

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF applications by electricity distribution companies for approval of distribution rates for 2006.

**Reply Submission
of
PowerStream Inc.**

PowerStream Inc.'s submissions-in-reply are limited to the issue of whether the Board should establish one or more generic or blanket variance or deferral accounts for regulatory costs. It has comments on: (a) the recovery of OEB and other energy regulators' fees; and (b) the recovery of costs incurred in participating in regulatory proceedings.

(a) regulatory assessments

PowerStream submits that there should be some mechanism that permits distributors to recover the OEB and other energy regulators' fees that they are assessed and are required to pay, over and above the amount that will be recovered in respect of such fees in 2006 rates. The 2006 Electricity Distribution Rate Handbook ("2006 Handbook") permitted distributors to adjust such fees to 2005 levels, for the purpose of recovery in 2006 rates. There is, however, no mechanism that would permit distributors to record, for recovery in a later period, any differences between the level of such fees in 2005, and the level of such fees in 2006 and beyond. In Question 13 of the series of answers to frequently asked questions about the Accounting Procedures Handbook, posted on the Board's web-site in December, 2005, the Board states that recordings in Account 1508 were authorized to April 30, 2006, since, effective May 1, 2006, cost assessments were to be included in 2006 distribution rates. In other words, Account 1508 will not be available to record cost differentials after April 30, 2006.

OEB and other energy regulators' fees are a required cost of doing business as a distributor. Moreover, such costs are beyond the control of distributors; the assessed amounts are fixed by third parties and are required to be remitted in full. In these circumstances, it is entirely

appropriate to establish a variance account to record the difference between a distributor's total fee assessment and the amount of such fees that are recovered in 2006 rates.

(b) costs of regulatory participation

The 2006 Handbook did not permit distributors to adjust the cost of participating in regulatory proceedings from 2004 levels. Accordingly, 2006 rates will only recover regulatory costs at 2004 levels. In 2004, PowerStream and/or its predecessor utilities incurred minimal costs in connection with participating in regulatory proceedings. By the end of calendar 2004, however, this situation had changed quite dramatically. In 2005, PowerStream was required to participate in a number of significant OEB consultations, workshops and generic proceedings. PowerStream also prepared and filed its own 2006 EDR Rate Application in October 2005. In some cases, PowerStream incurred the cost of external legal counsel and consultants, retained to assist PowerStream in its participation before the Board. The current level of PowerStream's participation in regulatory proceedings is expected to continue and, even, escalate in 2006 and beyond as the Board continues to deal with complex and pressing issues in the electricity sector.

At this point, there is no mechanism whereby distributors can record, for recovery in a later period, the incremental costs of participating in such regulatory proceedings. The costs of participating in regulatory proceedings, including the cost of external resources, are a normal and expected cost of business for a regulated utility. It is entirely appropriate to permit PowerStream and other utilities to record such incremental regulatory costs in a variance or deferral account, for future disposition.

At least one party suggested that distributors, who are seeking to have the Board establish a deferral account for regulatory costs, should have filed on a forward test year basis. PowerStream notes that it has sought approval of only two deferral/variance accounts – one for Smart Meter spending and one for regulatory costs. The former reflects the uncertainty around the roll-out of Smart Meters. The latter reflects the fact that regulatory costs, which are expected to be significant, are largely beyond the control of a utility's management.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED on behalf of the PowerStream Inc.
by its counsel, this 11th day of January 2006.**

(signed) H.T. Newland
Helen T. Newland