CDM programs should only cover the period January 1, 2009 to December 31, 2010.
- 2.21 In summary, VECC submits that the LRAM claim approved by the Board should be adjusted to include only lost revenue in 2009 and 2010 from the impact of CDM programs delivered in 2009 and 2010.

#### Billing Determinants

- 2.22 PowerStream proposes to use forecast 2012 billing units to calculate the LRAM rate riders.
- 2.23 In response to VECC Interrogatory # 2 (g), regarding the rationale for using 2012 forecast billing units, PowerStream responded that the "Board Approved" billing determinants are from Barrie Hydro's 2008 EDR application and are based on 2007 forecast of 2008, and therefore are less representative of the current load in the PowerStream North service area.
- 2.24 The Board's Guidelines indicate "A rate adder or rider is usually determined by dividing the Board-approved allocated amounts by the Board-approved forecast or historical energy use or demand".<sup>10</sup>
- 2.25 VECC submits that PowerStream should be using either the Board-approved forecast (from the last rebasing application) or historical data. In VECC's view recent historical data (i.e. 2010 actuals from PowerStream's RRR filing) is more representative of current load and should be used.

#### **4 Recovery of Reasonably Incurred Costs**

- 4.1 VECC submits that its participation in this proceeding has been focused and responsible. Accordingly, VECC requests an order of costs in the amount of 100% of its reasonably-incurred fees and disbursements.

All of which is respectfully submitted this 20<sup>th</sup> day of January 2012.

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<sup>10</sup> Chapter 3 Filing Guidelines for Transmission and Distribution Applications dated June 22, 2011, Appendix C, Page 27