

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, being Schedule B to the *Energy Competition Act, 1998*, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by PowerStream Inc. to the Ontario Energy Board for an Order or Orders approving or fixing just and reasonable rates as of May 1, 2012.

**REPLY SUBMISSIONS
OF POWERSTREAM INC.**

FILED: February 1, 2012

Applicant:

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Please find below the PowerStream Inc. (PowerStream) reply to the submissions made by Board staff (Staff) and the Vulnerable Energy Consumers Coalition (VECC). PowerStream has organized its comments by the topic headings of the submissions by Staff and VECC. Note that VECC's comments were limited to the LRAM claim.

Disposition of Group 1 Deferral and Variance Balances

Staff submits that the threshold test should be done on a total combined basis for the Group 1 Deferral and Variance Account (DVA) balances rather than on a rate zone basis as done by PowerStream. Staff notes that on this basis the result is also below the disposition threshold.

PowerStream agrees with Staff and submits that no disposition of group 1 accounts should take place at this time.

Disposition of Account 1562 – Deferred Payments in Lieu of Taxes (PILs)

PowerStream notes that Staff agrees with the calculation of the rate riders for the approved Barrie account 1562 balance.

PowerStream confirms that it intends to seek disposition of account 1562 balances for the South rate zone as part of its 2013 Cost of Service rate application to be filed in 2012.

Disposition of Account 1521 – SPC Variance

PowerStream notes that Staff has no concerns with the amount claimed for disposition. Staff's concern is that the amount is so small that the rate riders for some of the classes are \$0.0000 when rounded to the fourth decimal place.

PowerStream has no objection to Staff's proposal to record this balance in account 1595 for future disposition.

Lost Revenue Adjustment Mechanism (“LRAM”) Claim

Persisting impacts of 2007 and 2008 programs:

PowerStream notes that it is only claiming LRAM in respect of the Barrie rate zone. The 2008 Barrie Cost of Service (COS) load forecast was based on the 2004 normal average use per customer (“NAC”) by customer class provided to it by Hydro One as part of the load profile study prepared for the 2006 cost allocation study and based on 2004 data.

The 2004 NAC based load forecast underpinning Barrie’s current rates does not include the impact of Barrie’s Conservation and Demand Management (CDM) programs which commenced in 2007.

Both Staff and VECC in their submissions quote section 5.2 of the CDM Guidelines, issued on March 28, 2008, to argue that the recovery of persisting lost revenues from 2007 and 2008 programs in 2009-2011 for PowerStream Barrie should not be allowed.

The OEB “Guidelines for Electricity Distributor Conservation and Demand Management” (the “CDM Guidelines”) (EB-2008-0037), section 5.2 states:

“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.”

PowerStream respectfully disagrees with Staff and VECC’s interpretation of the above guideline. As explained below, it was clear in the Board’s Decision on the Barrie 2008 COS rate application that the underlying load forecast did **not** include the impacts of the 2007 and 2008 CDM programs and that there is no basis to assume that it did.

PowerStream understands the logic of the Staff and VECC arguments. This is the reason PowerStream did not submit an LRAM application for the PowerStream South rate zone, since in the 2009 rebasing for PowerStream South the impacts of CDM programs were included in the load forecast underpinning PowerStream South rates.

However, the situation is very different for the PowerStream Barrie rate zone, compared to PowerStream South and to the decisions cited in the Staff and VECC submissions.

Barrie Hydro prepared its 2008 COS rate application for rates effective May 1, 2008 (EB-2007-0746) in the summer of 2007. The application was submitted in September 2007; the Board Decision was made on March 25, 2008.

Barrie Hydro started the Ontario Power Authority (OPA) funded CDM programs in the late spring of 2007. Very little information on the CDM savings was available to Barrie Hydro at the time its COS application was prepared.

As a result, the load forecast underpinning 2008 distribution rates did not include load reductions due to any of its CDM programs. In its 2008 load forecast, Barrie Hydro used 2004 normal average use per customer ("NAC") by customer class provided to it by Hydro One. The 2004 NAC data could not include the impact of 2007 and 2008 CDM programs.

In its Decision on Barrie's 2008 COS application (EB-2007-0746), the Board states:

"Board Staff questioned the assumption that use per customer would remain unchanged from 2004 in that it takes no account of improved energy efficiency. VECC shared this concern and added that this approach takes no account of changes in customer mix, particularly in the General Service classes, but concluded that there was no evidence to support a change in the average use value used by Barrie. In its reply, Barrie agreed with Board staff that energy efficiency may have impacted average use per customer, but submitted that "at this point of time we have no accurate way to forecast this effort."

"The Board agrees with Barrie's submission that while average use per customer may have declined due to efficiency, there is no evidence at this time upon which to base an alternative forecast. The Board will accept the Hydro One 2004 NAC levels for purposes of load forecasting"¹.

Moreover, the Board Decision adjusted up the customer growth rates originally used by Barrie Hydro, and so increased the number of customers from 83,118 to 85,975. Barrie Hydro was required to use those revised customer numbers together with the 2004 NAC developed by Hydro One to "derive a revised 2008 forecast to be used for rate setting purposes".²

It is evident from the wording in the Decision that the Board accepted the fact that the Barrie Hydro load forecast at this point of time did not include any adjustments for CDM as Barrie did not have sufficient information to do so. There is no basis for an assumption that the 2008 load forecast included the impact of the 2007 and 2008 CDM programs.

There was no explicit mention of any future LRAM application in this Decision, which is not surprising as the Decision was made before the CDM guidelines were issued.

¹ OEB Decision EB-2007-0746, p.3

² *ibid*, p.4

In applying the CDM policy, the Board has taken the specific circumstances of each case into account when making its decision.

As noted by VECC, the LRAM for the rebasing year and beyond has been denied in the following decisions:

- Whitby Hydro (EB-2011-0206): Whitby Hydro applied for LRAM impacts of 2009-2010 programs, as well as persistent impacts of third tranche CDM and of 2008 OPA programs in 2010-2011 years. Whitby Hydro rebased based on the load forecast, effective January 1, 2011. Since at this point of time the OPA reports were available, and the utility used a regression method for load forecast, it is reasonable to assume that some CDM savings from 2008 and third tranche programs would be incorporated in the 2011 load forecast. Accordingly the LRAM claim for the 2011 year was rejected.
- Hydro One Brampton (EB-2011-0174): Hydro One Brampton applied for the revenues lost in 2010 -2011 through the participation in 2009-2010 OPA programs. Similar to Whitby Hydro, Hydro One Brampton rebased based on the load forecast effective January 1, 2011. Since at this time the OPA reports were available, and the regression method was used for load forecast, to some extent, CDM savings would be incorporated in the load forecast. Accordingly the LRAM claim for the 2011 year was rejected.

The facts in these two cases are very different than the situation for PowerStream - Barrie.

In other cases, LRAM for programs carried out prior to rebasing have been approved for the rebasing year and beyond. Examples are:

- Horizon (EB-2011-0172): Horizon rebased in 2008 and 2011. Horizon stated in its application that its 2008 load forecast did not include CDM impacts. Its \$1.6 million LRAM claim included 2007 and 2008 OPA programs and the resulting persistent lost revenues up to Dec. 31, 2010. The Board approved this request. This situation is very similar to that of PowerStream – Barrie.
- PowerStream 2011 IRM application (EB-2010-0110): The OEB approved the LRAM claim including the recovery of lost revenues for OPA 2007 and 2008 programs, including “persisting” lost revenues of 2007 programs in 2008 for PowerStream - Barrie. PowerStream stated in that application that the 2008 Barrie load forecast did not include CDM impacts.

- Hydro Ottawa (EB-2011-0054): Hydro Ottawa made an LRAM claim for IRM program years where CDM was incorporated into the load forecast and the applied for LRAM was approved as filed.³

These Decisions show that the Board has not automatically made an assumption that the most recent rebasing load forecast includes CDM savings, from programs up to that point in time. Rather it shows that the Board has looked at the evidence to determine if that assumption is reasonable or not. Where it has determined those savings are not included in the load forecast, the Board has allowed the LRAM claim for persisting savings from those programs beyond the rebasing year.

An assumption that the CDM savings, from the 2007 and 2008 CDM programs, are incorporated in the 2008 Barrie load forecast is incorrect. It is clear from evidence provided above that no savings from the 2007 and 2008 CDM programs were incorporated in Barrie Hydro 2008 load forecast.

PowerStream submits that it is eligible for the lost revenues attributable to the 2007 and 2008 CDM programs, in respect of the Barrie rate zone, until its rates are rebased on a load forecast that incorporates the CDM savings from these programs.

CDM Programs in 2011:

As per Section 5 of OEB CDM Guidelines, "*LRAM is a retrospective adjustment, which is designed to recover revenues lost from distributor supported CDM activities in a prior year*". Since PowerStream applied for LRAM to be included in its 2012 rates, our interpretation of "prior year" in this case is the 2011 year, which is the last actual year before the 2012 rate year.

PowerStream decided to include the lost revenues from persisting CDM saving in 2011 based on the OEB Guidelines as defined in Section 3.4.2 of "Chapter 3 of the Filing Requirements for Transmission and Distribution Applications". This section defines the deadline for the recovery of LRAM and/or SSM amounts related to CDM activities undertaken between 2005 and 2010. It is stated there that "*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.*"⁴

³ Hydro Ottawa Decision and Order, EB-2011-0054, Dec. 28, 2011, p.24

⁴ Chapter 3 of the Filing Requirements for Transmission and Distribution Applications, dated June 22, 2011, p.21

This indicates that if PowerStream does not apply for LRAM recoveries for 2005-2010 CDM activities for 2011 in its 2012 IRM application, PowerStream would forego the opportunity to recover the lost revenues in 2011 in the Barrie rate zone.

The recently issued Draft CDM Guidelines do not address the potential LRAM recoveries for OPA 2007-2010 programs for the IRM years. Section 14, of the Draft CDM Guidelines, states that “*when making an application for either LRAM or SSM in association with CDM programs delivered before 2011, distributors should continue to follow the 2008 CDM guidelines*”⁵. However, due to the aforementioned Filing Guideline Chapter 3 restrictions, there would not be another opportunity for PowerStream to recover those amounts. It appears the only opportunity to recover the lost revenues is in its 2012 IRM application.

The intention of the LRAM is to ensure distributors are not penalized for successfully implementing effective CDM programs. PowerStream submits that it is appropriate to include 2011 in its LRAM claim as part of its 2012 IRM application, rather than suffering a loss of revenue due to its CDM efforts.

PowerStream calculated the LRAM claim for 2011, based on 2010 OPA final report, which is the latest available information at the time of the application. In this application, PowerStream used a very conservative approach in estimating the LRAM claim, in not taking the total savings from OPA final reports, as allocated, but claiming the savings only for the programs that were run in the PowerStream Barrie service territory.

PowerStream submits that its claim is consistent with the intention of the CDM Guidelines and has been calculated in accordance with the CDM Guidelines to the best of its ability in the dealing with the circumstances created by the Chapter 3 Filing Requirement discussed above. At this point it is uncertain whether or when the OPA will issue 2011 savings estimates for the legacy 2007 and 2008 OPA programs. PowerStream submits that it is appropriate for it to recover the persisting lost revenues in 2011 as part of its 2012 IRM application.

If the LRAM claim for 2011 is not allowed in the 2012 IRM rate application, PowerStream requests the opportunity to recover these lost revenues as part of the next COS rate application.

⁵ Guidelines for Electricity Distributor Conservation and Demand Management, EB-2012-0003, p. 11

LRAM Amount for 2009-2010 Programs in Years 2009-2010:

At the request of the Board Staff, PowerStream has prepared Table 1 showing the LRAM amount for only lost revenues from 2009 and 2010 CDM programs in the years 2009 and 2010 and the associated rate riders.

Table 1 LRAM for 2009 -2010 for years 2009-2010

Rate Class	LRAM before Carrying charges			Total LRAM	Carrying charges	Total claim	Billing Type	Billing Units (Fcst 2012)	Rate Rider
	2009	2010	2011						
Residential	\$ 16,989	\$ 43,695		\$ 60,684	\$ 1,524	\$ 62,208	KWh	568,750,042	\$0.0001
GS<50 kw	\$ 55,969	\$ 71,970		\$ 127,938	\$ 3,410	\$ 131,348	KWh	213,377,368	\$0.0006
GS>50 kw	\$ 438	\$ 956		\$ 1,393	\$ 35	\$ 1,429	KW	1,946,359	\$0.0007
TOTALS	\$ 73,395	\$ 116,621	\$ -	\$ 190,016	\$ 4,969	\$ 194,985			

PowerStream submits that the amounts in Table 1 above represent only a part of the LRAM to be recovered for the Years 2009 and 2010 and that the persisting losses from 2007 and 2008 CDM programs should be included.

Billing Determinants:

The LRAM amounts are calculated by rate class based on the CDM programs. As noted in PowerStream's response to VECC IR 2(g), PowerStream believes that using forecast 2012 billing units for calculating the LRAM rate riders is the most appropriate way to calculate the LRAM rate riders. Using the best estimate of the billing determinants for the period when the rate riders will be charged will provide a better matching of recoveries to the approved amount for each rate class. In PowerStream's LRAM application (2011 IRM, EB-2010-0110), forecast billing determinants were also used and this was approved by the Board.

The Board Guidelines state that "*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*"⁶. This language suggests that the guidelines allow some judgment in this matter, when necessary. PowerStream submits that its interpretation is in compliance with the Guidelines.

All of which is respectfully submitted this 1st day of February 2012.

⁶ Chapter 3 of Filing Requirements for transmission and Distribution Applications, dated June 22, 2011, p. 27