

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. and Barrie Hydro Distribution Inc. under section 86 of the *Ontario Energy Board Act, 1998* seeking an order for leave to amalgamate;

AND IN THE MATTER OF an Application by PowerStream Inc. and Barrie Hydro Distribution Inc. under section 74 of the *Ontario Energy Board Act, 1998* seeking an order to amend Power Stream Inc.'s distribution licence;

AND IN THE MATTER OF a request by Barrie Hydro Distribution Inc. under section 77(5) of the *Ontario Energy Board Act, 1998* seeking the cancellation of its distribution licence.

**POWERSTREAM INC. and
BARRIE HYDRO DISTRIBUTION INC.
RESPONSES TO INTERROGATORIES**

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EB-2008-0335

POWERSTREAM INC. and BARRIE HYDRO DISTRIBUTION INC.

RESPONSES TO INTERROGATORIES

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**POWERSTREAM INC. and
BARRIE HYDRO DISTRIBUTION INC.
RESPONSES TO INTERROGATORIES
ENERGY PROBE RESEARCH FOUNDATION**

Interrogatory #1

Reference: Application, Tab 1, Application Summary, paragraph 35

1A: Please provide the estimated increase in rates for Barrie Hydro as of May 1, 2009 under the 3rd GIRM rate adjustment that formed part of the benefits of the proposed transaction.

Response:

An estimated rate increase of 2.5% in Barrie Hydro rates as of May 1, 2009 has been assumed in developing the pro forma statements. This was based on an inflation factor (GDP-IPI) of 2.0%, a productivity factor reduction of 1% and an incremental capital factor of 1.5%. At the time the estimates were developed, the outcome of 3rd generation IRM was not known.

1B: Please provide the estimated approved total revenue requirement for PowerStream (after rebasing) that formed part of the benefits of the proposed transaction.

Response:

The following table summarizes the components of revenue requirement underpinning the pro-forma statements in this application.

OM&A Costs	43.7
Depreciation	34.9
Deemed Interest	19.0
Income and Capital taxes (PILs)	9.4
Allowed Return on Equity	19.2
Revenue Requirement (\$ millions)	126.2

1C: If the amount in the response to (b) above is different than the total service revenue requirement of \$127,596,850 applied for by PowerStream in EB-2008-0244, please explain the difference.

Response:

The consolidated pro forma statements were generated using a pro forma financial model as part of the pre-merger process of determining the viability of the merger. The model was underpinned by a variety of assumptions that were appropriate for the purpose of the modeling exercise; i.e. determining financial viability. The model inputs, outputs and underpinning assumptions were subsequently examined by KPMG and determined to be reasonable, as part of its review of the merger business case.

1D: If the Board were to reduce the total service revenue requirement of PowerStream in EB-2008-0244 such that the projected savings of \$5 million per year were substantially reduced or eliminated, would the amalgamation still proceed?

Response:

Please see response to SEC Interrogatories #3 and #22

1E: Does PowerStream acknowledge that the benefits of the proposed transaction that were calculated based on estimated approved rates for PowerStream and Barrie Hydro as of May 1, 2009 may not materialize to the extent forecast?

Response:

Yes.

1 **Interrogatory #2**

2 **Reference: Application, Tab 1, Application Summary, paragraph 34**

3 **Please identify where in the LDC Consolidation Report that the Board deals with rates**
4 **and/or rebasing of the “predecessor utility”.**

5 **Response:**

6 The Board’s Report entitled “Rate-making Associated with Distributor Consolidation” addresses
7 this issue in a number of areas. One example is at p.5, where the Board states:

8 “Allowing a distributor the option of scheduling the rate rebasing for the consolidated entity at
9 any time up to the five-year limit accommodates distributors that may require an increase in
10 operating, maintenance or capital expenditures shortly after closing of the transaction, as well as
11 distributors that wish to have the benefit of a longer period in which to off-set transaction costs
12 with efficiency savings. The flexibility does not come at the expense of consumer interests or
13 financial viability, which are adequately protected through the Board’s licensing regime and
14 price cap incentive regulation mechanism.”

15 Accordingly, the Board’s policy is that the Board’s rate regulation regime that applied to an LDC
16 prior to a merger (the predecessor utility) will continue to apply for the rate re-basing period.

17

1 **Interrogatory #3**

2 **Reference: Application**

3 **3A: Please confirm that PowerStream's rates for 2008 were set based on the 2nd**
4 **Generation IRM.**

5 **Response:**

6 Yes

7 **3B: When does PowerStream believe it is or will be subject to 3rd Generation IRM? Is it**
8 **when PowerStream made an application (EB-2008-0244) for rebasing or would it be**
9 **when a Decision from the Board on the rebasing application is received? Please**
10 **explain.**

11 **Response:**

12 As indicated in the proposed timeline of the Application Summary filed on October 16th, 2008
13 (paragraph 41), the proposed timeline is:

- 14 1. May 1, 2009 PowerStream rebased rates
- 15 2. May 1, 2009 Barrie Hydro 3rd Generation IRM rate adjustment
- 16 3. May 1, 2010 MergeCo 3rd Generation IRM rate adjustment
- 17 4. MergeCo rate harmonization application will be filed within 3 years from the date of
18 closing of the Proposed Transaction
- 19 5. Rebasing application of MergeCo filed within 5 years from the date of closing of the
20 Proposed Transaction

21 For ratemaking purposes, each of PowerStream and Barrie Hydro shall continue to operate, post-
22 amalgamation, pursuant to their respective rate orders that were existing as of the date of filing
23 this Application, until new rate orders are issued to each; i.e., pursuant to the Board's third
24 generation incentive regulation methodology, in the case of Barrie Hydro, and pursuant to the
25 Board's decision on its 2009 rate application, in the case of PowerStream. MergeCo will apply

- 1 for a rate order with two “rate zones” effective May 1, 2010 under 3rd generation incentive
- 2 regulation, and in subsequent years, until such time that it applies for its harmonized rates.
- 3 ::ODMA\PCDOCS\TOR01\3955773\2

**POWERSTREAM INC. and
BARRIE HYDRO DISTRIBUTION INC.
RESPONSES TO INTERROGATORIES
SCHOOL ENERGY COALITION**

Interrogatory #1

Reference: [Proforma financials filed November 14, 2008 – no exhibit number]

**We have attached an Excel spreadsheet entitled “Comparative Pro Forma Financials”.
With respect to the above exhibits, and the attached spreadsheet:**

Response:

Overview

The Excel spreadsheet prepared by SEC and attached to its interrogatories, was created and prepared by SEC and not by the Applicants. The first two columns in the Excel spreadsheet replicate data from the pro forma consolidated financial statements included in the MAAD Application (the “Application”). These consolidated statements were generated as part of the pre-merger process of determining the viability of the merger, using a pro forma financial model. The model was underpinned by a variety of assumptions that were appropriate for the purpose of the modeling exercise; i.e. determining financial viability. The model inputs, outputs and underpinning assumptions were subsequently examined by KPMG and determined to be reasonable, as part of its review of the merger business case.

The data under the last two columns in SEC’s Excel spreadsheet, under the heading “Aggregate Individual Utilities if no Merger”, were generated by SEC. The Applicants do not have a copy of the model that SEC used to generate this data. The Applicants do not know the assumptions that underpin SEC’s model and cannot comment on their reasonableness, or otherwise, nor on whether and to what extent these assumptions drive the differences between the data in columns a and b, on the one hand, and the data in columns c and d, on the other hand.

The Applicants have attempted to respond, as fully as possible, to the sub-parts of SEC Interrogatory 1 where these sub-parts are simply seeking arithmetical confirmation. The

Applicants are, however, unable to respond to some of the sub-parts to SEC Interrogatory 1 which ask for confirmation of data generated by SEC. Finally, in some of the questions, the information that is sought is not relevant to the Application, given the Board's statement of its mandate in respect of MAAD applications in general and this Application, in particular (please see response to SEC Interrogatory 8 for a description of this mandate).

To avoid any potential confusion, the Applicants have referred to the merged company as "MergeCo" in this response.

1A: Please confirm that the figures in columns (c) and (d) of the spreadsheet correctly aggregate the figures from the "no merger" pro forma financials provided by the Applicants.

Response to 1A:

Correct with the exception of retained earnings and dividends and the impact that these calculations have on other numbers (i.e., Cash Flows from Financing, Total Equity, and Total Liabilities & Shareholders Equity). The Applicants are unable to comment on the calculations made in the Excel spreadsheet provided with the interrogatories.

1B: Please confirm that, except for the impacts of the merger, the aggregated figures and the consolidated figures on each line of the attached spreadsheets, for each year, should be the same.

Response to 1B:

Correct with the exception of retained earnings and dividends. The Applicants are unable to comment on the calculations made in the calculations in the Excel spreadsheet provided with the interrogatories.

1C: Please confirm that, except for lines 1, 6, 14, 33-36, 41, 44, 57-59, 67, 68, 70, 72, 73, 75, 77-79, and 82, any differences between the consolidated numbers and the aggregated numbers, on each line and for each year, are solely the result of rounding adjustments.

Response to 1C:

This is correct with the exception of lines 52, 53, and 80 as the differences are not due to rounding. The Applicants are unable to comment on the calculations made in the SEC spreadsheet provided with the interrogatories.

1D: Please confirm that, for the 22 lines listed in (c) above that do have non-rounding differences, each and every one of those differences is the direct result of the differences in OM&A forecast on line 67.

Response to 1D:

Incorrect. Lines 33-35, and line 82 have differences which are not a direct result of the differences in the OM&A forecast on line 67. The Applicants are unable to comment on the calculations made in the Excel spreadsheet provided with the interrogatories.

1E: Please advise where the impact of the \$850,000 per annum reduction in capital spending, and related impacts on depreciation, cost of capital, and PILs, is represented.

Response to 1E:

In reviewing the pro forma statements, the Applicants discovered that the PowerStream stand-alone statements incorrectly attributed savings in the fixed asset additions net of capital contributions in the cash flow statements. The corrected cash flow statements for PowerStream stand-alone are provided in Exhibit 1E. The correction does not affect the pro-formas of MergeCo.

1F: Please confirm that the pro forma financials filed assume that the merger will have no impact on the rate of interest payable by the merging entities on new or renewed debt, notwithstanding the statement on page 4 of the Application that the merger will result in a “lower cost of capital”.

Response to 1F:

Correct. The pro forma calculations did not attempt to estimate the lower cost of capital that MergeCo may have versus the cost of capital for the stand-alone entities.

1G: Please advise why a \$5 million per year reduction in OM&A has no impact on the figure for employee future benefits on line 27.

Response to 1G:

At this point in time, the Applicants have made no assumptions regarding Employee Future Benefits and any changes associated with them. As an example, for union staff this will not be possible until after MergeCo’s union representation is determined and a contract is negotiated.

1H: Please confirm that the merged company would adopt a new dividend policy, and explain why the dividends on lines 52 and 80 show no dividend difference between the merger and no-merger scenarios (compared to combined 2007 dividends of \$6,352,000, less than half the amount forecast for 2009).

Response to 1H:

MergeCo’s dividend policy can be found in the Merger Participation Agreement at Schedule 1.5.2 of the Application. The Applicants are unable to comment on the calculations made in the Excel spreadsheet provided with the interrogatories.

1I: Please advise where in the pro forma consolidated financials the special dividends set out in the Merger Participation Agreement are reflected.

Response to 1I:

The Applicants have assumed that the special dividends are expected to be paid out just prior to closing in 2008.

1J: Please confirm that the pro forma consolidated financials have not attempted to reflect the financial statement impacts of harmonization of corporate policies, such as policies on customer deposits and collections, procurement, asset management, depreciation, capitalization of in-house costs, etc.

Response to 1J:

For the modeling purposes, some simplifying assumptions were made to bring the policies of the two existing companies together.

1K: Please explain why lines 15 and 16 have not changed in the merger scenario when the OM&A and the tax bills, which drive those lines, have changed.

Response to 1K:

The Applicants did not attempt to model the changes to accounts payable or income tax payable.

1L: Please explain why the merger case assumes the same requirement for new debt as the no-merger case, despite an expectation of decreased operating and capital costs.

Response to 1L:

Given the correction provided in SEC Interrogatory #1e) the debt requirements for the MergeCo and the no merger case are not the same.

1M: Please confirm that, based on the pro forma financial statements, the Applicants expect to earn 8.6% on their actual equity in 2009, after deducting all costs of the merger, and 10.2% on their actual equity in 2010, in both cases with an equity ratio in excess of the Board-approved equity ratio.

Response to 1M:

For modeling purposes the Applicants assumed that in 2009 PowerStream received its full revenue requirement for the full year and earns 8.4% on its deemed equity. In 2010, the anticipated synergies increase net income and MergeCo's ability to begin to offset its costs.

1 **1N: Please confirm that the pro forma financial statements, whether in the merger or the**
2 **no-merger scenario, assume that the net income for the PowerStream franchise area**
3 **in 2009 will be less than each of 2006 and 2007, and 2010 will be the same as 2007.**

4 **Response to 1N:**

5 Given the correction provided in SEC Interrogatory #1e) the net income in 2009 is forecasted to
6 be \$19.2M and \$20.8M in 2010. In 2006 net income was \$19.48M and in 2007 net income was
7 \$21.15M.

8

1 **Interrogatory #2**

2 **Reference:** [Tab 1, Schedule 1 – Application, p. 1]

3 **Please confirm that the Applicants are seeking a rate order for the merged company, on the**
4 **same terms as the existing Barrie Hydro Distribution Inc. rate order, to take effect after**
5 **the cancellation of the Barrie Hydro Distribution Inc. electricity distribution licence, and to**
6 **apply only to the current Barrie Hydro franchise area.**

7 **Response:**

8 No, the Application does not seek a rate order.

9 For ratemaking purposes, each of PowerStream and Barrie Hydro shall continue to operate, post-
10 amalgamation, pursuant to their respective rate orders that were existing as of the date of filing
11 the Application, until new rate orders are issued to each; i.e., pursuant to the Board's third
12 generation incentive regulation methodology, in the case of Barrie Hydro, and pursuant to the
13 Board's decision on its 2009 rate application, in the case of PowerStream. MergeCo will apply
14 for a rate order with two "rate zones" effective May 1, 2010 under 3rd generation incentive
15 regulation, and in subsequent years, until such time that it applies for harmonized rates.

16 **Interrogatory #3**

17 **Reference:** [1/1, p. 6]

18 **Please advise whether the Applicants intend to proceed with the merger in the event that**
19 **the Board does not allow PowerStream to rebase in 2009 as if the merger had not taken**
20 **place, and then defer rebasing for five years as proposed in the Application.**

21 **Response:**

22 The Applicants intend to proceed with the amalgamation on the terms negotiated and as filed
23 with the Board. The Applicants would have to consider how to proceed should the Board not
24 approve the amalgamation as proposed.

25

1 **Interrogatory #4**

2 **Reference:** [1/1, p. 6]

3 **Please confirm that the PowerStream 2009 rate application is filed on the assumption that**
4 **the merger has not taken place prior to the end of the 2009 Test Year.**

5 **Response:**

6 The PowerStream 2009 rate application is a stand-alone PowerStream (i.e., not MergeCo)
7 application for re-based rates in respect of distribution services provided to customers in
8 PowerStream's service territory only (not MergeCo's service territory).

9 **Interrogatory #5**

10 **Reference:** [1/1, p. 7]

11 **Please advise how PowerStream plans to harmonize rates prior to its next rebasing after**
12 **2009, while remaining consistent with the Board's statement on page 7 of its policy report**
13 **"Rate-making Associated with Distributor Consolidation", where the Board said "the issue**
14 **of rate harmonization in the context of a consolidation transaction is better examined at the**
15 **time of rebasing".**

16 **Response:**

17 The merged company is advising the Board that it proposes to harmonize its rates prior to the
18 rebasing of the consolidated entity. This would be done in the same manner as in EB-2007-0074
19 when PowerStream harmonized rates across its 4 rate zones independently of rebasing. Such
20 geographic harmonization is revenue neutral.

21 The Report indicates that the issue of rate harmonization in the context of a consolidation
22 transaction is better examined at the time of rebasing, however the applicants believe that
23 MergeCo would be able to harmonize rate prior to rebasing and has indicated that it will propose
24 such a plan. The Board may determine that it does not want to review a harmonization plan until
25 MergeCo rebases its rates after the 5 year deferral period.

26

1 **Interrogatory #6**

2 **Reference: [1.2.4]**

3 **Please confirm that, subsequent to the proposed transaction, the Affiliate Relationships**
4 **Code would no longer apply to transactions between the amalgamated entity and The City**
5 **of Barrie, Barrie Hydro Holdings Inc., Barrie Hydro Energy Services Inc., the City of**
6 **Vaughan, Vaughan Holdings Inc., the Town of Markham, Markham Enterprises**
7 **Corporation, or Markham District Energy Inc. Please advise which of those entities will,**
8 **after the proposed transaction, either supply goods or services to, receive goods or services**
9 **from, or share services, with the merged entity.**

10 **Response:**

11 The Town of Markham, Markham Services Enterprises Corporation and Markham District
12 Energy are not affiliates under the *Ontario Business Corporations Act* (OBCA).

13 Subsequent to the proposed transaction, none of the entities identified in Interrogatory #6 would
14 be considered affiliates under the OBCA and therefore the Affiliate Relationships Code for
15 Distributors and Transmitters (ARC).

16 The Shared Services Agreements referred to in Schedule C to the Merger Participation
17 Agreement set out any goods or services supplied to, received from, or shared services, between
18 the entities identified above and the merged entity.

19

Interrogatory #7

Reference: [1.4.4]

Please confirm that the Applicants expect combined distribution revenues to increase from \$145.7 million in 2007 to \$151.3 million in 2009, an increase of 3.8%, but to \$161.9 million in 2010, an increase of a further 7.0%. Please disaggregate these increases between (a) growth in throughput and customer numbers, b) the effect of the Barrie Hydro rate order in 2008, c) the effect of the PowerStream rate application for 2009, d) other expected rate increases.

Response:

The projected distribution revenue and changes in the pro forma statements can be summarized as follows:

(amounts in \$ millions)	2007	2009	Change	2010	Change
BARRIE HYDRO	\$ 31.1	\$ 33.1	\$ 2.0	\$ 34.9	\$ 1.8
POWERSTREAM	\$ 114.6	\$ 118.2	\$ 3.6	\$ 127.0	\$ 8.8
TOTAL	\$ 145.7	\$ 151.3	\$ 5.6	\$ 161.9	\$ 10.6
% increase			3.8%		7.0%

The amounts referenced in this interrogatory have been determined on a calendar year basis. For the period in question, the rate years have run from May 1st of one year to April 30th of following year. The analysis below breaks out the increases by growth, changes in rates and other factors.

The change in revenue from 2007 to 2009 is summarized by the drivers as follows:

Change in Revenue	2009 vs. 2007		
(amounts in \$ millions)	Barrie	PowerStream	Total
Growth	\$ 2.2	\$ 5.7	\$ 7.9
Rate increase	\$ 3.2	\$ 5.3	\$ 8.5
Subtotal before Other	\$ 5.4	\$ 11.0	\$ 16.4
Other	\$ (3.4)	\$ (7.4)	\$ (10.8)
Total	\$ 2.0	\$ 3.6	\$ 5.6

Barrie filed a Cost of Service rate application for rates effective May 1, 2008, resulting in a distribution rate increase of approximately 7.7% overall. Barrie filed under 3rd Generation IRM for rates effective May 1, 2009. At the time the pro forma statements were prepared, it was

assumed that this would result in a distribution rate increase of approximately 2.5% overall, including an incremental capital increase of 1.5%.

PowerStream filed under 2nd Generation IRM for rates effective May 1, 2008 resulting in an approved distribution rate increase of approximately 0.9% overall. PowerStream filed a Cost of Service rate application for rates effective May 1, 2009, requesting a distribution rate increase of approximately 7.3% overall.

“Other” consists of amounts contained in the actual distribution revenues for 2007 which did not exist in 2008 or 2009, thereby accounting for some of the change. The “Other” amount for Barrie consists of \$3.4 million in regulatory asset recovery taken into income in 2007. The amount of \$7.5 for PowerStream consists mainly of \$5.5 million in deferred revenue, related to the 3rd tranche CDM revenue increase in the 2005 rate year, taken into income in 2007, and \$1.6 million taken into 2007 revenue from a special rate rider related to revenue not collected from May 1, 2006 to October 31, 2006, as a result of final 2006 rates being effective November 1, 2006.

The change in revenue from 2009 to 2010 is summarized by the drivers as follows:

Change in Revenue	2010 vs. 2009		
(amounts in \$ millions)	Barrie	PowerStream	Total
Growth	\$ 1.0	\$ 3.7	\$ 4.7
Rates	\$ 0.8	\$ 5.1	\$ 5.9
Total	\$ 1.8	\$ 8.8	\$ 10.6

The pro forma amounts for 2010 were prepared on the assumption of 3rd Generation IRM rate increases for Barrie of 2.5% and PowerStream of 3%, including incremental capital increases of 1.5% and 2% respectively. At the time the pro forma statements were developed the parameters of 3rd generation IRM were unknown and the Applicants therefore had to make assumptions for modeling purposes.

Interrogatory #8

Reference: [1.5.1/3 – Barrie 2007 Annual Report, p. 1]

Please file the Strategic Plan, Strategic Map, and Balanced Scorecard referred to.

Response:

Procedural Order #1 in this Application states that: “The Board reminds parties that the Board will review this application within the scope of the Board’s “no harm” test. That is, the Board’s mandate in this application is to consider whether the transaction that has been placed before it will have an adverse effect relative to the status quo in terms of the Board’s statutory objectives.”

This is consistent with the Board’s generic treatment of the scope of review for MAADs applications as expressed in RP-2005-0018, EB-2005-0234; EB-2-5-0254; EB-2005-0257 (“Combined MAADs Application Proceeding” or “Section 86 Decision”). In that case, the Board stated (at pp. 6 and 8): “The Board is of the view that its mandate in these matters is to consider whether the transaction that has been placed before it will have an adverse impact relative to the status quo in terms of the Board’s statutory objectives.” It also stated:“...[T]he Board’s concern is limited to the effect of the transaction when considered in light of the Board’s objectives as identified in section 1 of the Act.”

In light of this, the business and strategic plans of Barrie Hydro as referred to in the 2007 Annual Report do not engage the Board’s mandate in this proceeding and the question is therefore out of scope.

Interrogatory #9

Reference: [1.5.1/3, p. 3]

Please provide details of any material Barrie Hydro initiatives commenced in 2007 or 2008 that will not be continued, or will be reversed or replaced, by the merged entity.

Response:

The selection process for a new Enterprise Resource Planning (ERP) information system began in 2008 and was subsequently deferred once the merger discussions began. This initiative will not be continued by the merged entity.

1 **Interrogatory #10**

2 **Reference:** [1.5.1/3, p.7]

3 **Please advise the number of full-time equivalents of each of Barrie Hydro and**
4 **PowerStream as of October 31, 2008. Please advise the projected number of full-time**
5 **equivalents for the merged entity as of December 31 in each of 2009, 2010, and 2011.**

6 **Response:**

7 As explained in Response to SEC Interrogatory #2, MergeCo will be operated in accordance
8 with the rate orders of PowerStream and Barrie Hydro, as these orders exist as of the date of
9 closing. MergeCo does not intend to propose any merger-driven amendments to these rate
10 orders, including changes, if any, to the number of its full-time equivalents that are attributable to
11 the merger. As a result, the number of full time equivalents under the predecessor and
12 amalgamated utilities does not engage the Board's mandate in this proceeding and the question is
13 therefore out of scope (See Response to SEC Interrogatory #8).

14 **Interrogatory #11**

15 **Reference:** [1.5.1/3, p. 31]

16 **Please advise whether any employee future benefits or liabilities are expected to be**
17 **revalued as a result of harmonization of policies, and the impact on the balance sheet**
18 **and/or the income statement of any such revaluation.**

19 **Response:**

20 As explained in Response to SEC Interrogatory #2, MergeCo will operate in accordance with the
21 rate orders of PowerStream and Barrie Hydro, as these orders exist as of the date of closing.
22 MergeCo does not intend to propose any merger-driven amendments to these rate orders,
23 including changes, if any, to future employee benefits or liabilities that are attributable to the
24 merger. As a result, future employee benefits or liabilities under the predecessor and
25 amalgamated utilities do not engage the Board's mandate in this proceeding and the question is
26 therefore out of scope (See Response to SEC Interrogatory #8).

27

Interrogatory #12

Reference: [1.5.1/3, p. 34]

Please file a copy of the dividend policy referred to in note 15, as well as any amendments or updates to that policy to date. Please file any similar pre-closing dividend policies of PowerStream from 2008, as well as any in effect for 2007 if different.

Response:

As explained in response to SEC Interrogatory #2, MergeCo will operate in accordance with the rate orders of PowerStream and Barrie Hydro, as these orders exist as of the date of closing. MergeCo does not intend to propose any merger-driven amendments to these rate orders, including changes, if any to dividend policies that are attributed to the merger. Accordingly, the dividend policies of PowerStream do not engage the Board's mandate in this proceeding and the question is therefore out of scope (See Response to SEC Interrogatory # 8).

Interrogatory #13

Reference: [1.5.1/4, p. 9 and 54]

Please advise how many employees of the Applicants are expected to have the new PowerStream head office facility as their principal place of work a) if the merger does not proceed, and b) if the merger proceeds. Please provide all studies, reports or analyses, that discuss the size of the head office facility in relation to PowerStream's M&A strategy or intentions. Please confirm that approximately \$25 million was added to rate base in 2008 to reflect bringing this building into service. Please confirm that the annual revenue requirement impact of that new building (depreciation, cost of debt, ROE, and PILs), net of cost savings, is about \$4 million per year.

Response:

The question is outside the scope of issues to be considered by the Board in its MAAD review. The head office has been built. Its construction is not contingent upon approval of the Proposed Transaction. The number of employees that will have the head office facility as their principal place of work if the Proposed Transaction proceeds or conversely does not proceed, is not relevant.

1 **Interrogatory #14**

2 **Reference:** [1.5.1/4, p. 26]

3 **Please show how the impact of the “one-time additional administrative and bad debt write-**
4 **offs” in 2007 are reflected in the forecast expenses in 2009 and 2010 in the PowerStream**
5 **pro forma financial statements.**

6 **Response:**

7 The “one-time additional administrative and bad debt write offs” in 2007 are not reflected in the
8 forecast expenses in 2009 and 2010. These costs were removed in estimating the expenses for
9 2008, 2009 and 2010.

10 **Interrogatory #15**

11 **Reference:** [1.5.1/4, p.28 and 57]

12 **Please advise if the \$125 million TD line of credit remains in effect, or if not, a replacement**
13 **line of credit is in effect. Please advise the interest rate and term of the line, and whether**
14 **the Applicants plan to utilize it for new debt post amalgamation. Please confirm that the**
15 **\$50 million, 5.08% credit facility initiated in January 2008 is not part of that \$125 million**
16 **TD facility.**

17 **Response:**

18 The \$125 million TD uncommitted line of credit remains in effect. The line is for a term of five
19 years, renewable annually. There is no interest rate on the line of credit, the credit facility can be
20 drawn upon with Bank approval by either direct advances, bearing interest at prime less 0.50%
21 or Bankers’ Acceptances, with a stamping fee of 20 basis points, or by way of letter of credit
22 with a fee of 20 basis points per annum. Whether the line of credit will be used for new debt
23 post amalgamation has not yet been determined. The \$50 million, 5.08% credit facility initiated
24 in January 2008 is not part of that \$125 million TD facility.

25

Interrogatory #16

Reference: [1.5.2 – Merger Participation Agreement, pp. 2-16]

Please provide a copy of each of the following documents referred to in the recitals or the definitions:

- a) The Letter of Intent.**
- b) The Barrie Hydro 2008 Budget.**
- c) The PowerStream 2008 Budget.**
- d) The PowerStream Shareholder Agreement.**
- e) The Valuation.**

Response:

- a) The Letter of Intent – Attached at Exhibit 16A
- b) The Barrie Hydro 2008 Budget – Attached at Exhibit 16-B1 and Exhibit 16-B2
- c) The PowerStream 2008 Budget – Attached at Exhibit 16-C1 and Exhibit 16-C2
- d) The PowerStream Shareholder Agreement – Attached at Exhibit 16-D. This Agreement was filed as part of the MAAD application review for the formation of PowerStream and is therefore on the public record. The Applicants however, are not clear as to the relevance of a 2004 Shareholder Agreement to whether the Board can approve the Proposed Transaction before it in this proceeding.
- e) The Valuation - The Applicants object to production of the Valuation as it is not relevant to the proceeding. The Board stated in the “Section 86 Decision”, page 7, that the “selling price of a utility is relevant only if the price paid is so high as to create a financial burden on the acquiring company which adversely affects economic viability, as any premium paid in excess of the book value of assets is not normally recovered through rates.” In this amalgamation there is no suggestion that the merged utility’s economic viability is threatened as a result of the consideration in the Proposed Transaction. As such, consideration and by extension, the Valuation is outside the scope of review.

Interrogatory #17

Reference: [1.5.2, p. 18, and various Schedules]

Please provide a chart showing all expected pre-closing and post-closing payments to and from shareholders, affiliates of shareholders, affiliates of the Applicants, and affiliates of the merged entity (if any), required by the terms of the Merger Participation Agreement or any other closing documents for the proposed transactions, with a cross-reference to the provisions requiring such payments. Please exclude payments to or from any entity that in aggregate for that entity are less than \$1 million.

Response:

All expected pre-closing and post-closing payments to and from shareholders, affiliates of shareholders, affiliates of the Applicants, and affiliates of the merged entity (if any), required by the terms of the Merger Participation Agreement or any other closing documents for the proposed transactions are referenced in the Merger Participation Agreement:

- Article 5 - Covenants
- Schedule 1.1 - Corporation Shareholders Agreement
- Schedule 2.2 - Sample Post-closing Adjustment
- Schedule 5.1 (1) - PowerStream Pre Closing Dividends
- Schedule 5.1 (2) – Barrie Hydro Pre Closing Dividends
- Schedule 5.3 – Post Closing Dividends and Payments

The estimated amounts are shown in the chart below:

Shareholders Agreement	PowerStream	Barrie Hydro
Estimated Pre-closing dividends (Schedule 5.1 and 5.2)	0	\$25.7m + \$0.40 million
Estimated Post-closing dividends and payments (Schedule 5.3)	50% of combined 2008 net income pro-rated to number of shares	50% of combined 2008 net income pro-rated to number of shares
Estimated Adjustment Amount for working capital excess/shortfall (Schedule 5.3 and Schedule 2.2)	0	\$8.3m

1 **Interrogatory #18**

2 **Reference:** [1.5.2, p. 21]

3 **Please provide a copy of the initial Strategic Plan referred to in section 2.5, whether or not**
4 **approved by all of the parties that will be required to approve it.**

5 **Response:**

6 An initial Strategic Plan has not yet been developed. In the absence of an approved Strategic
7 Plan MergeCo will operate its business in accordance with the Strategic Direction provided in
8 Schedule 2.5 to the Merger Participation Agreement.

9 **Interrogatory #19**

10 **Reference:** [1.5.2, pp. 26-36 and Schedules A-C]

11 **Please provide the due diligence binders, reports, or similar documents relating to**
12 **disclosure and/or compliance with conditions, representations and warranties, including**
13 **any due diligence reports from the lawyers or accountants of either PowerStream or Barrie**
14 **Hydro.**

15 **Response:**

16 The requested material will not be produced on the basis that it is irrelevant to the MAAD
17 Application review. The Proposed Transaction before the Board has been negotiated between
18 the Applicants and details regarding their due diligence review is outside the scope of this
19 proceeding.

20 In the “Section 86 Decision” (at p. 9) the Board stated that even a flawed decision making
21 process would not in and of itself be grounds to oppose an application.

22 “In order to argue that the process by which the seller negotiated the sale of the
23 utility or carried out its due diligence should be relevant, it would have to be
24 demonstrated that a flawed process leads to an impaired ability of the acquired
25 utility to meet the obligations imposed on it by the Board. Based on the “Section
26 86 Decision,” it is not clear how a flawed decision-making process, even if it
27 could be demonstrated, would in and of itself provide grounds to oppose the
28 Applications. Certainly, it would not in and of itself be grounds for denying the

1 Applications. The “Section 86 Decision” is substantive and addresses the effect
2 of a proposed transaction. It is not a process test that addresses the rationale for,
3 or the process underlying, the proposed transaction.”

4 **Interrogatory #20**

5 **Reference: [1.5.2, p. 28 and 29]**

6 **Please provide any report, analysis, study, or other document dealing with sections 5.1(4)**
7 **and/or 5.2 (4), compliance with those provisions, or any circumstances that materially**
8 **affect compliance with those provisions.**

9 **Response:**

10 As indicated in its “Section 86 Decision” the Board is of the view that its mandate in to consider
11 whether the transaction that has been placed before it will have an adverse effect relative to the
12 *status quo* in terms of the Board’s statutory objectives (emphasis added). While compliance with
13 any Board approved Code is a requirement of a distributors licence, the Applicants would argue
14 that a compliance review is not a requirement for whether or not the Board should approve a
15 merger. The Applicants have dealt with disclosure in Tab 1.5.3 of the Application.

16 **Interrogatory #21**

17 **Reference: [1.5.2, p. 30]**

18 **If the Competition Act application contains any documents that are not included in or**
19 **expressly referred to in this Application, please provide copies of those documents.**

20 **Response:**

21 No additional documents were included in the Competition Act Application.

22

1 **Interrogatory #22**

2 **Reference:** [1.5.2, p. 36]

3 **Please advise whether failure of the Board to allow a 5-year deferral of rebasing would**
4 **constitute a Material Adverse Affect for the purposes of section 6.5 (1)(c).**

5 **Response:**

6 Please see response to SEC Interrogatory #3.

7 **Interrogatory #23**

8 **Reference:** [1.5.2, p. 47]

9 **Please confirm that:**

- 10 • **No fees as described in Section 9.4 were disclosed in writing by either party to**
11 **the other, or, in the alternative, provide a copy of that disclosure document;**
- 12 • **No expenses referred to in Section 9.5 have been, or will be, included in the**
13 **regulatory financial reporting, rate applications, or other accounts maintained**
14 **for regulatory purposes by PowerStream, Barrie Hydro, or the amalgamated**
15 **entity.**

16 **Response:**

17 The Applicants confirm that no broker, finder or other Person is entitled to any brokerage fees,
18 commissions or finder's fees in connection with the Proposed Transaction. The Applicant
19 further confirm that any expenses referred to in Section 9.5 are recorded in the accounts, and are
20 identified but excluded from the amounts reported in rate filings.

21

1 **Interrogatory #24**

2 **Reference:** [1.5.2, Appendix B, p. 20]

3 **Please provide a copy of the Asset Management Plan and Line Loss Report referred to, or**
4 **provide an update on the status of that document.**

5 **Response:**

6 The Barrie Hydro Asset Management Plan and Line Loss Report are currently in development
7 and will be filed with the Board on or before December 31, 2008 in accordance with the Board's
8 decision on Barrie Hydro's 2008 EDR application (EB-2007-0746).

9 **Interrogatory #25**

10 **Reference:** [1.5.2, Appendix C, p. 1]

11 **Please provide a status report on the income and capital tax audit of the predecessor**
12 **companies, including a copy of the preliminary assessment on Markham Hydro and**
13 **Vaughan Hydro, and a copy of any assessment received prior to the hearing date of**
14 **December 15, 2008, or a statement that no assessment was made prior to the statute barred**
15 **date of December 8, 2008. If any such document shows a net tax impact on the relevant**
16 **taxpayer of less than \$1 million, it is not necessary to provide it.**

17 **Response:**

18 This request is outside the scope of the issues before the Board in the MAAD Application
19 review. The audit has been commenced in respect of a time period even pre-dating the creation
20 of PowerStream.

21

1 **Interrogatory #26**

2 **Reference:** [1.5.2, Appendix C, p. 4]

3 **Please provide a summary of the terms (limited to those terms that could have a material**
4 **impact on the ratepayers, rates, or revenue requirement, immediately or in the future) of**
5 **the agreements with PWU and IBEW for “transitional matters relating to the merger”.**
6 **For greater certainty, and without limiting the generality of the foregoing, any provision**
7 **that guarantees a certain number of unionized positions, and any provision that provides**
8 **for harmonization of any aspect of compensation at the higher level of the two existing**
9 **union contracts, should be considered to be material.**

10 **Response:**

11 See Response to SEC Interrogatory #10.

12 **Interrogatory #27**

13 **Reference:** [1.5.2, Appendix C, p. 4-5]

14 **Please provide a copy of the MOU dated February 6, 2008 with the Town of Markham, and**
15 **a summary of the terms of the lease dated November 15, 2007 relating to the operating**
16 **facility in Markham.**

17 **Response:**

18 The requested material will not be produced on the basis that the terms of a lease relating to the
19 operating facility in Markham have no bearing on whether the Board should approve the
20 Applicants' proposed amalgamation.

21

1 **Interrogatory #28**

2 **Reference: [1.5.2, Appendix C, p. 8, and Schedule C to the Shareholders Agreement]**

3 **Please provide the two draft shared services agreements, together with any amendments**
4 **thereto since being drafted, and confirm.**

- 5 • **That they are being performed, as if executed documents, prior to closing; and**
6 • **Subsequent to closing, they will continue to be followed according to their**
7 **existing terms except as disclosed in the Application.**

8 **Response:**

9 The draft Shared Services Agreements are provided in Exhibit 28. The Applicants confirm that
10 they are being performed, as if executed documents, prior to closing; and subsequent to closing,
11 the Applicants intend that they will continue to be followed according to their existing terms
12 except as disclosed in the Application.

13 **Interrogatory #29**

14 **Reference: [1.5.2, Schedule 1.1 – Shareholders Agreement, p. 14]**

15 **Please confirm that, under Section 2.07 (1) (b), the amalgamated entity is obligated to**
16 **maximize its rate of return on equity unless the Board limits such return.**

17 **Response:**

18 As stated in Schedule “D” Dividend Policy the amalgamated entity will endeavor to earn the
19 maximum rate of return allowable by the OEB “consistent with the objectives and guiding
20 principles” set forth in Section 2.07 of the Shareholders Agreement.

21 Section 2.07 Objectives and Guiding Principles builds on the existing objectives and guiding
22 principles of PowerStream and Barrie Hydro.

23 Section 2.07 states:

24 The Corporation recognizes the need to balance the following objectives and guiding principles:

- 1 ▪ Business: The Corporation will participate in those areas of business, permitted by the
2 *Electricity Act* and the *Ontario Energy Board Act*, in which it has expertise and which are
3 related to our core business of electricity distribution.
- 4 ▪ The Corporation will seek to conduct our business in a commercially prudent manner
5 while actively seeking to expand our business activities, building on our excellence in
6 electricity distribution. This business expansion may occur through acquisitions or
7 amalgamations with other utilities. In all cases, business expansion will only occur where
8 it enhances The Corporation's strategic position, economies of scope and scale exist, and
9 where it adds value to The Corporation and financial returns to its Shareholders.
- 10 ▪ For-Profit Corporation: The Corporation will be a for-profit corporation, with the primary
11 objective of optimizing rate of return and Shareholder value, including regular dividends
12 and interest payments. As a for-profit corporation, the Corporation will seek the full
13 market rate of return for LDC as permitted by the Ontario Energy Board. Optimizing
14 returns and Shareholder value will be balanced with prudent investments in all facets of
15 our business operations to ensure the key requirements of stakeholders can be met or
16 exceeded.
- 17 ▪ Shareholders: It is recognized that The Corporation is integral to the prosperity and
18 infrastructure of the communities in which it operates. Our Shareholders understand that
19 the Corporation will best serve the communities through the delivery of services at
20 competitive rates and by optimizing shareholder value. The Corporation will establish
21 and maintain a financial and capital structure consistent with industry standards sound
22 financial principles in order to provide the Shareholders with regular dividend and
23 interest payments.
- 24 ▪ Customers: The Corporation will provide safe, reliable, effective and efficient electrical
25 distribution to its customers. Excellence in customer service will be a primary focus of
26 the Corporation.
- 27 ▪ Employees: The Corporation will treat all employees in a fair and equitable manner. The
28 Corporation will develop with our employees a shared commitment towards workplace

health and safety, excellent customer service, employee growth and development and a culture of continuous improvement.

- The Corporation will ensure that all staff understands our business plan and direction, and that they have the skill required to fulfill their part in achieving our shared goals.
- Community and Economic Development: The Corporation will play a significant role in the communities in which it operates. The Corporation will strive to be a good corporate citizen and a facilitator of economic development throughout the Corporation's service area.
- Environmental Stewardship: The Corporation will act as responsible stewards over the resources it has been asked to manage, exercising a strong commitment to energy conservation and environmental sustainability. The Corporation will employ business and operating practices which seek to minimize our impact on the environment.

Interrogatory #30

Reference: [1.5.2, Schedule 1.1, p. 14]

Please provide a copy of the current draft of all proposals for the recapitalization of the amalgamated entity as described in Section 2.07 (1) (c).

Response:

The recapitalization of the amalgamated entity is provided in section 2.2 of the Merger Participation Agreement filed in Section 1.5.2 of the Application.

Interrogatory #31

Reference: [1.5.2, Schedule 2.2, p. 1]

Please provide a copy of the draft business case referred to in the document.

Response:

The draft business case dated September 17, 2007 is attached at Exhibit 31. The draft business case constituted an initial review of the transaction that served as a starting point for the parties to begin to negotiate the Proposed Transaction.

Question #32

Reference: [1.5.2, Schedule 5.2 (1)]

Please provide the rationale for the \$25.7 million dividend to the parent company of Barrie Hydro.

Response:

It is the intention of the parties to the extent applicable to pay dividends to shareholders prior to closing such that as of the amalgamation i) the closing working capital is equal to its deemed working capital and ii) the closing total debt is equal to agreed percentage (60.5 not to exceed 62% debt) of its rate base. The \$25.7 million is the forecast dividend required along with any closing adjustment to meet the agreed percentage.

Interrogatory #33

Reference: [City of Vaughan Minute 209, p. 5]

Please provide the original calculation of the rate impacts of harmonization as set forth on this page, showing how the figures were arrived at.

Response:

The minutes referred to reflect the discussion during a special City of Vaughan council meeting (October 2, 2008) during which PowerStream provided a projected magnitude of bill impacts, from rate changes that would likely result from harmonization for the main customer classes.

This represents the range for a typical customer based on three different scenarios.

- Typical customer is defined for residential as having monthly consumption of 1000 kWhs per month,
- General Service less than 50 kW demand as having monthly consumption of 2000 kWhs,
- General Service greater than 50 kW demand as having monthly consumption of 80000 kWhs and peak demand of 250 kW.

Please see Exhibit 33 for calculations of the projected magnitude of bill impacts.

1 **Interrogatory #34**

2 **Reference: [1.5.2, Schedule 5.2 (6)]**

3 **Please confirm that this note is being converted from one year renewable to a term**
4 **exceeding fifteen years. Please advise the fair market value interest rate for A rated debt**
5 **as of the date hereof with a fifteen-year term. Please advise why the interest rate on the**
6 **note is not being set at the market interest rate. Please confirm that, from and after the**
7 **date of closing, the interest rate that will be recoverable from ratepayers will be the fair**
8 **market value interest rate for a similar amount and term for an A rated debt.**

9 **Response:**

10 Barrie Hydro's promissory note was a two year renewable note at 6.5% interest which expires
11 December 31, 2009. The new term will be under the same terms as the PowerStream
12 Shareholders note due May 31, 2024. The interest rate will be reset and adjusted from time to
13 time in order to reflect current market conditions.

14 ::ODMA\PCDOCS\TOR01\3954931\2

PowerStream

(C\$millions unless otherwise noted)

INCOME STATEMENT (\$ Millions)		2009F	2010F
Revenue			
Cost of Power		530.3	546.9
Distribution		118.2	127.0
Fibre		0.0	0.0
Miscellaneous Revenue		8.0	7.7
Total Revenue		656.6	681.6
Less: Cost of Power		530.3	546.9
Net Revenue		126.3	134.7
Costs			
Operation & Maintenance & Administration		43.7	45.4
EBITDA		82.6	89.3
Depreciation and Amortization		34.9	38.1
EBIT		47.6	51.3
Interest expense		19.0	20.6
EBT before Extraordinary Items		28.6	30.7
EBT		28.6	30.7
Tax Rate	33.00%		32.00%
Provision for income taxes		9.5	9.8
Net Income		19.2	20.8

RETAINED EARNINGS STATEMENT (\$ Millions)		2009F	2010F
Opening Retained Earnings		58.3	67.5
Add: Net Income		19.2	20.8
Deduct:			
Customer sharing for over / under earnings		0.0	0.0
Deficiency in opening working capital		0.0	0.0
Deduct: Standard Dividend		(9.9)	(9.6)
Deduct: Dividends to Holdco		0.0	0.0
Closing Retained Earnings		67.5	78.8

PowerStream

(C\$millions unless otherwise noted)

CASH FLOW STATEMENT (\$ Millions)			
	2009F	2010F	
Operating Activities:			
Net Income From Continuing Operations	19.2	20.8	
Non-Cash items:			
Depreciation of Capital Assets	34.9	38.1	
Amortization of Debt Issue Costs	0.6	0.6	
Gains/Loss on Disposal	0.0	0.0	
Employee Future Benefits	0.5	0.6	
Funds From Operations	55.2	60.1	
Regulatory Asset/Liability (Decrease)	7.4	(12.0)	
Change in Working Capital	(0.6)	(0.8)	
Cash Flow From Operations	62.0	47.4	
Financing Activities:			
Decrease in Liability for Subdivision Development (Long-Term)	0.0	0.0	
Increase (Decrease) in New Debt	16.5	27.7	
Change in Long-Term Customer Deposits, Net of Cash	0.0	0.0	
Change in Other Liabilities	0.0	0.0	
Change in Other Assets	0.0	0.0	
Adjustment to opening working capital deficiency	0.0	0.0	
Dividends - Standard	(9.9)	(9.6)	
Cash Flow from Financing	6.6	18.2	
Investing Activities:			
Fixed Asset Additions, Net of Capital Contributions	(85.0)	(75.0)	
Cash Flow from Investing	(85.0)	(75.0)	
Net Change in Cash for the Year	(16.5)	(9.5)	
Cash, Beginning of Year	64.5	48.1	
Cash, End of Year	48.1	38.6	

PowerStream

(C\$millions unless otherwise noted)

BALANCE SHEET (\$ Millions)

2009F

2010F

Current Assets

Cash	48.1	38.6
Accounts Receivable	50.4	52.3
Unbilled Revenue	72.2	75.0
Inventory	7.2	7.5
Prepaid Expenses	1.3	1.4
Total Current Assets	179.2	174.7

Fixed Assets (Net of Acc. Dep.)

506.4

543.4

Goodwill

33.0

33.0

Other Long Term Assets

Restricted Cash (Customer Deposits)	13.2	13.5
Deferred Financing Charges	1.9	1.3
Other Intangibles	0.0	0.0
Other Assets	6.5	6.5
Total Other Long Term Assets	21.6	21.3

Total Assets	740.2	772.3
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Current Liabilities

Accounts Payable / Accrued Liabilities	98.9	102.7
Income Taxes Payable	1.6	1.6
Due to Related Parties	6.6	6.8
Liability for Subdivision Development	4.3	4.5
Total Current Liabilities	111.4	115.7

Long-Term Liabilities

Note Payable - Shareholder	162.5	162.5
Debenture Debt - EDFIN	100.0	100.0
New Long-Term Debt	78.0	105.7
Total Long Term Liabilities	340.5	368.2

Other Liabilities

Regulatory Liabilities	35.9	23.9
Customer Deposits	13.2	13.5
Employee Future Benefits	7.9	8.5
Other Liabilities	0.0	0.0
Total Other Liabilities	57.0	45.9

Total Liabilities

508.9

529.7

Shareholders' Equity

Common	163.8	163.8
Retained Earnings	67.5	78.8
Total Equity	231.3	242.5

Total Liabilities & Equity

740.2

772.3

LETTER OF INTENT DATED JUNE 12, 2008

B E T W E E N :

VAUGHAN HOLDINGS INC. (hereinafter called "VHI")

- and -

MARKHAM ENTERPRISES CORPORATION
(hereinafter called "MEC")

- and -

BARRIE HYDRO HOLDINGS INC. (hereinafter called "BHHI")

(Also referred to as the "Party or Parties" in this Agreement)

This Letter of Intent will confirm our understanding of our intention with respect to the proposed amalgamation of Barrie Hydro Distribution Inc. ("**Barrie Hydro**") and PowerStream Inc. ("**PowerStream**").

Our mutual agreement to amalgamate Barrie Hydro and PowerStream shall be carried out in the spirit of a cooperative partnership of our respective communities. Each of VHI, MEC and BHHI (the "Shareholders"), shall at all times, strive to act as partners in the interest of all communities within MergeCo service territory.

1. Amalgamation

1.1 Subject to the terms and conditions hereof, the Shareholders shall cause Barrie Hydro and PowerStream to amalgamate and continue as a corporation amalgamated under the laws of Ontario ("**MergeCo**"). MergeCo shall issue as fully paid and non-assessable a number of common shares to be negotiated (based on the valuation referred to in Section 1.2 below) to each of the Shareholders (either directly or through a subsidiary) (the "**Equity Allocation**") in exchange for all of the issued and outstanding shares held by VHI and MEC in PowerStream Inc. and the shares held by BHHI in Barrie Hydro.

1.2 Valuation

The Equity Allocation shall be assessed by an independent financial advisor (the "Financial Advisor") agreed upon by the JSC prior to the execution of the Amalgamation Agreement. The valuation methodology/methodologies to be used will be mutually agreed to by the Joint Steering Committee ("JSC").

2. Amalgamation Agreement

2.1 The terms and conditions governing the proposed amalgamation are to be contained in an agreement (the "**Amalgamation Agreement**") which shall be subject in all respects to

the mutual approval of all Parties hereto and their legal counsel. Such terms and conditions shall include, but not be limited to:

- (a) standard representations, warranties, covenants and conditions normally associated with the amalgamation of operating businesses as going concerns, including, without limitation, such representations and warranties as to (i) the share capital of the amalgamating corporations, and the ownership of shares; and (ii) financial statements, litigation (including but not limited to, litigation that may be threatened or pending), assets, real estate, trademarks, patents, environmental liabilities, tax liabilities, material contracts and the absence of any material liabilities or obligations not reflected in the financial statements of the amalgamating corporations and other related items; survival periods and indemnities to be negotiated.
- (b) the provision for one (1) head office, and at least two (2) operations/administration centres, one of which is to be located in the City of Barrie.
- (c) Board of Directors:
 - (i) the Board of Directors of MergeCo (the “**Board**”) shall be comprised of 13 directors; VHI shall be entitled to nominate 6 directors, MEC shall be entitled to nominate 4 directors, and Barrie shall be entitled to nominate 3 directors.

Notwithstanding the foregoing, in the event that the relative shareholding of BHHI is valued by the Financial Advisor (which for these purposes shall be the mid-point of the range of value as determined by the Financial Advisor) at less than 18% of the total shareholding, then the Board shall be comprised of 13 directors; VHI shall be entitled to nominate 6 directors, MEC shall be entitled to nominate 5 directors, and Barrie shall be entitled to nominate 2 directors.

The constitution of the Board shall at all times be in accordance with applicable laws and regulations. Each Shareholder agrees to select their respective nominees in accordance with the agreed timelines.

- (ii) The term of the Directors and their rotations shall be determined by negotiation of the Parties.

2.2 In addition, it is contemplated that the closing provided for in the Amalgamation Agreement will be conditional upon the following:

- (a) the Parties having entered into a shareholders agreement (the “Shareholders Agreement”) containing such provisions as are mutually satisfactory to the Parties hereto. It is anticipated that the Shareholders Agreement will incorporate the terms set out in Schedule “A” hereto.

- (b) confirmation that there has been no material adverse change in the financial condition of PowerStream or Barrie Hydro from that shown in the audited financial statements and the interim statements to the date of closing of the Amalgamation;
 - (c) approval of the Amalgamation and required transfer of applicable licences by the Ontario Energy Board, provided the conditions imposed by the Ontario Energy Board with respect to license transfers are satisfactory to the Shareholders, acting reasonably;
 - (d) the receipt of Competition Act approval and any other required governmental approvals or consents, and expiration of all applicable waiting periods.
- 2.3 The obligations of the Parties under the Amalgamation Agreement will also be expressly conditioned upon the approval of the agreement by the board of directors of PowerStream, Barrie Hydro, and each of VHI, MEC and BHHL. The Parties also acknowledge that the Amalgamation Agreement, or the completion of the amalgamation, must be approved by the Parties' respective municipal councils.
- 2.4 The Parties agree to use their reasonable best efforts to complete and execute the Amalgamation Agreement on or before August 29, 2008.
3. **Joint Steering Committee**
- 3.1 A Joint Steering Committee (the "JSC") comprised of four (4) members representing each of PowerStream and Barrie Hydro (as appointed by their respective Boards of Directors or Shareholders), including their respective CEOs, shall be formed to facilitate any matters relating to the amalgamation, including but not limited to:
- (a) Develop a more detailed Terms of Reference to guide and govern the negotiation process leading to the formation of MergeCo;
 - (b) Hire the Financial Advisor and agree upon a valuation methodology/methodologies in order to carry out an independent valuation which would form the basis for the Equity Allocation in the Amalgamation Agreement;
 - (c) Conduct formal negotiations during the amalgamation process resulting in the creation of a final Amalgamation Agreement and Shareholders Agreement to be presented to the Shareholders for approval;
 - (d) Report progress and all issues regarding the transaction to the respective Boards/Shareholders;
 - (e) Approve all employee communications and external press releases associated with the amalgamation prior to the closing of the transaction;
 - (f) Develop a detailed implementation strategy for the amalgamation including developing timelines and tactical plans; and

- (g) Update the Business Case for a merger.

The roles and responsibilities of the JSC are further defined in the attached Schedule "B".

4. **Principles**

- 4.1 MergeCo will engage in the areas of business of electricity distribution and other such activities as permitted by the Ontario Energy Board and by the *Electricity Act, 1998* (the "**Business**").
- 4.2 The Parties agree that MergeCo will be governed taking into account and balancing the following principles:
- a) MergeCo will be a for-profit Corporation, with the primary objective of optimizing rate of return and Shareholder value.
 - b) Operational excellence philosophy in terms of distribution system performance, reliability, customer service and employee and community safety.
 - c) A financial and capital structure would be established consistent with industry standards and sound financial principles in order to provide the Shareholders with regular cash flows.
 - d) MergeCo will treat all employees in an equitable manner.
 - e) With due consideration to the optimization of financial returns and shareholder value, MergeCo will be a facilitator for economic development in the communities it serves and play a significant role in the communities in which it operates.
 - f) MergeCo is committed to pursuing growth opportunities in its core electricity distribution business on a prudent and profitable basis, where it enhances MergeCo's strategic position, economies of scope and scale exist, and adds value to MergeCo and its Shareholders.
 - g) The operations of MergeCo will be conducted in an efficient, effective and commercially prudent manner.
 - h) The Corporation will have a corporate governance structure that will maintain commercial viability while ensuring fair representation for each Shareholder, including minority shareholders.
 - i) MergeCo will harmonize within Ontario Energy Board guidelines, its distribution rates for customers.
 - j) Dispute resolution mechanism to be established.

5. **Strategic Plan**

- 5.1 The JSC shall develop a strategic direction, which shall reflect and be consistent with the objectives and guiding principals of MergeCo., as determined by the JSC ("**Strategic Direction**") and shall be included, or referenced in the Amalgamation Agreement. Within 12 months after the closing of the Amalgamation, the Board of MergeCo, together with the Senior Management, shall develop an Initial Strategic Plan consistent with the Strategic Direction. The Initial Strategic Plan shall be subject to the approval of all shareholders of MergeCo, such approval not to be unreasonably withheld.
- 5.2 MergeCo is committed to pursuing significant growth opportunities on a prudent and profitable basis where it enhances MergeCo's strategic position and enhances economies of scope and scale. Specifically, as part of the Strategic Direction, MergeCo will pursue opportunities for the acquisition, merger or other business arrangements with neighbouring LDC's within the Region of York, County of Simcoe, and Hydro One Brampton (the "Geographic Footprint"). In addition, opportunities for acquisition, merger or other business arrangements with other LDC's outside the Geographic Footprint will, upon recommendation of Management, be reviewed and considered by each Shareholder acting in good faith.

6. **Investigation & Confidentiality**

- 6.1 Following execution and delivery of this Letter of Intent, VHI, MEC and BHHI shall cause each of PowerStream and Barrie Hydro, respectively, to forthwith make available to the other and its authorized representatives all books, records, accounts, contracts, and other data relating to operations (including data with respect to real property and the use thereof relating to environmental matters) as shall be reasonably requested by the other Parties, and shall fully cooperate in any investigation of the business, properties, assets and future prospects of the other in order to enable the Parties to make an examination of the financial position, contractual obligations and other liabilities of the other.
- 6.2 Prior to the parties providing the disclosure to each other as contemplated herein, each agrees to execute and to the extent within their control to cause PowerStream and Barrie Hydro to execute a Confidentiality Agreement substantially in the form attached hereto as Schedule "C".
- 6.3 The Parties agree to treat as confidential the specific terms of this Letter of Intent, which shall be kept in the strictest confidence and not divulged to any unrelated third party or used by VHI or MEC or BHHI except for purposes of the Amalgamation.
- 6.4 Unless and except to the extent required by law, none of the Parties will make any public disclosure or statement regarding the transactions contemplated by this Letter of Intent without the prior consent of the others. Where disclosure is required by law or by appropriate regulatory authorities, the signatories hereto shall endeavour to make such disclosure on a confidential basis, if permitted by such law or regulatory authorities. If such public disclosure is required prior to the execution of an Amalgamation Agreement, the Joint Steering Committee shall agree on a mutually acceptable information release. In

any event, upon execution of the Amalgamation Agreement, the Joint Steering Committee shall agree on a mutually acceptable press release.

7. Exclusive Dealings

- 7.1 Each of the Parties hereby agrees to negotiate exclusively and in good faith with the other Parties, in accordance with the terms of this Letter of Intent and will not (and will ensure that their representatives or personnel do not) discuss a similar transaction with or solicit a proposal for a similar transaction with any third party during the period (the "Exclusivity Period") from the date hereof until the earlier of August 29, 2008, or such date as the Parties, acting reasonably and in good faith, agree that an impasse in negotiations has occurred.

If during the Exclusivity Period a Party is presented with an opportunity for the acquisition, merger or other business arrangement with another LDC that such Party wishes to consider, it shall provide details of such opportunity to the other Party for joint consideration and such opportunity shall be reviewed and considered by each Shareholder acting in good faith. However, for greater certainty, no Party shall be obligated to proceed with such opportunity.

8. Closing Date

- 8.1 The closing of the Amalgamation shall occur within 90 days after all required regulatory approvals have been received from the Ontario Energy Board and any other applicable regulatory agency or such earlier or later a date as the Parties shall agree.

9. Letter of Intent

- 9.1 Except as provided in Section 10.2, this letter is intended to be and shall be construed only as a letter of intent and no binding obligation is hereby created with respect to anything contained in this letter of intent unless and until the Amalgamation Agreement and Shareholder Agreement are executed and delivered and then only to the extent that such obligations are contained in the definitive Amalgamation Agreement and Shareholder Agreement. For greater certainty, notwithstanding anything contained herein, no Party shall be required to enter into the Amalgamation Agreement or Shareholder Agreement. None of the Parties will have any obligation or liability to the other(s) for expenses (or otherwise) incurred or to be incurred by the other(s) in connection herewith. This Letter of Intent shall not be read or construed so as to make the Parties herein legal representatives of the other for any purpose whatsoever and no Parties shall have the express or implied authority to bind, act for, or to create any obligation on behalf of any other Party unless so agreed in writing.
- 9.2 Notwithstanding the foregoing, the obligations of the Parties under each of Sections 6.1, 6.2, 6.3, 6.4, 7.1, 9.1, 9.2, 10.1 and 10.2 shall be binding upon the Parties when this Letter of Intent is executed and delivered.

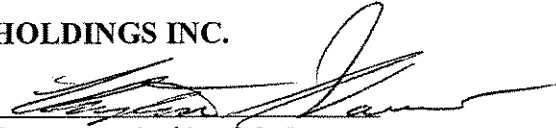
10. **Expenses and Commissions**

- 10.1 Each of the Parties will pay its own expenses incurred in connection with the transactions contemplated hereby and agrees that it has not engaged any broker or finder as to whom the other signatories hereto would be liable for fees or other amounts.
- 10.2 The Parties agree that the cost of the valuation contemplated in Section 1.2 shall be a joint benefit and obligation of Barrie Hydro and PowerStream, and as such, any costs and expenses associated with such valuation shall be shared in a proportion equal to their Shareholders' respective shareholdings in MergeCo, provided that, if the proposed amalgamation does not occur such costs and expenses shall be shared equally as between Barrie Hydro and PowerStream.

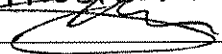
Executed and dated as of the 12th day of June, 2008.

VAUGHAN HOLDINGS INC.

Per


Name: CLAYTON HARRIS
Title: PRESIDENT & CEO

Per


Name: SANDRA YOUNG RACCO
Title: CHAIR

The foregoing letter correctly sets forth our understanding of our discussions.

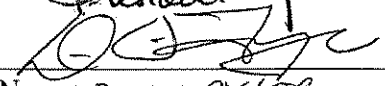
DATED this 12th day of June, 2008.

MARKHAM ENTERPRISES CORPORATION

Per


Name: JOHN LIVEY
Title: President

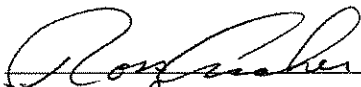
Per


Name: DON TAYLOR
Title: Secretary

The foregoing letter correctly sets forth our understanding of our discussions.

DATED this 12th day of June, 2008.

BARRIE HYDRO HOLDINGS INC.

Per 
Name: ROSS ARCHER
Title: CHAIR

Per 
Name: Mark Handerson
Title: President and CEO

The foregoing letter correctly sets forth our understanding of our discussions.

SCHEDULE "A"
SHAREHOLDERS AGREEMENT

Vaughan Holdings Inc., Markham Enterprises Corporation, and Barrie Hydro Holdings Inc. shall enter into an appropriate shareholders agreement to govern the relationship between themselves and the manner in which MergeCo is to be operated. A Shareholder Agreement for the new entity would also include specific protections by way of unanimous consent items, which would include but not be limited to the following:

- a) Approval of the initial strategic plan of MergeCo.
- b) Any action which may lead to, or result in, a fundamental change to MergeCo.
- c) The taking of any steps to wind up/dissolve or terminate MergeCo.
- d) The sale, lease, exchange or disposition (other than in the ordinary course of business) of assets of MergeCo, having a value of _% (to be negotiated) or more of the book value of the assets of MergeCo.
- e) Approval of the Dividend Policy, with a minimum yearly dividend issuance requirement, subject to the provisions of the OBCA, to be negotiated.
- f) Admission of any new shareholder, holding more than __% (to be negotiated) of the shares of MergeCo;
- g) Any change in the number of Directors of MergeCo;
- h) The incurring of any debt obligations in excess of an amount to be negotiated;
- i) The amending of the Articles of Incorporation;
- j) The amalgamation of MergeCo with any other corporation(s);
- k) The closing of any Operations/Administration Centre;

SCHEDULE “B”

ROLES AND RESPONSIBILITIES OF JOINT STEERING COMMITTEE

The Joint Steering Committee (“JSC”) would have the mandate to:

- Hire an investment banker to carry out an independent valuation which would form the basis for the Shareholder values to be embedded in the Amalgamation Agreement;
- Conduct formal negotiations during the merger process;
- Develop a detailed Terms of Reference which would form the basis of the Amalgamation Agreement.
- Report progress and all issues regarding the transaction to the respective Boards/Shareholders.
- Approve all employee communications and external press releases associated with the merger prior to the closing of the transaction;
- Develop a detailed implementation strategy for the merger including developing timelines and tactical plans.
- Update the Business Case for a merger.
- The President & CEO of PowerStream and the President and CEO of Barrie Hydro will act as Co-Chairs.

Committee Meetings

It is anticipated that the Joint Steering Committee and the working groups will meet on a weekly basis or so often as necessary until the closing of the merger transaction.

SCHEDULE "C"
NON-DISCLOSURE AGREEMENT

MUTUAL NON-DISCLOSURE AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this 28th-day of May, 2008 by and between PowerStream Inc., a corporation incorporated under the laws of Ontario, having its head office at 2800 Rutherford Road, Vaughan, Ontario L4K 2N9 ("PowerStream") and Barrie Hydro Distribution Inc., a corporation incorporated under the laws of Ontario having its head office at 55 Patterson Road, Barrie, Ontario L4M 4V8 ("BHD"). Collectively, PowerStream and BHD are herein after referred to as "Party" or "Parties", as the sense of the paragraph requires.

WHEREAS the Parties to this Agreement are Owner or Recipient, as the sense of the paragraph requires, and they wish to disclose certain of their Confidential Information, as defined below, for the purpose and uses recited herein.

NOW THEREFORE in order to induce such transfer, the Parties agree as follows:

To ensure PowerStream and BHD are able to mutually disclose confidential information openly to pursue a possible merger or other business combination, involving the business of Barrie Hydro Distribution Inc. and PowerStream Inc. (the "Purpose").

1. "Confidential Information" shall mean any information and data provided to the Recipient by Owner hereunder, including but not limited to proprietary, technical, developmental, marketing, sales, operating, performance, cost, know-how, financial, business and process information, computer programming techniques, and all record bearing media containing or disclosing such information and techniques, which is disclosed pursuant to this Agreement. Confidential Information shall include without limitation any drawings, specifications, schematics, and shall further include information which, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the Parties, exercising reasonable business judgment, to be confidential, whether disclosed or submitted, orally, in writing, or by any other media, by Owner to Recipient. Confidential Information of Owner may also include information disclosed to Owner by a third party.
2. To the extent the Confidential Information contains "personal information", as defined in the *Canadian Personal Information Protection and Electronic Documents Act*, as

amended from time to time ("PIPEDA") or other applicable privacy protection laws, codes of practice and other legal and regulatory obligations (collectively "Privacy Laws"), the Parties agree as follows:

- a. The Parties are each responsible for complying with their respective obligations under PIPEDA and other applicable Privacy Laws.
 - b. With respect to personal information about an identifiable individual provided or otherwise made available by one Party to the other Party ("Personal Information"), the receiving Party agrees:
 - i. to handle the Personal Information as specified in this Agreement;
 - ii. not to use the Personal Information for purposes other than the Purpose;
 - iii. to treat the Personal Information as "Confidential Information" and not to disclose the Personal Information to any third party (including affiliates) without the prior written consent of the disclosing Party;
 - iv. to limit access to the Personal Information to those employees with a need-to-know for the purpose of the Purpose; and
 - v. to take all such further steps as may be reasonably requested by the disclosing Party to ensure the disclosing Party's compliance with applicable Privacy Laws.
3. Owner agrees to make known to Recipient, and Recipient agrees to receive Confidential Information solely for use in connection with the Purpose and for no other purposes whatsoever. Confidential Information delivered pursuant to this Agreement shall not be used by Recipient for any purpose, except as expressly stated herein, without the express prior written consent of Owner.
4. Confidential Information delivered pursuant to this Agreement:
 - a. shall not be copied, distributed, disclosed or disseminated outside of Recipients' business organization, except as expressly allowed herein, in any way or form by recipient without the express prior written consent of Owner, provided that Recipient shall be permitted to copy, distribute, disclose or disseminate Confidential Information to its Representatives who have a need to know the Confidential Information in regard to the Purpose. For the purposes of this Agreement, "Representatives" means, in respect of a Party, such Party's shareholders (including the parent entities of such shareholders), its and their respective directors, officers, employees and advisors (including financial advisors and legal counsel) and the directors, officers and employees of any such advisor;
 - b. shall be maintained in confidence using the same degree of care which Recipient employs with respect to its own Confidential Information, but in no event maintained with less than a reasonable standard of care as indicated by the circumstances, and may only be disclosed to those employees of Recipient who have a need to know same in order to use same for the Purpose, and have been informed of the obligations of this Agreement and are subject to obligations of confidentiality consistent herewith; and
 - c. shall remain the property of and be returned to Owner (along with all copies thereof, including all copies stored in electronic data systems) within thirty (30) days after receipt by Recipient of a written request from Owner or upon

expiration of this Agreement. At the conclusion of the use of Confidential Information received from Owner, or termination of this Agreement as set forth elsewhere in this Agreement, Recipient shall ensure that all copies of all Confidential Information, whether or not incorporated in other programs, data compilations, or otherwise intermingled with data not subject to this Agreement, shall be removed from all electronic data systems and storage media.

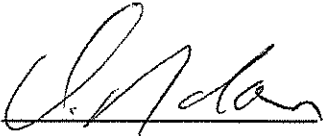
5. The obligations of Section 4 shall not apply however to any information which:
 - a. is already in the public domain at the time of disclosure or later becomes available to the public through no breach of this Agreement by Recipient, provided that Confidential Information shall not be deemed to be in the public domain merely because any part of said information is embodied in general disclosures or because individual features, components or combinations thereof are now or become known to the public;
 - b. is received by Recipient independently from a third party without obligation of confidentiality;
 - c. is independently developed by Recipient, as evidenced by its business records;
 - d. is required by law or order to be disclosed provided that in such event Recipient shall notify Owner prior to making such disclosure to allow Owner to assert whatever rights may be available to it to prevent such disclosure or to obtain a protective order; or
 - e. is approved for release in writing by an authorized representative of Owner, provided that to the extent Personal Information, as defined in Section 2, is included in the Confidential Information, nothing in Section 5(a) or 5(b) shall operate to exclude such Personal Information from protection under this Agreement or to waive any of a Party's obligations associated therewith.
6. Owner will at its discretion provide such of its Confidential Information to Recipient as is required for the Purpose. Nothing in this Agreement obligates Owner to disclose any particular Confidential Information. Notwithstanding Section 3, Recipient shall have the right to refuse to accept any information under this Agreement.
7. Unless otherwise mutually agreed in writing, Recipient's obligations hereunder with respect to each item of Confidential Information shall terminate two (2) years from the termination date of this Agreement.
8. This Agreement does not in any way bind the Parties to enter into a business relationship or any other transaction with each other. Unless the Parties specifically agree otherwise in writing, neither Party will be under any legal obligation of any kind whatsoever by virtue of this Agreement with respect to the Purpose, except for the matters specifically agreed to in this Agreement. This Agreement does not create any agency or partnership relationship between the Parties or authorize a Party to use the other Party's name or trademarks. Subject to the obligations of this Agreement, neither Party is precluded from independently pursuing any activities similar to or in competition with the Purpose.

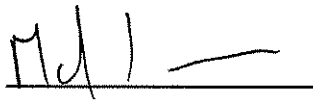
9. Unless otherwise mutually agreed in writing, the Parties hereto shall not be obligated under the terms hereof to compensate each other for disclosures of any information under this Agreement and agree that no warranties of any kind are given by Owner with respect to such information or any reliance on use thereof. OWNER HEREBY EXCLUDES ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ACCURACY, SUFFICIENCY, SUITABILITY OR NON-INFRINGEMENT. OWNER SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGES, LOSSES OR EXPENSES INCURRED BY RECIPIENT AS A RESULT OF ITS RECEIPT OF INFORMATION PURSUANT TO THIS AGREEMENT, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE.
10. This Agreement shall be effective as of the date recited on the first page hereof. It may be terminated, without cause, with respect to further disclosures upon thirty (30) days prior notice in writing. This Agreement shall automatically terminate two (2) years from its effective date. The rights and obligations accruing prior to termination as set forth herein, shall, however, survive the termination as specified in this Agreement.
11. Recipient acknowledges that a breach of this Agreement may result in irreparable and immediate harm to Owner and agrees that Owner, in the event of such breach, in addition to any other right or relief, shall be entitled to equitable relief by way of temporary or permanent injunction and to seek such other rights or remedies available under this Agreement, in law or equity, including reasonable legal fees and costs. Recipient shall indemnify Owner against any loss, cost, expense or damage arising out of the breach of this Agreement by Recipient or any officers, directors, partners, affiliates, employees or agents thereof.
12. This Agreement constitutes the entire agreement between the Parties hereto as to the subject matter hereof and merges all prior discussions between the Parties hereto, and neither of the Parties hereto shall be bound by any terms, conditions, representations or undertakings other than as expressly set forth herein.
13. This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns, provided however that neither party shall be entitled to assign this Agreement or any of its obligations hereunder to any other person(s) without the prior written consent of the other Party.
14. This Agreement shall not be varied, altered or amended except by a document in writing signed by all the Parties hereto.
15. This Agreement shall be governed by and construed in accordance with the laws of Ontario applicable hereto.

IN WITNESS WHEREOF the Parties hereto represent and warrant that they have the authority to cause this Agreement to be executed by their duly authorized representatives.

POWERSTREAM INC.

BARRIE HYDRO DISTRIBUTION INC.

By: 

By: 

Name: Dennis Nolan

Name: M. Henderson

Title: EVP Corporate

Title: President & CEO

Services & Sec.

Barrie Hydro Distribution Inc.

2008 Operating Budget

(in \$000's)

2008 Budget

Service Revenue	\$ 32,439
Gross Revenue	32,439
Transformer Discount	(574)
Other Revenue	2,408
Water & Sewer Billing	1,495
Total Revenue	<u>35,768</u>
<u>Operating Costs:</u>	
Labour	9,956
Material	75
Equipment	326
General Administration	4,369
Other	1,283
Deduct: Overhead Allocation-Capital Projects	(3,247)
Sub-Total Operating Costs	<u>12,762</u>
	-
Total Net Operating Costs	<u>12,762</u>
Sub-Total Net Income	23,006
<u>Other Charges</u>	
Bank and Other Interest	2,058
Promissory Note Interest	1,300
Depreciation & Amortization of Fixed Assets	9,921
Total Other Charges	<u>13,279</u>
Net Income (Before Taxes)	9,727
Taxes	3,997
Net Income	<u>\$ 5,730</u>

BARRIE HYDRO DISTRIBUTION INC.
CAPITAL SPENDING COMPARISON - 2008 BUDGET

	BUDGET <u>2008</u>
PROJECT CAPITAL (NOT INCL SUBDIVISIONS)	\$ 8,998,415
SUBDIVISION SERVICING	\$ 5,301,476
CONTRIBUTED CAPITAL FOR SUBDIVISIONS	<u>\$ (3,055,064)</u>
TOTAL PROJECT CAPITAL	\$ 11,244,827
 PURCHASED CAPITAL	 <u>\$ 4,445,000</u>
 TOTAL	 \$ 15,689,827



2008 Budget Operating Statement

REVENUE	
Sale of Energy	\$507,325,156
Cost of energy	507,325,156
Distribution Services	112,681,471
Other revenue	6,579,309
	119,260,780
OM&A EXPENSES:	
OM&A	38,435,155
Property & Business Taxes	3,044,728
Earnings before the undernoted	77,780,897
Amortization of capital assets	31,735,892
Interest	16,175,000
	29,870,005
Earnings before the undernoted	29,870,005
Unusual items - Transition costs	0
Earnings before amounts in lieu of income taxes	29,870,005
Amounts in lieu of income taxes	10,902,552
Net earnings	\$18,967,453



2008 Budget Operating Statement

REVENUE	
Sale of Energy	\$507,325,156
Cost of energy	507,325,156
Distribution Services	112,681,471
Other revenue	6,579,309
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Earnings before amounts in lieu of income taxes	29,870,005
Amounts in lieu of income taxes	10,902,552
Net earnings	\$18,967,453



Capital Expenditure (CAPEX) Budget

Period: Fiscal Year - 2008

PROJECT DESCRIPTION	Total 2008 Forecast \$(000)
Sustainment	\$ 19,401
Development	\$ 23,728
Operations	\$ 10,080
Miscellaneous	\$ 6,243
Smart Meters Program	\$ 6,994
Total Capital Expenditure	\$ 66,446

THE CORPORATION OF THE TOWN OF MARKHAM

- and -

MARKHAM ENERGY CORPORATION

- and -

THE CORPORATION OF THE CITY OF VAUGHAN

- and -

AMALCO HYDRO DISTRIBUTION INC.

SHAREHOLDERS AGREEMENT

June 1, 2004

**Gowling Lafleur Henderson LLP
Suite 5800, Scotia Plaza
40 King Street West
Toronto, Ontario
M5H 3Z7**

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SHAREHOLDERS AGREEMENT

THIS AGREEMENT made as of June 1, 2004

B E T W E E N:

THE CORPORATION OF THE TOWN OF MARKHAM
(hereinafter referred to as “**Markham**”)

- and –

MARKHAM ENERGY CORPORATION
(hereinafter referred to as “**MEC**”)

- and -

THE CORPORATION OF THE CITY OF VAUGHAN
(hereinafter referred to as “**Vaughan**”)

- and -

AMALCO HYDRO DISTRIBUTION INC.
(hereinafter referred to as the “**Corporation**”)

WHEREAS the Corporation has been formed as of the date hereof by Certificate of Articles of Amalgamation under the Business Corporation Act pursuant to which its amalgamating corporations, Markham Hydro Distribution Inc., Hydro Vaughan Distribution Inc., and Richmond Hill Hydro Inc. have amalgamated to continue as the Corporation;

AND WHEREAS the authorized capital of the Corporation, consists of an unlimited number of common shares, of which 1,000 are issued and outstanding;

AND WHEREAS at the date hereof all of the issued shares of the Corporation are registered and beneficially owned by as follows:

<u>SHAREHOLDERS</u>	<u>COMMON SHARES</u>
MEC	410
Vaughan	590

AND WHEREAS the authorized capital of MEC consists of an unlimited number of common shares, of which 1,000 are issued and outstanding and owned by Markham;

AND WHEREAS the Shareholders and the Corporation have agreed to enter into this Agreement as being in their respective best interests and for the purpose of providing for the operation and growth of the Corporation;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual covenants and agreements herein contained the parties hereto agree as follows:

ARTICLE ONE INTERPRETATION

Section 1.01 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

“**Accountant**” means a national firm of chartered accountants which is not the Auditor;

“**Affiliate Relationships Code**” means Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB revised November 24, 2003, as further revised and amended from time to time;

“**Agreement**” means this agreement and all schedules attached hereto and all amendments made hereto and thereto by written agreement between the Shareholders and the Corporation;

“**Amalgamation**” means the amalgamation of Richmond Hill Hydro Inc., Markham Hydro Distribution Inc. and Hydro Vaughan Distribution Inc.;

“**Asset Value**” means the value of all of the assets of the Corporation as discussed in the most recent available annual audited financial statements of the Corporation;

“**Auditor**” means the auditor of the Corporation appointed from time to time;

“**Board**” means the board of directors of the Corporation;

“**Business**” means the distribution by the Corporation of electricity and the provision of standard supply service to customers in the service territory permitted by the distribution licence(s) issued by the OEB to the Corporation or its predecessors, or any other activities prescribed pursuant to the *Electricity Act*;

“**Business Corporations Act**” means the *Business Corporations Act* (Ontario), as now enacted or as the same may from time to time be amended, re-enacted or replaced;

“**Business Day**” means a day other than a Saturday, Sunday or statutory holiday in Ontario;

“**By-Laws**” means the general by-law of the Corporation, a copy of which is annexed hereto as Schedule “C”;

“**Capital Call**” has the meaning set out in Section 3.08;

“**Communication**” has the meaning set out in Section 5.08;

“**Common Shares**” means the common shares of the Corporation issued and outstanding from time to time;

“**distribute**” and “**distributor**” have the meanings ascribed thereto in the *Electricity Act* and “**distributing**” and “**distribution**” have the corresponding meanings;

“**Electricity Act**” means the *Electricity Act* 1998 (Ontario), as now enacted or as the same may from time to time be amended, re-enacted or replaced, and any regulations thereunder;

“**Information**” has the respective meaning set out in Section 4.01;

“**Markham Option**” has the meaning set out in Section 3.10;

“**Merger Agreement**” means that certain Merger Agreement dated as of the 11th day of March, 2004 among Markham, MEC, Vaughan, Richmond Hill Hydro Inc., Markham Hydro Distribution Inc. and Hydro Vaughan Distribution Inc.;

“**Notice**” has the meaning set out in Section 3.03(1);

“**OEB**” means the Ontario Energy Board;

“**Offered Shares**” has the respective meanings set out in Section 3.03(1) and 3.05(1);

“**Offeree**” and “**Offerees**” have the respective meanings set out in Section 3.03(2), 3.04(1) and 3.05(1);

“**Offeror**” has the respective meanings set out in Section 3.03(1), 3.04(1) and 3.05(1);

“**Ontario Energy Board Act**” means the *Ontario Energy Board Act, 1998* (Ontario), as now enacted or as the same may from time to time be amended, re-enacted or replaced, and any regulations thereunder;

“**PCBs**” means polychlorinated biphenyls;

“**Participating Municipalities**” means Markham and Vaughan, collectively, and “**Participating Municipality**” means any one of them;

“**Person**” includes an individual, corporation, partnership, trust, unincorporated association, organization, syndicate, executor, administrator or other legal or personal representative;

“**Prospective Purchaser**” has the meaning set out in Section 3.03(5);

“**Purchase Price**” has the meaning set out in Section 3.03(1);

“**Shareholders**” means Markham and MEC on the one hand, and Vaughan and Vaughan Holdco on the other hand, together with such other persons as may acquire Shares and become parties to this Agreement, collectively, and “**Shareholder**” means any one of such persons individually;

“**Shares**” means the shares of the Corporation that the Shareholders at the date hereof or hereafter may beneficially own;

“**Standstill Period**” has the meaning ascribed thereto in Section 3.06;

“**Strategic Plan**” means the strategic plan for the Corporation approved pursuant to subsection 2.06(r), establishing the Corporation’s terms and conditions for growth and expansion on a prudent and profitable basis through enhancing the Corporation’s strategic position and economies of scope and scale; and

“**Vaughan Holdco**” has the meaning ascribed thereto in subsection 3.01.

Section 1.02 Sections and Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.

Section 1.03 Number

Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

Section 1.04 Accounting Principles

Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which such calculation is made or required to be made in accordance with generally accepted accounting principles.

Section 1.05 Shareholder Agreement

To the extent that this Agreement specifies that any matters relating to the Corporation may only be, or shall be dealt with or approved by, or shall require action by the Shareholders, the discretion and powers of the directors of the Corporation to manage and to supervise the management of the business and affairs of the Corporation with respect to such matters are correspondingly restricted. For greater certainty, the parties agree that this Agreement is intended to operate as a unanimous shareholders agreement with respect to the Corporation, within the meaning of the Business Corporations Act.

ARTICLE TWO MANAGEMENT

Section 2.01 Carrying out of the Agreement

The Shareholders shall at all times carry out and cause the Corporation to carry out the provisions of this Agreement in furtherance of the Business.

Section 2.02 Idem

The Corporation confirms its knowledge of this Agreement and shall carry out and be bound by the provisions of this Agreement to the full extent that it has the capacity and power at law to do so.

Section 2.03 Directors

- (1) The Board shall consist of ten directors, six of whom shall be nominees designated by Vaughan, and four of whom shall be nominees designated by Markham. The Chairperson and Vice-Chairperson of the Board shall be designated by the ten directors. The Chairperson will not have a second or casting vote. The Chairperson and Vice-Chairperson of the Board shall each be elected for a term of three years, and nominees of one Shareholder shall not hold both positions at any one time.
- (2) The nominee directors designated by Vaughan and Markham shall be independent and qualified, to the extent prescribed in the Affiliate Relationships Code. All such independent directors shall be appointed for staggered terms of either two or three years, provided that each of the directors to be elected as Chairperson and Vice-Chairperson of the Board shall be appointed as a director for a three year term.
- (3) All directors of the Corporation shall act honestly and in good faith with a view to the best interests of the Corporation and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Each Shareholder agrees to nominate individuals to act as directors who, in its reasonable judgment, are able meet this standard of care and who have appropriate skills and experience.
- (4) In addition to the requirements of the Business Corporations Act or any other requirements outlined in this Agreement, the Shareholders will give due regard to the qualifications of candidates and ensure that the Board possesses qualifications that will contribute to the success of the Business including:
 - (a) knowledge of the electricity industry;
 - (b) regulatory knowledge;
 - (c) experience with corporate finance; and

- (d) business management experience.
- (5) Each Shareholder entitled herein to nominate a director of the Corporation agrees in good faith, and shall use its best efforts, to ensure that it is represented at all meetings of the shareholders and directors of the Corporation to ensure that the quorum requirements for such meetings are met.
- (6) Meetings of the Shareholders and Board shall be held at the head office of the Corporation or such other location as the Board may determine from time to time.
- (7) Subject to the provisions of the Business Corporations Act, each Shareholder shall be entitled in its discretion to remove one or more of the directors nominated by it and to nominate and have elected a successor or successors, as the case may be, by providing a direction in writing to the Corporation and each other Shareholder. Upon the resignation or removal of a director, the Shareholder that nominated such director shall use reasonable efforts to obtain and deliver to the Corporation a written resignation from such director in a form satisfactory to the Corporation.
- (8) Seven directors in attendance at a meeting of the Board shall constitute a quorum, provided that two nominee directors of each Shareholder are in attendance. If a quorum of directors is not present within 30 minutes after the time appointed for a meeting of the Board, the meeting shall be adjourned to such date, not less than five and not more than 15 Business Days subsequent to the date originally set for the meeting, as the directors present at the meeting may determine. Such directors shall provide at least two Business Days' prior written notice of the adjourned meeting to the other directors. If a quorum is not present at such adjourned meeting, the Secretary of the Corporation shall promptly give notice to the directors and the Shareholders of a further adjourned meeting to be held on the fifth Business Day following the date on which the first adjourned meeting was to be held, and the Shareholders shall cause their respective nominee directors to attend such further adjourned meeting. Five directors in attendance will constitute a quorum at such further adjourned meeting.
- (9) In the event of any vacancy occurring on the Board by reason of the death, disqualification, inability to act or resignation of any director (the "**Former Director**"), the Shareholder that nominated the Former Director shall nominate another individual to replace the Former Director in order to fill such vacancy as soon as reasonably possible, and the Shareholders shall vote their Common Shares in favour of the appointment of such nominee.
- (10) The Board shall meet at least once during each calendar quarter at a time to be determined by the Chairperson of the Board. Any one or more of the directors may participate in a meeting of the Board by a telephonic or video device that permits all participants in the meeting to communicate with each other simultaneously and instantaneously, and such participation shall be deemed to constitute attendance at the meeting for the purposes of this Agreement. The Chairperson may determine that any meeting of the Board shall be held by

telephone or videoconference. In accordance with the By-laws, each director shall be notified in writing of the time and place of the meeting and of the matters to be considered. Additional meetings of the Board may be called by any two directors by providing notice in writing to every other director containing the information required and the notice required for a regularly scheduled meeting of the Board. A director may waive notice of any meeting of the Board by an instrument in writing delivered to the Secretary of the Corporation.

- (11) The remuneration of the members of the Board for their respective services as directors will be as determined by the Shareholders from time to time. Each director shall be entitled to be reimbursed for reasonable and documented out-of-pocket expenses incurred in connection with his or her attendance at meetings, or otherwise being engaged in the business, of the Board.

Section 2.04 Auditor and Financial Reporting

- (1) The Shareholders shall appoint the Auditor as provided in Section 2.06.
- (2) The financial year end of the Corporation shall be December 31. The initial fiscal period of the Corporation shall be the period from the date of this Agreement through December 31, 2004. Audited annual financial statements for the Corporation shall be presented to the Shareholders and the directors of the Corporation no later than 120 days after the financial year end of the Corporation. Unaudited quarterly financial statements for the Corporation shall be presented to the directors of the Corporation no later than 60 days after the end of each applicable quarter.

Section 2.05 Offices

The head office and registered office of the Corporation shall be located in one of the municipalities where the Business is conducted. In addition, the Corporation shall maintain two operation centres within such municipalities, together with two storefront customer service centres, one to be located in each of Markham and Vaughan, Ontario.

Section 2.06 Approval of Matters by the Shareholders

- (1) In addition to the requirements of the Business Corporations Act, none of the following actions shall be taken by the Corporation, as applicable, unless both of the Shareholders consent to such action by an instrument or instruments in writing:
 - (a) any action which may lead to or result in a fundamental change in the nature of the Business of the Corporation;
 - (b) the taking of any steps to wind-up, dissolve or terminate the corporate existence of the Corporation;

- (c) the entering into of an amalgamation, merger, acquisition or consolidation with any other body corporate or the establishment or sale of any subsidiary by the Corporation (the “**Action**”), provided that Shareholder approval for an Action on behalf of the Corporation shall be forthcoming without delay from the Shareholders if the Action meets all of the following criteria:
 - i) it is consistent with the Corporation’s Strategic Plan;
 - ii) it meets the risk profile as defined in the Strategic Plan;
 - iii) it does not materially impair the credit rating of the Corporation;
 - iv) it does not require a contribution of equity capital to the Corporation by either Shareholder; and
 - v) the proposed transaction meets the minimum rate of return as defined with reference to either internal rate of return or return on equity as prescribed in the Strategic Plan;
- (d) the entering into of any Action which requires a contribution of equity capital by either Shareholder;
- (e) excepting the admission of any new Shareholder in connection with an Action where such new Shareholder will hold not more than 20% of the issued and outstanding Common Shares, the admission of any new Shareholder, but such consent shall not be unreasonably withheld if the admission is consistent with the Strategic Plan;
- (f) the sale, lease, exchange or disposition (other than in the ordinary course of Business) of assets of the Corporation having a value of 20% or more of the Asset Value;
- (g) any other change in the issued and outstanding share capital of the Corporation;
- (h) the appointment and any change of Auditor;
- (i) approval of the dividend policy approved by the directors pursuant to Section 2.07(1)(c);
- (j) any name change of the Corporation or re-branding of the Corporation;
- (k) the entry by the Corporation into a transaction with a Shareholder, a related party of a Shareholder or a related party of the Corporation, where “**related party**” has the meaning attributed to such term in the *Income Tax Act* (Canada);

- (l) the making of any Capital Call;
 - (m) any change in the articles of the Corporation or By-laws;
 - (n) the Corporation entering into any agreement other than in the ordinary course of Business;
 - (o) except for any Action not requiring a contribution of equity capital by either Shareholder, the making or incurring of any single capital expenditure by the Corporation in excess of, or a purchase of assets by the Corporation having a value in excess of, 10% of the Asset Value, or any capital expenditures or purchases of assets which, in the aggregate, are in excess of 25% of the Asset Value in any financial year of the Corporation;
 - (p) except for any Action not requiring a contribution of equity capital by either Shareholder, or as contemplated in the Strategic Plan, the entering into of a partnership, joint venture or any other arrangement for the sharing of profits or union of interests under which the Corporation could become jointly and severally liable with any other Person;
 - (q) the entering into of any swap or derivative transaction by the Corporation or any agreement in connection therewith; and
 - (r) the approval of the Strategic Plan, with both Shareholders acting reasonably.
- (2) Each Shareholder agrees to use its reasonable best efforts, in good faith, to ensure that it is duly represented at all Shareholder meetings.

Section 2.07 Objectives and Guiding Principles

- (1) The parties recognize the following as the objectives and guiding principles of the Corporation:
- (a) **Business:** The Corporation will engage only in the Business.

The Corporation will, on an annual basis update and revise the Strategic Plan to reflect business opportunities available, consistent with the Ontario Energy Board Act and all other regulatory requirements, which builds upon its excellence in electricity distribution.

In all cases, business expansion will only occur where there is a valid business case which demonstrates that the project will add value to the Corporation and the Shareholders.
 - (b) **For-Profit Corporation:** The Corporation will be a for-profit corporation, with the objective of providing a maximum rate of return and maximizing Shareholder value. Subject to OEB approval, the maximum

rate of return sought by the Corporation will be achieved as soon as practical.

- (c) **Dividends and Capital Structure:** The Board will establish policies to develop and maintain a financial and capitalization structure for the Corporation consistent with industry standards and sound financial principles in order to provide the Shareholders with regular dividend and/or interest payments consistent with the preceding paragraph. In regard to the foregoing, the Board will, no later than 90 days after the Amalgamation, present for the approval of the Shareholders policies regarding the payment of dividends to the Shareholders and regarding the appropriate capital structure for the Corporation including any proposals for the recapitalization of the Corporation including possibilities for using third party financing.
- (d) **Customers:** The customers of the Corporation are the operational priority of the Corporation. The Corporation will provide a reliable, effective and efficient electricity distribution system.
- (e) **Employees:** The Corporation will treat all employees in a fair and equitable manner. The Corporation will develop with its employees a shared commitment towards high customer service, improved productivity and workplace safety.

The Corporation will ensure that all staff understand the Corporation's business plan and direction, and that they have the skill required to fulfil their part in achieving those goals.

- (f) **Community:** The Corporation will be an integral participant and play a significant role in the local community in which it operates. The Corporation will strive to be a good corporate citizen and a facilitator of economic development throughout the Corporation's service area. The Corporation shall not facilitate economic development in a way that would favour one community over another, or discriminate against any community within the Corporation's service area.
- (g) **Founding Shareholders:** This Agreement has been entered into in the spirit of a mutually cooperative partnership of the Shareholders. The Shareholders shall at all times in carrying out their rights, duties and obligations hereunder strive to act fairly and equitably in the interest of all of the communities within the Corporation's service area.
- (h) **Growth:** The Corporation is committed to pursuing significant growth opportunities on a prudent and profitable basis where it enhances the Corporation's strategic position and economies of scope and scale. Specifically, the Corporation will pursue opportunities for the acquisition, merger or other business arrangements with neighbouring local

distribution companies within and around the Greater Toronto Area, all in a manner consistent with the foregoing objectives and principles.

- (i) **Reliability and Planning:** The Corporation shall implement a comprehensive review of planning standards and recommend the desired standards and practices to be followed by the Corporation on a unified basis. The review shall give due consideration to service reliability, cost, and risks. The recommended planning standard shall be presented to the Board for consideration and, if appropriate, approval.
 - (j) **PCB Remediation:** The Corporation shall forthwith implement a comprehensive PCBs remediation program to be completed on or before August 31, 2007. Such program shall include identification, checking and sampling of all transformer and other equipment for PCBs contamination in excess of 50 ppm. All transformer and other equipment above this range shall be removed from service and the PCBs contaminants will be disposed of in accordance with applicable provincial regulation.
 - (k) **Shareholder Debt Prepayment:** If the Board determines that it is in the best interest of the Corporation to prepay or redeem any outstanding debt owing to Shareholders, the Corporation's offer of prepayment shall be made to each Shareholder on an equitable basis.
- (2) The Shareholders, the directors and management of the Corporation, in exercising their respective rights and duties, shall do so in a manner consistent with these objectives and guiding principles.

Section 2.08 Officers

The officers of the Corporation, until changed by the Board, shall consist of the following:

<u>Office</u>	<u>Officer</u>
President and Chief Executive Officer	Brian Bentz
Executive Vice President and Chief Operating Officer	Milan Bolkovic
Executive Vice President – Corporate Services and Secretary	Dennis Nolan
Executive Vice President and Chief Financial Officer	John Glicksman
Executive Vice President – Asset Management	Jack Dinsdale

Section 2.09 Shareholder Representatives

Each of Vaughan and Markham, in its capacity as a Shareholder, shall designate its Mayor as its legal representative (the "Shareholder Representative") for purposes of providing any consent or approval required by this Agreement or the Business Corporations Act. If the Mayor is unable or unwilling to act as the Shareholder Representative, the Chief Administrative Officer (or the individual who performs the equivalent duties) shall be the Shareholder Representative for purposes of this Agreement and of the Business Corporations Act unless such Shareholder determines otherwise. Markham and Vaughan shall designate its Shareholder Representative (by proxy duly completed in accordance with the Business Corporations Act) as its representative to attend and vote at any meeting of the Shareholders.

ARTICLE THREE DEALING WITH SHARES

Section 3.01 No Transfer of Shares; Vaughan Holdco

- (1) Except as expressly provided for in this Article Three, a Shareholder shall not sell, transfer, assign, pledge, charge, mortgage or in any other way dispose of or encumber its Shares or its rights under this Agreement without first complying with all of the provisions of this Agreement unless, prior to the disposition or encumbrance of their Shares, the other Shareholder has consented in writing to such disposition or encumbrance, and the transferee agrees in writing to be bound by the provisions of this Agreement.
- (2) The provisions of this Article Three shall apply mutatis mutandis to any proposed sale, transfer, assignment, pledge, charge, mortgage or other disposition or encumbrance of any or all of the issued and outstanding share capital in (i) MEC owned by Markham, and (ii) Vaughan Holdco owned by Vaughan.
- (3) It is further acknowledged that Vaughan may at any time, without the consent of Markham or MEC, transfer all of its Shares to a wholly-owned subsidiary corporation ("Vaughan Holdco") constituted for the purpose of owning all of the Shares in the Corporation owned directly by Vaughan, in a similar manner to the ownership structure presently implemented by MEC and Markham. Vaughan shall use its best efforts to implement Vaughan Holdco on a basis such that the transfer of Vaughan's Shares to Vaughan Holdco is exempt from tax, and with no adverse tax effect to the Corporation. As a condition precedent to such transfer, Markham shall be entitled to receive evidence satisfactory to it, acting reasonably, that such transfer is exempt from tax and has no adverse tax effect to the Corporation as aforesaid. The Parties shall then execute such documents as may be necessary to give effect to the transfer of Shares by Vaughan to Vaughan Holdco, and Vaughan Holdco shall have executed a counterpart of this Agreement agreeing to be bound hereby as if it were an original party hereto to the same extent as MEC. Vaughan hereby covenants and agrees to use its best efforts to

expeditiously make all necessary applications and obtain all necessary consents and approvals to the creation and implementation of Vaughan Holdco on a tax-exempt basis as aforesaid. Forthwith upon receipt of all necessary consents and approvals to the creation of Vaughan Holdco, Vaughan shall complete the transfer of its Shares to Vaughan Holdco as aforesaid.

Section 3.02 Endorsement on Certificates

Share certificates of the Corporation shall bear the following language either as an endorsement or on the face thereof:

“The shares represented by this certificate are subject to all the terms and conditions of a shareholders agreement made as of June 1, 2004, a copy of which is on file at the registered office of the Corporation.”

Section 3.03 Right of First Offer

- (1) Any Shareholder (hereinafter in this Section 3.03 referred to as the “**Offeror**”) who desires to sell all of its Shares (hereinafter in this Section 3.03 referred to as the “**Offered Shares**”) shall give notice of such proposed sale (hereinafter in this Section 3.03 referred to as the “**Notice**”) to the Corporation and to the other Shareholder and shall set out in the Notice the terms upon which and the price at which it desires to sell the Offered Shares (such price being hereinafter in this Section 3.03 referred to as the “**Purchase Price**”). A Shareholder selling Shares under this Section 3.03 must sell all, and not less than all, of its Offered Shares, unless the other Shareholder otherwise agrees.
- (2) Upon the Notice being given, the other Shareholder (hereinafter in this Section 3.03 sometimes referred to as the “**Offeree**”) shall have the right to purchase all, but not less than all, of the Offered Shares for the Purchase Price.
- (3) Within 120 days after having been given the Notice, the Offeree, if it desires to purchase the Offered Shares shall give notice to the Offeror and to the Corporation. If the Offeree is willing to purchase all, but not less than all, of the Offered Shares, the transaction of purchase and sale shall be completed in accordance with the terms set out in the Notice.
- (4) If the Offeror makes default in transferring the Offered Shares to the Offeree in accordance with the terms set out in the Notice, the Secretary of the Corporation is authorized and directed to receive the purchase money and to thereupon cause the name of the Offeree to be entered in the registers of the Corporation as the holders of the Shares purchasable by it. The said purchase money shall be held in trust by the Corporation on behalf of the Offeror and not commingled with the Corporation’s assets, except that any interest thereon shall be for the account of the Corporation. The receipt by the Secretary of the Corporation for the purchase money shall be a good discharge to the Offeree and, after its name has been

entered in the registers of the Corporation in exercise of the aforesaid power, the validity of the proceedings shall not be subject to question by any Person. On such registration, the Offeror shall cease to have any right to or in respect of the Offered Shares except the right to receive, without interest, the Purchase Price received by the Secretary of the Corporation.

- (5) If the Offeree does not give notice in accordance with the provisions of Section 3.03(3) that it is willing to purchase all of the Offered Shares, the rights of the Offeree, subject as hereinafter provided, to purchase the Offered Shares shall forthwith cease and determine and the Offeror may sell the Offered Shares to any person (the “**Prospective Purchaser**”) within four months after the expiry of the 120 day period specified in Section 3.03(3), for a price not less than the Purchase Price and on other terms no more favourable to the Prospective Purchaser than those set forth in the Notice, provided that the Prospective Purchaser agrees prior to such transaction to be bound by this Agreement and to become a party hereto in place of the Offeror with respect to the Offered Shares. If the Offered Shares are not sold within such four month period on such terms, the rights of the Offeree pursuant to this Section 3.03 shall again take effect and so on from time to time. The four month period referred to herein may be extended for an additional four month period to permit any required approvals to be obtained if the Offeror has made, and is making, good faith efforts to obtain such regulatory approvals.

Section 3.04 Buy-Sell Agreement

- (1) Provided that no prior notice has been given pursuant to Section 3.03 which affects either the Offeror or the Offeree (as defined below) and for which all applicable time periods (as set forth below) have not elapsed, one shareholder (in this Section, the “**Offeror**”) shall be entitled to give written notice (in this Section, the “**Offer**”) to the other Shareholder (in this section, the “**Offeree**”), stating that the Offeror offers unconditionally either:
- (a) to purchase all of the Shares of the Offeree; or
 - (b) to sell all of the Offeror’s Shares to the Offeree,
- for a specified cash purchase price per Share to be paid in full by certified cheque or wired funds on closing.
- (2) The Offer so given shall be irrevocable by the offeror for a period of 120 days from the date of its receipt by the Offeree. Any acceptance of the Offer shall specify a closing date which shall be 30 days after acceptance of the Offer. The 30 day period referred to herein may be extended for an additional period of not more than 60 days, or such longer period as is reasonably required to permit any required approvals to be obtained if the purchasing party has made, and is making, good faith efforts to obtain such regulatory approvals. The Offer shall not state or be deemed to state any other terms, with the exception of representations and warranties from the seller as to (i) registered and beneficial

ownership of its Shares, free and clear of any pledge, lien, charge or encumbrance whatsoever, (ii) no requirement for any third party consent to the transfer of such Shares, and (iii) the absence of any injunction or order which would prevent the transfer of such Shares. The Offeree shall be entitled, at any time during the period of 120 days following the receipt of the Offer, to give to the Offeror a written acceptance of either:

- (a) the Offer to purchase mentioned in this Section, in which case the Offeror shall purchase all of the Offeree's Shares; or
- (b) the Offer to sell mentioned in this Section, in which case the Offeror shall sell to the Offeree all of its Shares,

in either case upon the terms as provided in this Section 3.04. Upon receipt of such acceptance by the Offeror, the Offeror and the Offeree shall be bound to complete such purchase and sale in accordance with such terms. If the Offeree shall fail to accept the Offer within the said period, the Offeree shall be deemed conclusively to have accepted the Offer to purchase mentioned in this Section and shall be bound to sell its Shares to the Offeror in accordance with the terms of the Offer.

Section 3.05 Call Right

- (1) If:
 - (a) a Shareholder makes an assignment for the benefit of creditors or is the subject of any proceedings under any bankruptcy or insolvency law or takes steps to wind-up or terminate its corporate existence or has the shares in its capital realized upon by an encumbrancer; or
 - (b) a Shareholder defaults in any material respect in the performance of its obligations hereunder and fails to remedy such default within thirty (30) days of being advised in writing of same by the other Shareholder; or
 - (c) a Shareholder has all or any portion of its Shares realized upon by an encumbrancer; or
 - (d) a Shareholder fails to subscribe to or take up common shares as required by a Capital Call made in accordance with the provisions in Section 3.08;

the Shareholder to whom such event has not occurred (hereinafter in this Section 3.05 referred to as the "**Offeree**") shall have the right, but not the obligation, to purchase all, but not less than all, of the Shares beneficially owned by the Shareholder with respect to whom such event has occurred (the "**Offeror**") (hereinafter in this Section 3.05 referred to as the "**Offered Shares**").

- (2) The Offeree shall be entitled to purchase the Offered Shares at the price to be determined in accordance with the provisions of Section 3.05(4).

- (3) The right of a Shareholder to purchase Shares of the other Shareholder as a result of a default is without prejudice to any other rights or remedies the purchasing Shareholder may have in equity or at law in respect of such default.
- (4) The price of the Offered Shares shall be the fair market value of such Shares, using a discounted cash flow analysis, as determined by the Accountant in accordance with generally accepted accounting principles as at the end of the fiscal quarter of the Corporation immediately preceding the fiscal quarter in which the event referred to in Section 3.05(1) occurred. Such determination shall be made in writing and given to all of the Shareholders and to the Corporation within 30 days after the date of the event referred to in Section 3.05(1) or as soon thereafter as may be reasonably possible. In the event of a failure to subscribe to a Capital Call referred to in Section 3.05(1)(d), the purchase price shall be reduced by the amount of the deficiency in the Capital Call contribution.
- (5) For the purpose of determining such fair market value, the Accountant may appoint, at the expense of the Corporation, an independent valuer or appraiser to assist the Accountant in such determination. The report of the Accountant, when delivered to the Shareholders and to the Corporation, shall be conclusive and binding upon all parties.
- (6) Within 45 days after having been given the Accountant's report of the fair value of the Offered Shares, the Offeree, if it desires to purchase all of the Offered Shares shall give notice to such effect to the Offeror, and to the Corporation. If the Offeree is willing to purchase all, but not less than all, of the Offered Shares, the transaction of purchase and sale shall be completed within 30 Business Days after the expiry of the 45 day period specified in this Section 3.05(6). The transaction shall be completed at the Corporation's registered office where delivery of the Offered Shares shall be made by the Offeror with good title, free and clear of all liens, charges and encumbrances, against payment by certified cheque or wire transfer by the Offeree.
- (7) If the Offeror makes default in transferring the Offered Shares to the Offeree as provided for in this Section 3.05, the Secretary of the Corporation is authorized and directed to receive the purchase money and to thereupon cause the name of the Offeree to be entered in the registers of the Corporation as the holder of the Shares purchasable by it. The said purchase money shall be held in trust by the Corporation on behalf of the Offeror and not commingled with the Corporation's assets, except that any interest accruing thereon shall be for the account of the Corporation. The receipt by the Secretary of the Corporation for the purchase money shall be a good discharge to the Offeree and, after their name has been entered in the register of the Corporation in exercise of the aforesaid power, the validity of the proceedings shall not be subject to question by any person. On such registration, the Offeror shall cease to have any right to or in respect of the Offered Shares except the right to receive, without interest, the purchase price received by the Secretary of the Corporation.

Section 3.06 Standstill Period and Dispute Resolution

- (1) Notwithstanding any other provision of this Agreement, the provisions of Sections 3.03 and 3.04 shall be ineffective and unenforceable until the later of (i) 24 months following the date of this Agreement, and (ii) the date that Vaughan Holdco becomes the owner of all of the Shares owned by Vaughan (the "Standstill Period").
- (2) During the Standstill Period only, all disputes, disagreements, controversies, questions or claims between the Parties to this Agreement arising out of or relating to this Agreement, including with respect to its formation, execution, validity, application, interpretation, performance, breach, termination or enforcement (collectively, "**Disputes**") shall be determined in accordance with Schedule B, which sets out the sole and exclusive procedure for the resolution of Disputes during the Standstill Period (except as expressly provided for herein). The resolution of Disputes during the Standstill Period only pursuant to the terms of Schedule B shall be final and binding upon the Parties to this Agreement, and there shall be no appeal therefrom, including, without limitation, any appeal to a court on a question of law, a question of fact, or a question of mixed fact and law.

Section 3.07 Pledge of Shares

No Shareholder may pledge, charge, mortgage or otherwise specifically encumber its Shares for the purpose of securing any borrowings by such Shareholder or any other reason, unless the other Shareholder first provides its consent thereto, and any such pledgee acknowledges to the parties to this Agreement in writing that the pledge, charge, mortgage or encumbrance of such Shares shall at all times be subject to all the terms and conditions of this Agreement, including the prohibition against pledging, charging or mortgaging or otherwise encumbering such Shares contained in Section 3.01 except as permitted pursuant to this Section 3.07.

Section 3.08 Capital Calls

- (1) If requested by the Shareholders as evidenced by a resolution of the Shareholders in accordance with Section 2.06(1)(l), the Shareholders shall each contribute additional capital to the Corporation, pro rata based upon the Shareholders' respective interests, by way of subscription for common shares (hereinafter in this Section 3.08 referred to as the "**Capital Call**"). The Price of such shares to be issued shall be determined by the Board. Shares shall be taken up by a Shareholder within ten Business Days of the subscription date as determined by the Shareholders.
- (2) The failure of a Shareholder to comply with a Capital Call is an event of default under the Agreement. A Shareholder that defaults according to this Section 3.08 may have its Shares purchased in accordance with the provisions in Section 3.05.

Section 3.09 Exclusivity of Sections

Each of Section 3.03, 3.04 and 3.05 are exclusive and the provisions thereof may only be relied upon by any party hereto if the provisions of one or the other of such Sections are not at the same time being relied upon by the same or another party hereto.

Section 3.10 Markham Option

Vaughan hereby grants to and in favour of MEC the option, from and after the date hereof, to acquire as treasury shares from the Corporation up to an additional two per cent of all of the issued and outstanding Shares after giving effect to exercise of such option (the "Markham Option"). The Markham Option shall be exercisable by MEC concurrently with the implementation by the Corporation of (i) any Action requiring a contribution of equity capital to the Corporation from the Shareholders, (as approved by the Shareholders in accordance with subsection 2.06(1)(d)), or (ii) any other acquisition of an unrelated body corporate or other unrelated entity (or the assets of such an unrelated entity outside the ordinary course of business) not requiring a contribution of equity capital to the Corporation from the Shareholders. The Markham Option shall be in accordance with the following terms and conditions:

- (1) if in connection with an Action requiring a contribution of equity capital from the Shareholders;
 - (a) MEC shall provide notice of its intent to exercise such Markham Option, in whole or in part, on or before the delivery of Markham's approval of an Action pursuant to subsection 2.06(1)(d);
 - (b) the Markham Option shall be exercised by MEC contributing equity capital to the Corporation to finance the Action in excess of its proportionate funding obligation calculated with regard to its proportionate ownership of Shares;
 - (c) MEC shall confirm in its notice of intent to exercise the Markham Option and with regard to the proposed Action, the amount of disproportionate equity capital it desires to contribute to the Corporation in exercise of the Markham Option;
 - (d) the purchase price for Shares to be issued from treasury of the Corporation to MEC pursuant to exercise of the Markham Option (the "Markham Option Exercise Price") shall be based upon MEC's excess capital contribution as confirmed and contributed by MEC pursuant to subsection 3.10(1)(c) above and determined in accordance with the pricing mechanism appended hereto as Schedule "A";
 - (e) concurrent with the additional equity capital contributions from the Shareholders and completion of the Action, the Corporation shall issue from treasury to MEC free and clear of all pledges, liens, charges or encumbrances, the Shares so acquired by MEC in exercise of the Markham Option;

- (f) for greater certainty, if MEC exercises the Markham Option, the amount of equity contribution payable by MEC to the Corporation to finance the Action that has triggered the Markham Option shall be determined on the basis that MEC's purchase of the Shares from the Corporation has been completed immediately before the determination of the issue price of the additional shares of the Corporation, if any, issuable pursuant to such Action;
 - (g) except for changes required to give effect to the new proportionate ownership of Shares, no other amendments or modifications to this Agreement shall be required or implemented by the parties as a result of any exercise of the Markham Option as aforesaid.
- (2) if in connection with an acquisition by the Corporation of an unrelated body corporate or other entity (or the assets of such an unrelated entity outside the ordinary course of the Corporation's business) not requiring a contribution of equity capital from the Shareholders:
 - (a) MEC shall provide notice of its intent to exercise such Markham Option, in whole or in part, on or before approval by the Board of such acquisition;
 - (b) the Markham Option shall be exercised by MEC making payment to the Corporation in accordance with the pricing mechanism appended hereto as Schedule "A";
 - (c) concurrent with payment by MEC and completion of the acquisition, the Corporation shall issue from treasury to MEC free and clear of all liens, charges or encumbrances, the Shares so acquired by MEC in exercise of the Markham Option;
 - (d) except for changes required to give effect to the new proportionate ownership of Shares, no other amendments or modifications to this Agreement shall be required or implemented by the parties as a result of any exercise of the Markham Option as aforesaid.

Section 3.11 Transfer Taxes

- (1) A Shareholder selling Shares to any person, shall, if allowed by the Electricity Act and any other applicable law, only claim and credit against any transfer tax payable by it pursuant to Section 94(1) of the Electricity Act, a proportion of the credits available at such time pursuant to Section 94(4) of the Electricity Act arising from payments in lieu of taxes, or otherwise, that is pro rata to that number of Shares it holds in the Corporation to all the outstanding Shares of the Corporation.
- (2) In the event that any transfer of Shares results in tax being exigible from the Corporation, whether transfer tax, income tax, capital tax or other, all such tax

shall be an expense to the selling Shareholder who shall indemnify the Corporation with respect thereto.

- (3) A Shareholder selling Shares to any person shall, if so permitted by the *Electricity Act*, or any other applicable law, pay all transfer taxes payable under the *Electricity Act*, in respect of such sale such that the sale shall not be void.

ARTICLE FOUR CONFIDENTIALITY AND NON-COMPETITION

Section 4.01 Confidentiality

- (1) Each Shareholder acknowledges and agrees that:
- (a) in its capacity as a shareholder of the Corporation, each Shareholder has acquired, and will have access to and be entrusted with information:
 - i) concerning the names and addresses of the customers of the Corporation; and
 - ii) relating generally to the Business and the affairs of the Corporation.

All such information, whether provided in oral, written or electronic format being hereinafter collectively referred to as the “**Information**”, provided that “**Information**” will not include any such information which is or become generally available to the public other than through a breach of this Agreement;
 - (b) the right to maintain confidential such Information and the right to preserve the Corporation’s goodwill constitute proprietary rights which the Corporation is entitled to protect; and
 - (c) disclosure of any of the Information to present or future competitors of the Corporation or to the general public could be highly detrimental to the best interests of the Corporation.
- (2) Accordingly, each Shareholder covenants and agrees with the Corporation and with each other Shareholder that:
- (a) it will not, while it is a Shareholder, or at any time thereafter without the prior written authorization of the Corporation and every other Shareholder, which may be unreasonably withheld, disclose any Information to any person or entity, nor shall it use the same for any purposes other than those of the Corporation. The provisions of this subsection 4.01(2)(a) shall not apply to the communication of any Information to the Participating Municipalities, subject to such communication being conveyed in camera; and

- (b) during the time it is a Shareholder it will not anywhere within the municipalities of Richmond Hill, Markham and Vaughan (collectively, the “**Territory**”), either singly or in partnership or jointly or in conjunction with any person or Persons, whether as principal, agent, consultant, shareholder, or in any other manner whatsoever, directly or indirectly, carry on or be engaged in or concerned with or interested in, or advise, acquire an interest in, or permit its name or any part thereof to be used or employed by an association, syndicate or corporation engaged in or concerned with or interested in, any activity which requires a licence under Section 57(a) of the Ontario Energy Board Act 1998, unless the consent of the other Shareholder has first been obtained, which consent will not be unreasonably withheld.

Section 4.02 Exclusion

- (1) Notwithstanding Section 4.01 each Shareholder may communicate Information if the disclosure of same is required by applicable law, governmental rule or regulation, subpoena or order of any court or governmental agency, provided that it shall;
 - (a) promptly notify the other Shareholder;
 - (b) consult with the other Shareholder on the advisability of taking steps to resist or narrow such requirement; and
 - (c) if disclosure is required or deemed desirable, cooperate with the other Shareholder in any attempt to obtain an order or other assurance that such Information will be accorded confidential treatment.

ARTICLE FIVE GENERAL

Section 5.01 Benefit of the Agreement

This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

Section 5.02 Entire Agreement

This Agreement, together with the Merger Agreement, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement and the Merger Agreement.

Section 5.03 Amendments and Waivers

No amendment to this Agreement shall be valid or binding unless set forth in writing and (i) either duly executed by all of the parties hereto, or (ii) at a meeting of Shareholders duly called for the purpose of considering the proposed amendment, all of the votes are cast in favour of the action, in which event the amendment shall be deemed to be duly executed by all of the parties hereto. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

Section 5.04 Assignment

Except as may be expressly provided in this Agreement and in particular Section 3.01, none of the parties hereto may assign its rights or obligations under this Agreement without the prior written consent of all of the other parties hereto.

Section 5.05 Termination

- (1) This Agreement shall terminate upon:
 - (a) the written agreement of all of the Shareholders;
 - (b) the dissolution or bankruptcy of the Corporation or the making by the Corporation of an assignment under the provisions of the *Bankruptcy and Insolvency Act*; or
 - (c) one Shareholder becoming the beneficial owner of all of the Shares.

Section 5.06 Severability

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

Section 5.07 Notices

Any demand, notice or other communication (hereinafter in this Section 5.08 referred to as a "Communication") to be given in connection with this Agreement shall be given in writing and may be given by personal delivery, by registered mail or by transmittal by facsimile transmission addressed to the recipient as follows:

To: Markham or MEC
8100 Warden Avenue
Markham, Ontario
L3R 8H7

Attention: Town Solicitor

Phone No.: (905) 513-4113
Fax No.: (905) 513-4134

To: Vaughan or Vaughan Holdco
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

Attention: City Manager (with respect to Vaughan)

Attention: City Solicitor (with respect to Vaughan Holdco)

Fax No.: (905) 832-8538

With a copy to:

2800 Rutherford Road
Vaughan, Ontario
L4K 2N9

Attention: Brian Bentz
Phone No.: (905) 417-6901
Fax No.: (905) 303-2006

To: The Corporation
2800 Rutherford Road
Vaughan, Ontario
L4K 2N9

Attention: Chief Executive Officer

Phone No.: (905) 417-6901
Fax No.: (905) 303-2006

or such other address, fax number or individual as may be designated by notice by any party to the other. Any Communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third Business Day following the deposit thereof in the mail and, if given by facsimile transmission, on the day of transmittal thereof. If the party giving any Communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such Communication shall not be mailed but shall be given by personal delivery or by facsimile transmission.

Section 5.08 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

IN WITNESS WHEREOF the parties have executed this Agreement.

THE CORPORATION OF THE TOWN OF MARKHAM

Per: _____
Name: Donald Cousens, Mayor

Per: _____
Name: Sheila Birrell, Town Clerk

MARKHAM ENERGY CORPORATION

Per: _____
Name: Donald Cousens, Director

Per: _____
Name: Robert Lyew, Treasurer

THE CORPORATION OF THE CITY OF VAUGHAN

Per: _____
Name: Michael DeAngelis

Per: _____
Name: Brian Bentz

AMALCO HYDRO DISTRIBUTION INC.

Per: _____
Name: Brian Bentz, President and CEO

Per: _____
Name: Dennis Nolan, Executive Vice-
President – Corporate Services
and Secretary

SCHEDULE “A”

MARKHAM OPTION EXERCISE FORMULA

Equity Purchase Calculation (\$ Millions)

1% of Equity = \$3.40 M compounded annually at the rate of 6%

Accordingly, by way of example, the amount payable in each 12-month period for the 60 months beginning on the date of this Agreement is as follows:

First 12 months	\$3.40 M
Second 12 months	\$3.60 M
Third 12 months	\$3.82 M
Fourth 12 months	\$4.05 M
Fifth 12 months	\$4.29 M

The amount payable in subsequent years would be calculated pursuant to the formula.

SCHEDULE "B"

DISPUTE RESOLUTION DURING STANDSTILL PERIOD (SECTION 3.06)

Arbitration

1. Any dispute between the Shareholders, arising during the Standstill Period which touches upon the construction, meaning, or interpretation of this agreement or the rights and liabilities of the parties to the Agreement shall be subject to arbitration pursuant to the *Arbitrations Act, 1991* (Ontario) and as provided in this Schedule and the decision of the arbitral tribunal shall be final and binding as between the parties hereto and shall not be subject to appeal.
2. Any arbitration to be carried out under Section 3.06(2) shall be subject to the following provisions, namely:
 - (a) The Shareholder desiring arbitration shall nominate one arbitrator and shall notify the other Shareholder hereto of such nomination. Such notice shall set forth a brief description of the matter submitted for arbitration (and, if appropriate, the paragraph of the Agreement pursuant to which such matter is so submitted). Such other party shall, within 30 days after receiving such notice, nominate an arbitrator and the two arbitrators shall select a third person as an arbitrator and as chairman of the arbitral tribunal to act jointly with them. If said arbitrators shall be unable to agree on the selection of such chairman, the chairman shall be appointed by a Judge of the Superior Ontario Court of Justice upon the application of either Shareholder.
 - (b) The arbitration shall take place in either the Town of Markham or the City of Vaughan and the chairman shall fix the time and place for the purpose of hearing such evidence and representations as the Shareholders may present and, subject to the provisions hereof, the decisions of the arbitrators and chairman or of any two of them in writing shall be binding upon all the parties to the Agreement both in respect of procedure and the conduct of the Shareholders during the arbitration proceedings and the final determination of the issues therein. Said arbitrators and chairman shall, after hearing any evidence and representations that the Shareholders may submit, make their decision and reduce the same to writing and deliver one copy thereof to each of the parties to the Agreement. The majority of the chairman and arbitrators may determine any matters of procedure for the arbitration not specified herein.
 - (c) If the Shareholder receiving the notice of the nomination of an arbitrator by the Shareholder desiring arbitration fails within the said 30 days to nominate an arbitrator, then the arbitrator nominated by the Shareholder desiring arbitration may proceed alone to determine the dispute in such manner and at such time as he shall think fit and his decision shall, subject to the provisions hereof, be binding

upon all parties to the Agreement.

- (d) Notwithstanding the foregoing, the arbitration may be carried out by a single arbitrator if the Shareholders so agree, in which event the provisions of this paragraph shall apply, *mutatis mutandis*.
 - (e) The cost of the arbitration shall be borne by the parties to the Agreement as may be determined by the arbitrators.
 - (f) Insofar as it does not conflict with the provisions of this Schedule, the *Arbitrations Act, 1991* (Ontario) shall be applicable to arbitration held under this Schedule and the arbitrators shall have jurisdiction to do all acts and make such orders as provided in such Act.
3. Submission to arbitration pursuant to the provisions of this Schedule and the obtaining of the decision of the arbitration tribunal on the matters and claims in dispute shall be a condition precedent to the bringing of any action at law or suit in equity with respect to this agreement.
4. For certainty, the failure or refusal of a director to give his or her approval to any matter or proposal coming before the directors of the Corporation, as well as the failure or refusal of a Shareholder to give its approval to any matter or proposal requiring its approval under the Agreement or under the *Business Corporations Act* (Ontario), shall not be the subject-matter of arbitration under Section 3.06(2).

SCHEDULE "C"

BY-LAW

A by-law relating generally to the
transaction of the business and affairs of
AMALCO HYDRO DISTRIBUTION INC.

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BY-LAW 1

ARTICLE ONE

INTERPRETATION

Section 1.01 Definitions: In this by-law and all other by-laws, unless the context otherwise requires:

- (a) "Act" means the *Business Corporations Act* (Ontario) or any successor statute, as amended from time to time, and the regulations thereunder;
- (b) "board" means the board of directors of the Corporation, and includes the sole director when the required number of directors is one;
- (c) "by-laws" means all by-laws of the Corporation from time to time in effect;
- (d) "Corporation" means Amalco Hydro Distribution Inc.;
- (e) "Director" means the Director appointed under the Act;
- (f) "directors" means directors of the Corporation;
- (g) "holiday" means Sunday and any other day that is a holiday as defined in the *Interpretation Act* (Ontario) or any successor statute, as amended from time to time;
- (h) "meeting of shareholders" includes an annual meeting of shareholders, a special meeting of shareholders and a meeting of the holders of any class or series of shares of the Corporation;
- (i) "person" includes an individual, body corporate, sole proprietorship, partnership, syndicate, an unincorporated association or organization, joint venture, trust, employee benefit plan, government or any agency or political subdivision thereof, and a natural person acting as trustee, executor, administrator or other legal representative;
- (j) "recorded address" means, with respect to a single shareholder, his latest address as recorded in the securities register of the Corporation; with respect to joint shareholders, the first address appearing in the securities register in respect of their joint holding; and with respect to any other person, but subject to the Act, his latest address as recorded in the records of the Corporation or otherwise known to the secretary;
- (k) "signing officer" means, in relation to any contract or document, any one of the persons authorized to sign the same on behalf of the Corporation by this by-law or by a resolution passed pursuant to it;

- (l) subject to the foregoing, words and expressions that are defined in the Act have the same meanings when used in the by-laws; and
- (m) words importing the singular include the plural and vice-versa, words importing any gender include the masculine, feminine and neuter genders, and headings are for convenience of reference only and shall not affect the interpretation of the by-laws.

Section 1.02 Unanimous Shareholder Agreement and Articles Govern: Notwithstanding any provision of this or any other by-law, where any such provision conflicts with a unanimous shareholder agreement or the articles, the unanimous shareholder agreement or articles, as the case may be, shall govern.

ARTICLE TWO

BUSINESS OF THE CORPORATION

Section 2.01 Registered Office: The registered office of the Corporation shall be located at such address within the requisite municipality or geographic township as the board may determine from time to time.

Section 2.02 Seal: The Corporation may have a seal in such form as the board may determine from time to time.

Section 2.03 Financial Year: The financial year of the Corporation shall end on such day of the year as the board may determine from time to time.

Section 2.04 Execution of Instruments: Contracts or documents requiring execution by the Corporation may be signed as follows: when only one person is elected or appointed as an officer and as the director of the Corporation, by that person; and when two or more persons are elected or appointed as officers or directors of the Corporation, by any two of the persons holding the office of Chairman of the Board, President, Executive Vice-President, or by one person holding any one of those offices and by another person holding the office of Secretary, Treasurer, Controller, Assistant Secretary, Assistant Treasurer or any other office the holder of which has been designated as a signing officer by the board. All contracts or documents so signed shall be binding upon the Corporation without further authorization or formality. However, the board may direct from time to time the manner in which and the person by whom any particular contract or document or class of contracts or documents may or shall be signed. Any officer of the Corporation may affix the seal, if any, of the Corporation to any contract or document, and may certify a copy of any resolution or of any by-law or contract or document of the Corporation to be a true copy thereof. Subject to the provisions of this by-law relative to share certificates and to the Act, and if authorized by the board, the corporate seal, if any, of the Corporation and the signature of any signing officer may be mechanically or electronically reproduced upon any contracts or documents of the Corporation. Any such facsimile signature shall bind the Corporation notwithstanding that any signing officer whose signature is so reproduced may have ceased to hold office at the date of delivery or issue of such contracts or documents. The term "contracts or documents" shall include deeds, mortgages, hypothecs,

charges, conveyances, transfers and assignments of property (real or personal, immovable or movable, legal or equitable), agreements, releases, receipts and discharges for the payment of money, share certificates and other securities, warrants and all instruments in writing.

Section 2.05 Exercise of Corporation's Voting Rights: Except as otherwise directed by the board, the persons authorized to sign contracts or documents on behalf of the Corporation may execute and deliver instruments of proxy and may arrange for the issuance of voting certificates or other evidence of the right to exercise the voting rights attaching to any securities held by the Corporation and such instruments, certificates or other evidence shall be in favour of such person as may be determined by the signing officers. However, the board may direct from time to time the manner in which and the person by whom any particular voting rights may or shall be exercised.

Section 2.06 Banking Arrangements: The banking business of the Corporation shall be transacted with such banks, trust companies or other persons as the board may designate from time to time and all such banking business shall be transacted on behalf of the Corporation by such persons and to such extent as the board may determine from time to time.

Section 2.07 Charging Power: Without restricting any of its powers, whether derived from the Act or otherwise, the board may from time to time, without further authorization of the shareholders, mortgage, hypothecate, pledge or otherwise create a security interest in all or any present or future, real or personal, immovable or movable, legal or equitable property of the Corporation (including without limitation its book debts, rights, powers, franchises and undertaking) for any purpose whatsoever.

ARTICLE THREE

DIRECTORS

Section 3.01 Powers of the Board of Directors: Subject to any unanimous shareholder agreement, the board of directors shall manage or supervise the management of the business and affairs of the Corporation.

Section 3.02 Qualifications: No person shall be a director if the person is not an individual or is less than 18 years of age or is bankrupt or is found by a court to be of unsound mind. Except as permitted by the Act a majority of the directors shall be resident Canadians but when the required number of directors is two, only one of them need be a resident Canadian. Whenever the Corporation has an audit committee, a number of directors being sufficient to form a majority of the committee shall not be officers or employees of the Corporation or its affiliates. Whenever the Corporation is offering its securities to the public, at least one-third of the directors shall not be officers or employees of the Corporation or of any affiliate of the Corporation.

Section 3.03 Number and Quorum of Directors: The number of directors, including the number to be elected at the annual meeting, shall be ten. The number of directors from time to time required to constitute a quorum for the transaction of business at a meeting of the board shall be 50% of the number of directors so fixed or determined at that time (or, if that is a

fraction, the next larger whole number of directors). Reference is made to sections 3.08 and 3.13.

Section 3.04 Election and Term: Directors shall be elected to hold office for a term or terms respectively expiring at the close of the second or third annual meeting of shareholders following their election or when their successors are duly elected. The term of office of a director who is elected for a term that is not expressly stated expires at the close of the second annual meeting of shareholders following his election or when his successor is duly elected. The incumbent directors continue in office until their respective successors are duly elected, unless their respective offices are earlier vacated. A director ceases to hold office when he dies, resigns, is removed or ceases to be qualified to be a director or when his successor is duly elected.

Section 3.05 Resignation: A director may resign his office by delivering or sending his resignation in writing to the Corporation and such resignation shall be effective when it is received by the Corporation or at such time as may be specified in the resignation, whichever is later.

Section 3.06 Removal: Subject to the Act, the shareholders entitled to elect a director may, by resolution at a meeting of shareholders, remove any director from office and may at the same meeting fill the vacancy created by such removal, failing which the vacancy may be filled by the remaining directors if a quorum of the board remains in office.

Section 3.07 Statements: A director who resigns or who learns of a meeting of shareholders called for the purpose of removing him from office or a meeting of shareholders or directors at which another person is to be elected or appointed a director in his stead may submit to the Corporation a written statement giving the reasons for his resignation or the reasons why he opposes the proposed action. The secretary shall in accordance with the Act send a copy of such statement to every shareholder entitled to receive notice of meetings of shareholders and to the Director.

- (1) **Vacancies:** Notwithstanding vacancies but subject to the Act, the remaining directors may exercise all the powers of the board as long as a quorum of the board remains in office.

Section 3.08 Calling Meetings: Meetings of the board shall be held from time to time at such places within or outside Ontario (or by such communications facilities as are permitted by law) on such days and at such times as the chairman of the board, the managing director, the president if a director, a vice-president who is a director or any two directors may determine, and the secretary shall give notice of any such meeting when directed by the person calling it as aforesaid. In any financial year of the Corporation a majority of the meetings of the board may be held within or outside Canada.

Section 3.09 Notice: Notice of the time and of the place or manner of participation for every meeting of the board shall be sent to each director not less than 48 hours (excluding Saturdays and holidays) if the meeting is held in Ontario, or 96 hours (excluding Saturdays and holidays) otherwise, before the time of the meeting. A meeting of the board may resume without further notice following an adjournment if the time and place for resuming the meeting are announced at

the meeting prior to the adjournment. Reference is made to Article Ten.

Section 3.10 First Meeting of New Board: Each newly constituted board may hold its first meeting without notice for routine organizational purposes on the same day as the meeting of shareholders at which such board is elected.

Section 3.11 Regular Meetings: The board may appoint a day or days in any months for regular meetings of the board to be held at a place or by communications facilities and at an hour to be named. A copy of any resolution of the board fixing the time and place or manner of participation for such regular meetings shall be sent to each director forthwith after being passed and to each director elected or appointed thereafter, but no other notice shall be required for any such regular meeting.

Section 3.12 Canadian Majority: No business other than the filling of a vacancy on the board shall be transacted at a meeting of the board unless a majority of the directors present are resident Canadians, except as permitted by the Act or where a resident Canadian director who is unable to be present approves in writing or by telephone or other communication facilities the business transacted at the meeting and a majority of resident Canadian directors would have been present had that director been present at the meeting.

Section 3.13 Meetings by Telephone: If all the directors present at or participating in the meeting consent (which consent may be given at any time), a meeting of the board may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and each director participating in such a meeting by such means shall be deemed to be present at the meeting.

Section 3.14 Chairman: The chairman of the board, or in his absence the vice-chairman, or in his absence the president if a director, or in their absence a vice-president who is a director, shall be chairman of any meeting of the board. If no such officer is present, the directors present shall choose one of their number to be chairman of the meeting.

Section 3.15 Voting: At all meetings of the board every question shall be decided by a majority of the votes cast on the question. In case of an equality of votes the chairman of the meeting shall not be entitled to a casting vote.

Section 3.16 Signed Resolutions: When there is a quorum of directors in office, a resolution in writing signed by all the directors entitled to vote thereon at a meeting of the board or any committee thereof is as valid as if passed at such meeting. Any such resolution may be signed in counterparts and if signed as of any date shall be deemed to have been passed on such date.

Section 3.17 Remuneration: Directors may be paid such remuneration for acting as directors and such sums in respect of their out-of-pocket expenses incurred in performing their duties as the board may determine from time to time. Any remuneration or expenses so payable shall be in addition to any other amount payable to any director acting in another capacity.

ARTICLE FOUR

COMMITTEES OF THE BOARD

Section 4.01 Audit Committee: The board may and where required by the Act shall appoint from among its number an audit committee composed of such number of directors, being not less than three, as the board may determine from time to time. Except as permitted by the Act a majority of the members of the audit committee shall be resident Canadians and shall not be officers or employees of the Corporation or of any affiliate of the Corporation. The audit committee shall review the annual financial statements of the Corporation and report thereon to the board of directors before such financial statements are approved by the board, and may exercise any other powers lawfully delegated to it by the board under the Act.

Section 4.02 Other Committees: From time to time the board may also appoint from among its number one or more other committees, a majority of each of which shall be resident Canadians except as permitted by the Act. Each committee may exercise those powers lawfully delegated to it by the board under the Act.

Section 4.03 Procedure: The members of each committee shall hold office while directors during the pleasure of the board or until their successors shall have been appointed. The board may fill any vacancy in a committee from among the directors. Unless otherwise determined by the board, each committee may fix its quorum, elect its chairman and adopt rules to regulate its procedure. Subject to the foregoing, the procedure of each committee shall be governed by the provisions of this by-law which govern proceedings of the board so far as the same can apply except that a meeting of a committee may be called by any member thereof (or by any member or the auditor, in the case of the audit committee), notice of any such meeting shall be given to each member of the committee (or each member and the auditor, in the case of the audit committee) and the meeting shall be chaired by the chairman of the committee or, in his absence, some other member of the committee. Each committee shall keep records of its proceedings and transactions and shall report all such proceedings and transactions to the board in a timely manner.

ARTICLE FIVE

OFFICERS

Section 5.01 Appointment of Officers: From time to time the board may appoint a chairman of the board, a vice-chairman, a president, one or more vice-presidents (to which title may be added words indicating seniority or function), one or more general managers (to which title may be added words indicating seniority or function), a secretary, a treasurer, a controller and such other officers as the board may determine, including one or more assistants to any of the officers so appointed. One person may hold more than one office. Except for the chairman of the board, the officers so appointed need not be directors.

Section 5.02 Appointment of Non-Officers: The board may also appoint other persons to serve the Corporation in such other positions and with such titles, powers and duties as the board may determine from time to time.

Section 5.03 Terms of Employment: The board may settle from time to time the terms of employment of the officers and other persons appointed by it and may remove at its pleasure any such person without prejudice to his rights, if any, to compensation under any employment contract. Otherwise each such person shall hold his office or position until he resigns or ceases to be qualified for his office or position or until his successor is appointed.

Section 5.04 Powers and Duties of Officers: The board may from time to time specify the duties of each officer, delegate to him powers to manage any business or affairs of the Corporation (including the power to sub-delegate) and change such duties and powers, all insofar as not prohibited by the Act. To the extent not otherwise so specified or delegated, and subject to the Act, the duties and powers of the officers of the Corporation shall be as follows:

- (a) Chairman of the Board: The chairman of the board shall, when present, preside at all meetings of the board and the shareholders.
- (b) President: The president shall exercise the powers and discharge the duties of that office, except that the president shall not preside at a meeting of the board if he is not a director. The president shall also be the chief operating officer of the Corporation and shall have, subject to the authority of the board, general management and direction of the operations of the Corporation.
- (c) Executive Vice-President: Each vice-president shall exercise such powers and discharge such duties as the chief executive officer may prescribe from time to time. During the absence or disability of the president and when no president is appointed his powers may be exercised and his duties may be discharged by the executive vice-president, or if there are more than one, by an executive vice-president in order of seniority (as determined by the board), except that no executive vice-president shall preside at a meeting of the board if he is not a director.
- (d) Vice-President: Each Vice-President shall have, subject to the authority of the board and the supervision of the chief executive officer, general supervision of the business and affairs of the Corporation related to his function and the power to appoint and remove any and all employees and agents of the Corporation related to his function who are not appointed by the board and to settle the terms of their employment and remuneration. In addition he shall exercise such other powers and discharge such other duties as the chief executive officer may prescribe from time to time.
- (e) Secretary: The secretary shall attend and act as secretary of all meetings of the board, its committees and shareholders. He shall send or cause to be sent all notices and documents the Corporation is required to send to shareholders, directors, the auditor, the Director and governmental or regulatory bodies or agencies. He shall prepare or cause to be prepared all lists of shareholders and all registers and records (other than accounting records) required under the Act and shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation except to the extent that some other

person has been appointed for that purpose, and of the stamp used for affixing the corporate seal, if any, of the Corporation. He shall also exercise such other powers and discharge such other duties as the chief executive officer may prescribe from time to time.

- (f) Treasurer: The treasurer, under the direction of the board, shall control the deposit of money, the safekeeping of securities and the disbursement of funds of the Corporation. Whenever required he shall render to the board an account of his transactions as treasurer and report to and advise the board on the financial position and requirements of the Corporation and the results of its operations. During the absence or disability of the controller and when no controller has been appointed, the treasurer shall exercise the powers and discharge the duties of that office. He shall also exercise such other powers and discharge such other duties as the chief executive officer may prescribe from time to time. If there is no vice-president, finance, the treasurer shall be the chief financial officer of the Corporation.
- (g) Controller: The controller shall have charge of and cause to be kept adequate accounting records in which shall be recorded all receipts and disbursements of the Corporation in accordance with all applicable laws. He shall advise the board on the accounting procedures and methods used by the Corporation and shall exercise such other powers and discharge such other duties as the chief executive officer may prescribe from time to time.
- (h) Other Officers: The powers and duties of all other officers of the Corporation shall be such as the terms of their engagement call for or as the chief executive officer may prescribe from time to time. Any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and discharged by such assistant, unless the board or the chief executive officer otherwise directs.

Section 5.05 Agents and Attorneys: The board or any officer designated by it may from time to time appoint agents or attorneys for the Corporation in or out of Canada with such lawful powers (including the power to sub-delegate) as may be thought fit.

ARTICLE SIX

CONDUCT OF DIRECTORS AND OFFICERS AND INDEMNITY

Section 6.01 Standard of Care: Every director and officer of the Corporation in exercising his powers and discharging his duties shall act honestly and in good faith with a view to the best interests of the Corporation and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Section 6.02 Disclosure of Interest: A director or officer who now or in future is a party to, or is a director or officer of or has an interest in another person who is a party to, any existing or proposed material contract or transaction with the Corporation shall in accordance with the Act disclose in writing to the Corporation or request to have entered in the minutes of meetings of the

board the nature and extent of his interest. Except as permitted by the Act a director so interested shall not vote on any resolution to approve such contract or transaction. A general notice to the board by a director or officer that he is a director or officer of or has a material interest in a person and is to be regarded as interested in any contract made or transaction entered into with that person is a sufficient disclosure of interest in relation to any contract or transaction so made or entered into.

Section 6.03 Effect of Disclosure: Where the Corporation enters into a material contract or transaction with a director or officer (or with another person of which a director or officer is a director or officer or in which he has a material interest) the director or officer is not accountable to the Corporation or the shareholders for any profit or gain realized from the contract or transaction and the contract or transaction is neither void nor voidable, by reason only of that relationship (or by reason only that the director is present at or is counted to determine the presence of a quorum at the meeting of directors that authorized the contract or transaction), if the director or officer disclosed his interest in the manner referred to above and the contract or transaction was reasonable and fair to the Corporation at the time it was so authorized.

Notwithstanding the foregoing, a director or officer, acting honestly and in good faith, is not accountable to the Corporation or the shareholders for any profit or gain realized from any such contract or transaction by reason only of his holding the office of director or officer, and the contract or transaction, if it was reasonable and fair to the Corporation at the time it was approved, is not by reason only of the director's or officer's interest therein void or voidable, if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a special meeting of the shareholders duly called for that purpose and the nature and extent of the director's or officer's interest in the contract or transaction are disclosed in reasonable detail in the notice calling the meeting or in an information circular relating thereto, or if the contract or transaction is confirmed or approved by a signed special resolution of the shareholders and the nature and extent of the director's or officer's interest in the contract or transaction are disclosed in reasonable detail to the shareholders signing such resolution before it is signed.

Section 6.04 Indemnity: Every person who at any time is or has been a director or officer of the Corporation or who at any time acts or has acted at the Corporation's request as a director or officer of a body corporate of which the Corporation is or was a shareholder or creditor, and the heirs and legal representatives of every such person, shall at all times be indemnified by the Corporation in every circumstance where the Act so permits or requires. In addition and without prejudice to the foregoing and subject to the limitations in the Act regarding indemnities in respect of derivative actions, every person who at any time is or has been a director or officer of the Corporation or properly incurs or has properly incurred any liability on behalf of the Corporation or who at any time acts or has acted at the Corporation's request (in respect of the Corporation or any other person), and his heirs and legal representatives, shall at all times be indemnified by the Corporation against all costs, charges and expenses, including an amount paid to settle an action or satisfy a fine or judgment, reasonably incurred by him in respect of or in connection with any civil, criminal or administrative action, proceeding or investigation (apprehended, threatened, pending, under way or completed) to which he is or may be made a party, or in which he is or may become otherwise involved, by reason of being or having been such a director or officer or by reason of so incurring or having so incurred such liability or by

reason of so acting or having so acted (or by reason of anything alleged to have been done, omitted or acquiesced in by him in any such capacity or otherwise in respect of any of the foregoing), and all appeals therefrom, if:

- (a) he acted honestly and in good faith with a view to the best interests of the Corporation; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he had reasonable grounds for believing his conduct was lawful.

Nothing in this section shall affect any other right to indemnity to which any person may be or become entitled by contract or otherwise, and no settlement or plea of guilty in any action or proceeding shall alone constitute evidence that a person did not meet a condition set out in clause (a) or (b) of this section or any corresponding condition in the Act. From time to time the board may determine that this section shall also apply to the employees of the Corporation who are not directors or officers of the Corporation or to any particular one or more or class of such employees, either generally or in respect of a particular occurrence or class of occurrences and either prospectively or retroactively. From time to time thereafter the board may also revoke, limit or vary such application of this section.

Section 6.05 Limitation of Liability: So long as he acts honestly and in good faith with a view to the best interests of the Corporation, no person referred to in section 6.04 (including, to the extent it is then applicable to them, any employees referred to therein) shall be liable for any damage, loss, cost or liability sustained or incurred by the Corporation, except where so required by the Act.

Section 6.06 Insurance: Subject to the Act, the Corporation may purchase liability insurance for the benefit of any person referred to in section 6.04.

ARTICLE SEVEN

SHARES

Section 7.01 Issue: Subject to the articles, the board may issue all or from time to time any of the authorized and unissued shares in the capital of the Corporation to such persons and for such consideration as the board shall determine. No share shall be issued until the Corporation has received the requisite consideration for it in compliance with the Act.

Section 7.02 Commissions: From time to time the board may authorize the Corporation to pay a reasonable commission to any person in consideration of his purchasing or agreeing to purchase shares of the Corporation from the Corporation or from any other person, or in consideration of his procuring or agreeing to procure purchasers for such shares.

Section 7.03 Share Certificates: Every shareholder is entitled at his option to a share certificate that complies in the Act and states the number, class and series designation, if any, of shares held by him as appears on the records of the Corporation, or a non-transferable written acknowledgement of his right to obtain such a share certificate. However, the Corporation is not

bound to issue more than one share certificate or acknowledgement in respect of shares held jointly by several persons, and delivery of such certificate or acknowledgement to one of such persons is sufficient delivery to all of them. Share certificates and acknowledgements shall be in such forms as the board shall approve from time to time and, unless otherwise ordered by the board, shall be signed like a contract or document and need not be under corporate seal. However, certificates representing shares in respect of which a transfer agent has been appointed shall be signed manually by or on behalf of such transfer agent and other share certificates and acknowledgements shall be signed manually by at least one signing officer.

Section 7.04 Replacement of Share Certificates: The board may prescribe either generally or in a particular case the conditions, in addition to those provided in the Act, upon which a new share certificate may be issued in place of any share certificate which is claimed to have been lost, destroyed or wrongfully taken, or which has become defaced.

Section 7.05 Transfer Agent: From time to time the board may appoint or remove a trustee, transfer agent or other agent to keep the securities register and the register of transfers, one or more persons or agents to keep branch registers, and a registrar, trustee or agent to maintain a record of issued security certificates and warrants. Subject to the Act, one person may be appointed for purposes of the foregoing in respect of all securities and warrants of the Corporation or any class thereof.

Section 7.06 Registration of Transfer: No transfer of shares need be recorded in the register of transfers except upon presentation of the certificate representing such shares endorsed by the appropriate person under the Act, together with reasonable assurance that the endorsement is genuine and effective, and upon compliance with such restrictions on transfer, if any, as are authorized by the articles and effective against the transferee, upon satisfaction of any debt for which the Corporation has a lien on the shares that is effective against the transferee, and upon compliance with all other conditions set out in the Act.

Section 7.07 Lien for Indebtedness: Except when the Corporation has shares listed on a stock exchange recognized by the Ontario Securities Commission, the Corporation shall have a lien on the shares registered in the name of a shareholder or his legal representative for any debt of the shareholder to the Corporation. Subject to the Act, the Corporation may enforce such lien without notice or liability by (i) refusing to register a transfer of any such shares until the debt is paid, (ii) setting off against the debt any dividends or other distributions payable on any such shares, (iii) redeeming any such shares, if redeemable, and applying the redemption price less costs of redemption to the debt, (iv) purchasing any such shares and applying the purchase price, less any taxes thereon and costs of purchase, to the debt, (v) selling any such shares as if the Corporation were the owner thereof, at any time and place and to any person and on any commercially reasonable terms, and applying to the debt the cash proceeds of the sale, less any taxes thereon and all reasonable expenses incurred in connection with the sale, or (vi) cancelling such shares in satisfaction of the debt, or by any other method permitted by law or by any combination of any of the foregoing.

Section 7.08 Dealings with Registered Shareholder: Subject to the Act, the Corporation may treat the registered owner of a share as the person exclusively entitled to vote, to receive notices, to receive any dividend or other payment in respect of the share and otherwise to exercise all the

rights and powers of a holder of the share. The Corporation may, however, and where required by the Act shall treat as the registered shareholder any executor, administrator, heir, legal representative, guardian, committee, trustee, curator, tutor, liquidator or trustee in bankruptcy who furnishes appropriate evidence to the Corporation establishing his authority to exercise the rights relating to a share of the Corporation.

ARTICLE EIGHT

DIVIDENDS AND RIGHTS

Section 8.01 Dividends: Subject to the Act and the articles the board may from time to time declare dividends payable to the shareholders according to their respective rights and interests in the Corporation. Dividends may be paid in money or property or by issuing fully paid shares of the Corporation or options or rights to acquire such shares. The board shall determine the value of any such property, shares, options or rights and such determination shall be conclusive evidence of the value thereof.

Section 8.02 Dividend Cheques: A dividend payable to any shareholder in money may be paid by cheque payable to the order of the shareholder and shall be mailed to the shareholder by prepaid mail addressed to him at his recorded address unless he directs otherwise. In the case of joint holders the cheque shall be made payable to the order of all of them, unless such joint holders direct otherwise in writing. The mailing of a cheque as aforesaid, unless it is not paid on due presentation, shall discharge the Corporation's liability for the dividend to the extent of the amount of the cheque plus the amount of any tax thereon which the Corporation has properly withheld. If any dividend cheque sent is not received by the payee, the Corporation shall issue to such person a replacement cheque for a like amount on such reasonable terms as to indemnity, reimbursement of expenses and evidence of non-receipt and of title as the board or any person designated by it may require.

Section 8.03 Record Date for Dividends and Rights: The board may fix in advance a date preceding by not more than 50 clear days the date for the payment of any dividend or the making of any distribution or for the issue of any warrant or other evidence of right to acquire securities of the Corporation, as a record date for the determination of the persons entitled to receive payment of such dividend or distribution or to receive such right. In every such case only the persons who are holders of record of the relevant shares at the close of business on the date so fixed shall be entitled to receive payment of such dividend or distribution or to receive such right. Notice of any such record date fixed by the board shall be given as and when required by the Act. Where no such record date is fixed by the board, the record date for the determination of the persons entitled to receive payment of such dividend or distribution or to receive such right shall be the close of business on the day on which the board passes the resolution relating thereto.

ARTICLE NINE

MEETINGS OF SHAREHOLDERS

Section 9.01 Annual Meeting: The annual meeting of the shareholders shall be held on such day and at such time as the board may, subject to the Act, determine from time to time, for the purpose of receiving the financial statements and reports required by the Act to be placed before each annual meeting of shareholders, electing directors (if required), appointing the auditor (if required) and fixing or authorizing the board to fix his remuneration and transacting such other business as may properly be brought before the meeting.

Section 9.02 Special Meeting: From time to time the board may call a special meeting of the shareholders to be held on such day and at such time as the board may determine. The holders of not less than 25% of the issued shares of the Corporation carrying the right to vote at the meeting sought to be held may requisition a special meeting of shareholders. Any special meeting of shareholders may be combined with an annual meeting.

Section 9.03 Place of Meetings: Meetings of shareholders shall be held at the registered office of the Corporation or at such other place in or outside Ontario as the board may determine from time to time.

Section 9.04 Record Date: The board may fix in advance a record date, preceding the date of any meeting of shareholders by not more than 50 clear days nor less than 21 clear days, for the determination of the shareholders entitled to notice of the meeting, and where no such record date for notice is fixed by the board, the record date for notice shall be the close of business on the day immediately preceding the day on which notice is given. Notice of any such record date fixed by the board shall be given as and when required by the Act.

Section 9.05 Shareholder List: For each meeting of shareholders the secretary shall prepare or cause to be prepared an alphabetical list of shareholders entitled to receive notice of the meeting showing the number of shares entitled to be voted at the meeting and held by each such shareholder. The list shall be prepared (i) if a record date for such notice is fixed by the board, not later than 10 clear days thereafter, (ii) if no such record date is fixed by the board, at the close of business on the day immediately preceding the day on which notice of the meeting is given, or (iii) if no notice is given, on the day on which the meeting is held. The list shall be available for examination by any shareholder prior to the meeting during usual business hours at the registered office of the Corporation or at the place where the securities register is kept, and at the meeting. Where a separate list is not prepared, the names of the shareholders entitled to receive notice of the meeting and the number of shares entitled to be voted thereat and held by them, respectively, as they appear in the securities register at the requisite time (excluding shares not entitled to be voted at the meeting), shall constitute the list prepared in accordance with this section.

Section 9.06 Notice: Notice in writing of the time, place and purpose for holding each meeting of shareholders shall be sent not less than 10 clear days, and not more than 50 clear days, before the date on which the meeting is to be held, to each director, the auditor (if any) of the Corporation and each person who on the record date for notice appears in the securities register of the Corporation as the holder of one or more shares carrying the right to vote at the meeting or as the holder of one or more shares the holders of which are otherwise entitled to receive notice

of the meeting. Notice of a meeting of shareholders shall state or be accompanied by a statement of the nature of all special business to be transacted at the meeting, in sufficient detail to permit the shareholder to form a reasoned judgment thereon, and the text of any special resolution or by-law to be submitted to the meeting. For this purpose all business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, is "special business". Reference is made to Article Ten.

Section 9.07 Financial Statements: Not less than 10 clear days, before each annual meeting of shareholders or before the signing of a resolution in lieu thereof, the secretary shall send a copy of the annual financial statements and reports required by the Act to be placed before the annual meeting to each shareholder who has not informed the Corporation in writing that he does not want such documents.

Section 9.08 Shareholder Proposal: Any shareholder entitled to vote at a meeting of shareholders may submit to the Corporation notice of any proposal that he wishes to raise at the meeting and may discuss at the meeting any matter in respect of which he would have been entitled under the Act to submit a proposal. Where so required by the Act, the management information circular prepared in respect of the meeting shall set out or be accompanied by the proposal.

Section 9.09 Persons Entitled to be Present: The only persons entitled to attend a meeting of shareholders shall be those persons entitled to notice thereof and others who although not entitled to notice are entitled or required under any provision of the Act or the by-laws to be present at the meeting. Any other person may be admitted only on the invitation of the chairman of the meeting or with the consent of the meeting.

Section 9.10 Chairman, Secretary and Scrutineer: The chairman of the board, or in his absence, the president, or in their absence a vice-president, shall be chairman of any meeting of shareholders. If no such officer is present within 15 minutes after the time appointed for the holding of the meeting, the persons present and entitled to vote shall choose one of their number to be chairman. If the secretary is absent, the chairman shall appoint some person, who need not be a shareholder, to act as secretary of the meeting. One or more scrutineers, who need not be shareholders, may be appointed by the chairman or by a resolution of the shareholders.

Section 9.11 Quorum: The quorum for the transaction of business at any meeting of shareholders shall be two persons present and entitled to vote not less than 25% of the shares entitled to be voted at the meeting. If a quorum is present at the opening of the meeting the shareholders may proceed with the business of the meeting notwithstanding that a quorum is not present throughout. If a quorum is not present within such reasonable time after the time appointed for the holding of the meeting as the persons present and entitled to vote may determine, they may adjourn the meeting to a fixed time and place.

Section 9.12 Persons Entitled to Vote: Without prejudice to any other right to vote, every shareholder recorded on the shareholder list prepared in accordance with section 9.05 is entitled, at the meeting to which the list relates, to vote the shares shown thereon opposite his name,

except to the extent that the shareholder transfers ownership of any such shares after the record date for notice of the meeting and the transferee establishes that he owns the shares and requests not later than seven clear days before the meeting that his name be included in the list (in which case the transferee is entitled to vote such shares at the meeting). However, where two or more persons hold the same shares jointly, any one of them may in the absence of the others vote in respect of such shares but if more than one of such persons are present or represented and vote, they shall vote together as one on the shares jointly held by them or not at all.

Section 9.13 Proxies: Every shareholder entitled to vote at a meeting of shareholders may by means of a proxy appoint a proxyholder or alternate proxyholders, who need not be shareholders, as his nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy. A proxy shall be in writing and signed by the shareholder or his attorney authorized in writing or, if the shareholder is a body corporate, by an officer or attorney thereof duly authorized. A proxy shall conform to the requirements of the Act.

Section 9.14 Time for Deposit of Proxies: The board may specify in the notice calling a meeting of shareholders a time, not exceeding 48 hours (excluding Saturdays and holidays) preceding the meeting or any adjournment thereof, before which proxies must be deposited with the Corporation or its agent. A proxy shall be acted upon only if, prior to the time so specified, it shall have been deposited with the Corporation or an agent thereof specified in such notice or, where no such time is specified in such notice, if it has been received by the secretary of the Corporation or the chairman of the meeting or any adjournment thereof before the time of voting.

Section 9.15 Revocation of Proxies: In addition to revocation in any other manner permitted by law, a proxy may be revoked by an instrument in writing signed in the same manner as a proxy and deposited either at the registered office of the Corporation at any time up to and including the last day (excluding Saturdays and holidays) preceding the date of the meeting or any adjournment thereof at which the proxy is to be used, or with the chairman of such meeting or any adjournment thereof before the time of voting.

Section 9.16 Authorized Representatives: A shareholder that is a body corporate or association may, by resolution of its governing body, authorize an individual to represent it at meetings of shareholders. Where a certified copy of such resolution has been deposited with the secretary, the authorized individual may exercise at meetings of shareholders all the rights and privileges which the shareholder he represents could exercise if it were an individual shareholder, until the secretary receives a certified copy of another resolution of such governing body authorizing a different individual to represent the shareholder at meetings of shareholders or otherwise rescinding the former resolution.

Section 9.17 Voting: At each meeting of shareholders every question shall be decided by a majority of the votes duly cast thereon, unless otherwise provided by the Act, the articles, the by-laws or any unanimous shareholder agreement. In case of an equality of votes the chairman of the meeting shall not be entitled to a casting vote.

Section 9.18 Show of Hands: At each meeting of shareholders voting shall be by show of hands unless a ballot is required or demanded as hereinafter provided. Upon a show of hands every person present and entitled to vote on the show of hands shall have one vote. Whenever a

vote by show of hands has been taken upon a question, unless a ballot thereon be so required or demanded and such requirement or demand is not withdrawn, a declaration by the chairman of the meeting that the vote upon the question was carried or carried by a particular majority or not carried or not carried by a particular majority, and an entry to that effect in the minutes of the meeting, shall be prima facie evidence of the result of the vote without proof of the number or proportion of votes cast for or against.

Section 9.19 Ballots: On any question proposed for consideration at a meeting of shareholders a ballot may be required by the chairman or demanded by any person present and entitled to vote, either before or after any vote by show of hands. If a ballot is so required or demanded and such requirement or demand is not withdrawn, a poll upon the question shall be taken in such manner as the chairman of the meeting shall direct. Subject to the articles, upon a ballot each person present shall be entitled to one vote in respect of each share which he is entitled to vote at the meeting on the question.

Section 9.20 Adjournment: The chairman of a meeting of shareholders may terminate the meeting following the conclusion of all business which may properly come before the meeting or, subject to such conditions as the meeting may decide, may adjourn the meeting from time to time and from place to place. If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of less than 30 clear days, it is not necessary to give notice of the resumption of the meeting if the time and place for resuming the meeting are announced at the earliest meeting that is adjourned.

Section 9.21 One-Shareholder Meeting: Where all the outstanding shares of any class or series of shares of the Corporation are held by one shareholder, that shareholder present in person or by proxyholder or by authorized representative constitutes a meeting of the holders of that class or series of shares.

Section 9.22 Signed Resolutions: Subject to the Act, a resolution in writing signed by all the shareholders entitled to vote thereon at a meeting of shareholders is as valid as if passed at such a meeting and a resolution in writing dealing with all matters required by the Act to be dealt with at a meeting of shareholders and signed by all shareholders entitled to vote thereat satisfies all requirements relating to that meeting. Any such resolution may be signed in counterparts and if signed as of any date shall be deemed to have been passed on such date.

ARTICLE TEN

NOTICES

Section 10.01 To Shareholders, Directors: Any notice or document required or permitted to be sent by the Corporation to a shareholder or director may be mailed by prepaid Canadian mail in a sealed envelope addressed to, or may be delivered personally to, such person at his recorded address, or may be sent by any other means permitted under the Act, including electronic communication. If so mailed, the notice or document shall be deemed to have been received by the addressee on the fifth clear day after mailing. If notices or documents so mailed to a shareholder are returned on three consecutive occasions because he cannot be found, the Corporation need not send any further notices or documents to such shareholder until he informs

the Corporation in writing of his new address.

Section 10.02 To Others: Any notice or document required or permitted to be sent by the Corporation to any other person may be (i) delivered personally to such person, (ii) addressed to such person and delivered to his recorded address, (iii) mailed by prepaid Canadian mail in a sealed envelope addressed to such person at his recorded address or (iv) addressed to such person and sent to his recorded address by telegram, telex, electronic communication, or any other means of legible communication then in business use in Canada. A notice or document so mailed or sent shall be deemed to have been received by the addressee when deposited in a post office or public letter box (if mailed) or when transmitted by the Corporation on its equipment or delivered to the appropriate communication agency or its representative for dispatch, as the case may be (if sent by telegram, telex, electronic communication, or other means of legible communication).

Section 10.03 Changes in Recorded Address: The secretary may change the recorded address of any person in accordance with any information the secretary believes to be reliable.

Section 10.04 Computation of Days: In computing any period of days or clear days under the by-laws or the Act, the period shall be deemed to commence on the day following the event that begins the period and shall be deemed to end at midnight on the last day of the period except that if the last day of the period falls on a holiday, the period shall end at midnight of the day next following that is not a holiday.

Section 10.05 Omissions and Errors: The accidental omission to give any notice to any person, or the non-receipt of any notice by any person or any immaterial error in any notice shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

Section 10.06 Unregistered Shareholders: Subject to the Act, every person who becomes entitled to any share shall be bound by every notice in respect of such share which was duly given to any predecessor in title prior to such person's name and address being entered on the securities register of the Corporation.

Section 10.07 Waiver of Notice: Any person entitled to attend a meeting of shareholders or directors or a committee thereof may in any manner and at any time waive notice thereof, and attendance of any shareholder or his proxyholder or authorized representative or of any other person at any meeting is a waiver of notice thereof by such shareholder or other person except where the attendance is for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. In addition, where any notice or document is required to be given under the articles or by-laws or the Act, the notice may be waived or the time for sending the notice or document may be waived or abridged at any time with the consent in writing of the person entitled thereto. Any meeting may be held without notice or on shorter notice than that provided for in the by-laws if all persons not receiving the notice to which they are entitled waive notice of or accept short notice of the holding of such meeting.

SHARED SERVICES AGREEMENT made in duplicate this 1st day of January, 2008

B E T W E E N:

POWERSTREAM INC.,
(hereinafter called "PowerStream")

- and -

THE CITY OF VAUGHAN,
(hereinafter called the "City")

WHEREAS on June 1, 2004, Hydro Vaughan Distribution Inc. ("Vaughan Hydro"), Markham Hydro Distribution Inc. and Richmond Hill Hydro Inc. amalgamated to become PowerStream (the "Amalgamation") in accordance with a merger agreement dated March 11, 2004, between The Corporation of the Town of Markham, the City, Hydro Vaughan Distribution Inc., Markham Energy Corporation, Markham Hydro Distribution Inc. and Richmond Hill Hydro Inc. (the "Merger Agreement");

AND WHEREAS prior to the Amalgamation, the City and Vaughan Hydro entered into an agreement providing for Vaughan Hydro to implement and co-ordinate the billing and collection of water rates on behalf of the City (the "Services Agreement");

AND WHEREAS pursuant to subsection 5.2(6)(b) of the Merger Agreement, all contracts listed on Schedule 4.2(34) of the Merger Agreement, which includes the Services Agreement, are to satisfy the requirements of the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB and revised November 24, 2003 (the "Affiliate Relationships Code");

AND WHEREAS PowerStream and the City wish to enter into an agreement to replace the Services Agreement in order for PowerStream to continue to provide certain services to the City and the City to provide certain facilities to PowerStream consistent with the Affiliate Relationships Code and for the consideration and on the terms and conditions hereinafter set forth;

NOW THEREFORE in consideration of the premises and the mutual covenants and agreements herein contained (the receipt and sufficiency of which is hereby acknowledged by each of the Parties hereto), the Parties hereto hereby covenant and agree as follows:

1. INTERPRETATION

1.1 Definitions. In this Agreement, including the recitals and Schedules hereto, the following words shall have the following meanings:

1.1.1 "Affiliate" means a body corporate which is deemed to be affiliated with another body corporate, by virtue of one of them being the subsidiary of

the other or both being subsidiaries of the same body or each of them being controlled by the same person

- 1.1.2 **"Affiliate Relationships Code"** means that as described in the third recital of this Agreement;
- 1.1.3 **"Agreement"** means this agreement and all recitals and all Schedules attached hereto as the same may be amended, modified, supplemented, restated, or replaced from time to time;
- 1.1.4 **"Applicable Law"** means collectively, all applicable federal, provincial, territorial, municipal and foreign laws, statutes, ordinances, decrees, rules, regulations, by-laws, legally enforceable policies, codes, or guidelines, judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, directives, rulings or awards, and conditions of any grant of approval, permission, certification, consent, registration, authority or licence by any court, statutory body, self-regulatory authority, stock exchange or other Governmental Authority;
- 1.1.5 **"Binding Arbitration"** has the meaning ascribed thereto in Section 8.12;
- 1.1.6 **"Business Day"** means any day other than a day which is a Saturday, a Sunday or a statutory holiday or a civic holiday in Ontario;
- 1.1.7 **"Claims"** has the meaning ascribed thereto in Section 7.2;
- 1.1.8 **"Confidential Information"** means the confidential, secret or proprietary information of one Party (the **"Disclosing Party"**), including any of such information or data which (a) the Disclosing Party is obligated, under contract or law, to keep confidential and (b) is technical, financial or business in nature, and which has been or may hereafter be disclosed, directly or indirectly, to the other Party (the **"Recipient"**), either orally, in writing or in any other material form, or delivered to the Recipient;
- 1.1.9 **"Disclosing Party"** has the meaning ascribed thereto in Section 3.2;
- 1.1.10 **"Effective Date"** means the date of this Agreement – January 1, 2008;
- 1.1.11 **"Extension Notice"** has the meaning ascribed thereto in Section 4.2;
- 1.1.12 **"Facilities"** means the facilities provided by the City to PowerStream as set out on Schedule A attached hereto;
- 1.1.13 **"Fees for the Facilities"** means collectively, the charges set out in the Lease, for the provision of the facilities by the City to PowerStream as set out on Schedule A attached hereto, plus all applicable taxes if any in respect thereof;

- 1.1.14 “**Fee Review Date**” has the meaning ascribed thereto in subsection 2.5.3;
- 1.1.15 “**Fees**” means collectively the Fees for the Facilities and the PowerStream Fees;
- 1.1.16 “**Governmental Authority**” means any court, arbitrator, administrative agency, commission, or governmental or regulatory official, department, agency, body, authority or instrumentality, whether foreign, federal, state, provincial, municipal, or local, having jurisdiction over the Parties;
- 1.1.17 “**In Writing**” or “**Written**” means a posted letter, a facsimile transmittal or an e-mail message;
- 1.1.18 “**Internal Dispute Resolution**” has the meaning ascribed thereto in subsection 8.12.1;
- 1.1.19 “**Lease**” means the commercial terms related to the facilities leased by PowerStream from the City, which are set out in Schedule A.
- 1.1.20 “**MFIPPA**” means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56.
- 1.1.21 “**Notice**” has the meaning ascribed thereto in Section 8.4;
- 1.1.22 “**Parties**” means the parties to this Agreement and “**Party**” shall mean any one of them.
- 1.1.23 “**PowerStream Fees**” means collectively, the charges for the provision of the Services as set out in Schedules D, E and F attached hereto, plus all applicable sales or service taxes in respect thereof.
- 1.1.24 “**Receiving Party**” has the meaning ascribed thereto in Section 3.2;
- 1.1.25 “**Requested Party**” has the meaning ascribed thereto in Section 8.1;
- 1.1.26 “**Services**” means the services purchased by the City from PowerStream as set out on Schedules B and C attached hereto, or those services agreed to in writing between the Parties from time to time;
- 1.1.27 “**Term**” means the term of this Agreement commencing on the Effective Date to and including the Termination Date;
- 1.1.28 “**Termination Date**” has the meaning ascribed thereto in Section 4.1; and
- 1.1.29 “**Unsatisfied Party**” has the meaning ascribed thereto in Section 8.1.
- 1.2 **Headings.** The division of this Agreement into Sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “**this Agreement**”,

"hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to "Sections" are to sections and "subsections" are to subsections of this Agreement.

- 1.3 **Extended Meanings.** In this Agreement words importing the singular number only shall include the plural and vice versa, words importing any gender shall include all genders and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organisations, companies and corporations.
- 1.4 **Currency.** All references to currency herein are to lawful money of Canada unless otherwise specified.
- 1.5 **Schedules.** The following Schedules which are attached to this Agreement are incorporated by reference into this Agreement and are deemed to be a part of it:

Facilities provided by the City to PowerStream:

Schedule A	-	Facilities
Schedule B	-	Information Technology
Schedule C	-	Fuel Service Charge

Services Purchased from PowerStream by the City:

Schedule D	-	Payroll Services
Schedule E	-	Cashier Services
Schedule F	-	Water Meter Reading and Water Billing and Remittance
Schedule G	-	Pricing Summary

2. SERVICES

- 2.1 **Provision of Services.**
- 2.2 In accordance with the terms hereof, from and after the Effective Date to the Termination Date:
 - 2.2.1 PowerStream agrees to provide and perform, at the request of the City, the Services for the benefit of the City or the City's Affiliates, as the case may be; and

2.2.2 the City agrees to provide the Facilities for the benefit of PowerStream or PowerStream's Affiliates, as the case may be, as the successor in title to Markham Hydro Distribution Inc., the named Tenant in the Lease, in accordance with the provisions of the Lease, as amended in writing from time to time. PowerStream covenants and agrees to comply with the provisions of the Lease, as amended from time to time.

2.3 **Standard of Services.** Notwithstanding the provisions of section 7.1 herein, PowerStream shall provide the Services in a prudent business manner in accordance with the policies and service levels applicable to such Services and the practices, policies and service levels as set out in Schedules B and C inclusively or such practices, policies and service levels as may be amended from time to time pursuant to Section 2.4 hereof. PowerStream shall provide the Services in accordance with all Applicable Laws. Notwithstanding the foregoing, "Applicable Laws" shall not include any by-laws, guidelines, directions, rules or standards of the City introduced, proclaimed or implemented after the date hereof that affects the provision of the Services by PowerStream hereunder or the terms hereof.

2.4 **Amendments.** At any time during the term of this Agreement the City may request changes in the Services that the City receives or the practices, policies or performance levels applicable to the Services received by the City by submitting such requests in writing to PowerStream. Within a reasonable time, but in any event not more than thirty (30) Business Days after receiving written notice of a request, PowerStream shall advise the City whether the change requested will have an impact on the delivery of the Services, acting reasonably, and whether or not the request will have an impact on the associated Fees and whether PowerStream authorizes the implementation of the change under the revised terms specified by the City or rejects the change proposed. Minor adjustments to existing reports shall not trigger fee increases or the imposition of one-time fees. Pending PowerStream's response, the City shall continue to receive the applicable Services in accordance with the latest approved terms for the provision of such Services.

2.5 **Fees.**

2.5.1 PowerStream Fees rendered by PowerStream shall be those as set out on Schedules D, E and F, or as mutually agreed upon by the Parties in writing from time to time. For clarity purposes, the PowerStream Fees set out on Schedules D, E and F, for years 2009 and 2010 have been agreed upon by the Parties and such fees have been paid by the City in full and no outstanding amounts are payable in respect of those years as of the date of this Agreement.

2.5.2 Fees for the Facilities provided by the City shall be those as set out on Schedule A, or as mutually agreed upon by the Parties in writing from time to time. For clarity purposes, the Fees for the Facilities set out on

Schedule A for years 2009 and 2010 have been agreed upon by the Parties and such fees have been paid by PowerStream in full and no outstanding amounts are payable in respect of those years as of the date of this Agreement.

- 2.5.3 The Parties shall review the PowerStream Fees on an annual basis, prior to or on November 1st (the "Fee Review Date"). PowerStream shall base the PowerStream Fees for the following year on reasonable estimates. If the Parties are unable to agree on the adjustments to the PowerStream Fees within thirty (30) days of the Fee Review Date then the dispute shall be settled by the dispute resolution procedure in accordance with Section 8.12 herein.
 - 2.5.4 Unless otherwise specified herein, PowerStream Fees shall be invoiced to the City on a quarterly basis.
 - 2.5.5 Fees for the Facilities shall be invoiced to PowerStream in accordance with the Lease.
 - 2.5.6 The Parties agree that payment of PowerStream Fees and other charges provided for hereunder will be due and payable in arrears not later than thirty (30) days after the date of invoice.
 - 2.5.7 All PowerStream Fees and the Facilities shall comply with the requirements of the Affiliate Relationships Code.
- 2.6 Co-operation by City. The City shall co-operate with PowerStream to assist it in the provision of the Services. Without limiting the generality of the foregoing, the City will:
- 2.6.1 assign a minimum of two (2) representatives of the City to co-ordinate with PowerStream the provision of the Services to the City to deal with financial and operational issues respectively;
 - 2.6.2 prepare and provide to PowerStream, in a mutually acceptable format, all information reasonably required by PowerStream to permit proper delivery of the Services;
 - 2.6.3 establish, incorporate and maintain as part of the practices, policies and service levels applicable to such Services, in consultation with PowerStream, operating procedures to satisfy the City's requirements for accuracy and auditing;
 - 2.6.4 train, if necessary, personnel to assist in the provision of the required information to PowerStream to permit PowerStream to provide the Services; and

- 2.6.5 provide PowerStream assistance in collecting amounts owed to the City. The City may place any of such unpaid amounts on the collector's roll and enforce any other rights or remedies of the City pursuant to section 398(2) of the *Municipal Act*, S. O. 2001, c. 25.

2.7 **Customer Information.**

- 2.7.1 PowerStream acknowledges that the ownership of all data in respect of water and sewer customers of the City as such data relates to: water and sewer information, water and sewer consumption history and charges, fire protection information, customer information including name, billing address, legal description, service address, the final twelve (12) months of meter readings for each customer, outstanding water and sewer invoices, customer credit and collection information, and information with regard to work orders and asset management systems is and shall remain the property of the City. PowerStream shall ensure that all of the data contemplated by this Section 2.7.1 is backed up in accordance with current PowerStream procedures and can be restored in 1-2 Business Days. The City acknowledges that PowerStream can only back up data collected over a maximum period of 7 years.
- 2.7.2 The City acknowledges that the ownership of data in respect of electricity customers of PowerStream or any of its Affiliates is and shall remain the property of PowerStream.
- 2.7.3 Requests for data by the City under Section 2.7.1 shall be made in writing, which may include electronic mail, by an individual designated by the City to the attention of Bill Schmidt, Director of Information and Technology at PowerStream or such other individual designated by PowerStream. PowerStream shall within 1 Business Day advise the City of the effort required to provide such data and such data shall be provided by PowerStream to the City no later than 2 Business Days from the date the request is made by the City or within such other, longer period of time as set out in the response from PowerStream.
- 2.7.4 Each Party, its employees and agents shall abide by all Applicable Laws, including the requirements of the Affiliate Relationships Code to the extent that it applies, related to the collection, use, retention, destruction and disclosure of any personal data which has been collected, used, retained, destroyed and disclosed in connection with the Services and the Facilities provided by such Party hereunder.

3. **CONFIDENTIAL INFORMATION**

- 3.1 **Confidentiality Obligation.** Commencing upon the Effective Date and continuing thereafter, each Party:

- 3.1.1 shall treat as confidential, keep in safe custody and not disclose to any third party any Confidential Information provided to it by the other Party, and
- 3.1.2 use such Confidential Information only to the extent necessary to comply with this Agreement.
- 3.2 Each of the Parties shall establish and enforce procedures to protect Confidential Information disclosed to it by the other Party and shall restrict disclosure of such Confidential Information to only those employees, officers, agents and professional advisors of it and its Affiliates who need to know such information in connection with such Party's performance of this Agreement and in accordance with MFIPPA or any other applicable legislation. If a Party or its Affiliate is required by order of any Governmental Authority or Applicable Law or the rules of a stock exchange to disclose Confidential Information disclosed to it by the other Party, it shall promptly notify the other Party of the request for disclosure and shall cooperate with the other Party if that other Party opposes the request for disclosure and wishes to seek confidential treatment for such Confidential Information that is required to be disclosed. Each of the Parties acknowledges that no adequate remedy at law exists for a material breach or threatened material breach of this Section 3.2 the continuation of which unremedied will cause the other Party to suffer irreparable harm, and agrees that the other Party is entitled, in addition to other remedies which may be available at law or in equity, to immediate injunctive relief from any breach of this Section 3.2 and to specific performance of its rights. Promptly following the Termination Date, each Party agrees to use commercially reasonable efforts to deliver to the other Party (the "Disclosing Party") the Confidential Information (including all electronic and other copies thereof) disclosed to it (the "Receiving Party") by the Disclosing Party that the Receiving Party possesses or, upon request by a Disclosing Party, the Receiving Party shall confirm to the Disclosing Party that such Confidential Information has been destroyed in accordance with the Disclosing Party's instructions but, in no event if such Confidential Information is not returned to the Disclosing Party or destroyed in accordance with its instructions, such Confidential Information shall not be disclosed by the Receiving Party to any other person. Notwithstanding the forgoing, (i) PowerStream acknowledges that the City and its Affiliates are subject to MFIPPA and PowerStream agrees to act in accordance with applicable provincial laws relating to privacy as they apply to the provision of the Services by PowerStream; and (ii) the City acknowledges that PowerStream and its Affiliates are subject to the *Personal Information Protection and Electronic Documents Act* (Canada) and the City agrees to act in accordance with applicable federal laws relating to privacy as they apply to the provision of the Facilities by the City.

4. TERM.

- 4.1 Term. This Agreement will be effective as at the Effective Date and shall terminate three (3) years after the Effective Date, unless terminated earlier

pursuant to Section 5.1 or extended by renewal of the term pursuant to Section 4.2 (the "Termination Date").

- 4.2 **Extension of Term.** If either Party gives notice in writing to the other Party by not later than sixty (60) days prior to the Termination Date, requesting the continuation of Services or the provision of the Facilities, as the case may be (an "Extension Notice") for an additional one year period, the Parties agree to negotiate, in good faith, in order to determine the terms and conditions on which such Services or the provision of the Facilities will be provided for a renewal term of one year or such longer period as is mutually agreed to. Notwithstanding anything in this Section 4.2 to the contrary, there shall be no obligation upon any Party having been provided with an Extension Notice to extend the term of this Agreement.

5. TERMINATION.

- 5.1 **Termination.** This Agreement, except for subsections 2.5.1, 2.5.2, 2.5.4 to 2.5.7 inclusive, and Sections 3.1,3.2 and 7.1 to 7.5 inclusive, which shall survive the termination of this Agreement, shall terminate on the Termination Date and may be terminated prior thereto as follows:
- 5.1.1 by the mutual written consent of the Parties hereto;
 - 5.1.2 by either Party effective upon not less than twelve (12) months written notice to the other Party in respect of the Facilities or the Services, save and except for water services provided by PowerStream to the City as set out on Schedule B hereto, which shall require PowerStream to provide the City with eighteen (18) months written notice for termination of such service;
 - 5.1.3 by either Party effective upon not less than thirty (30) days written notice of any material breach or default of any provision or obligation of this Agreement by a Party, provided that such notice will not be effective to terminate this Agreement in the event the other Party cures the default during such notice period; and
 - 5.1.4 immediately, by either Party if the other Party becomes insolvent or is a party to any bankruptcy or receivership proceeding or any similar action affecting the affairs, property or solvency of such Party.
 - 5.1.5 **Termination Without Prejudice.** Any such termination of this Agreement shall be without prejudice to any other remedies which any Party may have against the other arising out of such breach of default and shall not affect any rights or obligations of any Party arising under this Agreement prior to such termination.

6. **FORCE MAJEURE.**

- 6.1 **Force Majeure.** Performance of any obligation under this Agreement, other than the payment of Fees pursuant to Section 2.5.6, may be suspended by either Party without liability to the extent that an act of God, war, fire, earthquake, explosion, governmental expropriation, governmental law or regulation or any other occurrence beyond the reasonable control of such Party or labour disruption, strike or injunction (if such labour event is not caused by the bad faith or unreasonable conduct of such Party) delays, prevents, restricts, limits or renders commercially unfeasible the performance of any such obligation. The affected Party may invoke this provision by promptly notifying the other Party of the nature and estimated duration of the suspension. No Party hereto invoking this provision shall be liable for any failure to perform or any delay in the performance of its obligations in this Section 6.1.

7. **DISCLAIMER, LIMIT OF LIABILITY AND INDEMNITY**

- 7.1 **Disclaimer.** The Services provided by PowerStream are provided without any warranty whatsoever, other than as is set forth in Section 2.3 hereof. In particular, PowerStream makes no warranty as to the suitability of any of the Services for the specific purposes or needs of the City. The warranty contained in this Agreement is the only warranty made by PowerStream with respect to the Services. PowerStream specifically excludes any other warranties or conditions express or implied, including, but not limited to, implied warranties or conditions of merchantability, merchantable or satisfactory quality or fitness for a particular purpose, and those arising from a course of dealing or usage of trade.
- 7.2 **Indemnity by the City.** The City agrees to indemnify, defend and hold harmless PowerStream from any and all claims, litigation, damages, losses, causes of action or expenses (including legal fees and disbursements) ("Claims") suffered or incurred by PowerStream from third parties or otherwise in connection with:
- 7.2.1.1 a breach of the City's obligations under this Agreement insofar as PowerStream has complied with its obligations under this Agreement; and
 - 7.2.1.2 any negligence on the part of the City, its employees, contractors or agents in its provision of the Facilities.
- 7.3 Notwithstanding the provisions of Section 7.2, the City shall be under no obligation to indemnify and save harmless PowerStream from any Claims resulting from the negligence or wilful misconduct of PowerStream in its provision of the Services hereunder.
- 7.4 **Indemnity by PowerStream.** PowerStream agrees to indemnify, defend and hold harmless the City from any and all Claims suffered or incurred by the City from third parties or otherwise in connection with:

- 7.4.1 a breach of PowerStream's obligations under this Agreement insofar as the City has complied with its obligations under this Agreement; and
 - 7.4.2 any negligence on the part of PowerStream, its employees, contractors or agents in its provision of the Services hereunder.
- 7.5 Notwithstanding the provisions of Section 7.4, PowerStream shall be under no obligation to indemnify and save harmless the City from any Claims resulting from the negligence or wilful misconduct of the City in its provision of the Facilities hereunder.
- 7.6 **Insurance.** PowerStream shall provide and keep in force a comprehensive liability insurance policy with coverage equal to or greater than Five Million Dollars (\$5,000,000) (Canadian) of sufficient coverage in respect of the Services performed by it under the terms of this Agreement. The City shall provide and keep in force insurance in respect of the Facilities as required under the terms of this Agreement.

8. MISCELLANEOUS

- 8.1 **Audit.** PowerStream shall maintain accurate and complete books and records with respect to (i) the Services provided hereunder, (ii) the PowerStream Fees, and (iii) any information provided by the City to PowerStream for the provision of the Services. The City shall maintain accurate and complete books and records in respect to (i) the Facilities provided hereunder, (ii) the Fees for the Facilities, and (iii) any information provided by PowerStream for the provision of the Facilities. Each Party shall keep its accounts and records in accordance with Canadian generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants (or a successor institute) with respect to the computation of Fees and other charges payable pursuant to this Agreement. Each Party shall be entitled to audit such books and records in order to confirm compliance with the terms of this Agreement. Each Party shall make such books and records available to individuals designated by the other Party and provide any assistance it may reasonably require in order to conduct audits and inspections, provided that:
- 8.1.1 audits and inspections shall be made at reasonable times and on at least ten (10) Business Days prior notice; and
 - 8.1.2 audits of Fees shall be made not later than twenty four (24) months after such Fees have been paid by a Party to the other Party.

Each Party agrees to provide the other Party with reasonable facilities for such audits and inspections and copies of documents, where necessary, appropriate and permitted by law. If a Party is not satisfied with the information provided (the "Unsatisfied Party"), the Unsatisfied Party may retain, at its own expense, an independent auditor, to review the books and records referred to above. The Party requested to provide additional information (the "Requested Party") may refuse

to disclose to the Unsatisfied Party or its agents any information that the Requested Party is prevented from disclosing as a result of a confidentiality obligation to another person provided that the Requested Party shall use commercially reasonable efforts to obtain consents to permit disclosure of such information if such information is reasonably required in order to conduct an audit and inspection by the Requesting Party under this Section 8.1 and the Requesting Party or its agents has requested access to such information. Each of the Parties agree that any third party conducting an audit or inspection shall be subject to the confidentiality provisions of Sections 3.1 and 3.2 and may be required by the Requested Party to enter into a confidentiality and non-disclosure agreement in form and substance reasonably acceptable to the Requested Party and each of the Parties agree that should an independent auditor be deemed by the Requested Party to be a competitor of the Requested Party, the Parties shall mutually agree to the review and audit procedures prior to such review and audit.

- 8.2 Governing Law. This Agreement shall be governed by and construed in accordance with the law of the Province of Ontario and the laws of Canada applicable therein.
- 8.3 Successors. This Agreement will enure to the benefit of and be binding on the respective successors and assigns of each of the Parties.
- 8.4 Time of Essence. Time shall be of the essence of this Agreement
- 8.5 Notices. Unless otherwise expressly provided herein, any notice, consent or other communication (a "Notice") given pursuant to or in connection with this Agreement shall be in writing and shall be sufficiently given to the person to whom it is addressed if transmitted by facsimile, delivered in person to or for such person at the address of such person indicated below or at such other address as such person shall have provided in writing to the other Party in accordance with this provision. Any Notice provided in accordance with this provision shall be deemed to have been sufficiently given or made on the date on which it was so transmitted by facsimile or delivered provided that if such day is not a Business Day or delivery occurs after normal business hours of the recipient, the Notice shall be deemed given or made on the Business Day following transmission or delivery, as the case may be.

To PowerStream:

PowerStream Inc.
161 Cityview Boulevard
Vaughan, Ontario
L4H 0A9

Attention: Dennis Nolan
Executive Vice President, Corporate Services and Secretary
Fax: (905) 532-4616
E-Mail: dennis.nolan@powerstream.ca

To the City:

City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

For Financial matters or matters relating to the Facilities:

Attention: Barry Jackson
Director of City Financial Services/Deputy
Treasurer

Fax: (905) 303-2036

E-Mail: barry.jackson@vaughan.ca

For Operational issues:

Attention: Marlon Kallideen
Commissioner of Community Services

Fax: (905) 303-2033

E-Mail: marlon.kallideen@vaughan.ca

or to such other address as such Party shall have notified to the other Party hereto. Any communication so addressed and delivered shall be deemed to have been sufficiently given or made on the date on which it was received.

- 8.6 **Entire Agreement.** This Agreement, together with the recitals and the Schedules attached hereto, constitutes the entire agreement between the Parties hereto with regard to the subject matter hereof and supersedes and cancels all previous negotiations, agreements, commitments and writings in respect of the subject matter hereof. This Agreement may not be modified or amended in any respect except by written instrument signed by the Parties hereto.
- 8.7 **Waiver.** The failure of any Party to this Agreement at any time to require performance by the other Party of any provision hereof shall in no way affect the full right to require such performance at any time thereafter of any other provision hereof and no waiver by any Party hereof of any breach of condition, covenant or

agreement shall constitute a waiver except in respect of the particular breach giving rise to such waiver. Any such waiver shall be effective only if made in writing by the Party entitled to waive the provision.

- 8.8 **Independent Contractor.** By virtue of this Agreement, no Party hereto constitutes any other Party hereto as its agent, partner, joint venturer, franchisee or legal representative and no Party has express or implied authority to bind any other Party hereto in any manner whatsoever. Unless otherwise contemplated in the Services or the Facilities or approved in writing by the other Party, no Party hereto will assume or create any obligation or responsibility whatsoever, express or implied, on behalf of or in the name of that other Party.
- 8.9 **Assignment.** This Agreement and the privileges herein granted shall not be assigned by either Party except with the prior written consent of the other, such consent not to be unreasonably withheld. Notwithstanding the foregoing, either party or its permitted assignee may, as security only, assign, transfer, pledge, grant a security interest in or otherwise dispose of its rights and interests under this Agreement to a trustee or lending institution, including such an assignment, transfer or other disposition upon or pursuant to the exercise of remedies by such trustee or lending institution.
- 8.10 **Further Assurances.** Each of the Parties hereto from time to time at the request and expense of the other Party hereto and without further consideration, will execute and deliver such other instruments of transfer, conveyance and assignment and take such further action as such other Party may require to more effectively complete any matter provided for herein.
- 8.11 **Severability.** Any covenant or provision hereof determined to be void or unenforceable in whole or in part will be deemed not to affect or impair the validity or enforceability of any other covenant or provision hereof and the covenants and provisions hereof are declared to be separate and distinct.
- 8.12 **Arbitration.**
- 8.12.1 In the event of any dispute or claim between the Parties, arising out of, or relating to, in any way connected with this Agreement or its interpretation or the fulfilment of the obligations of the Parties hereunder (a "Dispute"), such Dispute shall be referred internally by either Party by written notification to Dennis Nolan, Executive Vice President, Corporate Services and Secretary at PowerStream and Clayton Harris, Deputy City Manager and Commissioner of Finance and Corporate Services at the City for resolution (the "Internal Dispute Resolution"). If the Dispute is not resolved within 60 Business Days of a Dispute being referred to the Internal Dispute Resolution then such Dispute shall be settled by binding arbitration ("Binding Arbitration"). Binding Arbitration shall be conducted in accordance with the *Arbitration Act, 1991* (Ontario), as amended from time to time.

- 8.12.2 It shall be a condition precedent to the right of a Party to this Agreement to submit a Dispute to Binding Arbitration that such Party shall have given written notice of its intention to do so to the other Party to this Agreement and such written notice shall state the particulars of such Dispute. Within ten (10) Business Days of such notice being provided, the Parties to this Agreement shall mutually appoint a single arbitrator to determine the Dispute. The arbitrator shall fix a time, which shall not be later than ten (10) Business Days following his or her appointment, and a place in Vaughan, Ontario, for the purpose of hearing the evidence and representations of the Parties. Each of the Parties shall co-operate with the arbitrator and shall provide him or her with all information in their possession or under their control necessary or relevant to the matter being determined. Within ten (10) Business Days after the conclusion of the arbitration hearing, or such longer period as may be required by the arbitrator appointed under this subsection 8.12.2, the arbitrator shall make an award and reduce the same to writing and deliver one copy of his or her decision to each Party.
- 8.12.3 If the Parties fail to agree on an arbitrator within the time period specified in subsection 8.12.2 above, then, unless the parties otherwise agree, the Dispute shall be submitted to ADR Chambers for final resolution, which submission shall be by written notice which may be provided by either Party to ADR Chambers and to the other Party to this Agreement. Within five (5) Business Days following the date of any notice given by either Party pursuant to this subsection 8.12.3, an arbitrator shall be selected by random draw made by ADR Chambers. The arbitrator so selected shall perform both the settlement conference and the trial in the matter. The Parties further agree to be bound by the rules of the ADR Chambers in force from time to time.
- 8.12.4 There shall be no right of appeal from the arbitrator's award except in accordance with the *Arbitration Act, 1991* (Ontario). The Parties agree that a judgment upon the arbitration award may be entered in any court in Canada or any court having jurisdiction, or that an application may be made to such court for judicial recognition of the award and/or an order of enforcement thereof. The Parties agree that the arbitrator selected pursuant to subsections 8.12.2 and 8.12.3 shall determine costs (legal fees and disbursements) as part of the arbitrator's award.
- 8.13 Counterparts. This Agreement may be executed by the Parties hereto in several counterparts, each of which when so executed and delivered shall be an original and all such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto on the date first above written.

POWERSTREAM INC.

Per: _____
Name: Dennis Nolan
Title: EVP Corporate Services & Secretary

CITY OF VAUGHAN

Per: _____
Name: Linda Jackson
Title: Mayor

Per: _____
Name: Sybil Fernandez (Jeffrey Abrams)
Title: City Clerk

SCHEDULE A
FACILITIES
TERMS

**Joint Service Agreement
Between Power Stream & the City of Vaughan
DRAFT Rent TMI Service Schedules**

Table of Schedules

Schedule	Reference
Summary (2008 -2010)	A
Civic Centre Rent & TMI Detail Schedule	B
JOC Indoor Rent & TMI Detail Schedule	C
JOC Indoor Map	D
2008 JOC Outdoor Rent & TMI Detail Schedule	E
2007 TMI Schedule	F
Service Level Provision	G

**Joint Service Agreement Between Power Stream & the City of Vaughan
Draft Rental Schedule**

2008 Annual Rent & TMI	Civic	JOC - Industrial	JOC Outdoor	Total
Area Rented (Note 2)	360.60	24,455.00	240,607.58	265,623.18
Market Rental Rate/Ft ² (Note 1)	\$ 9.10	\$ 7.14	8%	
Estimated TMI/Ft ²	\$ 17.30	\$ 8.37	Incl	
Estimated Investment			\$ 4,107,234.61	
Rent & TMI	9,649.38	378,403.55	328,678.77	\$ 717,531.70

Note - As agreed and additional \$34,063/month for every month the 2007 footprint is occupied.

2009 Annual Rent & TMI	Civic	JOC - Industrial	JOC Outdoor	Total
Area Rented (Note 2)	360.60	24,455.00	240,607.58	265,623.18
Market Rental Rate/Ft ² (Note 1)	\$ 9.36	\$ 7.28	8%	
Estimated TMI/Ft ²	\$ 17.65	\$ 8.54	Incl	
Estimated Investment			\$ 4,189,379.30	
Rent & TMI	9,740.37	386,991.62	335,180.34	\$ 731,882.34

2010 Annual Rent & TMI	Civic	JOC - Industrial	JOC Outdoor	Total
Area Rented (Note 2)	360.60	24,455.00	240,607.58	265,623.18
Market Rental Rate/Ft ² (Note 1)	\$ 9.55	\$ 7.43	8%	
Estimated TMI/Ft ²	\$ 18.00	\$ 8.71	Incl	
Estimated Investment			\$ 4,273,186.60	
Rent & TMI	9,935.18	394,731.85	341,853.35	\$ 746,519.98

Schedule Notes

- 1) Annual Inflation Increase Factor for 2008-10) 2%
- 2) Area provided by Power Stream and confirmed by B&F department. The above schedule is based on information provided to date. Rental space requirement adjustments should adhere to any processes indicated within the agreement. To ensure investing is current the City Finance Dept. should be notified.

General Notes:

- Power Stream is assessing the possibility of relocating outdoor requirements. Rent may not be required in 2009/2010
- Allocation of shared space is prorated based on % of rental space type and therefore rental space adjustments may change the ratio of space type impacting the area allocated to each type.

4/7/2006

3 year rental schedule

(A) - 1 of 1

**Joint Services Between the City & Power Stream
Civic Centre Building Space & Rent**

<u>Power Stream Occupied Office Space</u>	M2	Ft2 (Note 4)
Cashier	12.60	135.63
Total Designated Office Space	12.60	135.63
% of Total Civic Centre Area		0.2%

<u>Shared Office Area</u>		
Info/Security Area (Note 1)	5.40	58.13
1st Floor Entrance Area (Note 2)	15.5	166.85
Total Hydro Shared Area	20.90	224.97

Total Power Stream Area	33.50	360.60
Power Stream % of Civic Centre		0.4%
Total Civic Center		81,926.00

<u>Rent Valuation</u>	<u>Rate</u>	<u>Area</u>	<u>Amount</u>
Office Rent (Note 3)	\$ 9.18	360.60	\$ 3,310.31
TMI - Base (Note 3)	\$ 17.30	360.60	\$ 6,239.07
Total Rent 2008			\$ 9,549.38

Est. Total Rent 2009	\$ 9,740.37
Est. Total Rent 2010	\$ 9,935.18

Note 1

The Inquiry Counter, Security Info and Copy areas are shared 50/50 between Hydro & City, based on actual space utilized.

Note 2

Civic Centre common areas (cafeteria, entrance, etc.) are allocated based on Hydro space occupied in Civic Center space occupied

Note 3 (Rent & TMI)

Rates were provided by the City's Real Estate Department and are based on general estimates and surrounding market rates. Actual rates will vary depending on the location, logistics, building quality, etc. These figures are not to be construed as appraised rental values.

**Joint Services Between the City & Power Stream
Civic Centre Building Space & Rent**

<u>Rental Type</u>	<u>\$/Ft2</u>	
Corp Office - I.e. Civic Center/J.O.C.	\$ 9.00	Based on 2007 market rates
Industrial (High Office Component 40-60%)	\$ 7.00	Based on 2007 market rates
per Agreement - assume a 2% inflation factor each year after - for a 3 yr term.		
For the purpose of this model TMI per rented location will be based on the existing B&F costs prorated by area.		
See Occupancy Cost Schedule		

Note 4 - Conversion Factors	<u>M2</u>	<u>Ft2</u>	<u>Acre</u>	<u>Hectare</u>
			2.4711	1
		43560	1	
	4,046.86		1	
	10.7642	1		

**Joint Service Between the City Power Stream
J.O.C. Building Space & Rent**

Detailed Breakdown	M2	Ft2
Hydro Occupied Area (See Map)	2,271.90	24,455.00
Total J.O.C. Area	9,299.34	100,100.00
J.O.C. %	24%	24%

Rent Valuation

	Rate	Ft2	Amount
Industrial 40/60 split	\$ 7.14	24,455.00	\$ 174,808.70
Total Rent			\$ 174,808.70
TMI - (See Schedule for Rate Calc)	\$ 8.37	24,455.00	\$ 204,794.86
Total 2008 Rent & TMI			\$ 379,403.56
Est. Total Rent 2009 (note 1)			\$ 386,991.62
Est. Total Rent 2010 (note 1)			\$ 394,731.45

Note 1 (Rent)

Estimated rates for valuation purposes provided by Bosley Farr Associates LTD
These figures are not to be construed as appraised rental values.

Rental Type	\$/Ft2
Corp Office - i.e. Civic Center/J.O.C.	\$ 9.00 2007 rates
Industrial (High Office Component 40-60%)	\$ 7.00 2007 rates

2009 & 2010 estimated by adding 2% for inflation.

For the purpose of this model TMI per rented location will be based on the existing B&F costs prorated by area.
See Occupancy Cost Schedule

Note 2 - Outdoor Area Included in Rent

Typically rental rates applied to office/industrial space include a proportion of the outside area i.e. outside walkways, parking etc. Per Bosely Farr Associates the industry typically applies a double density factor. For example, 1000 Ft2 rented facility would include an additional 1000 ft2 outside for parking, sidewalks, and grass areas.

Power Stream Occupied Building Space	24,455.00
Allocated Outdoor Area, Included in Rent	24,455.00
Allocated Outdoor Area Converted to Acres	0.56

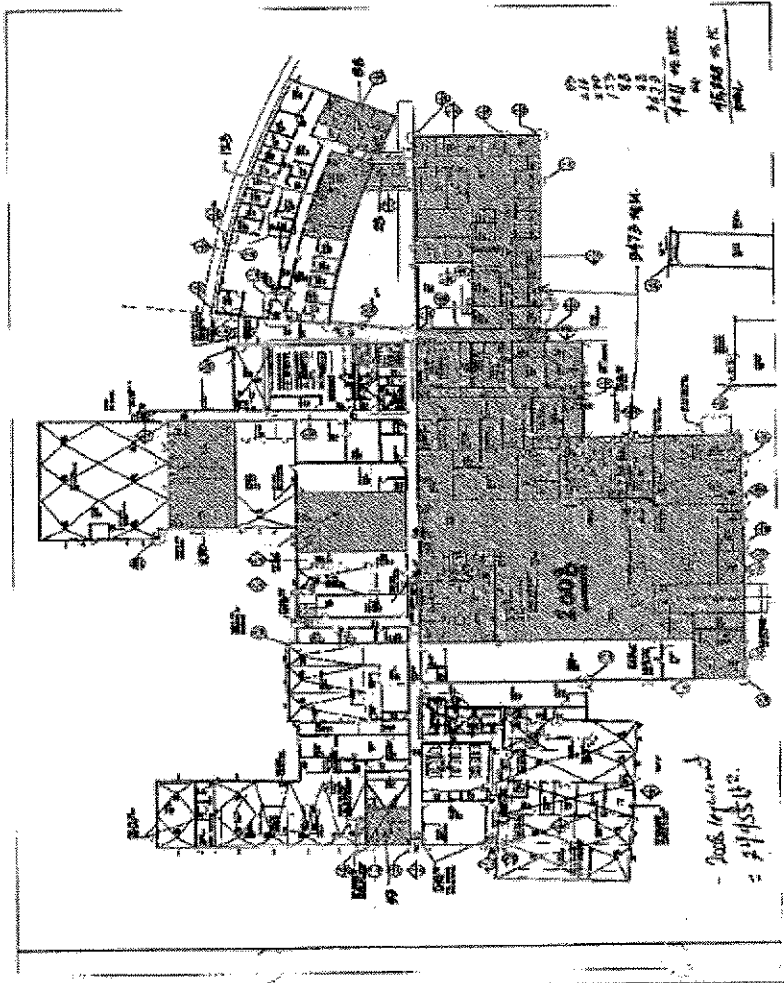
Note 3 - Conversion Factor	M2	Ft2	Acre	Hectare
	10.7642	1		
	4,046.86		1	
		43560	1	
			2.4711	1

Note 4

Area rented is relatively self contained - Limited shared common area.

**Joint Service Agreement between the City Power Stream
Facility Services Provided**

Provided by Power Stream - reviewed by Jeff Peyton/Angie Cloff (Reviewed again on April 7th, 2008.
(ONLY - YELLOW HIGHLIGHTED AREA



4/7/2008

Map of JOC occupied by Power Stream

(D) - 1 of 1

**Joint Services Between the City & Power Stream
J.O.C. Outdoor Area & Rent**

<u>Outdoor Area</u>	<u>M2</u>	<u>FT2</u>	<u>% of Area</u>	
Staff Parking - Paved/lighted	1,894.25	20,390.09	2.03%	Adjust 50%
Control Room Parking - Paved/lighted	50.00	538.21	0.05%	Adjust 50%
Total Staff Parking Area	1,944.25	20,928.30	2.09%	
Driveway/Utility Parking Paved	4,944.80	53,226.82	5.31%	
Hydro Gravel Lot (Poles)	7,682.30	82,693.81	8.25%	
Hydro Gravel Lot (Wire/Transformer)	4,881.80	50,395.83	5.03%	
Total Gravel Lot Area	12,564.10	133,089.65	13.28%	
Truck Port 16 Vehicles - 6M High	730.00	7,857.87	0.78%	
<u>Shared Area</u>				Footprint
East & West Entrance (Note 4)	2,299.50	24,752.31	2.47%	24.4%
Frontal Area (Note 4)	2,380.38	25,407.64	2.54%	
Total Shared	4,659.89	50,169.95	5.01%	
Total Occupied Acres	24,843.04	265,262.58	26.47%	
		6.09	26.47%	
<u>Total JOC Site Area (Excluding Police)</u>				
Site Area - 10.239 HA or 25.3 Acres	102,385.47	1,102,097.64		
Less:				
J.O.C. Building	9,299.34	100,100.00	9.08%	
Total J.O.C. Outdoor Area	93,086.12	1,001,997.64	90.92%	
Total JOC Acres		23.00		

**Joint Services Between the City & Power Stream
J.O.C. Outdoor Area & Rent**

Rent Valuation

	\$/Unit	Area Rented	Area Value	% of Area
General Land				
Staff Parking - Paved/Lighted		20,928.30		
Driveway/Utility Parking Paved		53,236.82		
**Shared Entrances **		24,752.31		
Total General F12		98,907.42		
Less - Portion Included in Rent (Note 2)		(24,455.00)		
Excess land		74,452.42		28%
Converted to Acres		1.71		

Land Value per Acre (Note 1)	\$550,000	74,452.42	\$	940,066.82
Cost of Improvements per ft2 (Note 1)	\$ 3.50	1.71		260,582.47
Total Investment			\$	1,200,639.30

Gravel Lots

Total Lot Area		133,089.65		50%
Converted to Acres		3.06		

Land Value per Acre (Note 1)	\$550,000	133,089.65	\$	1,680,424.81
Cost of Improvements per ft2 (Note 1)	\$ 2.50	3.06		332,724.11
Total Investment				2,013,148.93

Truck Port

Truck Port 16 Vehicles - 8M high		7,857.87		3%
Converted to Acres		0.18		

Land Value per Acre (Note 1)	\$550,000	7,857.87	\$	99,215.48
Cost of Improvements per ft2 (Note 1)	\$ 50.00	0.18		392,893.30
Total Investment				492,108.78

Front Grass Area

Power Stream Allocated Portion		25,407.64		10%
Converted to Acres		0.58		

Land Value per Acre (Note 1)	\$550,000	0.58	\$	320,803.59
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Annual Rental Value	Rate *	Area (F12)	Value	Annual Rent
Front Grass Area	8%	25,407.64	\$ 320,803.59	\$ 25,664.29
General	8%	74,452.42	\$ 1,200,639.30	\$ 96,051.14
Gravel	8%	133,089.65	\$ 2,013,148.93	\$ 161,051.91
Truck	8%	7,857.87	\$ 492,108.78	\$ 39,368.70
Total Investment	8%	240,807.58	\$ 4,026,700.60	\$ 322,136.05

2008 rent estimate (included 2% inflation)

\$ 328,578.77

2009 rent estimate (included 2% inflation)

\$ 335,150.34

2010 rent estimate (included 2% inflation)

\$ 341,883.35

* Real-Estate Rate of return on similar investments

**Joint Services Between the City & Power Stream
J.O.C. Outdoor Area & Rent**

Note 1 (Excess Land Rent)

Annual rental rates are typically defined by an expected return on property investment
Estimated rates for valuation purposes provided by Bosley Farr Associates LTD
These figures are not to be construed as appraised rental values.

Appropriate rate of return **8%**
Estimated excess land value/Acre **\$550,000**

Cost of land improvements

Type	\$/Ft2
General - Paved/Lighted	\$ 3.50
Gravel Lots - Fencing etc.	\$ 2.50
Truck Port - Construction	\$ 50.00

J.O.C. - Outdoor TMI - As Negotiated

Note 2 - Outdoor Area Included in Rent

Typically rental rates applied to office/industrial space include a proportion of the outside area i.e. outside walkways, parking etc. Per Bosley Farr Associates the industry typically applies a double density factor. For example, 1000 Ft2 rented facility would include an additional 1000 Ft2 outside for parking, sidewalks, and grass areas. Therefore, this portion is deducted from the total outdoor Power Stream area.

Allocated Outdoor Area, Included in Rent **24,455.00**
Allocated Outdoor Area Converted to Acres **0.56**

Note 3 - Conversion Factor	M2	Ft2	Acre	Hectare
			2.4711	1
		43560	1	
	4,046.86		1	
	1	10.7642		

Note 4 - Shared Area Allocation

Outdoor shared areas (entrances etc) are allocated based on Power Stream space occupied within the JOC building. This driver was selected for its simplicity.

Joint Service Agreement Between the City Power Stream
TMR Rate Calculation

90% of client occupying services provided are performed by external parties through either a tender, contract, or required service call. Based on this information the majority of the budget approximately represents the TMR. As a result, a rate of return is applied only to the administration and City labour components.

2007 (Budget)	
JOC B&P Costs	700,000
Outdoor Service Est. - Note 2	30,220
Prop & Utility fee - Note 2	2,192
Admin Allocation	90,156
Sub Total	822,568
Rate of Return - Note 4	8.224
	6,782.273
Rate (JOC 100,100) - Note 1	8.37
Est. Total Rate 2009 - Chris Collins	9.24
Est. Total Rate 2010 - Chris Collins	9.71
Chris Collins B&P Costs	
Outdoor Service Est. - Note 2	69,600
Prop & Utility fee - Note 2	1,497
Admin Allocation	160,444
Sub Total	1,431,678
Rate of Return on Admin - Note 4	16.780
Sub Total	1,417,493
Rate (Chris 41,925) - Note 1	17.50
Est. Total Rate 2009 - JOC	47.66
Est. Total Rate 2010 - JOC	48.00
Administration Center	
Gross B&P Department Costs	40,000,730
Administration Function	1,691,273
Admin Maint Up Factor	13.72%

Notes -

- 1) - The Building & Facility TMR rate includes operational, maintenance, insurance and general (project) projects implemented by various outside parties. maintenance items will be requested separately and administered above and beyond the above rate.
- 2) Outdoor maintenance & property insurance is based on estimates originally provided by Maple Fraser & Joe Charnick adjusted for general inflation.
- 3) The City is not obligated to pay property taxes and therefore this item is excluded.
- 4) 7.5% rate of return, using Power Stream's rate, only applies to Admin & Outdoor Services. Other costs are exempt from a rate of return application as they are primarily contract based and

4/7/2008

2007 TMR

Page 1 of 1

**Joint Service Agreement between the City Power Stream
Facility Services Provided**

Occupancy Services Provided	J.O.C.	Civic Centre	Tender	Rate	Contractor
Staff: Night Guard/Staff Office Staff/Resource Utilized	1.5 At Random	1/1 At Random		T/M Rate	
Security (24/7) Security Guard - (Fixed & Open Facilities)	24 hr 7 days a week	24 hours 7 days a week	Near Future	T/M	Group Risk Facility
Designated Security Cameras	8 of 18 designated	8 of 18 designated		T/M	Police
Security Camera Monitoring (24/7 J.O.C.)	Yes	Yes		T/M	City Staff
Security Camera Maintenance	Yes	Yes		T/M	City Staff
Calibration and Inventory Security Tapes	Daily	Daily		T/M	City Staff
Secure Core Access (Entrances, Stairwells, Card Readers)	Yes	Yes		NA	City Staff
Burglar Alarm	Yes	Yes		NA	City Staff
Safety					
Fire Alarm Monitoring	Yes	Yes		T/M	City Staff
Fire Alarm System Maintenance (Fixed Lights/Devices)	Monthly	Monthly		T/M	City Staff
Fire Code Inspection/Testing	Annually	Annually		T/M	City Staff
Fire Extinguisher & Safety Equipment Replacement	Min every 6 yrs	Min every 6 yrs		T/M	City Staff
Emergency Power Testing & Maintenance	Annually	Annually		T/M	City Staff
Environmental Testing (Air Quality, Lighting, Temperature)	As requested	As requested		T/M + Rate	City Staff
Temperature Control - Cold	Daily	Daily		T/M + Rate	City Staff
Water Air Filter Maintenance & Changes	Quarterly	Quarterly		T/M	City Staff
Customer Lighting Program (Timers, Maintenance, Maintenance)	Monthly	Monthly		T/M	City Staff
General Maintenance					
Cleaning Services General Areas (Cleaning, Mopping, Garbage Pick-Up, etc.)	Daily	Daily	Near Future	T/M	J & A Building Services
Cleaning Services Hydro Specific Areas (Cleaning, Mopping, Garbage Pick-Up, etc.)	Daily	Daily		Rate	J & A Building Services
Office Garbage Disposal & Bin Rental	Weekly	Weekly	Near Future	T/M	City Staff
Industrial Supply (Soap, Tissues, Paper Towels, Garbage Bags, etc.)	Daily	Daily		Rate	City Staff
Emergency Clean-Up (Flooding, Spills, Piped Rugs, etc.)	As requested	As requested		T/M + Rate	J & A Building Services
On-Call, Night Personnel	Monthly	Monthly		Rate	City Staff
Carpet Replacement (Stains, Odors and Wear/Tears)	Quarterly	Quarterly		Rate + T/M	J & A Building Services
Carpet Stain Cleaning	Quarterly	Quarterly		Rate + T/M	J & A Building Services
Window Cleaning (2x per year - industry standard is 1x)	Bi-Annual	Bi-Annual		T/M	ATM
Recessing/Lighting	Weekly	Weekly		T/M	City Staff
General Plaster/Low Ceiling	Annually	Annually		T/M	City Staff
Plaster/Ventilation Maintenance (Water, Foul, Clean, Tidy)	Weekly	Weekly		Rate	Interior Landscaping
Plant Replacement	As requested	Quarterly		Rate	Interior Landscaping
Auto & Handicap Car Maintenance	As requested	As requested		T/M	Armed Forces
Lock & Key Maintenance & Replacement	As requested	As requested		T/M + Rate	City Staff
Repair Work Areas (Appliances, Computers, Tools, etc.)	Weekly	Weekly		T/M + Rate	City Staff
Security Maintenance, Repair & Installation (Burglar Alarm, Fire Alarm, etc.)	As requested	As requested		Rate	City Staff
Storage Purchase, Installation, Replacement, Maintenance	As requested	As requested		Rate	City Staff
Pumbing Program	Monthly	Monthly		T/M + Rate	City Staff
Materials & Supplies (Lights, Batteries, Tapes, Band-Aids, Wipes, etc.)	Daily	Daily		T/M + Rate	City Staff
Maintenance Time, Small Tools, Rental Equipment	Daily	Daily		T/M + Rate	City Staff
Security Maintenance	Weekly	Weekly	Recent	T/M	City Staff
Roofing Maintenance - Roof/Leakage Inspection & Details Provided	Quarterly	Quarterly		T/M	City Staff
Recessed Maintenance	Monthly	NA		Rate	City Staff
Overhead Door Maintenance Program (2 of 2)	Quarterly	NA		Rate	City Staff
Power Cords Maintenance & Inspection (1 of 2)	Quarterly	NA		Rate	City Staff
Pump-Out Shop Clean Up	Quarterly	Quarterly		Rate	City Staff
Outdoor Maintenance					
Parking Lot Sweeping	As requested	As requested		T/M	Public Works
Wet/Dry Vacuum Sweeping	As requested	As requested		T/M	City Staff
Parking Lot - Mowing, Line Painting, etc.	As requested	As requested		T/M	Public Works
Pump-Out Catch Basins	As requested	As requested		T/M	Public Works
Gas Hydrant Maintenance	As requested	As requested		T/M	City Staff
Over Traffic and Other Obstacles	As requested	As requested		T/M	City Staff
Tree & Shrub Maintenance including Pruning, Weeding	Bi-Annual	Bi-Annual		T/M	City Staff
Tree & Shrub Pruning	Every 3 years	Every 3 years		T/M	City Staff
Tree & Shrub Replacement	As requested	As requested		T/M	City Staff
Power Washing	Spring	Spring		T/M	City Staff
Collection	Weekly	Weekly		T/M	City Staff
Washing & Fertilizing	Monthly	Monthly		T/M	City Staff
Fertilizer/Growth & Seeding	Weekly	Weekly		T/M	City Staff
Fertilization and Aeration	Yearly	Yearly		T/M	City Staff
Debris Pick-Up	Weekly	Weekly		T/M	City Staff
Single Outdoor Garbage Cans	Daily	Daily		T/M	City Staff
Brown Recycled Parking - Fine, Sticker Application, & Removal	20 Vials/Week	20 Vials/Week		T/M	City Staff
Brown Recycled Pathways - Sticker, Sticker, & Material Application	As requested	As requested		T/M	City Staff
Additional Services					
Telephone Line Charges	Max. \$17,500	Monthly		Rate	City Staff
Long Distance	Max. \$3,000	Monthly		Rate	City Staff
When Day Service Includes Materials and Equipment	Unlimited	Unlimited		Rate	City Staff
Designated TV Cable Outlet	Monthly	Monthly		Rate	City Staff
Video	Monthly	Monthly		Rate	City Staff
Cell	Monthly	Monthly		Rate	City Staff
General Administration (Management, Coordination, Invoice Processing & Payment)	Daily	Daily		Rate	City Staff
Moving Furniture, Hanging Pictures, & Cleaning Stairs	Weekly/As requested	Weekly/As requested		Rate	City Staff
Electrical Checks					
Transformer Station Maintenance (Leads, Wires, etc.)	As billed	As billed		Rate	City Staff
Wiring (Power & Post-Wiring Check-Up)	As billed	As billed	Recent	Rate	City Staff
Garbage Disposal (Woodchips Recycling)					

Note 1 - T/M Services

There is included in the T/M rate that are strategically provided services to ensure a minimum standard of service. It is the City's best interest to control these services to ensure a consistent level of service, protect the City's investment, and avoid potential litigation. Service requirements above the standard are the tenant's responsibility and can be provided by the City for a negotiated fee.

SCHEDULE B
INFORMATION TECHNOLOGY

11/12/2007

Joint Service Between the City Power Stream
Information Technology Services

1 of 1

Description of Service	Annual Price		
	2007	2008	2009
<u>JDE Enterprise Software License Maintenance</u>			
The City pays for the annual maintenance of the JDE software (which entitles us to software bug fixes, new releases, etc.). Power Stream is fully benefiting from this service and have access to an identical set of applications. Therefore, it is reasonable to charge for the software maintenance fee. In addition, for 2007 the City maintained the JDE Software licenses on their behalf.	\$ 75,000	\$ 32,500	\$ 33,150
<u>Network Link (WAN Services)</u>			
We have a mutual need to establish a network link between the Civic Centre and their new building. The City needs to provide Power Stream with access to our JDE/Payroll system for administrations. Power Stream needs a link to enable their cashing function to access Power Stream billing. So both organizations will be equally benefiting from the link. The link costs about \$750/month and it would be reasonable to share the cost on a 50/50 basis.	\$ 14,400	\$ 4,500	\$ 4,590
<u>Total Joint Service Amount</u>	\$ 89,400	\$ 37,000	\$ 37,740
			\$ 38,495

Note:

1) Any additional services outside the above requirement will need to be negotiated independently and charged outside the current service agreement.

2) Services adjusted by a 2% historical inflationary factor.

1.0 - Hydro ITS Services (07-10)

11/12/2007 10:57 AM

Schedule 1B Page: 1 of 1

SCHEDULE C
FUEL SERVICE CHARGES

Joint Services between Power Stream & the City
Fuel Service

The City purchases gas through the region's Coop program. After a brief discussion with Keith McLochi, supervisor of Supplies and Services @ ext 1669 (York Region), it was determined that Power Stream could obtain these rates independently. However, there are costs other than fuel charges associated with providing this service.

These costs are detailed below and will be prorated based on Power Stream fuel consumption.

- Power Stream has access to all 3 locations -- JOC, Civic, and Woodbridge Yard
- Allocation should be based on consumption -- Daniela can provide historical info
- Per Alvin the following activity times and costs are as follows:

Service	Note	Resources	Time	Percentage	2008 Cost	Est. 2009 Cost	Est. 2010 Cost
Polling	Note 1	Fleet Clerk	1hr/week	2.86%	\$ 4,000	4,120.43	4,244.05
Monthly report	Note 1	Fleet Clerk	3.5hr/month	2.50%	\$ 2,184	2,249.53	2,317.01
Maintenance call	Note 1	Fleet Clerk	1.5 hr/month	1.07%	\$ 936	964.08	993.01
Dipping	Note 1	Mechanic	5hr/week	14.29%	\$ 9,611	9,899.70	10,196.69
Admin/Supervision	Note 1	Supervisor		5.00%	\$ 5,858	6,034.11	6,215.13
Reports/Invoices	Note 1	Coordinator	3 hrs/Month	2.14%	\$ 1,567	1,613.53	1,661.93
Maintenance	Note 2	S-A-S Petroleum Tech Inc.			\$ 8,127	8,370.66	8,621.78
Fleet Dep't OH Est.	Note 3				\$ 8,146	8,389.87	8,641.56
Facility OH Est.	Note 4				\$ 5,022	5,172.66	5,327.84
Admin Total					\$ 45,451	\$ 46,815	\$ 48,219
Capital Cost	Note 5				\$ 16,950	\$ 16,950	\$ 16,950
					<u>\$ 62,401</u>	<u>\$ 63,765</u>	<u>\$ 65,169</u>
PowerStream Consumption % of Total (Administration / rental charge)	Note 6				\$ 10,176	\$ 10,399	\$ 10,628
Adjusted to include a Rate of Return (7.3%)					\$ 10,919	\$ 11,158	\$ 11,404
Annual Consumption (avg. 2004-2006)					200,906	200,906	200,906
Charge rate/Consumption					5.44%	5.55%	5.68%

Joint Services between Power Stream & the City

Note 1 - Budgeted salaries, including benefit costs *Fuel Service*

Fleet Mgmt. Supervisor	117,167
Fleet Clerk	73,105
Mechanic	56,301
Finance Assistance (Coordinator)	73,105

Note 2- Fuel Operating System (All maintenance and repair costs Acct: 6850001.7346)

Year	Actual	Budget
2006	4,230	8,000
2005	4,469	9,790
2004	11,276	6,000
2003	19,588	5,000
2002	5,260	5,000
2001	9,974	5,000
2000	2,091	10,000
Average	8,127	6,970

Note 3- Fleet Dep't O/H

5% of total departmental costs less labour component

Annual Departmental Budget	858,130
Less Labour component	695,220
	<u>162,910</u>

5% Allocation to fuel service 8,146

Note 4 - Facility Overhead

Building and facility costs are allocated to the building not the department. However, a portion of these costs (i.e. hydro, gas, maintenance etc) should be allocated. This cost is prorated by ft2 and allocated to the mailroom space occupied.

Facility OH Costs

Admin Area (20*30)	600
B&F Rate/Ft2	8.37 (See Occupancy Schedule)
Total cost	5,022

Note 5 - Capital Cost

Cost of installing a Gas Pump of Similar Size and Type. Per Fleet Supervisor, the cost to replace a gas dispenser is approximately \$5,000 plus \$1,050 for labour. Per Ted Lam, B&F, - The cost of installing a JOC pump & tank is approximately \$93,000 for equipment, + \$20,000 installation (\$113,000). The charge for City gas pump use is as follows:

Cost to install = \$113,000 with an estimated life of 20 years =

\$	5,650	Estimated amortization per Month
	<u>x 3</u>	
\$	16,950	3 Pumps (JOC, Civic, Yard)
	<u>x 13%</u>	
\$	2,764	Hydro's proportion based on historical consumption levels

Note 6 - PowerStream Consumption

PowerStream consumption is approximately 16.3% of the purchase volume/price (see schedule)

SCHEDULE D
PAYROLL SERVICES

Schedule D – Payroll Services
Payroll Services Provided by PowerStream to the City of Vaughan

Service Summary

PowerStream agrees to provide the following payroll services to the City of Vaughan for the years 2008 to 2010.

- Payroll administration
 - Payroll service for the COV employees.
 - Payroll to City Council for Region of York, Hydro Vaughan Holdings, Inc., Hydro Vaughan Energy Corp and Vaughan Holdings.
 - Retroactive payment processing for collective agreement ratified.
 - Payment of retiring allowances and severance packages including RRSP transfers.
 - Distribution of labour costs to the City's general ledger.
 - Special payments for cleaning allowances, long service pay, reclass pay, shift premiums, statutory holiday pay, etc.
 - Preparation of Record of Employment forms.
 - Processing of bank deposit changes and tax changes.
- Tax, benefits, and deductions administration
 - Weekly deductions and remittances for income tax, CPP, EI (4 CRA business numbers), support payments and garnishments, employee credit union, group RRSP, recreation memberships, Canada Savings Bonds, union dues (6 unions), group home and auto insurance, optional and spousal life insurance, United Way, employee computer purchase plan, clothing and uniform deductions.
 - Monthly remittances for Employer Health Tax (4 accounts), WSIB, OMERS (2 accounts).
 - Monthly and annual reporting for OMERS (2 accounts).
- Reporting
 - Monthly reporting to Statistics Canada, OMERS, Employer Health Tax, and WSIB.
 - Annual reporting for CRA (T4 and T4A's), OMERS, Employer Health Tax, WSIB, Public Sector Salary Disclosure Information, EI Premium Reduction Application.
 - Responding to HRDC requests for information regarding employment insurance claims.
 - Ad hoc reporting to department managers for budget monitoring.
 - Assist with City Financial Information Return.
- Other
 - Coordinate payroll audits by City auditors, CRA, Ministry of Finance, and WSIB.
 - Perform all acceptance testing and implement payroll computer systems changes including integration with other finance and HR systems.
 - Legislative interpretation and ensuring compliance with legislation.
 - Ensure compliance with City by-laws and six collective agreements.
 - OMERS administration (leave of absence buy-backs, termination reporting, etc.).

- o Liaise with external government organizations, banks, lawyers, etc.

Costing Methodology

PowerStream will charge the following prices for providing the payroll services listed above to the City of Vaughan:

- 2008: \$260,075
- 2009: \$266,091
- 2010: \$272,253

The prices listed above are cost based and are marked up by PowerStream's weighted average cost of capital of 7.3%. The following process was used to arrive at the costs.

1. Determined the direct costs associated with providing the service.
2. Determined the indirect costs associated with providing the service.
3. Determined what percentage of each budgetary account of the Payroll Department is attributable to providing the services.
4. Determined what costs are related only to providing the service and PowerStream wouldn't incur if it didn't provide the service
5. Adjusted all costs for 2% inflation for years 2009 and 2010
6. Summed all the costs related to providing the cashier services.
7. Adjusted the total cost for 7.3% in order to ensure a ROI of 7.3% as required by the ARC.
8. The adjusted amount is the price charged to the COV.

SCHEDULE E
CASHIER SERVICES

Schedule E - Cashier Services

Cashier Services Provided by PowerStream to the City of Vaughan

Service Summary

PowerStream agrees to provide the following cashier services to the City of Vaughan for the years 2008 to 2010.

- Opening and sorting night box for payments
- Processing payments for:
 - Taxes
 - Parking permits
 - Permits
 - Licensing
 - Dog Tags
- Delivery of items to the COV Mail Room
- Encoding all cheques in preparation for daily bank deposits
- Preparing Debit Machine, Visa/MasterCard
- Cash petty cash cheques
- Change/create float for events (Canada Day, Winder Fest, etc.)
- Prepare courier pick-up for Symcor payments
- Prepare for Brinks pick-up of daily cash deposits
- Prepare daily COV blotter
- Issue COV receipts
- Deliver completed/processed receipts to appropriate departments:
 - Building
 - Taxes
 - Bylaws
 - Licensing
 - Finance
- Process and accept ticket purchases for COV events/offers
 - Wonderland
 - Ontario Place
 - Golf tournaments
 - Other special events
- Respond to counter inquiries (location of departments, tax due dates, etc.)

Costing Methodology

PowerStream will charge the following prices for providing the cashier services listed above to the City of Vaughan:

- 2008: \$231,672
- 2009: \$235,965
- 2010: \$240,972

The prices listed above are cost based and are marked up by PowerStream's weighted average cost of capital of 7.3%. The following process was used to arrive at the costs.

1. Determined the direct costs associated with providing the service.
2. Determined the indirect costs associated with providing the service.
3. Determined what percentage of each budgetary account of the Payroll Department is attributable to providing the services.
4. Determined what costs are related only to providing the service and PowerStream wouldn't incur if it didn't provide the service
5. Adjusted all costs for 2% inflation for years 2009 and 2010
6. Summed all the costs related to providing the cashier services.
7. Adjusted the total cost for 7.3% in order to ensure a ROI of 7.3% as required by the ARC.
8. The adjusted amount is the price charged to the COV.

SCHEDULE F
WATER METER READING
AND BILLING

SCHEDULE F

SERVICE DESCRIPTION FOR WATER METER READING AND WATER BILLING AND REMITTANCE

GENERAL SERVICES PROVIDED

- **Billing of all water/sewer services.**

- As required, PowerStream to explain the methodology used to produce estimated readings and the adjustment/correction once regular reads are collected.
- PowerStream shall be responsible for the work quality of their meter readers.
- PowerStream shall be responsible for submitting any work orders relating to water meters to the City and/or the City's contractor in a timely manner.

Revenue Management & Collections

- Payment by customers of water accounts are in conjunction with electricity accounts and the amounts owing are treated as one (unless prevented by the Ontario Energy Board from doing so).
- Upon request, PowerStream shall investigate & provide account details to the City for specific customers where consumption varies from historic consumption levels.
- PowerStream shall provide billing & collection for Waterworks customer services as per the Town's approved user fee schedule for the following services:
 - Frozen meter replacement
 - Water turn on and/or turn off
 - Water meter removal, replacement and/or reinstallation
 - Water meter testing
- PowerStream shall provide written notices to the customer to have the ARB installed or repaired
- Coordination of appointments for repairs to water meter remote readout devices.

CUSTOMER ACCOUNT MANAGEMENT

- Resolution of Returned Mail
- Management of outgoing mail.

SERVICE LEVELS

- PowerStream will include with its regular bill mailings one (1) bill insert per mailing (containing Waterworks information supplied by the municipality) at no cost. Availability is at the discretion of PowerStream. There may be third party costs associated with bill inserts.

Telephone and Written Inquiry Handling

Response to telephone and written inquiries regarding water/sewer and electric will meet or exceed the mandated requirements as set out by the Ontario Energy Board:

- Telephone Response – 65% of calls answered within 30 seconds.
- Written Response to Inquiry – Within 10 business days, 80% of the time.

Annual statistics are reported to the Ontario Energy Board.

REPORTING STATISTICS

- Monthly Billing Summary - best efforts by the fifth working day and no later than the 10th calendar day.
- Monthly Active Account Count List of Water Accounts best efforts by the fifth working day (broken down between residential and commercial) and no later than the 10th calendar day.

Water Meter Serial Number Corrections

PowerStream shall update the water meter serial numbers in their database as provided by the City from time to time. These corrections should be merged into PowerStream's database within 20 business days of receipt.

Work Orders Statistics

- PowerStream shall provide the City monthly reports of outstanding work orders.

Customer Billing Data

PowerStream should provide customer billing data to the City in electronic format at the end of each billing month. The billing data should include the customers billed in the current month, separated into residential, general and industrial customers. Data is used in various Waterworks analyses.

PRICING

PowerStream will charge the following prices for providing the water meter reading, billing and payment & collection services listed above. An adjustment based on actual accounts will be made at the end of Q1 2009 and at the end of Q1 2010. Remittance is on the 10th day after month end.

- 2008: \$1,376,148
- 2009: \$1,414,367
- 2010: \$1,439,592
-

The prices listed above are cost based and are marked up by PowerStream's weighted average cost of capital of 7.3%. The following process was used to arrive at the costs. The meter reading service is obtained from a competitive bidding process.

1. Determined the direct costs associated with providing the service.
2. Determined the indirect costs associated with providing the service.
3. Determined what percentage of each budgetary account of the various Customer Services Departments are attributable to providing the services.
4. Determined what costs are related only to providing the service and PowerStream wouldn't incur if it didn't provide the service
5. Adjusted all costs for 2% inflation for years 2009 and 2010
6. Summed all the costs related to providing the water services.
7. Adjusted the total cost for 7.3% in order to ensure a ROI of 7.3% as required by the ARC.
8. The adjusted amount is the price charged to the City of Vaughan.

SCHEDULE G
PRICING SUMMARY

PRICING SUMMARY

City of Vaughan/PowerStream
Joint Services Pricing Summary
2008 to 2010

Services Provided by the City of Vaughan to PowerStream (In Dollars)

Schedule - Service	2008	2009	2010
A - Facilities	717,532	731,882	746,520
B - Information Technology	37,000	37,740	38,486
C - Fuel Service Charge	10,919	11,158	11,404

Services Provided by PowerStream to the City of Vaughan

Service	2008	2009	2010
D - Payroll	260,075	266,091	272,253
E - Cashier	231,671	235,965	240,972
F - Water Services	1,378,148	1,414,367	1,439,592





SHARED SERVICES AGREEMENT made in duplicate this 1st day of January, 2008

B E T W E E N:

POWERSTREAM INC.,
(hereinafter called "PowerStream")

- and -

THE CORPORATION OF THE TOWN OF MARKHAM,
(hereinafter called the "Town")

WHEREAS on June 1, 2004, Hydro Vaughan Distribution Inc., Markham Hydro Distribution Inc. ("Markham Hydro") and Richmond Hill Hydro Inc. amalgamated to become PowerStream (the "Amalgamation") in accordance with a merger agreement dated March 11, 2004, between The Corporation of the City of Vaughan, the Town, Hydro Vaughan Distribution Inc., Markham Energy Corporation, Markham Hydro Distribution Inc. and Richmond Hill Hydro Inc. (the "Merger Agreement");

AND WHEREAS prior to the Amalgamation, the Town and Markham Hydro entered into an agreement dated April 17, 1996, providing for Markham Hydro to implement and co-ordinate the billing and collection of water rates on behalf of the Town (the "Services Agreement");

AND WHEREAS pursuant to subsection 5.2(6)(b) of the Merger Agreement, all contracts listed on Schedule 4.2(34) of the Merger Agreement, which includes the Services Agreement, are to satisfy the requirements of the Affiliate Relationships Code for Electricity Distributors and Transmitters issued by the OEB and revised November 24, 2003 (the "Affiliate Relationships Code");

AND WHEREAS PowerStream and the Town wish to enter into an agreement to replace the Services Agreement in order for PowerStream to continue to provide certain services to the Town and the Town to provide certain facilities to PowerStream consistent with the Affiliate Relationships Code and for the consideration and on the terms and conditions hereinafter set forth;

NOW THEREFORE in consideration of the premises and the mutual covenants and agreements herein contained (the receipt and sufficiency of which is hereby acknowledged by each of the Parties hereto), the Parties hereto hereby covenant and agree as follows:

1. **INTERPRETATION**

- 1.1 **Definitions.** In this Agreement, including the recitals and Schedules hereto, the following words shall have the following meanings:

- 1.1.1 **"Affiliate"** means a body corporate which is deemed to be affiliated with another body corporate, by virtue of one of them being the subsidiary of the other or both being subsidiaries of the same body or each of them being controlled by the same person
- 1.1.2 **"Affiliate Relationships Code"** means that as described in the third recital of this Agreement;
- 1.1.3 **"Agreement"** means this agreement and all recitals and all Schedules attached hereto as the same may be amended, modified, supplemented, restated, or replaced from time to time;
- 1.1.4 **"Applicable Law"** means collectively, all applicable federal, provincial, territorial, municipal and foreign laws, statutes, ordinances, decrees, rules, regulations, by-laws, legally enforceable policies, codes, or guidelines, judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, directives, rulings or awards, and conditions of any grant of approval, permission, certification, consent, registration, authority or licence by any court, statutory body, self-regulatory authority, stock exchange or other Governmental Authority;
- 1.1.5 **"Binding Arbitration"** has the meaning ascribed thereto in Section 8.12;
- 1.1.6 **"Business Day"** means any day other than a day which is a Saturday, a Sunday or a statutory holiday or a civic holiday in Ontario;
- 1.1.7 **"Claims"** has the meaning ascribed thereto in Section 7.2;
- 1.1.8 **"Confidential Information"** means the confidential, secret or proprietary information of one Party (the **"Disclosing Party"**), including any of such information or data which (a) the Disclosing Party is obligated, under contract or law, to keep confidential and (b) is technical, financial or business in nature, and which has been or may hereafter be disclosed, directly or indirectly, to the other Party (the **"Recipient"**), either orally, in writing or in any other material form, or delivered to the Recipient;
- 1.1.9 **"Disclosing Party"** has the meaning ascribed thereto in Section 3.2;
- 1.1.10 **"Effective Date"** means the date of this Agreement – January 1, 2008;
- 1.1.11 **"Extension Notice"** has the meaning ascribed thereto in Section 4.2;
- 1.1.12 **"Facilities"** means the facilities provided by the Town to PowerStream as set out on Schedule A attached hereto;
- 1.1.13 **"Fees for the Facilities"** means collectively, the charges set out in the Lease, for the provision of the facilities by the Town to PowerStream as

set out on Schedule A attached hereto, plus all applicable taxes if any in respect thereof;

- 1.1.14 **"Fee Review Date"** has the meaning ascribed thereto in subsection 2.5.3;
- 1.1.15 **"Fees"** means collectively the Fees for the Facilities and the PowerStream Fees;
- 1.1.16 **"Governmental Authority"** means any court, arbitrator, administrative agency, commission, or governmental or regulatory official, department, agency, body, authority or instrumentality, whether foreign, federal, state, provincial, municipal, or local, having jurisdiction over the Parties;
- 1.1.17 **"In Writing"** or **"Written"** means a posted letter, a facsimile transmittal or an e-mail message;
- 1.1.18 **"Internal Dispute Resolution"** has the meaning ascribed thereto in subsection 8.12.1;
- 1.1.19 **"Lease"** means the lease dated the 5th day of May, 2003, between The Corporation of the Town of Markham and Markham Hydro Distribution Inc., as amended by the Memorandum of Understanding ("MOU") dated February 6, 2008, between PowerStream and the Town of Markham, copies of which are attached as Schedule "A", as amended in writing from time to time.
- 1.1.20 **"MFIPPA"** means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56.
- 1.1.21 **"Notice"** has the meaning ascribed thereto in Section 8.4;
- 1.1.22 **"Parties"** means the parties to this Agreement and **"Party"** shall mean any one of them.
- 1.1.23 **"PowerStream Fees"** means collectively, the charges for the provision of the Services as set out in Schedules A and B attached hereto, plus all applicable sales or service taxes in respect thereof,
- 1.1.24 **"Receiving Party"** has the meaning ascribed thereto in Section 3.2;
- 1.1.25 **"Requested Party"** has the meaning ascribed thereto in Section 8.1;
- 1.1.26 **"Services"** means the services purchased by the Town from PowerStream as set out on Schedules C and D attached hereto, or those services agreed to in writing between the Parties from time to time;
- 1.1.27 **"Term"** means the term of this Agreement commencing on the Effective Date to and including the Termination Date;

1.1.28 "Termination Date" has the meaning ascribed thereto in Section 4.1; and

1.1.29 "Unsatisfied Party" has the meaning ascribed thereto in Section 8.1.

- 1.2 **Headings.** The division of this Agreement into Sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "**this Agreement**", "**hereof**", "**hereunder**" and similar expressions refer to this Agreement and not to any particular Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to "**Sections**" are to sections and "**subsections**" are to subsections of this Agreement.
- 1.3 **Extended Meanings.** In this Agreement words importing the singular number only shall include the plural and vice versa, words importing any gender shall include all genders and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organisations, companies and corporations.
- 1.4 **Currency.** All references to currency herein are to lawful money of Canada unless otherwise specified.
- 1.5 **Schedules.** The following Schedules which are attached to this Agreement are incorporated by reference into this Agreement and are deemed to be a part of it:

Facilities provided by the Town to PowerStream:

Schedule A	-	Facilities
Schedule B	-	Cashiering

Services Purchased from PowerStream by the Town:

Schedule C	-	Water Meter Reading and Water Billing and Remittance
Schedule D	-	Streetlight Maintenance Services
Schedule E	-	Pricing Summary

2. SERVICES

2.1 Provision of Services

- 2.2 In accordance with the terms hereof, from and after the Effective Date to the Termination Date:

- 2.2.1 PowerStream agrees to provide and perform, at the request of the Town, the Services for the benefit of the Town or the Town's Affiliates, as the case may be; and
 - 2.2.2 the Town agrees to provide the Facilities for the benefit of PowerStream or PowerStream's Affiliates, as the case may be, as the successor in title to Markham Hydro Distribution Inc., the named Tenant in the Lease, in accordance with the provisions of the Lease, as amended in writing from time to time. PowerStream covenants and agrees to comply with the provisions of the Lease, as amended from time to time.
- 2.3 **Standard of Services.** Notwithstanding the provisions of section 7.1 herein, PowerStream shall provide the Services in a prudent business manner in accordance with the policies and service levels applicable to such Services as set out in Schedules C and D inclusively or such practices, policies and service levels as may be amended from time to time pursuant to Section 2.4 hereof. PowerStream shall provide the Services in accordance with all Applicable Laws. Notwithstanding the foregoing, "Applicable Laws" shall not include any by-laws, guidelines, directions, rules or standards of the Town introduced, proclaimed or implemented after the date hereof that affects the provision of the Services by PowerStream hereunder or the terms hereof.
- 2.4 **Amendments.** At any time during the term of this Agreement the Town may request changes in the Services that the Town receives or the practices, policies or performance levels applicable to the Services received by the Town by submitting such requests in writing to PowerStream. Within a reasonable time, but in any event not more than thirty (30) Business Days after receiving written notice of a request, PowerStream shall advise the Town whether the change requested will have an impact on the delivery of the Services, acting reasonably, and whether or not the request will have an impact on the associated Fees and whether PowerStream authorizes the implementation of the change under the revised terms specified by the Town or rejects the change proposed. Minor adjustments to existing reports shall not trigger fee increases or the imposition of one-time fees. Pending PowerStream's response, the Town shall continue to receive the applicable Services in accordance with the latest approved terms for the provision of such Services.
- 2.5 **Fees.**
- 2.5.1 PowerStream Fees rendered by PowerStream shall be those as set out on Schedules A and B, or as mutually agreed upon by the Parties in writing from time to time. For clarity purposes, the PowerStream Fees set out on Schedules A and B for years 2008 and 2010 have been agreed upon by the Parties and such fees have been paid by the Town in full and no outstanding amounts are payable in respect of those years as of the date of this Agreement.

- 2.5.2 Fees for the Facilities provided by the Town shall be those as set out on Schedule A, or as mutually agreed upon by the Parties in writing from time to time. For clarity purposes, the Fees for the Facilities set out on Schedule A for years 2008 and 2010 have been agreed upon by the Parties and such fees have been paid by PowerStream in full and no outstanding amounts are payable in respect of those years as of the date of this Agreement.
- 2.5.3 The Parties shall review the PowerStream Fees on an annual basis, prior to or on November 1st (the "Fee Review Date"). PowerStream shall base the PowerStream Fees for the following year on reasonable estimates. If the Parties are unable to agree on the adjustments to the PowerStream Fees within thirty (30) days of the Fee Review Date then the dispute shall be settled by the dispute resolution procedure in accordance with Section 8.12 herein.
- 2.5.4 Unless otherwise specified herein, PowerStream Fees shall be invoiced to the Town on a quarterly basis. The final invoice sent by PowerStream to the Town for Streetlight Maintenance Services only, shall adjust the annual Fees to reflect actual rather than budgeted costs.
- 2.5.5 Fees for the Facilities shall be invoiced to PowerStream in accordance with the Lease.
- 2.5.6 The Parties agree that payment of PowerStream Fees and other charges provided for hereunder will be due and payable in arrears not later than thirty (30) days after the date of invoice.
- 2.5.7 All PowerStream Fees and the Facilities shall comply with the requirements of the Affiliate Relationships Code.
- 2.6 **Co-operation by Town.** The Town shall co-operate with PowerStream to assist it in the provision of the Services. Without limiting the generality of the foregoing, the Town will:
 - 2.6.1 assign a minimum of two (2) representatives of the Town to co-ordinate with PowerStream the provision of the Services to the Town to deal with financial and operational issues respectively;
 - 2.6.2 prepare and provide to PowerStream, in a mutually acceptable format, all information reasonably required by PowerStream to permit proper delivery of the Services;
 - 2.6.3 establish, incorporate and maintain as part of the practices, policies and service levels applicable to such Services, in consultation with PowerStream, operating procedures to satisfy the Town's requirements for accuracy and auditing;

- 2.6.4 train, if necessary, personnel to assist in the provision of the required information to PowerStream to permit PowerStream to provide the Services; and
- 2.6.5 provide PowerStream assistance in collecting amounts owed to the Town. The Town may place any of such unpaid amounts on the collector's roll and enforce any other rights or remedies of the Town pursuant to section 398(2) of the *Municipal Act*, S. O. 2001, c. 25.

2.7 **Customer Information.**

- 2.7.1 PowerStream acknowledges that the ownership of all data in respect of water and sewer customers of the Town as such data relates to: water and sewer information, water and sewer consumption history and charges, fire protection information, customer information including name, billing address, legal description, service address, the final twelve (12) months of meter readings for each customer, outstanding water and sewer invoices, customer credit and collection information, and information with regard to work orders and asset management systems is and shall remain the property of the Town. PowerStream shall ensure that all of the data contemplated by this Section 2.7.1 is backed up in accordance with current PowerStream procedures and can be restored in 1-2 Business Days. The Town acknowledges that PowerStream can only back up data collected over a maximum period of 7 years.
- 2.7.2 The Town acknowledges that the ownership of data in respect of electricity customers of PowerStream or any of its Affiliates is and shall remain the property of PowerStream
- 2.7.3 Requests for data by the Town under Section 2.7.1 shall be made in writing, which may include electronic mail, by an individual designated by the Town to the attention of Bill Schmidt, Director of Information and Technology at PowerStream or such other individual designated by PowerStream. PowerStream shall within 1 Business Day advise the Town of the effort required to provide such data and such data shall be provided by PowerStream to the Town no later than 2 Business Days from the date the request is made by the Town or within such other, longer period of time as set out in the response from PowerStream.
- 2.7.4 Each Party, its employees and agents shall abide by all Applicable Laws, including the requirements of the Affiliate Relationships Code to the extent that it applies, related to the collection, use, retention, destruction and disclosure of any personal data which has been collected, used, retained, destroyed and disclosed in connection with the Services and the Facilities provided by such Party hereunder.

3. CONFIDENTIAL INFORMATION

- 3.1 **Confidentiality Obligation.** Commencing upon the Effective Date and continuing thereafter, each Party:
- 3.1.1 shall treat as confidential, keep in safe custody and not disclose to any third party any Confidential Information provided to it by the other Party; and
 - 3.1.2 use such Confidential Information only to the extent necessary to comply with this Agreement.
- 3.2 Each of the Parties shall establish and enforce procedures to protect Confidential Information disclosed to it by the other Party and shall restrict disclosure of such Confidential Information to only those employees, officers, agents and professional advisors of it and its Affiliates who need to know such information in connection with such Party's performance of this Agreement and in accordance with MFIPPA or any other applicable legislation. If a Party or its Affiliate is required by order of any Governmental Authority or Applicable Law or the rules of a stock exchange to disclose Confidential Information disclosed to it by the other Party, it shall promptly notify the other Party of the request for disclosure and shall cooperate with the other Party if that other Party opposes the request for disclosure and wishes to seek confidential treatment for such Confidential Information that is required to be disclosed. Each of the Parties acknowledges that no adequate remedy at law exists for a material breach or threatened material breach of this Section 3.2 the continuation of which unremedied will cause the other Party to suffer irreparable harm, and agrees that the other Party is entitled, in addition to other remedies which may be available at law or in equity, to immediate injunctive relief from any breach of this Section 3.2 and to specific performance of its rights. Promptly following the Termination Date, each Party agrees to use commercially reasonable efforts to deliver to the other Party (the "**Disclosing Party**") the Confidential Information (including all electronic and other copies thereof) disclosed to it (the "**Receiving Party**") by the Disclosing Party that the Receiving Party possesses or, upon request by a Disclosing Party, the Receiving Party shall confirm to the Disclosing Party that such Confidential Information has been destroyed in accordance with the Disclosing Party's instructions but, in no event if such Confidential Information is not returned to the Disclosing Party or destroyed in accordance with its instructions, such Confidential Information shall not be disclosed by the Receiving Party to any other person. Notwithstanding the forgoing, (i) PowerStream acknowledges that the Town and its Affiliates are subject to MFIPPA and PowerStream agrees to act in accordance with applicable provincial laws relating to privacy as they apply to the provision of the Services by PowerStream; and (ii) the Town acknowledges that PowerStream and its Affiliates are subject to the *Personal Information Protection and Electronic Documents Act* (Canada) and the Town agrees to act in accordance with applicable federal laws relating to privacy as they apply to the provision of the Facilities by the Town.

4. TERM.

- 4.1 **Term.** This Agreement will be effective as at the Effective Date and shall terminate three (3) years after the Effective Date, unless terminated earlier pursuant to Section 5.1 or extended by renewal of the term pursuant to Section 4.2 (the "Termination Date").
- 4.2 **Extension of Term.** If either Party gives notice in writing to the other Party by not later than sixty (60) days prior to the Termination Date, requesting the continuation of Services or the provision of the Facilities, as the case may be (an "Extension Notice") for an additional one year period, the Parties agree to negotiate, in good faith, in order to determine the terms and conditions on which such Services or the provision of the Facilities will be provided for a renewal term of one year or such longer period as is mutually agreed to. Notwithstanding anything in this Section 4.2 to the contrary, there shall be no obligation upon any Party having been provided with an Extension Notice to extend the term of this Agreement.

5. TERMINATION.

- 5.1 **Termination.** This Agreement, except for subsections 2.5.1, 2.5.2, 2.5.4 to 2.5.7 inclusive, and Sections 3.1, 3.2 and 7.1 to 7.5 inclusive, which shall survive the termination of this Agreement, shall terminate on the Termination Date and may be terminated prior thereto as follows:
- 5.1.1 by the mutual written consent of the Parties hereto;
 - 5.1.2 by either Party effective upon not less than twelve (12) months written notice to the other Party in respect of the Facilities or the Services, save and except for water services provided by PowerStream to the Town as set out on Schedule B hereto, which shall require PowerStream to provide the Town with eighteen (18) months written notice for termination of such service;
 - 5.1.3 by either Party effective upon not less than thirty (30) days written notice of any material breach or default of any provision or obligation of this Agreement by a Party, provided that such notice will not be effective to terminate this Agreement in the event the other Party cures the default during such notice period; and
 - 5.1.4 immediately, by either Party if the other Party becomes insolvent or is a party to any bankruptcy or receivership proceeding or any similar action affecting the affairs, property or solvency of such Party.
 - 5.1.5 **Termination Without Prejudice.** Any such termination of this Agreement shall be without prejudice to any other remedies which any Party may have against the other arising out of such breach of default and

shall not affect any rights or obligations of any Party arising under this Agreement prior to such termination.

6. FORCE MAJEURE.

- 6.1 **Force Majeure.** Performance of any obligation under this Agreement, other than the payment of Fees pursuant to Section 2.5.6, may be suspended by either Party without liability to the extent that an act of God, war, fire, earthquake, explosion, governmental expropriation, governmental law or regulation or any other occurrence beyond the reasonable control of such Party or labour disruption, strike or injunction (if such labour event is not caused by the bad faith or unreasonable conduct of such Party) delays, prevents, restricts, limits or renders commercially unfeasible the performance of any such obligation. The affected Party may invoke this provision by promptly notifying the other Party of the nature and estimated duration of the suspension. No Party hereto invoking this provision shall be liable for any failure to perform or any delay in the performance of its obligations in this Section 6.1.

7. DISCLAIMER, LIMIT OF LIABILITY AND INDEMNITY

- 7.1 **Disclaimer.** The Services provided by PowerStream are provided without any warranty whatsoever, other than as is set forth in Section 2.3 hereof. In particular, PowerStream makes no warranty as to the suitability of any of the Services for the specific purposes or needs of the Town. The warranty contained in this Agreement is the only warranty made by PowerStream with respect to the Services. PowerStream specifically excludes any other warranties or conditions express or implied, including, but not limited to, implied warranties or conditions of merchantability, merchantable or satisfactory quality or fitness for a particular purpose, and those arising from a course of dealing or usage of trade.
- 7.2 **Indemnity by the Town.** The Town agrees to indemnify, defend and hold harmless PowerStream from any and all claims, litigation, damages, losses, causes of action or expenses (including legal fees and disbursements) ("Claims") suffered or incurred by PowerStream from third parties or otherwise in connection with:
- 7.2.1.1 a breach of the Town's obligations under this Agreement insofar as PowerStream has complied with its obligations under this Agreement; and
- 7.2.1.2 any negligence on the part of the Town, its employees, contractors or agents in its provision of the Facilities.
- 7.3 Notwithstanding the provisions of Section 7.2, the Town shall be under no obligation to indemnify and save harmless PowerStream from any Claims resulting from the negligence or wilful misconduct of PowerStream in its provision of the Services hereunder.

- 7.4 **Indemnity by PowerStream.** PowerStream agrees to indemnify, defend and hold harmless the Town from any and all Claims suffered or incurred by the Town from third parties or otherwise in connection with:
- 7.4.1 a breach of PowerStream's obligations under this Agreement insofar as the Town has complied with its obligations under this Agreement; and
- 7.4.2 any negligence on the part of PowerStream, its employees, contractors or agents in its provision of the Services hereunder.
- 7.5 Notwithstanding the provisions of Section 7.4, PowerStream shall be under no obligation to indemnify and save harmless the Town from any Claims resulting from the negligence or wilful misconduct of the Town in its provision of the Facilities hereunder.
- 7.6 **Insurance.** PowerStream shall provide and keep in force a comprehensive liability insurance policy with coverage equal to or greater than Five Million Dollars (\$5,000,000) (Canadian) of sufficient coverage in respect of the Services performed by it under the terms of this Agreement. The Town shall provide and keep in force insurance in respect of the Facilities as required under the terms of this Agreement.

8. MISCELLANEOUS

- 8.1 **Audit.** PowerStream shall maintain accurate and complete books and records with respect to (i) the Services provided hereunder, (ii) the PowerStream Fees, and (iii) any information provided by the Town to PowerStream for the provision of the Services. The Town shall maintain accurate and complete books and records in respect to (i) the Facilities provided hereunder, (ii) the Fees for the Facilities, and (iii) any information provided by PowerStream for the provision of the Facilities. Each Party shall keep its accounts and records in accordance with Canadian generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants (or a successor institute) with respect to the computation of Fees and other charges payable pursuant to this Agreement. Each Party shall be entitled to audit such books and records in order to confirm compliance with the terms of this Agreement. Each Party shall make such books and records available to individuals designated by the other Party and provide any assistance it may reasonably require in order to conduct audits and inspections, provided that:

- 8.1.1 audits and inspections shall be made at reasonable times and on at least ten (10) Business Days prior notice; and
- 8.1.2 audits of Fees shall be made not later than twenty four (24) months after such Fees have been paid by a Party to the other Party.

Each Party agrees to provide the other Party with reasonable facilities for such audits and inspections and copies of documents, where necessary, appropriate and

permitted by law. If a Party is not satisfied with the information provided (the "Unsatisfied Party"), the Unsatisfied Party may retain, at its own expense, an independent auditor, to review the books and records referred to above. The Party requested to provide additional information (the "Requested Party") may refuse to disclose to the Unsatisfied Party or its agents any information that the Requested Party is prevented from disclosing as a result of a confidentiality obligation to another person provided that the Requested Party shall use commercially reasonable efforts to obtain consents to permit disclosure of such information if such information is reasonably required in order to conduct an audit and inspection by the Requesting Party under this Section 8.1 and the Requesting Party or its agents has requested access to such information. Each of the Parties agree that any third party conducting an audit or inspection shall be subject to the confidentiality provisions of Sections 3.1 and 3.2 and may be required by the Requested Party to enter into a confidentiality and non-disclosure agreement in form and substance reasonably acceptable to the Requested Party and each of the Parties agree that should an independent auditor be deemed by the Requested Party to be a competitor of the Requested Party, the Parties shall mutually agree to the review and audit procedures prior to such review and audit.

- 8.2 **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the Province of Ontario and the laws of Canada applicable therein.
- 8.3 **Successors.** This Agreement will enure to the benefit of and be binding on the respective successors and assigns of each of the Parties.
- 8.4 **Time of Essence.** Time shall be of the essence of this Agreement
- 8.5 **Notices.** Unless otherwise expressly provided herein, any notice, consent or other communication (a "Notice") given pursuant to or in connection with this Agreement shall be in writing and shall be sufficiently given to the person to whom it is addressed if transmitted by facsimile, delivered in person to or for such person at the address of such person indicated below or at such other address as such person shall have provided in writing to the other Party in accordance with this provision. Any Notice provided in accordance with this provision shall be deemed to have been sufficiently given or made on the date on which it was so transmitted by facsimile or delivered provided that if such day is not a Business Day or delivery occurs after normal business hours of the recipient, the Notice shall be deemed given or made on the Business Day following transmission or delivery, as the case may be.

To PowerStream:

PowerStream Inc.
161 Cityview Boulevard
Vaughan, Ontario
L4H 0A9

Attention: Dennis Nolan
Executive Vice President, Corporate Services and Secretary

Fax: (905) 532-4616

E-Mail: dennis.nolan@powerstream.ca

To the Town:

The Corporation of the Town of Markham
Anthony Roman Centre
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

For Financial matters or matters relating to the Facilities:

Attention: Barbara Cribbitt
Treasurer

Fax: (905) 479-7769

E-Mail: bcribbet@markham.ca

For Operational issues:

Attention: Steven Andrews
Director of Asset Management

Fax: (905) 479-7766

E-Mail: sandrews@markham.ca

or to such other address as such Party shall have notified to the other Party hereto. Any communication so addressed and delivered shall be deemed to have been sufficiently given or made on the date on which it was received.

- 8.6 **Entire Agreement.** This Agreement, together with the recitals and the Schedules attached hereto, constitutes the entire agreement between the Parties hereto with regard to the subject matter hereof and supersedes and cancels all previous negotiations, agreements, commitments and writings in respect of the subject matter hereof. This Agreement may not be modified or amended in any respect except by written instrument signed by the Parties hereto.
- 8.7 **Waiver.** The failure of any Party to this Agreement at any time to require performance by the other Party of any provision hereof shall in no way affect the full right to require such performance at any time thereafter of any other provision

hereof and no waiver by any Party hereof of any breach of condition, covenant or agreement shall constitute a waiver except in respect of the particular breach giving rise to such waiver. Any such waiver shall be effective only if made in writing by the Party entitled to waive the provision.

- 8.8 **Independent Contractor.** By virtue of this Agreement, no Party hereto constitutes any other Party hereto as its agent, partner, joint venturer, franchisee or legal representative and no Party has express or implied authority to bind any other Party hereto in any manner whatsoever. Unless otherwise contemplated in the Services or the Facilities or approved in writing by the other Party, no Party hereto will assume or create any obligation or responsibility whatsoever, express or implied, on behalf of or in the name of that other Party.
- 8.9 **Assignment.** This Agreement and the privileges herein granted shall not be assigned by either Party except with the prior written consent of the other, such consent not to be unreasonably withheld. Notwithstanding the foregoing, either party or its permitted assignee may, as security only, assign, transfer, pledge, grant a security interest in or otherwise dispose of its rights and interests under this Agreement to a trustee or lending institution, including such an assignment, transfer or other disposition upon or pursuant to the exercise of remedies by such trustee or lending institution.
- 8.10 **Further Assurances.** Each of the Parties hereto from time to time at the request and expense of the other Party hereto and without further consideration, will execute and deliver such other instruments of transfer, conveyance and assignment and take such further action as such other Party may require to more effectively complete any matter provided for herein.
- 8.11 **Severability.** Any covenant or provision hereof determined to be void or unenforceable in whole or in part will be deemed not to affect or impair the validity or enforceability of any other covenant or provision hereof and the covenants and provisions hereof are declared to be separate and distinct.
- 8.12 **Arbitration.**
- 8.12.1 In the event of any dispute or claim between the Parties, arising out of, or relating to, in any way connected with this Agreement or its interpretation or the fulfilment of the obligations of the Parties hereunder (a "**Dispute**"), such Dispute shall be referred internally by either Party by written notification to Dennis Nolan, Executive Vice President, Corporate Services and Secretary at PowerStream and John Livey, Chief Administrative Officer at the Town for resolution (the "**Internal Dispute Resolution**"). If the Dispute is not resolved within 60 Business Days of a Dispute being referred to the Internal Dispute Resolution then such Dispute shall be settled by binding arbitration ("**Binding Arbitration**"). Binding Arbitration shall be conducted in accordance with the *Arbitration Act, 1991* (Ontario), as amended from time to time.

- 8.12.2 It shall be a condition precedent to the right of a Party to this Agreement to submit a Dispute to Binding Arbitration that such Party shall have given written notice of its intention to do so to the other Party to this Agreement and such written notice shall state the particulars of such Dispute. Within ten (10) Business Days of such notice being provided, the Parties to this Agreement shall mutually appoint a single arbitrator to determine the Dispute. The arbitrator shall fix a time, which shall not be later than ten (10) Business Days following his or her appointment, and a place in Vaughan, Ontario, for the purpose of hearing the evidence and representations of the Parties. Each of the Parties shall co-operate with the arbitrator and shall provide him or her with all information in their possession or under their control necessary or relevant to the matter being determined. Within ten (10) Business Days after the conclusion of the arbitration hearing, or such longer period as may be required by the arbitrator appointed under this subsection 8.12.2, the arbitrator shall make an award and reduce the same to writing and deliver one copy of his or her decision to each Party.
- 8.12.3 If the Parties fail to agree on an arbitrator within the time period specified in subsection 8.12.2 above, then, unless the parties otherwise agree, the Dispute shall be submitted to ADR Chambers for final resolution, which submission shall be by written notice which may be provided by either Party to ADR Chambers and to the other Party to this Agreement. Within five (5) Business Days following the date of any notice given by either Party pursuant to this subsection 8.12.3, an arbitrator shall be selected by random draw made by ADR Chambers. The arbitrator so selected shall perform both the settlement conference and the trial in the matter. The Parties further agree to be bound by the rules of the ADR Chambers in force from time to time.
- 8.12.4 There shall be no right of appeal from the arbitrator's award except in accordance with the *Arbitration Act, 1991* (Ontario). The Parties agree that a judgment upon the arbitration award may be entered in any court in Canada or any court having jurisdiction, or that an application may be made to such court for judicial recognition of the award and/or an order of enforcement thereof. The Parties agree that the arbitrator selected pursuant to subsections 8.12.2 and 8.12.3 shall determine costs (legal fees and disbursements) as part of the arbitrator's award.
- 8.13 **Counterparts.** This Agreement may be executed by the Parties hereto in several counterparts, each of which when so executed and delivered shall be an original and all such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto on the date first above written.

POWERSTREAM INC.

Per: _____

Name: Dennis Nolan

Title: EVP Corporate Services & Secretary

**THE CORPORATION OF THE TOWN OF
MARKHAM**

Per: _____

Name: Frank Scarpitti

Title: Mayor

Per: _____

Name: Sheila Birrell

Title: Clerk

Schedule A
Facilities
Terms

Explanation of Pricing

1. As a result of PowerStream vacating the building at 8100 Warden Avenue in February 2008, the Town of Markham will charge 1/12 of the annual rent of \$605,000 or **\$50,166.67**.
2. \$5.00 per square foot (annualized) will be charged for the month of February only for the garage/warehouse. This payment would be: 48,586 square feet x \$5.00 per square foot divided by 12 = **\$20,244.17**
3. Total of items 1 & 2 is **\$70,410.84**
4. Outdoor storage space will be charged at a rate of \$10,000 per month from September 1, 2008 to December 2009.
5. 2008 cost is therefore **\$110,410.84**
6. 2009 cost is therefore **\$120,000.00**

Memorandum of Understanding
Between:
PowerStream Inc. and
The Corporation of the Town of
Markham
Dated February 6, 2008

MEMORANDUM OF UNDERSTANDING dated this 6th day of February, 2008

Between:

POWERSTREAM INC. ("PowerStream")

And

THE CORPORATION OF THE TOWN OF MARKHAM ("Markham")

WHEREAS Markham owns the property known municipally as 8100 Warden Avenue, Markham, Ontario ("8100");

AND WHEREAS PowerStream Inc., as the successor at law to Markham Hydro Distribution Inc. has leased a portion of 8100 pursuant to a lease dated May 5, 2003, (the "Existing Lease") for a term of ten years, from January 1, 2003 to December 31, 2012;

AND WHEREAS Markham received an expression of interest from a third party in June, 2007, to lease the part of the premises at 8100 that PowerStream rents from Markham, being the garage and warehouse areas (the "Premises");

AND WHEREAS Markham desires vacant occupancy of the Premises by March 1, 2008 in order to accommodate the third party expression of interest;

AND WHEREAS PowerStream will benefit from the occupancy of the Premises by the third party by increases in revenues from the sale of electricity;

AND WHEREAS PowerStream is willing to vacate the Premises on mutually acceptable terms by March 1, 2008;

AND WHEREAS PowerStream has secured a temporary facility for its operational use, located at 550 Cochrane Drive, Markham (the "Temporary Facility");

NOW THEREFORE, the parties agree that the following principles will form the basis of the agreement between them to facilitate PowerStream vacating the Premises prior to March 1, 2008.

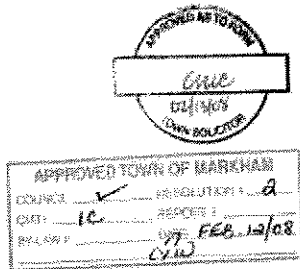
1. PowerStream will relocate all of its plant, equipment, personnel, vehicles and any other movable from the Premises by March 1, 2008.
2. PowerStream shall be permitted to continue to occupy the 93,540 square feet of the outside storage yard including existing outbuildings and roadways, the rear storage lot (presently used for scrap hydro poles, PowerStream trailers, TransPower storage yard, and other

construction materials) together referred to as the "Outside Storage Facilities", until December 31, 2009, or as mutually agreed. No rent shall be payable for use of the Outside Storage Facilities for the period up to and including August 31, 2008. For the period from September 1, 2008 to December 31, 2009, PowerStream shall pay Markham rent of \$10,000 per month, for as long as it occupies the Outside Storage Facilities. In the event that PowerStream's use of the Outside Storage Facilities is substantially reduced during this time, the rent will be adjusted on a proportional basis.

3. Markham shall reimburse PowerStream, upon delivery of documentation satisfactory to the Town's Treasurer, for 50% of the costs PowerStream incurs to move its plant, equipment, personnel, vehicles and other movables from 8100 to the Temporary Facility and 2800 Rutherford Road, Vaughan, Ontario. Markham covenants and agrees that the moving costs eligible for reimbursement are:
 - a. Material moving costs (e.g. office furniture and contents, racking, warehouse inventory).
 - b. Fleet moving costs (e.g. hoists, tools, air equipment).
 - c. Renovations for Lines, Stores, Metering and Locates staff offices/facilities.
 - d. Locker room equipment and installation.
 - e. Temporary truck covering at Temporary Facility (erection and removal).
 - f. Installation of security fencing at Temporary Facility (erection and removal).
 - g. IT, telephone, security system and electrical installation (e.g. block heaters, power to temporary buildings) at Temporary Facility and 2800 Rutherford Road, Vaughan, Ontario.
 - h. Costs associated with all required permits and site applications for Temporary Facility.
 - i. Other direct costs incurred by PowerStream as a result of relocation to the Temporary Facility and 2800 Rutherford Road, Vaughan, Ontario.
4. The Parties covenant and agree to execute such further documents as are within their power and necessary in order to give full effect to the provisions of this Agreement, including, without limitation, an amendment to the Existing Lease to delete the Premises from the demised lands and to amend and delete the rent payable in respect of the outside storage area.
5. Except as set out herein, all other provisions of the Existing Lease shall remain the same.

6. Markham and PowerStream acknowledge and agree that this Memorandum of Understanding sets out the principles of the agreement between them for the early termination of the existing 8100 lease in respect of the Premises

IN WITNESS WHEREOF this Memorandum of Understanding has been executed by the parties as of the 6th day of Feb., 2008.



THE CORPORATION OF THE TOWN
OF MARKHAM

Per: Frank Scarpitti
Frank Scarpitti, Mayor

Per: Sheila Birrell
Sheila Birrell, Clerk

POWERSTREAM INC.

Per: Dennis Nolan
Name: Dennis Nolan
Title: EVP Corporate Services &
Secretary

Per: John Glicksman
Name: John Glicksman
Title: EVP CFO

Schedule B
Cashier Service at Markham Town Hall

Cashiering Service at Markham Town Hall

Terms and Pricing

This Schedule conveys the service expectations and service deliverables for the Town of Markham in its delivery of cashiering services to PowerStream beginning on January 24, 2008 and lasting for the three-year term of this contract. All of the service expectations listed below will be accompanied by full training and refresher training provided by PowerStream as required including documentation.

Service Expectations

On a daily basis, Town Cashiering staff will be required to do the following:

- Open for business at 8:30 am
- Log into PowerStream's Customer Information System
- Accept payments related to PowerStream by cheque, by cash, by Interac from customers and occasionally from Field Customer Service Representatives who have collected
- Input payments into PowerStream's cash management system
- Set aside any post-dated cheques and forward them to PowerStream's Head Office
- Day-End, Month-End and Year-End routines as determined by PowerStream will be broadcast to Town Cashiering staff
- Town staff or customer to advise PowerStream at the Head Office location in Vaughan of payments made by customers who are at risk of disconnection or deserve to be reconnected once they have made their payments
- Prepare courier packages which could include customer related enquiries
- Prepare deposits for armoured courier pickup at a generally specified time each day during regular working hours
- Answer basic questions related to customer bills on account history and basic industry issues; any payment arrangements will be made through PowerStream's Head Office
- Close the cashier service at 4:30 pm
- Balance payment batches as often as necessary throughout the day
- For any shortages, the Town of Markham will be responsible for the cost of the outage amount (Note: this section must stay for accountability reasons – same as currently in place at the City of Vaughan where PowerStream is the service provider to the City)
- Print each posted and balanced payment batch summary and copies of the matching deposit slips and send via courier to PowerStream's Head Office
- Any correspondence, PAP / EPP applications, name change information, copies of deposit slips, new service applications and the like should be couriered to PowerStream's Head Office at the next opportunity
- Prepare daily separate armoured courier pickup acknowledgements for both cash and cheques

Deliverables

PowerStream will provide:

- Deposit bags
- Deposit slips
- Armoured Courier service
- Staff training and documentation
- Any customer related information or rate schedules
- Point of sale Interac Machines including ribbons, rolls plus PowerStream receipts
- 3 'Paid' Stamps
- 3 'Entered' stamps
- One 'Deposit to the Credit of PowerStream Inc.' Stamp

The Town of Markham will provide:

- Staff to handle the payment and customer service expectations of customers and the Town of Markham
- Cooperation to determine the source and correction of any errors
- A telephone programmed to call toll-free to PowerStream's Head Office for priority support on issues of importance especially including issues requiring customers to be reconnected or to avoid being disconnected
- A display space for a few customer related information pieces plus water and electricity rate schedules
- A local printer to be able to print screens for enquiring customers and for batch backup.

Annual Pricing

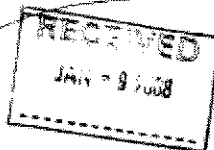
- One time 2008 set up cost of \$600.00
- 2009 annual cost \$55,627
- Add 3% for wage/increases/inflation for cost of \$57,296 in 2009 and \$59,015 in 2010.



Financial Services
Corporate Services Commission

January 3, 2008

John Glickson
EVP and Chief Financial Officer
Powerstream Inc.
2800 Rutherford Road
Vaughan, Ontario
L4K 2N9



WAYNE

PLEASE

FILE

Dear Mr. Glickson:

RE: Cashiering Functions at Markham Civic Centre – PowerStream Payments

This letter sets out estimated costs relating to the Town's cashiering function for taking PowerStream payments in the new year at the Civic centre. The costs itemized herein are our best estimate as of this date. There may be other incidentals later. The Town will be reimbursed by PowerStream for the costs in Section 1 (below).

Section 1

- Cashier salary: \$53,419 (2007 rates). This cost would escalate annually based on the union contract;
- Three point of sale Interac machine telephone lines: \$200 set up cost plus monthly operating costs for the four lines (including the Hot line below) \$184 or \$2,208 per year. The machine costs are not borne by the Town;
- "Hot line" telephone and line to PowerStream Contact Centre for customer inquiries: \$400. Any necessary signage will be in addition to this amount.
- PowerStream logo to be affixed to Payment Drop Box at Civic Centre. Any associated costs to implement this.

The set up costs total \$600. Annual operating costs estimated at \$55,627 which include salary and monthly telephone costs (plus associated taxes). Note that salary costs would increase based on union contracts. In addition, telephone lines will also likely be subject to change.

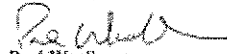
In addition, but not limited to, the following items that PowerStream will provide and fund:

Section 2

- All IT costs for connection to and from the Town and PowerStream's computer applications and hook-ups, including desk top applications, on-going support, licenses, etc;
- Courier costs and deposit bags and deposit slips;
- Cashiering stamps – 3 "Paid" stamps, 3 "Entered" stamps and one "Deposit to the Credit of PowerStream Inc";
- Any literature relating to PowerStream that is to be displayed at Civic centre;
- Staff training and documentation;
- Other incidental or associated costs with the implementation of this transfer of functions.

The final costs will be provided to you following completion of the installation of the machines and the implementation of the Town accepting PowerStream customer payments. Recurring costs will be provided on an annual basis.

Yours truly,



Paul Westlebens
Director, Taxation

Schedule C
Water Meter Reading and Billing

SCHEDULE C

SERVICE DESCRIPTION FOR WATER METER READING AND WATER BILLING AND REMITTANCE

GENERAL SERVICES PROVIDED

- **Billing of all water/sewer services.**
 - As required, PowerStream to explain the methodology used to produce estimated readings and the adjustment/correction once regular reads are collected.
 - PowerStream shall be responsible for the work quality of their meter readers.
 - PowerStream shall be responsible for submitting any work orders relating to water meters to the Town and/or Town's contractor in a timely manner.

Revenue Management & Collections

- Payment by customers of water accounts are in conjunction with electricity accounts and the amounts owing are treated as one (unless prevented by the Ontario Energy Board from doing so).
- Upon request, PowerStream shall investigate & provide account details to the Town for specific customers where consumption varies from historic consumption levels.
- PowerStream shall provide billing & collection for Waterworks customer services as per the Town's approved user fee schedule for the following services:
 - Frozen meter replacement
 - Water turn on and/or turn off
 - Water meter removal, replacement and/or reinstallation
 - Water meter testing
- PowerStream shall provide written notices to the customer to have the ARB installed or repaired
- Coordination of appointments for repairs to water meter remote readout devices.

CUSTOMER ACCOUNT MANAGEMENT

- Resolution of Returned Mail

- Management of outgoing mail.

SERVICE LEVELS

- PowerStream will include with its regular bill mailings one (1) bill insert per mailing (containing Waterworks information supplied by the municipality) at no cost. Availability is at the discretion of PowerStream. There may be third party costs associated with bill inserts.

Telephone and Written Inquiry Handling

Response to telephone and written inquiries regarding water/sewer and electric will meet or exceed the mandated requirements as set out by the Ontario Energy Board:

- Telephone Response – 65% of calls answered within 30 seconds.
- Written Response to Inquiry – Within 10 business days, 80% of the time.

Annual statistics are reported to the Ontario Energy Board.

REPORTING STATISTICS

- Monthly Billing Summary - best efforts by the fifth working day and no later than the 10th calendar day.
- Monthly Active Account Count List of Water Accounts best efforts by the fifth working day (broken down between residential and commercial) and no later than the 10th calendar day.

Water Meter Serial Number Corrections

PowerStream shall update the water meter serial numbers in their database as provided by the Town from time to time. These corrections should be merged into PowerStream's database within 20 business days of receipt.

Work Orders Statistics

- PowerStream shall provide the Town monthly reports of outstanding work orders.

Customer Billing Data

PowerStream should provide customer billing data to the Town in electronic format at the end of each billing month. The billing data should include the customers billed in the current month,

separated into residential, general and industrial customers. Data is used in various Waterworks analyses.

PRICING

PowerStream will charge the following prices for providing the water meter reading, billing and payment & collection services listed above. An adjustment based on actual accounts will be made at the end of Q1 2009 and at the end of Q1 2010. Remittance is on the 10th day after month end.

- 2008: \$1,363,337
- 2009: \$1,401,200
- 2010: \$1,426,190

The prices listed above are cost based and are marked up by PowerStream's weighted average cost of capital of 7.3%. The following process was used to arrive at the costs. The meter reading service is obtained from a competitive bidding process.

1. Determined the direct costs associated with providing the service.
2. Determined the indirect costs associated with providing the service.
3. Determined what percentage of each budgetary account of the various Customer Services Departments are attributable to providing the services.
4. Determined what costs are related only to providing the service and PowerStream wouldn't incur if it didn't provide the service
5. Adjusted all costs for 2% inflation for years 2009 and 2010
6. Summed all the costs related to providing the water services.
7. Adjusted the total cost for 7.3% in order to ensure a ROI of 7.3% as required by the ARC.
8. The adjusted amount is the price charged to the Town of Markham.

Schedule D
Street Lighting Services

Schedule D
Street Lighting Services Provided by PowerStream Inc. to the Town of Markham

Service Summary

Street lighting service for the Town of Markham is broken into five categories:

1. Street Light Maintenance
 - a. Replacement of defective fixtures
 - b. Burned out lights and ballasts
 - c. Damaged poles and hardware
2. Re-lamping Program
 - a. Replace all street light bulbs in 1 selected area out of the 5 geographic based on a 5 year area rotation cycle.
3. Accident (e.x. hit by car) and Vandalism
 - a. Repair of broken street light poles.
 - b. Repair of damaged hardware.
 - c. Excludes damages where costs are recovered through insurance or by direct payment.
4. Street Light Faults
 - a. Locating cable failure.
 - b. Contracting labour to expose underground cable.
 - c. Repairing damaged or faulty cables.
5. Pole Replacement (not a service covered in the street light contract).
 - a. Replace aging poles as a part of the maintenance process.

Costing Methodology

PowerStream will obtain pricing through a competitive bidding process in order to get the lowest cost for Town of Markham. PowerStream will manage the contract to ensure that service standards and quality are maintained. A fee of 20% will be charged.

Pricing is estimated at \$800,000 per year (including contract management fee) based on the experience in 2006 and 2007 and a Forecast for 2008. The actual costs will be charged.

Work Order	Costs		
	2006A	2007A	2008F
Maintenance	482,371	585,117	381,430
Faults/Burn Offs	115,655	173,736	210,000
Accidents/Vandalism	89,310	82,461	65,000
Relamping	118,499	22,427	143,982
Total	785,835	863,742	800,412

Jan. 11, 2008

Mr. Alan Laver
Town Of Markham
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

Subject: 2008 Streetlight Maintenance & Re-lamping

Dear Alan

At your request, we are providing the proposed costing for streetlight maintenance and re-lamping program for the Town of Markham. It should be quoted for the amount noted **plus GST**.

In 2007 PowerStream Inc. selected a new service provider to perform street lighting services in the Town of Markham. This was effective Sept 15, 2007 and is scheduled to remain in effect until June 30, 2009.

The estimated cost for 2008 general streetlight maintenance (excluding re-lamping and hit & runs) is **\$381,430.00**. This value includes the approximate number of lights repaired annually using a **unit price per fixture(*)** and others that are repaired at a time & material cost and ESA annual fees.

The estimated cost to re-lamp 4,000 units is **\$143,982.80** plus GST.

Costs associated with accident (hit & run) and vandalism is estimated to be **\$65,000.00** for 2008.

The repair costs for underground streetlight fault has been averaged over the past several years and for 2008 it is estimated at **\$210,000.00**. This estimate will vary with the actual number of faults that may occur.

If you find this information to be acceptable please forward 2 separate Purchase Orders to cover the following expenses.

1)	General Street light maintenance	- \$381,430.00
	+ hit and runs	- \$ 65,000.00
	+ U/G faults	- \$210,000.00
	Total	\$656,430.00
	Plus GST	

2)	Re-lamping program	Total	- \$143,982.80
		Plus GST	

Please note that the costs provided in this letter are estimates only and actual costs will depend on the actual events that occur in 2008 and other pending considerations.

This estimate does not include additional costs associated with planned replacement of equipment.

Should you have any question regarding this information please contact me at 905-417-6984.

Yours truly,

Leo McGinty
Manager, Lines Maintenance
PowerStream

() Previous to the recent contract award, repair costs were charged at a time and material rate. There is an estimated savings of 11% using a per unit rate.*

Schedule E
Pricing Summary

PRICING SUMMARY

Town of Markham/PowerStream
Joint Services Pricing Summary
2008 to 2010

Services Provided by Town of Markham to PowerStream (In Dollars)

Schedule - Service	2008	2009	2010
A - Facilities	110,411	120,000	nil
B - Cashiering	56,227	57,296	59,015

Services Provided by PowerStream to Town of Markham

Service	2008	2009	2010
C - Water Services	1,363,337	1,401,200	1,426,190
D - Street Lighting	800,000	800,000	800,000

Strictly Private & Confidential

BUSINESS CASE FOR
THE FORMATION OF A
MERGED UTILITY WITH
BARRIE HYDRO AND POWERSTREAM

September 17, 2007

1. Executive Summary

1.1 Introduction

This document, referred to as the “Business Case” reports on discussions being carried out by the management teams of Barrie Hydro and PowerStream to form a new merged utility.

The new merged utility (referred to as “MergeCo”) would be formed by the most cost and tax efficient method of combining the employees, assets, liabilities, rights and obligations of the LDCs to MergeCo.

1.2 Objectives of the Business Case

The Business Case outlines the case for the merger of the participating LDCs, and explains the benefits which will be created for all stakeholders – shareholders, customers and employees.

It has been prepared for two purposes:

- To determine the financial benefits for participating Municipalities, for the purpose of obtaining in-principle municipal approval in October to merge the participating LDCs to form MergeCo; and
- To provide information and analysis to encourage other municipalities and LDCs from York Region – Simcoe County and Hydro One Brampton to participate in the formation of MergeCo. New participants would be able to participate in the formation of MergeCo on similar terms as the founding parties up to October 2008.

1.3 Merger Benefits

The principal benefits resulting from the formation of MergeCo are expected to be:

- **Value Creation** – The value of MergeCo would be greater than for the current standalone operations of the participating LDCs which increases Shareholder value. This is achieved over time from operational and financial efficiencies, and enhanced business growth opportunities.
- **Customer Benefits** – MergeCo with its combined customers, assets and skill bases, will be able to offer an enhanced range of products and services to its customers with the same high level of reliability and safety. It will allow MergeCo to meet the challenges posed by the regulatory environment and help mitigate rate increases.
- **Financial Benefits** – The annual net operations, maintenance and administrative (OM&A) cost savings which are directly attributable to the formation of MergeCo are \$4.49M which represents savings of approximately 9% of the combined 2006 OM&A. The annual capital savings which are realized through the formation of MergeCo are approximately \$1.0M.

1.4 Proposal Status and Timetable

Task	Due Date
Approval from Councils to proceed / Execution of Letter of Intent	October 2007
Completion of due diligence reviews	December 2007
Settlement of Shareholders' Agreement	January 2008
Completion of implementation planning	March 2008
Final approval of Councils of Participating Municipalities	March 2008
Application for and receipt of regulatory approvals	April 2008
Transfer to MergeCo	September 2008
Anticipated Effective Date	September 2008

Timing is becoming a critical issue for the municipalities and LDCs considering merger proposals. In particular, if MergeCo is formed before October 17, 2008 there will be no transfer tax liability, whereas if the merger is formed after October 17, 2008, participating municipalities will be liable for up to 33% transfer tax when transferring the undertakings of their LDCs to MergeCo.

2. Background and Future Shape of Ontario Electricity Industry

2.1 Background

The Ontario Energy Board (OEB) has openly stated that it wants to regulate fewer LDCs, and has introduced a system of incentive-regulation that will financially penalize LDCs who cannot achieve efficiencies.

The Province – under both governing Progressive Conservative and Liberal administrations – has repeatedly employed tax policy changes to pressure consolidation of LDCs. The Minister of Energy is on record suggesting the need for further consolidation to improve industry efficiencies and LDC capability to implement the government agenda. In October 2006 the Province introduced the 3rd “public-sector only” transfer tax holiday in less than 10 years. (Under a ‘public-sector only’ holiday, publicly-owned electric utilities are exempt from paying the 33% transfer tax when they sell or combine electricity assets to other publicly-owned electricity utilities). The first holiday (2000-2001) reduced the number of LDCs from over 300 to 98. The second holiday (2003-2005) reduced the numbers further, to the current 92. The latest third tax holiday expires October 17th 2008.

Private sector interests (e.g. Fortis, Borealis) lobbied hard for the third tax holiday to be extended beyond Merger & Acquisition transactions involving only public-sector owned corporations. While their recent lobby was unsuccessful, it is widely believed that the Province – should sufficient consolidation not occur during the current third “public-only” holiday – will in future extend the tax holiday to transactions involving the private sector. Thus, it is also believed that this third holiday is the “last chance” for publicly-owned corporations to consolidate without facing private sector competition.

In summary, there will be continued pressure from the Government and the regulators to reduce the number of LDCs in Ontario.

2.2 The Strategic Challenge Now Facing LDCs and Shareholders

The OEB's Incentive Regulation requires LDCs to meet efficiency-improvement targets each and every year, in order to merely maintain the delivery of current dividends to shareholders, LDCs must achieve these efficiency targets. To deliver increased dividends to shareholders, LDCs must surpass these efficiency-improvement targets.

Further, the existing costs facing LDCs are increasing, as a result of increased program delivery responsibilities (e.g. conservation and demand management, smart metering) and regulatory compliance obligations. In order to maintain reasonable rates and improve financial performance in the face of this increasing cost burden, LDCs must seek out and achieve efficiencies and spread costs over a larger customer base.

Significant efficiency improvements can only be achieved by LDCs who pursue and achieve economies of scale. In order to realize economies of scale, LDCs must consolidate, and grow their asset and customer bases. LDCs who do not consolidate will have extremely limited ability through which to realize significant economies of scale.

In summary, the financial interests of shareholders will likely be adversely impacted if consolidation is not pursued.

2.3 The Business Case for Merging LDCs

While the shareholders of some LDCs may elect to divest in order to generate an immediate and significant cashflow, the shareholders of larger LDCs will want to continue to derive financial

benefit from their utility investment over time, and at increased levels from today wherever possible.

Mergers, when executed strategically, reward and protect shareholders. There are several reasons for this. First, at minimum, mergers create the prospect of increased dividends through the same size of investment as held previously (i.e. a \$100M holding within a \$500M corporation should return, due to efficiencies through economies of scale within a larger LDC, higher dividends to the shareholder). Further, capital markets reward larger LDCs with a lower cost of capital than smaller LDCs, effectively increasing a shareholder's return on capital. As well, legal protections are easily crafted to prevent key governance decisions without approval (e.g. dividend policy, capital structure, capital allocations, etc.).

In addition to protecting and rewarding shareholders, mergers also create the prospect of improved service levels for consumers, and reduced upward pressure on rates. This generates economic competitiveness advantages for shareholder communities relative to communities served by LDCs with higher rates.

Given these rewards, protections and benefits, merger proposals also tend to be more easily justified and defended at political levels than other transaction options (e.g. divestiture).

The following sections of this Business Case describe a merger proposal of Barrie Hydro and PowerStream and assess the financial benefits for municipal shareholders.

3. Preliminary Merger Proposal

3.1 Introduction

This Business Case is the product of a joint effort of the management teams of:

- Barrie Hydro
- PowerStream

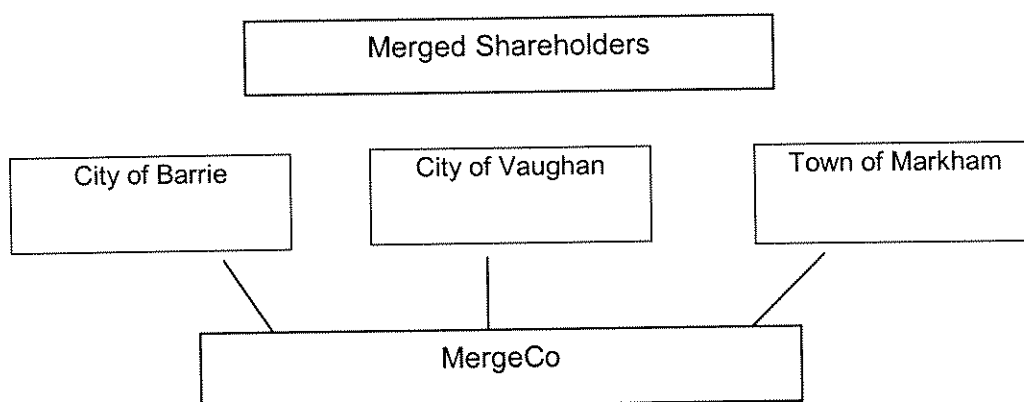
In total, these utilities will serve approximately 300,000 customers.

Local Distribution Company	Customers	2006 Rate Base*
Barrie Hydro	68,000	\$ 136.9 M
PowerStream	232,000	\$ 468.2 M
Total	300,000	\$ 605.1 M

* quoted in \$ Millions

This section provides a profile of MergeCo by describing its proposed guiding principles and setting out its expected corporate structure.

3.2 Corporate Structure of MergeCo



3.3 Governance

Based on the draft Letter of Intent between Vaughan Holdings Inc, Markham Enterprises Corporation, and the City of Barrie, the determination of Shareholdings of MergeCo could potentially be in the range of 45-47% for the Vaughan Holdings Inc., 33-35% for the Markham Enterprises Corporation and 18-22% for the City of Barrie. The Board of Directors of the MergeCo will be comprised of potentially 13 directors. Vaughan Holdings Inc. would be entitled to nominate 6 directors, Markham Enterprise Corporation would be entitled to nominate 4 directors and the City of Barrie would be entitled to nominate 3 directors. The final number of directors would need to be determined.

The independent valuator will finalize and confirm the percentage ownership based on their independent analysis.

3.4 Proposed Guiding Principles of MergeCo

The following table sets out the proposed philosophy for MergeCo. The guiding principles were derived from the Joint Statement of Process, Principles and Conditions that was developed and agreed to between the Management Teams of Barrie Hydro and PowerStream. The Joint Statement of Process, Principles and Conditions were used to create the draft Letter of Intent. The benefit of setting out the philosophy is two-fold:

- it provides the framework for the formation and expected future operation of MergeCo; and
- it forms criteria against which potential participants can assess the merits of participating in MergeCo.

MergeCo Guiding Principles
▪ The operations of MergeCo will be conducted in an efficient, effective and commercially prudent manner ▪ The Corporation will be a for profit corporation, with the primary objective of providing maximum rate of return and maximizing shareholder value ▪ The Corporation will have an operational excellence philosophy in terms of distribution system performance, reliability, customer service and employee and community safety ▪ The Corporation will establish a financial and capital structure consistent with industry standards and sound financial principles in order to provide the Shareholders with regular cash flows ▪ The Corporation will treat all employees in an equitable manner ▪ With due consideration to the maximization of financial returns and shareholder value, the Corporation will be a facilitator for economic development in the communities it serves and play a significant role in the communities in which it operates ▪ The Corporation is committed to pursuing growth opportunities in its core electricity distribution business on a prudent and profitable basis, where it enhances the Corporation's strategic position, economies of scope and scale exist, and adds value to the Corporation and its shareholders. The initial focus of that growth will be through consolidation within York Region - Simcoe County and Hydro One Brampton. ▪ The ability of either Shareholder to inject equity capital to finance LDC acquisitions shall not prevent such transactions from occurring (assuming acquisitions meet minimum threshold financial and strategic tests) ▪ MergeCo will have a corporate governance structure that will maintain commercial viability while ensuring fair representation for each shareholder, including minority shareholders ▪ Shareholdings in the new entity to be based on an independent fair market valuation of both companies. The valuations are to be based upon examination of the actual rate base, forecasts for future growth, and capital expenditures, etc.

MergeCo Guiding Principles (cont'd)

- MergeCo will harmonize, within Ontario Energy Board guidelines, its distribution rates for customers
- Dispute resolution mechanism will be established

3.5 Future Growth Strategy of MergeCo

The vision of future growth for MergeCo would be initially York Region - Simcoe County LDCs and Hydro One Brampton for potential mergers. It is believed this will better position MergeCo for future mergers or acquisitions whether voluntary or imposed by provincial legislation.

4. Financial Analysis

4.1 Introduction

This section reports on the financial analysis undertaken by Barrie Hydro and PowerStream staff. The valuation analysis involved construction of a detailed financial model for each of the Participating LDCs for the purpose of defining a standalone value for each LDC. This was followed by further analysis to identify the value created by the merger. This additional value is achieved over time from operational and financial efficiencies. The results of the valuations and the increase in value and dividends will be detailed in individual reports by Barrie Hydro and PowerStream.

4.2 Estimated Stand-Alone Valuation

Management has prepared conservative estimated Stand-Alone valuations for the purpose of providing a benchmark to assess the incremental value of the formation of MergeCo. These are based on the financial projections that each LDC could reasonably expect to achieve in the absence of the formation of MergeCo. As such, the results reflect each LDCs business plans for the future.

The results of the Stand-Alone valuations are summarized below.

LDC	Stand-Alone Valuation (\$000's)
Barrie Hydro	\$132,194
PowerStream	\$567,763

Major features to note are:

- The valuations assume that the LDCs transfer the capital assets of their LDCs into the corporate entity, and other assets (e.g. cash) and liabilities;
- The valuations are based on assumptions provided by each LDC in MergeCo assumptions;
- The valuation methodology used is discounted cash flow, which is generally regarded as the most appropriate and analytically correct methodology to value utility businesses;
- The valuations do not identify any property and capital assets which the participating shareholders may choose to retain rather than contribute to the corporate entity. This will be subject to further detailed analysis by each of the Participating LDCs;
- The independent valuations will be updated closer to the effective date of transfer to account for changes in working capital and capital assets; and
- The terminal values have been prepared using simplified assumptions and ultimately the independent valuator will determine the value of both entities.

4.3 MergeCo Valuation

A valuation of MergeCo has been prepared based upon the standalone projections for each of the Participating LDCs, but it also takes into account the incremental costs and benefits arising from the formation of MergeCo.

The value created from the merger comes from two main sources:

- Productivity Initiatives and Operational Cost Savings; and
- Financial Benefits

The management teams of Barrie Hydro and PowerStream have adopted a conservative approach in valuing these benefits. The forecasts are based on the premise that they are the minimum benefits which MergeCo would be able to achieve.

4.3.1 Productivity Initiatives and Operating and Capital Cost Savings

The net operating cost savings which are directly attributable to the formation of MergeCo and are included in the valuation are summarized in the following table:

	Annual OM&A Savings (\$000's)
Administrative Cost Savings	\$750
Operation & Maintenance Cost Savings	\$110
Labour	\$3,346
IT Savings	\$291
Total	\$4,497

	Annual Capital Savings (\$000's)
Capital Cost Savings	\$1,000

The annual OM&A Savings of \$4.5M represent a cost savings of approximately 9% of the combined 2006 OM&A.

The preliminary analysis indicates that over twenty years the net present value of the OM&A and capital savings are approximately \$40 million.

4.3.2 Financial Benefits

MergeCo financing capacity would increase with the merger. This increased capacity for leverage is implicit in the performance based regulation regime, where the OEB assumes, in its allowable rates of return, that large LDCs can support a larger proportion of debt.

Further, as a larger entity, MergeCo would be able to borrow on more favourable terms and conditions (e.g. the interest rate for debt is likely to be lower).

With Conservation and Demand Management (CDM) and the reduced revenues that it will cause from the volumetric decrease, a larger entity will have the resources to accurately track and apply for the lost Revenue Adjustment Mechanism (LRAM) whereas smaller LDCs will find it difficult and costly to do so with the same accuracy. The non Ontario Power Authority (OPA) programs have the potential to lose revenue which can not be recovered through the LRAM. MergeCo will be able to absorb this reduction in revenue easier.

The valuation does not take into account other financial benefits and business growth opportunities which are likely to increase the additional value generated by the merger, such as the ability to refinance debt as the business grows, which would allow for lower borrowing rates.

4.3.3 Increased Dividends

A key benefit of MergeCo is the increased ability to service both debt and equity. For illustrative purposes, it is assumed that when a municipality transfers its utility assets into the corporate entity, it will receive appropriate consideration in the form of shares and debt securities (i.e. debt will be internally financed). The cash flows generated by the utility after payments in lieu of taxes ("PILS") will be distributed to the municipality in the form of interest to service its debt and dividends to service its shares of MergeCo.

5 Summary of Key Stakeholder Benefits

5.1 Introduction

In addition to the value which will be created by the merger of Barrie Hydro and PowerStream to form MergeCo, it is believed that upon the formation of MergeCo that additional benefits and synergies will accrue to the shareholders. Benefits to the shareholders increase with an increase in the value of the organization and the reputation of the organization within the communities in which it operates.

The formation of the MergeCo is expected to achieve synergies and cost savings through the merger without compromising the distribution system's safety or reliability. It is believed that cost savings will be achieved through both labour and non-labour savings. A key objective of the merger is to achieve economies of scale and synergies that will not only benefit the customer, but will also provide additional value to the shareholders.

5.2 Customers

It is expected that customers will see the following benefits from the creation of MergeCo:

- Reduction in upwards pressure on distribution rates without compromising the distribution system's reliability or safety.
- Improved customer service through a widening of the range of new products and services.
- PowerStream has been a leader in instituting CDM initiatives such as: Funding of Wind Turbine, School Education Programs, SMART metering, and Watt Reader Library Programs. Barrie Hydro has participated in many of the same programs. Cost effective CDM programs provide benefits through reduced electricity consumption. It is expected that MergeCo will continue to be a leader in instituting CDM initiatives and SMART meters but will not have to duplicate programs thereby improving CDM initiatives.
- Implementation of best practice processes and systems from the participants in customer management functions (i.e., call center and billing) which will improve the quality of service.

5.3 Employees

The current employees of the Participating LDCs are important stakeholders. The successful implementation of MergeCo will be dependent on their continued motivation, skill and commitment to customer service and technical excellence. Once the implementation process is complete, MergeCo will deliver benefits for its employees. These benefits include:

- Product and service innovation will create opportunities for employees to develop new skills and to be at the leading edge of technology and service innovation.
- Employees will have access to increased training and development opportunities across the organization and the ability to further enhance their skills through corporate-wide training programs.
- MergeCo will have the flexibility and critical mass to be a leader in the Ontario electricity industry. Its employees will have confidence about the future of the company and its growth potential.

- MergeCo will continue to create, implement, and promote a desired corporate culture for its employees.

5.4 Additional Opportunities and Benefits

The following are additional areas where MergeCo is expected to grow and improve upon its formation:

- Management will establish the MergeCo as one of the distribution industry leaders through strategic and planned involvement in regulatory, business, and political issues critical to the operation of the electricity distribution sector (e.g. EDA and OEA Board of Directors, IESO Stakeholder Advisory Committee).
- MergeCo will be a constructive market participant such that the OEB and government will look to the MergeCo to be proactive in its ability to respond to pertinent issues. The MergeCo will bring forward issues and will recommend solutions to the OEB and the government to consider.
- MergeCo will be able to provide the appropriate infrastructure that is needed to support land development and related growth strategies for its shareholders.
- MergeCo will continue to support the economic development in the community through premium service offerings to businesses.
- Provide a stable source of electricity to current and prospective employers in the area who rely on a stable and secure electricity source.
- Provide high quality customer service.
- The MergeCo will be involved in community sponsorships, local team sponsorships, and will instill a sense of pride in its employees.
- Continue to develop and enhance supplier relationships to achieve economies of scale savings and further pursue industry leading delivery times.

5.5 Rate Harmonization

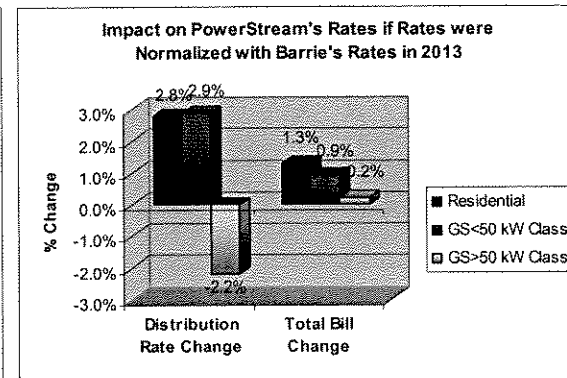
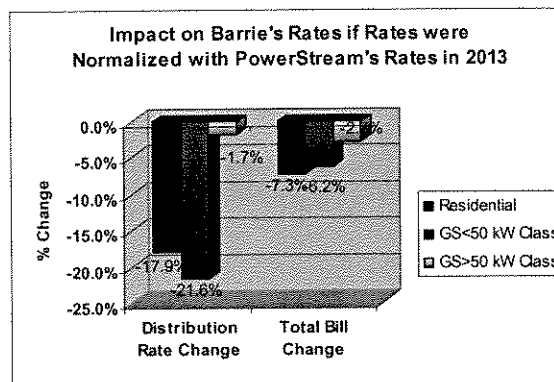
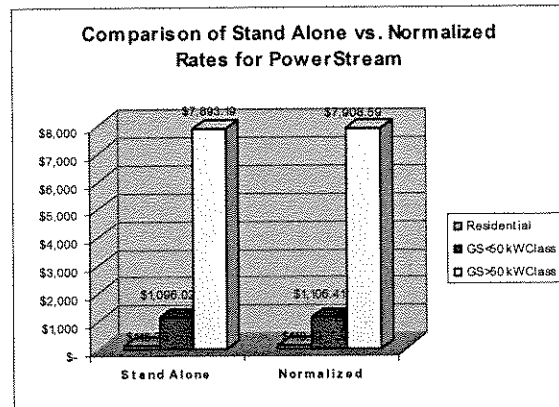
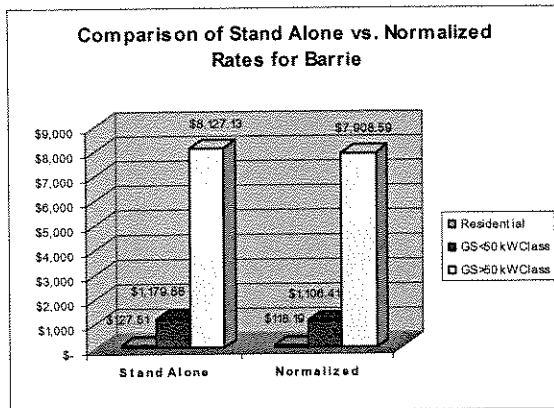
It is proposed that the merged company would begin harmonizing its distribution rates in 2011, phasing the harmonization over three years. The final harmonized 2013 rates would reflect the impact of the merger savings (\$4.5M annually), which will partially offset the impact of planned Barrie rate increases due to the expected rebasing in 2008.

Harmonization of Barrie Hydro's and PowerStream's rates would result in a slight increase in the distribution rates for current PowerStream's residential customers (2.8% increase in distribution charge and 1.3% increase in typical monthly bill) and will not significantly affect small and large commercial customers (less than 1% increase in total bill).

Harmonization of Barrie Hydro's and PowerStream's rates would significantly benefit Barrie Hydro residential customers (18% reduction in distribution charge and 7.3% reduction in typical total monthly bill) and would benefit both small commercial customers (6.2% decrease in typical total monthly bill) and large commercial customers (2.7% decrease in typical total monthly bill). These impacts support the business case.

The analysis takes into account expected rate increases in Barrie's and PowerStream's rate applications for 2008 and 2009.

Rate Harmonization



Notes and Assumptions

- Compared PowerStream and Barrie's estimated 2013 rates with estimated 2013 harmonized rates.
- It is assumed that rate harmonization starts in 2011 and phased in over three years.
- Transmission rates and loss factors are harmonized based on forecasted 2011 load and consumption data.
- Residential and GS<50 kW total bill impacts based on power at current RPP rates.

6 Risk Assessment

Although there are additional benefits for the Shareholders as identified above, there are some risks with proceeding with MergeCo:

- The economies of scale and synergies may not be realized or retained for the benefit of the Shareholders.
- The non-compatibility of the distribution system for example different voltage levels and non-contiguous systems could reduce synergies.
- There may be culture differences that would make it difficult to integrate the employees thereby reducing the synergies.
- There may be political differences, political incompatibility and the dilution of control over the individual utility.
- Increased size might not necessarily improve financial capacity if it also entails a much greater need for capital investment i.e. medium term not able to distribute as large a dividend.

The above noted risks can be mitigated by a thorough financial review to ensure all cost reductions, distribution compatibility, and cultural differences are achievable, and passed on to either the Shareholders or customer through reduced rates. Through the Letter of Intent political incapability can be identified. The unanimous consent items will help mitigate some areas of lost control.

7 Implementation Process

7.1 Implementation Process

This section outlines the key tasks whereby the Participating Municipalities would combine their LDCs to form MergeCo.

Timing is becoming a critical issue if municipalities and LDCs are to form MergeCo. If MergeCo is formed before October 2008 there will be no transfer tax liability. If MergeCo is formed after October 2008, participating municipalities will be liable for up to 33% transfer tax for the transfer of their LDCs to MergeCo.

The Key tasks to form MergeCo:

- Execution of Letter of Intent
- Completion of Due Diligence Review
- Settlement and Execution of Shareholders' Agreement
- Appointment of Board and CEO
- Completion of Implementation Planning
- Final Municipal Approvals
- Regulatory Approvals
- Transfer to MergeCo

7.2 Letter of Intent

The Letter of Intent sets out the parameters for forming MergeCo. It outlines the process by which the participants will agree to incorporate and collectively transfer assets into MergeCo.

It is anticipated that upon recommendations by each of the Participating LDC's Management Committees each of the Companies would take the Letter of Intent to their respective Boards for their review and approval. Provided that the Boards of Barrie Hydro and PowerStream approve the draft Letter of Intent and recommend the Letter of Intent be approved by their Shareholder(s), Barrie Hydro and PowerStream will seek approval from their respective Shareholder(s).

An objective of this Business Case is the future participation of other LDCs and Municipalities in the formation of MergeCo. It is anticipated that additional parties could subsequently join MergeCo through execution of a similar Letter of Intent.

Process

Upon such approval from both PowerStream and Barrie Hydro, the Boards/Shareholders of each entity would each ask the President & CEO's of the respective companies to form a Joint Steering Committee ("JSC"), which would have the mandate to:

1. Hire an investment banker to carry out an independent valuation which would form the basis for the Shareholder values to be embedded in the Merger Agreement;
2. Conduct formal negotiations during the merger process;
3. Develop and execute a detailed Shareholders' Agreement by January 2008, which would form the basis of the Merger Agreement;
4. Report progress and all issues regarding the transaction to the respective Boards/Shareholders;
5. Approve all employee communications and external press releases associated with the merger prior to the closing of the transaction;

6. Develop a detailed implementation strategy for the merger including developing timelines and tactical plans; and
7. Update the Business Case for a merger;

Working Groups

The Joint Steering Committee would create working groups drawn from each of PowerStream and Barrie Hydro to develop an implementation plan for the merger transaction in the following areas:

- Communications
- Customer Service
- Engineering
- Finance
- Human Resources
- Information Systems
- Legal/Regulatory
- Mergers and Acquisitions
- Operations

The scope of the work would also include addressing the following broader and cross functional issues

- rate and service policy harmonization;
- employment issues;
- business strategy;
- financial planning, consideration and capital structure;
- treatment of accommodation and surplus assets; and
- information systems and technical integration.

The working groups will report to the Joint Steering Committee and identify issues and make recommendations with respect to their respective areas.

Committee Meetings

It is anticipated that the Joint Steering Committee and the working groups will meet on a weekly basis or as often as necessary until the closing of the merger transaction.

Preconditions to a merger agreement would include:

- Agreement on Board of Directors structure;
- Agreement on appointment of Chair and Vice-Chair;
- Agreement on appointment of President & CEO;
- Agreement on appointment of all direct reports to President & CEO;
- Agreement on effective date of amalgamation;
- Advance ruling on transfer tax exemption from the Ministry of Finance; and
- Receipt of all regulatory approvals, including MAADs Application from the Ontario Energy Board.

Unanimous Consent

The Letter of Intent also addresses Unanimous Consent items building on the following items:

- Approval of the initial strategic plan of the Corporation.
- Any action which may lead to, or result in, a fundamental change to the Corporation.
- The taking of any steps to wind up/dissolve or terminate the Corporation.
- The sale, lease, exchange or disposition (other than in the ordinary course of business) of assets of the Corporation, having a value of 20% or more of the asset value.
- Approval of the Dividend Policy.
- Admission of any new shareholder, holding more than 20% of the shares of the Corporation.
- The closing of any operation centre.

7.3 Due Diligence Review

Once the Letter of Intent is signed, a due diligence review will be completed. The focus in conducting the due diligence review is to ensure that full disclosure of all material issues is made to the participants for the purposes of identifying and evaluating the likely benefits to be gained, as well as the risks to which the parties may be exposed.

The main areas for due diligence review could include:

- Physical condition of assets and operating performance;
- Employee lists, conditions of employment and employment contracts;
- Required regulatory licenses and approvals;
- Environmental matters;
- All existing contracts;
- Any outstanding litigation;
- Financial statements; and
- Operating and capital budgets.

7.4 Incorporation of MergeCo

As part of the implementation plan developed by the Joint Steering Committee and the working groups, a recommendation regarding the most cost and tax efficient method of forming MergeCo would be developed and brought forward to all shareholders.

The establishment of MergeCo would only occur after all regulatory, government and tax approvals were obtained and the merger agreement was approved and executed by both companies and their respective Shareholders.

7.5 Shareholders' Agreement

At the same time as MergeCo is being established, the Shareholders' Agreement would be negotiated by the parties and would build on the content of the Letter of Intent signed off by all parties. The Shareholders' Agreement would set out provisions for issues such as the ongoing operations of MergeCo, the rights and obligations of shareholders, principles relating to corporate governance, as well as providing for restrictions on the transfer and ownership of shares. This would also outline the unanimous consent items for all shareholders.

7.6 Final Approvals

Each of the participants would have to give final approval for the transfer of assets into MergeCo. Final approval should be sought once all the regulatory approvals have been obtained and the proposed form of legal documentation has been finalized.

7.7 Establishment of MergeCo

Following approval to proceed, the employees, assets, liabilities, rights and obligations of the participating municipalities would be transferred to MergeCo in the most cost and tax efficient manner.

8 Conclusion

The Case for a Merger between Barrie Hydro and Powerstream is a compelling one for a number of reasons:

- There are substantial financial benefits for both shareholders and customers;
- MergeCo will be better able to introduce best practice levels of operational and customer service performance, benefiting customers through improved quality of services; and shareholders through the delivery of financially profitable electricity distribution services on a sustained basis;
- MergeCo will be better positioned to be a market leader, and employees will benefit from being part of a successful company with opportunities for growth and career development;
- MergeCo will be better positioned to provide a platform for continued mergers in York Region and Simcoe County and Hydro One Brampton; and
- The business case provides a timely opportunity for the shareholders and managements of the participating LDCs to take a proactive response to the challenges of the future electricity industry to create a market leading distribution company.

Impact on PowerStream - Rates Harmonized with Barrie
Comparison of 2009 Powerstream with 2009 Barrie Rates - Scenario 1
Residential Class

kWhs	kW/s	Total Bill		
		Before	After	Change %
250		37.30	38.31	1.01
500		60.09	61.38	1.29
750		83.13	84.74	1.61
1,000		108.36	110.27	1.90
1,500		158.83	161.32	2.49
2,000		209.29	212.37	3.08

GS<50 kW Class

kWhs	kW/s	Total Bill		
		Before	After	Change %
1,000		124.11	123.10	(1.01)
2,000		222.38	223.26	0.87
5,000		517.21	523.73	6.52
10,000		1,008.59	1,024.51	15.92
15,000		1,499.97	1,525.30	25.33

GS>50 kW Class

kWhs	kW/s	Total Bill		
		Before	After	Change %
15,000	60	1,770.22	1,793.51	23.29
40,000	100	3,841.43	3,875.67	34.24
80,000	250	7,617.76	7,676.01	58.25
100,000	500	10,446.88	10,530.34	83.47
400,000	1,000	35,408.87	35,625.23	216.36
1,000,000	3,000	90,709.70	91,267.34	557.64

Notes & Assumptions

- ✓ Compared PowerStream 2009 rates with estimated harmonized rates, assuming 5% rate increase in 2009 for PS
- ✓ The harmonized rates are calculated as a weighted average, based on number of customers in 2007
- ✓ Residential consumption threshold is annualized at 800 kWhs
- ✓ Residential and GS<50 kW total bill impacts based on power at current RPP rates.
- ✓ GS>50 kW and Large User classes total bill impacts based on electricity price of \$0.055 per kWh.
- ✓ GST at 5% applied to arrive at total bill
- ✓ BH rates adjusted upwards 1.1% for 2009
- ✓ Additional smart meter cost of \$1.21-\$0.27 = \$0.94 added
- ✓ Regulatory Asset recovery adder removed from rates

Estimated harmonized rates - PowerStream & Barrie

	Customer count		% from Total		Barrie Estimated Rates		PowerStream Estimated 2009 Rates		Estimated "Harmonized" Rates		Barrie Transmission rates		PowerStream Transmission rates		Estimated "Harmonized" Rates	
					Fixed	Variable	Fixed	Variable	Fixed	Variable	Network	Connection	Network	Connection	Network	Connection
Residential	61,664	207,783	289,467	22.9%	16.83	0.0148	\$ 13.83	\$ 0.0138	14.52	\$ 0.0140	0.0048	0.0048	\$ 0.0049	0.0023	0.0049	0.0029
GS< 50	5,441	22,698	28,139	19.3%	17.13	0.0170	\$ 31.35	\$ 0.0120	28.6	\$ 0.0130	0.0044	0.0043	0.0044	0.0021	0.0044	0.0025
GS >50	802	3,708	4,510	17.8%	393.04	2.1079	\$ 318.03	\$ 2.4808	331.37	\$ 2.4145	1.7240	1.6931	1.8009	0.8391	1.7872	0.9910
Total	67,927	234,189	302,116	22.5%												
											Barrie		PowerStream		Harmonized	
											Loss factor	1.0565		1.0368		1.0412

Comparison of 2009 Rates - Standalone vs harmonized
Residential Class

kWhs	before		kWhs loss adjusted	after		Tier 1 kWhs	after Tier 1 kWhs	before		after tier 2 kWhs	Distribution Charges		Total Bill		Increase (decrease) \$	Increase (decrease) %
	kWhs adjusted	loss		kWhs	loss	before		before	after		Before	After	Before	After		
250	259		260	260		259	260	-		-	17.28	18.02	37.30	38.31	1.01	2.7%
500	518		521	521		518	521	-		-	20.73	21.52	60.09	61.38	1.29	2.2%
750	778		781	781		750	750	28	31		24.18	25.02	83.13	84.74	1.61	1.9%
1,000	1,037		1,041	1,041		750	750	287	291		27.63	28.52	108.36	110.27	1.90	1.8%
1,500	1,555		1,562	1,562		750	750	805	812		34.53	35.52	158.83	161.32	2.49	1.6%
2,000	2,074		2,082	2,082		750	750	1,324	1,332		41.43	42.52	209.29	212.37	3.08	1.5%

kWhs	before		Tier 1 Electricity	after		Tier 2 Electricity	after Tier 2 Electricity	before		after Other kWh Charges	before		after Other kW Charges	Other kW Charges
	Tier 1 Electricity	loss		Tier 1 Electricity	loss			Tier 1 Electricity	loss		Tier 2 Electricity	loss		
250	12.96		13.02	13.02		-	-	-		5.29	5.29		5.45	
500	25.92		26.03	26.03		-	-	-		10.58	10.58		10.91	
750	37.50		37.50	37.50		1.63	1.82	15.86		16.36	15.86		16.36	
1,000	37.50		37.50	37.50		16.92	17.18	21.15		21.81	21.15		21.81	
1,500	37.50		37.50	37.50		47.51	47.90	31.73		32.72	31.73		32.72	
2,000	37.50		37.50	37.50		78.09	78.62	42.30		43.63	42.30		43.63	

Distribution Rates

PowerStream 2009 Rates		Estimated Harmonized rates
Residential	Fixed	
	13.83	14.52
	0.0138	0.0140

Fixed
Variable

Other Charges per kWh:

Wholesale Market Services	0.0062
Transmission Network	0.0049
Transmission Connection	0.0023
Debt retirement charge	0.0070
	0.0204

Other Charges per kW:

Transmission Network	
Transmission Connection	

Other:

Loss factor	1.0368
tier 1 kWh	800
tier 1 rate	0.050
tier 2 rate	0.059

1.0412
800
0.050
0.059

[illegible]

	before	after	before	after	before	after
kWhs	Tier 1 Electricity	Tier 1 Electricity	Tier 2 Electricity	Tier 2 Electricity	Other kWh Charges	Other kW Charges
1,000	37.50	37.50	16.92	17.18	20.42	20.96
2,000	37.50	37.50	78.09	78.62	40.85	41.91
5,000	37.50	37.50	261.61	262.91	102.12	104.78
10,000	37.50	37.50	567.46	570.08	204.25	209.55
15,000	37.50	37.50	873.32	877.24	306.37	314.33

Estimated Harmonized rates	GS<50
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Fixed	31.35
Variable	0.0120
Other Charges per kWh:	
Wholesale Market Services	0.0062
Transmission Network	0.0044
Transmission Connection	0.0021
Debt retirement charge	0.0070
	0.0197

Transmission Network
Transmission Connection

Loss factor	1.0368	1.0412
tier 1 kWh	750	750
tier 1 rate	0.050	0.050
tier 2 rate	0.059	0.059

GS<50 Calcs

Comparison of 2009 Rates - Standalone vs harmonized
GS>50 kW Class

kWhs	kW	before				after				Distribution Charges				Total Bill			
		kWhs loss adjusted	kWhs loss adjusted	kWhs loss adjusted	kWhs	kWhs	after	before	after	Before	After	Before	After	Before	After	Increase (decrease) \$	Increase (decrease) %
15,000	60	15,552	15,552	15,618	15,552	15,618				466.88	476.24	1,770.22	1,793.51	23.29		1.3%	
40,000	100	41,472	41,472	41,649	41,472	41,649				566.11	572.82	3,841.43	3,875.67	34.24		0.9%	
80,000	250	82,944	82,944	83,298	82,944	83,298				938.23	935.00	7,617.76	7,676.01	58.25		0.8%	
100,000	500	103,680	103,680	104,123	103,680	104,123				1,558.43	1,538.62	10,446.88	10,530.34	83.47		0.8%	
400,000	1,000	414,720	414,720	416,492	414,720	416,492				2,798.83	2,745.87	35,408.87	35,625.23	216.36		0.6%	
1,000,000	3,000	1,036,800	1,036,800	1,041,229	1,036,800	1,041,229				7,760.43	7,574.87	90,709.70	91,267.34	557.64		0.6%	

kWhs	kW	before		Tier 1 Electricity	before		after	before		after	before		after
		Tier 1 Electricity	Electricity		Other kWh Charges	Charges		Other kWh Charges	Charges		Other kWh Charges	Charges	
15,000	60	855.36	859.01		205.29	206.16		158.40	166.69				
40,000	100	2,280.96	2,290.70		547.43	549.77		264.00	277.82				
80,000	250	4,561.92	4,581.41		1,094.86	1,099.54		660.00	694.55				
100,000	500	5,702.40	5,726.76		1,368.58	1,374.42		1,320.00	1,389.09				
400,000	1,000	22,809.60	22,907.04		5,474.30	5,497.69		2,640.00	2,778.19				
1,000,000	3,000	57,024.00	57,267.61		13,685.76	13,744.23		7,920.00	8,334.57				

Distribution Rates

	PowerStream 2009 Rates	
		GS>50
Fixed	318.03	
Variable	2.4808	

	Estimated Harmonized rates	
		GS>50
		331.37
		2.4145

Other Charges per kWh:

Wholesale Market Services	0.0062	0.0062
Transmission Network		
Transmission Connection		
Debt retirement charge	0.0070	0.0070
	0.0132	0.0132

Other Charges per kW:

Transmission Network	1.8009	1.7872
Transmission Connection	0.8391	0.9910
	2.6400	2.7782

Other:

Loss factor	1.0368	1.0412
Cost per kWh	0.055	0.055

Impact on PowerStream - Rates Harmonized with Barrie
Comparison of 2009 Powerstream with 2009 Barrie Rates - Scenario 2
Residential Class

kW/hs	kW/s	Total Bill		
		Before	After	Change %
250		37.94	38.81	0.87
500		60.85	61.98	1.13
750		84.03	85.44	1.42
1,000		109.39	111.07	1.5%
1,500		160.12	162.34	2.22
2,000		210.84	213.60	2.76

GS<50 kW Class

kW/hs	kW/s	Total Bill		
		Before	After	Change %
1,000		125.72	124.38	(1.34)
2,000		224.42	224.85	0.43
5,000		520.51	526.27	5.76
10,000		1,013.99	1,028.63	14.64
15,000		1,507.47	1,530.99	23.52

GS>50 kW Class

kW/hs	kW/s	Total Bill		
		Before	After	Change %
15,000	60	1,788.85	1,808.83	19.98
40,000	100	3,864.02	3,894.24	30.22
80,000	250	7,655.24	7,706.83	51.59
100,000	500	10,509.16	10,581.55	72.39
400,000	1,000	35,520.77	35,717.24	196.47
1,000,000	3,000	91,020.05	91,522.51	502.46

Notes & Assumptions

- ✓ Compared PowerStream 2009 rates with estimated harmonized rates, assuming 9% rate increase in 2009 for PS
- ✓ The harmonized rates are calculated as a weighted average, based on number of customers in 2007
- ✓ Residential consumption threshold is annualized at 800 kwh
- ✓ Residential and GS<50 kW total bill impacts based on power at current RPP rates.
- ✓ GS>50 kW and Large User classes total bill impacts based on electricity price of \$0.055 per kWh.
- ✓ GST at 5% applied to arrive at total bill
- ✓ BH rates adjusted upwards 1.1% for 2009
- ✓ Additional smart meter cost of \$1.21-\$0.27 = \$0.94 added
- ✓ Regulatory Asset recovery adder removed from BH rates

Estimated harmonized rates - PowerStream & Barrie

Customer count		% from Total		Barrie 2009 Rates		PowerStream 2009 Rates		Estimated "Harmonized" Rates		Barrie Transmission rates		PowerStream Transmission rates		Estimated "Harmonized" Rates	
	Barrie	PowerStream	Total	Barrie	PowerStream	Fixed	Variable	Fixed	Variable	Network	Connection	Network	Connection	Network	Connection
Residential	61,684	207,783	269,467	22.9%	77.1%	16.83	0.0148	\$ 14.31	\$ 0.0143	0.0048	0.0048	\$ 0.0049	0.0023	0.0049	0.0029
GS< 50	5,441	22,698	28,139	19.3%	80.7%	17.13	0.0170	\$ 32.49	\$ 0.0124	0.0044	0.0043	0.0044	0.0021	0.0044	0.0025
GS > 50	802	3,706	4,510	17.8%	82.2%	393.04	2.1079	\$ 330.10	\$ 2.5753	1.7240	1.6931	1.8009	0.8391	1.7872	0.9910
Total	67,927	234,189	302,116	22.5%	77.5%										
										Loss factor	1.0565		1.0368		1.0412

Residential Class								
	before	after	before	after	before	after	Total Bill	
kWhs	kWhs loss adjusted	kWhs loss adjusted	Tier 1 kWhs	Tier 1 kWhs	tier 2 kWhs	tier 2 kWhs	Before	After
250	259	260	259	260	-	-	17.89	18.49
500	518	521	518	521	-	-	21.46	22.09
750	778	781	750	750	28	31	25.04	25.69
1,000	1,037	1,041	750	750	287	291	28.61	29.29
1,500	1,555	1,562	750	750	805	812	35.76	36.49
2,000	2,074	2,082	750	750	1,324	1,332	42.91	43.69
							Before	After
							37.94	38.81
							60.85	61.98
							84.03	85.44
							109.39	111.07
							160.12	162.34
							210.84	213.60
							Increase (decrease) \$	Increase (decrease) %
							0.87	2.3%
							1.13	1.8%
							1.42	1.7%
							1.68	1.5%
							2.22	1.4%
							2.76	1.3%

	before	after	before	after	before	after	before	after
kWhs	Tier 1 Electricity	Tier 1 Electricity	Tier 2 Electricity	Tier 2 Electricity	Other kWh Charges	Other kWh Charges	Other kW Charges	Other kW Charges
250	12.96	13.02	-	-	5.29	5.45		
500	25.92	26.03	-	-	10.58	10.91		
750	37.50	37.50	1.63	1.82	15.86	16.36		
1,000	37.50	37.50	16.92	17.18	21.15	21.81		
1,500	37.50	37.50	47.51	47.90	31.73	32.72		
2,000	37.50	37.50	78.09	78.62	42.30	43.63		

Estimated Harmonized rates	Residential
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Fixed	14.31	14.89
Variable	0.0143	0.0144
Other Charges per kWh:		
Wholesale Market Services	0.0062	0.0062
Transmission Network	0.0049	0.0049
Transmission Connection	0.0023	0.0029
Debt retirement charge	0.0070	0.0070
	0.0204	0.0209

PowerStream 2009 Rates		
Residential		
	14.31	
	0.0143	
		0.0062
		0.0049
		0.0023
		0.0070
		0.0204

Estimated Harmonized rates
Residential
14.89
0.0144
0.0062
0.0049
0.0029
0.0070
0.0209

Transmission Network
Transmission Connection

Other:	
Loss factor	1.0368
tier 1 kWh	800
tier 1 rate	0.050
tier 2 rate	0.059

Res Calcs

Comparison of 2009 rates - Standalone vs. Harmonized
GS<50 kW Class

kWhs	before		after		before	after	Tier 1		before	after	Tier 2		after	Distribution Charges			Total Bill		
	kWhs	loss	adjusted	kWhs	kWhs	kWhs	kWhs	loss	kWhs	kWhs	kWhs	kWhs	kWhs	Before	After	Increase (decrease) \$	Increase (decrease) %		
1,000	1,037		1,041	750	750	750	750		287	291				44.89	42.82	125.72	124.38	(1.34)	-1.1%
2,000	2,074		2,082	750	750	750	750		1,324	1,332				57.29	56.12	224.42	224.85	0.43	0.2%
5,000	5,184		5,206	750	750	750	750		4,434	4,456				94.49	96.02	520.51	526.27	5.76	1.1%
10,000	10,368		10,412	750	750	750	750		9,618	9,662				156.49	162.52	1,013.99	1,028.63	14.64	1.4%
15,000	15,552		15,618	750	750	750	750		14,802	14,868				218.49	229.02	1,507.47	1,530.99	23.52	1.6%

kWhs	before		after		before	after	Tier 2	Electricity	before	after	Other kWh	Charges	after	Other kWh	Charges	Other kW	Charges
	Tier 1	Electricity	Tier 1	Electricity	Tier 2	Electricity	Tier 2	Electricity	Tier 2	Electricity	Charges	Charges	Charges	Charges	Charges	Charges	Charges
1,000	37.50	37.50	37.50	16.92	17.18	20.42	20.96										
2,000	37.50	37.50	37.50	78.09	78.62	40.85	41.91										
5,000	37.50	37.50	37.50	261.61	262.91	102.12	104.78										
10,000	37.50	37.50	37.50	567.46	570.08	204.25	209.55										
15,000	37.50	37.50	37.50	873.32	877.24	306.37	314.33										

Distribution Rates

PowerStream 2009 Rates		Estimated Harmonized rates	
Fixed	GS<50	GS<50	
Variable	32.49	29.52	
	0.0124	0.0133	
Other Charges per kWh:			
Wholesale Market Services	0.0062	0.0062	
Transmission Network	0.0044	0.0044	
Transmission Connection	0.0021	0.0025	
Debt retirement charge	0.0070	0.0070	
	0.0197	0.0201	

Other Charges per kW:

Transmission Network		
Transmission Connection		
Other:		
Loss factor	1.0368	1.0412
tier 1 kWh	750	750
tier 1 rate	0.050	0.050
tier 2 rate	0.059	0.059
Rate Harmonization w Barrie Impact on PS Scenario 2.xls		

Comparison of 2009 rates - Standalone vs. Harmonized
GS>50 kW Class

kWhs	kW	before		after		before		after		Distribution Charges		Total Bill		Increase (decrease) %
		kWhs loss adjusted	kWhs	kWhs loss adjusted	kWhs	kWhs loss adjusted	kWhs	kWhs loss adjusted	kWhs	Before	After	Before	After	
15,000	60	15,552	15,618	15,552	15,618					484.62	490.82	1,788.85	1,808.83	1.1%
40,000	100	41,472	41,649	41,472	41,649					587.63	590.51	3,864.02	3,894.24	0.8%
80,000	250	82,944	83,298	82,944	83,298					973.93	964.34	7,655.24	7,706.83	0.7%
100,000	500	103,680	104,123	103,680	104,123					1,617.75	1,587.39	10,509.16	10,581.55	0.7%
400,000	1,000	414,720	416,492	414,720	416,492					2,905.40	2,833.49	35,520.77	35,717.24	0.6%
1,000,000	3,000	1,036,800	1,041,229	1,036,800	1,041,229					8,056.00	7,817.89	91,020.05	91,522.51	0.6%

kWhs	kW	before		after		before		after		Distribution Charges		Total Bill		Increase (decrease) %
		Tier 1 Electricity	Tier 1 Electricity	Tier 1 Electricity	Tier 1 Electricity	Other kWh Charges	Other kWh Charges	Other kWh Charges	Other kWh Charges	Before	After	Before	After	
15,000	60	855.36	859.01	855.36	859.01	205.29	206.16	547.43	549.77	158.40	166.69	1,788.85	1,808.83	1.1%
40,000	100	2,280.96	2,290.70	2,280.96	2,290.70	547.43	549.77	1,094.86	1,099.54	660.00	694.55	3,864.02	3,894.24	0.8%
80,000	250	4,561.92	4,581.41	4,561.92	4,581.41	1,368.58	1,374.42	5,474.30	5,497.69	2,640.00	2,778.19	7,655.24	7,706.83	0.7%
100,000	500	5,702.40	5,726.76	5,702.40	5,726.76	13,685.76	13,744.23	13,685.76	13,744.23	7,920.00	8,334.57	10,509.16	10,581.55	0.7%
400,000	1,000	22,809.60	22,907.04	22,809.60	22,907.04							35,520.77	35,717.24	0.6%
1,000,000	3,000	57,024.00	57,267.61	57,024.00	57,267.61							91,020.05	91,522.51	0.6%

Distribution Rates

	PowerStream 2009 Rates		GS>50
	before	after	
Fixed	330.10		341.29
Variable	2.5753		2.4922

	Estimated Harmonized rates		GS>50
	before	after	
			341.29
			2.4922

Other Charges per kWh:

Wholesale Market Services	0.0062
Transmission Network	
Transmission Connection	
Debt retirement charge	

Other Charges per kW:

Transmission Network	1.8009
Transmission Connection	0.8391
	2.6400

Other:

Loss factor	1.0368
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Cost per kWh

	0.055
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Impact on PowerStream - Rates Harmonized with Barrie
Comparison of 2009 Powerstream with 2009 Barrie Rates Scenario 3
Residential Class

kWhs	kW/s	Total Bill		
		Before	After	Change %
250		37.30	37.65	0.34
500		60.09	60.58	0.50
750		83.13	83.81	0.68
1,000		108.36	109.21	0.85
1,500		158.83	160.01	1.18
2,000		209.29	210.80	1.51

GS<50 kW Class

kWhs	kW/s	Total Bill		
		Before	After	Change %
1,000		124.11	121.56	(2.54)
2,000		222.38	221.24	(1.14)
5,000		517.21	520.27	3.06
10,000		1,008.59	1,018.65	10.06
15,000		1,499.97	1,517.03	17.06

GS>50 kW Class

kWhs	kW/s	Total Bill		
		Before	After	Change %
15,000	60	1,770.22	1,775.91	5.69
40,000	100	3,841.43	3,854.49	13.07
80,000	250	7,617.76	7,641.45	23.69
100,000	500	10,446.88	10,473.46	26.59
400,000	1,000	35,408.87	35,523.73	114.86
1,000,000	3,000	90,709.70	90,987.32	277.62

Notes & Assumptions

- ✓ Compared PowerStream 2009 rates with estimated harmonized rates, assuming 5% rate increase in 2009 for PS
- ✓ The harmonized rates are calculated as a weighted average, based on number of customers in 2007
- ✓ Residential consumption threshold is annualized at 800 kwh
- ✓ Residential and GS<50 kW total bill impacts based on power at current RPP rates.
- ✓ GS>50 kW and Large User classes total bill impacts based on electricity price of \$0.055 per kWh.
- ✓ GST at 5% applied to arrive at total bill
- ✓ BH rates adjusted upwards 1.1% for 2009
- ✓ Additional smart meter cost of \$1.21-\$0.27 = \$0.94 added to BH (Note: it is not known at this time if smart meters will be installed in BH service territory in 2009)
- ✓ Regulatory Asset recovery adder removed from BH rates
- ✓ Reduction in harmonized rates of 3.5% for OM&A merger savings (savings of \$5.4 million on 2009 combined distribution revenue of \$153.3 million)

Estimated harmonized rates - PowerStream & Barrie

Customer count		% from Total		Barrie 2009 Rates		PowerStream 2009 Rates		Estimated "Harmonized" Rates		Barrie Transmission rates		PowerStream Transmission rates		Estimated "Harmonized" Rates		
Barrie	PowerStream	Total	Barrie	PowerStream	Fixed	Variable	Fixed	Variable	Fixed	Variable	Network	Connection	Network	Connection	Network	Connection
Residential	61,684	269,467	22.9%	77.1%	16.83	0.0148	\$ 13.83	\$ 0.0138	14.01	\$ 0.0135	0.0048	0.0048	\$ 0.0049	0.0023	0.0049	0.0029
GS < 50	5,441	22,698	19.3%	80.7%	17.13	0.0170	\$ 31.35	\$ 0.0120	27.59	\$ 0.0125	0.0044	0.0043	0.0044	0.0021	0.0044	0.0025
GS > 50	802	3,763	17.8%	82.2%	393.04	2.1079	\$ 318.03	\$ 2.4808	319.70	\$ 2.3295	1.7240	1.6931	1.8009	0.8391	1.7872	0.9910
Total	67,927	294,189	22.5%	77.5%												
											Loss factor	1.0565		1.0368		1.0412

Comparison of 2009 Rates - Standalone vs harmonized with savings

Residential Class

kWhs	before		after		Tier 1 kWhs	before		after		Distribution Charges		Total Bill	
	kWhs adjusted	loss	kWhs adjusted	loss		Tier 1 kWhs	tier 2 kWhs	tier 2 kWhs	tier 2 kWhs	Before	After	Before	After
250	259		260		260		-	-	-	17.28	17.39	37.30	37.65
500	518		521		521		-	-	-	20.73	20.76	60.09	60.58
750	778		781		750		28	31	31	24.18	24.14	83.13	83.81
1,000	1,037		1,041		750		287	291	291	27.63	27.52	108.36	109.21
1,500	1,555		1,562		750		805	812	812	34.53	34.27	158.83	160.01
2,000	2,074		2,082		750		1,324	1,332	1,332	41.43	41.02	209.29	210.80

kWhs	before		after		before		after		before		after	
	Tier 1 Electricity	Tier 1 Electricity	Tier 1 Electricity	Tier 1 Electricity	Tier 2 Electricity	Other kWh Charges	Other kWh Charges	Other kWh Charges	Other kWh Charges	Other kWh Charges	Other kWh Charges	Other kWh Charges
250	12.96	13.02	13.02	13.02	-	5.29	5.29	5.45	-	-	-	-
500	25.92	26.03	26.03	26.03	-	10.58	10.58	10.91	-	-	-	-
750	37.50	37.50	37.50	37.50	1.63	1.82	15.86	16.36	1.63	1.82	15.86	16.36
1,000	37.50	37.50	37.50	37.50	16.92	17.18	21.15	21.81	16.92	17.18	21.15	21.81
1,500	37.50	37.50	37.50	37.50	47.51	47.90	31.73	32.72	47.51	47.90	31.73	32.72
2,000	37.50	37.50	37.50	37.50	78.09	78.62	42.30	43.63	78.09	78.62	42.30	43.63

Distribution Rates

PowerStream 2009 Rates	
Residential	13.83
Variable	0.0138

Estimated Harmonized rates	
Residential	14.01
Variable	0.0135

Other Charges per kWh:

Wholesale Market Services	0.0062
Transmission Network	0.0049
Transmission Connection	0.0023
Debt retirement charge	0.0070
	0.0204

Other Charges per kW:

Transmission Network	
Transmission Connection	

Other:

Loss factor	1.0368
tier 1 kWh	800
tier 1 rate	0.050
tier 2 rate	0.059

1.0412	800
0.050	0.050
0.059	0.059

Rate Harmonization Impact on PS Scenario 3.xls

Comparison of 2009 Rates - Standalone vs harmonized with savings
GS<50 kW Class

GS-30 kW Class														
kWhs	before		after		before		after		Distribution Charges			Total Bill		
	kWhs loss	adjusted	kWhs loss	adjusted	Tier 1 kWhs	tier 2 kWhs	Tier 1 kWhs	tier 2 kWhs	Before	After	Before	After	Increase (decrease) \$	Increase (decrease) %
1,000		1,037		1,041	750	287	750	291	43.35	40.14	124.11	121.56	(2.54)	-2.1%
2,000		2,074		2,082	750	1,324	750	1,332	55.35	52.68	222.38	221.24	(1.14)	-0.5%
5,000		5,184		5,206	750	4,434	750	4,456	91.35	90.30	517.21	520.27	3.06	0.6%
10,000		10,368		10,412	750	9,618	750	9,662	151.35	153.02	1,008.59	1,018.65	10.06	1.0%
15,000		15,552		15,618	750	14,802	750	14,868	211.35	215.73	1,499.97	1,517.03	17.06	1.1%

kWhs	before		after		before		after		Distribution Charges		Other kW		Charges
	Tier 1 Electricity	Tier 1 Electricity	Tier 1 Electricity	Tier 2 Electricity	Other kWh	Charges	Other kWh	Charges	Before	After	Before	After	
1,000	37.50	37.50	16.92	17.18	20.42	20.96							
2,000	37.50	37.50	78.09	78.62	40.85	41.91							
5,000	37.50	37.50	261.61	262.91	102.12	104.78							
10,000	37.50	37.50	567.46	570.08	204.25	209.55							
15,000	37.50	37.50	873.32	877.24	306.37	314.33							

Distribution Rates

PowerStream 2009 Rates	
GS<50	31.35
GS<50	0.0120

Estimated Harmonized rates	
GS<50	27.59
GS<50	0.0125

Fixed
Variable

Other Charges per kWh:

Wholesale Market Services	0.0062
Transmission Network	0.0044
Transmission Connection	0.0021
Debt retirement charge	0.0070
	0.0197

Other Charges per kW:

Transmission Network	
Transmission Connection	

Other:

Loss factor	1.0368
tier 1 kWh	750
tier 1 rate	0.050
tier 2 rate	0.059

1.0412
750
0.050
0.059

Rate Harmonization Impact on PS Scenario 3.xls

Comparison of 2009 Rates - Standalone vs harmonized with savings
GS>50 kW Class

kWhs	kW	before				after				Distribution Charges				Total Bill			
		kWhs loss adjusted	kWhs loss adjusted	kWhs	kWhs	kWhs loss adjusted	kWhs	kWhs	kWhs	Before	After	Before	After	Before	After	Increase (decrease) \$	Increase (decrease) %
15,000	60	15,552	15,618	15,552	15,618					466.88	459.47	1,770.22	1,775.91	5.69		0.3%	0.3%
40,000	100	41,472	41,649	41,472	41,649					566.11	552.65	3,841.43	3,854.49	13.07		0.3%	0.3%
80,000	250	82,944	83,298	82,944	83,298					938.23	902.08	7,617.76	7,641.45	23.69		0.3%	0.3%
100,000	500	103,680	104,123	103,680	104,123					1,558.43	1,484.45	10,446.88	10,473.46	26.59		0.3%	0.3%
400,000	1,000	414,720	416,492	414,720	416,492					2,798.83	2,649.20	35,408.87	35,523.73	114.86		0.3%	0.3%
1,000,000	3,000	1,036,800	1,041,229	1,036,800	1,041,229					7,760.43	7,308.18	90,709.70	90,987.32	277.62		0.3%	0.3%

kWhs	kW	before		after	after	before		after	after	before		after	after
		Tier 1 Electricity	Tier 1 Electricity			Other kWh Charges	Other kWh Charges			Other kWh Charges	Other kWh Charges		
15,000	60	855.36	859.01			205.29	206.16			158.40	166.69		
40,000	100	2,280.96	2,290.70			547.43	549.77			264.00	277.82		
80,000	250	4,561.92	4,581.41			1,094.86	1,099.54			660.00	694.55		
100,000	500	5,702.40	5,726.76			1,368.58	1,374.42			1,320.00	1,389.09		
400,000	1,000	22,809.60	22,907.04			5,474.30	5,497.69			2,640.00	2,778.19		
1,000,000	3,000	57,024.00	57,267.61			13,685.76	13,744.23			7,920.00	8,334.57		

Distribution Rates

PowerStream 2009 Rates		GS>50
Fixed		318.03
Variable		2.4808

Estimated Harmonized rates		GS>50
		319.70
		2.3295

Other Charges per kWh:

Wholesale Market Services	0.0062
Transmission Network	
Transmission Connection	
Debt retirement charge	

Other Charges per kW:

Transmission Network	1.8009
Transmission Connection	0.8391
	2.6400

Other:

Loss factor	1.0368
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Cost per kWh

	1.0412
	0.055