



**EB-2012-0161**

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

**AND IN THE MATTER OF** an application by PowerStream  
Inc. for an order approving just and reasonable rates and  
other charges for electricity distribution to be effective  
January 1, 2013.

**PROCEDURAL ORDER No. 3**  
**September 10, 2012**

PowerStream Inc. (“PowerStream”) filed an application with the Ontario Energy Board, received on May 28, 2012, under section 78 of the Act, seeking approval for changes to the rates that PowerStream charges for electricity distribution, to be effective January 1, 2013.

The Board issued a Notice of Application and Hearing dated June 7, 2012.

On August 30, 2012 PowerStream filed its responses to the interrogatories of the intervenors and Board staff.

PowerStream claimed confidentiality for part of its response to School Energy Coalition interrogatory #28 (SEC IR #28), which PowerStream stated outlines the process for selecting a consultant based on the competitive bids that were received by PowerStream and additionally contains pricing information and comments on the capabilities of the consultants. As such, PowerStream stated its release would prejudice the competitive position of the bidders. PowerStream filed the confidential material with the Board Secretary pursuant to the Board’s *Practice Direction on Confidential Filings* (the Practice Direction).

With respect to SEC IR #28, as an interim measure the Board will allow any external counsel or external consultant for the intervenors that wish to review the confidential

document filed in response to SEC IR #28 to do so after signing a copy of the Board's Declaration and Undertaking with respect to confidential documents, and filing it with the Board and serving it on PowerStream.

As set out in the Practice Direction, it is the Board's policy that all evidence should be on the public record unless reasons warrant otherwise. This reflects the Board's view that proceedings should be open, transparent and accessible. The Practice Direction seeks to balance these objectives with the need to protect information properly designated as confidential.

Intervenors and Board staff who object to PowerStream's request for confidential treatment of the interrogatory response shall file their submissions by September 14, 2012. PowerStream shall file any reply submission by September 19, 2012. If the Board ultimately decides that the document should not be afforded confidential treatment, it will be placed on the public record unless, within a period of five business days, and in accordance with section 5.1.12 of the Practice Direction, PowerStream requests that the information be withdrawn.

The Board has reviewed the responses to the interrogatories provided by PowerStream and has determined that the next steps in this proceeding will be a Technical Conference, followed by a Settlement Conference and an oral hearing on any unsettled issues. In establishing a schedule for these events, the Board is proceeding on the assumption that no intervenors will wish to file evidence. If any intervenors are intending to file such evidence they should advise the Board as soon as possible and any necessary modifications to the schedule arising from such filing will be ordered in due course.

The Technical Conference is to commence on September 24, 2012 and continue, if necessary, on September 25, 2012. The Board asks that all parties, with the assistance of Board staff, accommodate each others' schedules as much as possible to ensure that the time set aside for the Technical Conference is used as efficiently as possible.

The Board considers it necessary to make provision for the following matters related to this proceeding. Please be aware that this procedural order may be amended, and further procedural orders may be issued from time to time.

**THE BOARD ORDERS THAT:**

1. PowerStream shall provide a copy of the unredacted document referenced above to each external counsel or external consultant that has executed and filed the Board's Declaration and Undertaking. PowerStream shall also bring copies of the unredacted document to the Technical Conference on Monday, **September 24, 2012**.
2. Intervenors and Board staff who object to PowerStream's claim for confidential treatment of the material so identified in the response to SEC IR#28 shall file their submission with the Board and deliver it to all parties on or before **September 14, 2012**.
3. PowerStream shall file its response, if any, to the submissions of Board staff and the intervenors with the Board and deliver it to all parties by **September 19, 2012**.
4. A transcribed Technical Conference shall be convened on **September 24, 2012** starting at 9:30am. If necessary, the Technical Conference will continue on **September 25, 2012**. The Technical Conference will be held in the Board's hearing room at 2300 Yonge Street, 25<sup>th</sup> Floor, Toronto. Parties participating in the Technical Conference are requested to file with the Board, and copy PowerStream and all other parties, by **September 21, 2012** confirmation of the particular issues they seek to address or seek clarification of at the Technical Conference.
5. PowerStream shall respond to any undertakings given at the Technical Conference, which shall be filed with the Board and copied to all parties by **October 1, 2012**.
6. A Settlement Conference shall be convened on **October 3, 2012**, starting at 9:30 a.m., with the objective of reaching a settlement among the parties on the issues. The Settlement Conference will be held in the Board's hearing room at 2300 Yonge Street, 25<sup>th</sup> Floor, Toronto, and may continue until **October 5, 2012**, if needed.

7. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board by **October 24, 2012**.
8. An Oral Hearing will commence on **October 29, 2012** in the Board's hearing room at 2300 Yonge Street, 25<sup>th</sup> Floor, Toronto. The hearing may continue until **October 31, 2012**, if needed. In the event that a settlement agreement is filed with the Board, the presentation of the agreement will be made at the commencement of the oral hearing on **October 29, 2012**.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

All filings to the Board must quote file number EB-2012-0161, be made through the Board's web portal at [www.pes.ontarioenergyboard.ca/eservice](http://www.pes.ontarioenergyboard.ca/eservice), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available, parties may email their documents to the [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca). Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file seven paper copies. If you have submitted through the Board's web portal an e-mail is not required. With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Martin Davies at [martin.davies@ontarioenergyboard.ca](mailto:martin.davies@ontarioenergyboard.ca) and Board Counsel, Kristi Sebalj at [kristi.sebalj@ontarioenergyboard.ca](mailto:kristi.sebalj@ontarioenergyboard.ca).

**ADDRESS**

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P.O. Box 2319  
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Attention: Board Secretary

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Tel: 1-888-632-6273 (Toll free)  
Fax: 416-440-7656

**DATED** at Toronto, September 10, 2012

**ONTARIO ENERGY BOARD**

Original Signed by

Kirsten Walli  
Board Secretary