



# **Ontario Energy Board Commission de l'énergie de l'Ontario**

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## **DECISION WITH REASONS**

**EB-2016-0168**

### **POWERSTREAM INC.**

**Application for approval of amounts related to the Conservation  
and Demand Management Performance Incentive**

**BY DELEGATION, BEFORE: Lynne Anderson**

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**July 28, 2016**

## INTRODUCTION AND SUMMARY

PowerStream Inc. (PowerStream) serves about 375,000 mostly residential and commercial electricity customers across communities in Southern and Central Ontario.

PowerStream applied to the Ontario Energy Board (OEB) for approval of amounts related to the Conservation and Demand Management (CDM) performance incentive. The application is made under section 7.1.1 of the OEB's CDM Code for Electricity Distributors (CDM Code). The total amount of the performance incentive PowerStream has applied for is \$812,298.

For the reasons discussed below, the OEB denies PowerStream's application for a performance incentive.

### 2011-2014 CDM Framework

The Minister of Energy and Infrastructure issued a directive (the Directive) to the OEB on March 31, 2010. The Directive required the OEB to take steps to establish energy and peak demand CDM Targets to be met by licensed distributors through the delivery of OEB-Approved CDM Programs and Ontario Power Authority (OPA)<sup>1</sup>-Contracted Province-Wide CDM Programs over a four-year period that began on January 1, 2011 and ended on December 31, 2014.

The Directive also required the OEB to issue a code that sets out the obligations and requirements with which licensed distributors must comply in relation to the CDM targets. Among other things, the code was required to include rules relating to performance incentives associated with CDM programs. In establishing these rules, the OEB was required to have regard to the government's objective that a tiered performance incentive mechanism be available to distributors for verified energy and peak demand savings once a distributor meets at least 80% of each CDM Target.

The CDM Code issued by the OEB on September 16, 2010 includes section 7 that sets out the eligibility for, and calculation of, a performance incentive. Distributors are eligible for a tiered performance incentive if they have achieved at least 80% of each of their CDM Targets (i.e., energy and peak demand), and performance incentives do not accrue for performance that exceeds 150% of each CDM Target.

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<sup>1</sup> On January 1, 2015, the OPA merged with the IESO. The IESO assumed all responsibilities related to CDM activities previously given to the OPA and will be referred to throughout the remainder of this Decision and Order.

As indicated in section 7.3.1 of the CDM Code, the OEB will consider applications for a performance incentive and make a determination on the appropriate amount based on the methodology established in the CDM Code. Further, section 7.3.1 states that performance incentives approved by the OEB will include a determination regarding the amount and timing of payments to be made by the Independent Electricity System Operator (IESO) under section 78.5 of the *Ontario Energy Board Act, 1998* (the OEB Act). As with other costs related to the delivery of conservation programs, performance incentive amounts will be paid to distributors by the IESO and funded through the Global Adjustment.

As set out in the CDM Code, in addition to the energy and peak demand savings that result from the IESO-Contracted Province-Wide CDM Programs, distributors can also meet their CDM Targets by including any electricity and peak demand savings that result from OEB-Approved CDM Programs. The OEB previously determined<sup>2</sup> that the implementation of Time-Of-Use (TOU) pricing is deemed to be an OEB-Approved CDM Program for the purposes of achieving CDM targets. The peak demand savings that resulted from the impact of TOU pricing were also evaluated by the IESO. Similar to the process to evaluate the IESO-Contracted Province-Wide CDM Program results, the evaluation process for TOU results included a third party evaluation expert retained by the IESO. The final, verified savings from the TOU evaluation have been included in the Final CDM Results Reports provided to distributors by the IESO. In addition to the IESO-Contracted Province-Wide Programs and TOU pricing, PowerStream also applied for and was granted approval<sup>3</sup> for an OEB-Approved Program, the Business Refrigeration Incentives (BRI) Program.

Program results have been verified by the IESO in a manner consistent with its evaluation, measurement and verification (EM&V) protocols. The EM&V process followed by the IESO includes the use of external evaluation experts that conduct an independent third party review of the program results to ensure accuracy. The energy savings that resulted from the BRI Program were evaluated and verified by an independent third party in accordance with section 6.1.1 of the CDM Code. The third party was selected from the IESO's third party vendor of record list as required by the CDM Code.

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<sup>2</sup> [Guidelines for Electricity Distributor and Conservation and Demand Management](#), April 26, 2012 (EB-2012-0003)

<sup>3</sup> EB-2013-0070

## THE PROCESS

This Decision is being issued by Delegated Authority without a hearing pursuant to section 6(4) of the OEB Act.

## CDM RESULTS PROVIDED BY POWERSTREAM

PowerStream applied to the OEB for approval of a performance incentive amount. In accordance with the CDM Code, a distributor is eligible for a performance incentive if it achieves over 80% of each CDM Target.

PowerStream's CDM Targets and final achieved savings are shown in the table below.

|                            | <b>2014 Net Annual Peak Demand Savings</b> | <b>2011-2014 Net Cumulative Energy Savings</b> |
|----------------------------|--|--|
| CDM Target                 | 95.57 MW                                   | 407.34 GWh                                     |
| Final Results <sup>4</sup> | 73.80 MW*                                  | 496.34 GWh**                                   |
| % of Target Achieved       | 77%  | 122%   |

\* Includes 3.94 MW peak demand savings achieved from the implementation of TOU pricing and 0.83 MW peak demand savings from PowerStream's OEB-Approved Program.

\*\* Includes 5.96 GWh energy savings from PowerStream's OEB-Approved Program.

PowerStream achieved 496.34 GWh of 2011-2014 net cumulative energy savings (or 122% of its energy savings target 407.34 GWh). PowerStream achieved 73.80 MW of 2014 net annual peak demand savings which is 77% of its peak demand target of 95.57 MW.

PowerStream acknowledged that the peak demand results show that it did not achieve the minimum threshold of 80% achievement of its peak demand target to be eligible for a performance incentive.

PowerStream attributed its shortfall in the peak demand target achievement to the following two factors:

1. The final contribution of savings arising from TOU pricing being less than initially estimated by PowerStream. PowerStream noted that when the CDM targets were established, it estimated that TOU pricing would contribute approximately 22 MW in net demand reduction towards its peak demand target based on the overall contribution of TOU pricing being estimated to be 308 MW (or 23%) of the

<sup>4</sup> Results as reported by PowerStream. Results are taken from the IESO's 2011-2014 Final CDM Results Report and from the independent third party evaluation of PowerStream's OEB-Approved Program.

overall peak demand target for all distributors of 1,330 MW. However, based on the final verified results from the IESO, TOU pricing contributed 3.9 MW of demand reduction toward PowerStream's peak demand target.

2. The cancellation of the Demand Response 3 (DR3) program in March 2014. PowerStream estimates that the cancellation of the DR3 program represents a lost opportunity of approximately 5 MW.

PowerStream stated that both these reasons were outside of its control. When both factors are combined, PowerStream estimates that they represent a shortfall of about 23 MW in peak demand savings.

In addition, PowerStream stated that although the results provided by the IESO are verified, they are verified point estimates with an associated range of uncertainty. The IESO EM&V protocols stipulate a minimum level of confidence and precision for CDM program impact evaluations at 90/10, meaning that the bounds of the estimated impact's 90% confidence interval must be no more than 10% different from the point estimate. PowerStream applied this understanding to its peak demand savings of 73.80 MW which means that the portfolio impact estimate at 90% confidence interval is 66.40 MW – 81.20 MW. In order to have achieved 80% of its peak demand target, PowerStream would have had to achieve 76.46 MW of peak demand savings which falls into the confidence interval of 66.40 MW – 81.20 MW.

PowerStream stated that based on statistical probability it is possible that it has in fact met the 80% target achievement needed to be eligible for a performance incentive. Based on this understanding of the statistical precision and confidence of the verified results, PowerStream requested that the OEB deem the 80% peak demand target threshold to have been met. PowerStream requested approval for a total performance incentive amount of \$812,298, based only on the energy savings target.

## Findings

Section 1.6.1 of the CDM Code provides that the OEB can determine a matter requiring an approval under the CDM Code with or without a hearing. Although I have considered all of the materials provided by PowerStream, I will not be holding a formal hearing.

The performance incentives eligibility requirements are set out in the CDM Code and were established pursuant to the Minister's Directive. The Directive stipulated that meeting both the energy and peak demand savings targets is required to receive a performance incentive. To award a performance incentive to a distributor that has not

reached at least 80% of both CDM targets would not be compliant with either the Directive or the eligibility requirements set out in section 7.2.2 of the CDM Code.

In addition, to determine whether a distributor is eligible for a performance incentive for Province-Wide Programs the OEB accepts the final verified program results as determined by the IESO. In the OEB's Frequently Asked Questions<sup>5</sup> that were issued to assist distributors who would be applying for a performance incentive the OEB stated the following:

"The OEB accepts the final verified results for Province-Wide Programs, as determined by the IESO, as final. Any disputes regarding the final results should be raised with the IESO."

PowerStream has indicated that some issues were beyond its control. The CDM Code does not provide level of control as a criteria when assessing performance incentives, therefore this is not relevant. PowerStream had the option of applying to the OEB for approval of further CDM Programs to generate additional savings.

PowerStream has also argued that their peak demand savings results determined by the IESO are within a range of uncertainty. Following a rigorous evaluation process involving independent assessment, the IESO issues the final savings results for each distributor and a total for the province. The IESO does not publish these results as a range. The OEB relies on the IESO for Province-Wide Program CDM results. PowerStream has a contractual arrangement with the IESO that allows for a resolution of any disputes regarding the achievement of targets.

For these reasons the OEB denies PowerStream's application for a performance incentive payment.

**DATED** at Toronto July 28, 2016

**ONTARIO ENERGY BOARD**

*Original Signed By*

Lynne Anderson  
Vice President, Applications

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<sup>5</sup> [Performance Incentive and 2014 Annual Report Frequently Asked Questions](#), September 23, 2015. See question 6.