



**Minutes  
General Committee  
November 11, 2015  
Meeting Number 30**

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**Finance & Administrative Issues**

Chair: Deputy Mayor Jack Heath  
Vice Chair: Councillor Colin Campbell

**Community Services Issues**

Chair: Councillor Alan Ho  
Vice Chair: Councillor Alex Chiu

**Environment & Sustainability Issues**

Chair: Councillor Valerie Burke  
Vice Chair: Councillor Karen Rea

**Building, Parks, & Construction Issues**

Chair: Councillor Colin Campbell  
Vice Chair: Regional Councillor Nirmala Armstrong

**Alternate formats are available upon request.**

**Attendance**

Mayor Frank Scarpitti  
Deputy Mayor Jack Heath  
Regional Councillor Jim Jones  
Regional Councillor Joe Li  
Regional Councillor Nirmala Armstrong  
Councillor Valerie Burke  
Councillor Alan Ho  
Councillor Don Hamilton  
Councillor Karen Rea  
Councillor Colin Campbell  
Councillor Amanda Collucci  
Councillor Logan Kanapathi  
Councillor Alex Chiu

Andy Taylor, Chief Administrative Officer  
Trinela Cane, Commissioner of Corporate Services  
Brenda Librecz, Commissioner of Community & Fire Services  
Catherine Conrad, City Solicitor  
Joel Lustig, Treasurer  
Don Taylor, Manager, Executive Operations  
Graham Seaman, Director, Sustainability  
Mark Visser, Senior Manager, Financial Strategy & Investment  
Alida Tari, Council/Committee Coordinator

The General Committee meeting convened at the hour of 7:07 PM with Deputy Mayor Jack Heath in the Chair.

**DISCLOSURE OF PECUNIARY INTEREST**

None disclosed.

**1. PROPOSED POWERSTREAM INC. MERGER  
WITH HORIZON UTILITIES CORPORATION  
AND ENERSOURCE HYDRO MISSISSAUGA INC.  
AND PURCHASE OF HYDRO ONE BRAMPTON NETWORKS INC. (13.7)**

1. Powerstream Update - M&A Transaction  
Presentation

Brian Bentz, President & CEO of PowerStream addressed the Committee and provided some background and history of PowerStream. Mr. Bentz delivered a PowerPoint presentation providing an update regarding the proposed PowerStream merger/acquisition transaction.

There was discussion regarding rate harmonization. Brian Bentz advised that the rate harmonization is for approximately 20% of the residential bill (the “distribution” portion of the bill).

The Committee briefly discussed the various synergies that the proposed merger are expected to achieve.

Moved by Regional Councillor Jim Jones  
Seconded by Regional Councillor Nirmala Armstrong

- 1) That the presentation by Mr. Brian Bentz entitled "PowerStream Update – M&A Transaction”, be received.

Carried

2. Navigant Consulting Ltd.  
- Powerstream Merger & Acquisition: Decision Support  
Presentation

Benjamin Grunfeld, Navigant delivered a PowerPoint presentation providing a high level overview of the proposed PowerStream merger/acquisition.

The Committee briefly discussed some of the risks identified by Navigant Consulting.

There was discussion regarding the proposed customer savings and ways in which those savings could be greater than what is being suggested.

The Committee inquired about the due diligence completed for this transaction. It was noted that there was extensive and adequate due diligence completed by third party consultants for the utility companies.

Moved by Regional Councillor Jim Jones  
Seconded by Regional Councillor Nirmala

- 1) That the presentation by Mr. Benjamin Grunfeld of Navigant Consulting Ltd. entitled “PowerStream Merger and Acquisition: Decision Support”, be received.

Carried

3. Staff Presentation - Proposed Merger of Powerstream, Enersource and Horizon, and Acquisition of Brampton Hydro Presentation

Andy Taylor, Chief Administration Officer, delivered a PowerPoint presentation regarding the proposed merger of PowerStream, Enersource and Horizon, and the acquisition of Brampton Hydro.

The Committee discussed rate rebasing and the estimated financial risks.

There was brief discussion regarding the estimated savings to Markham-owned buildings if this transaction proceeds.

The Committee inquired about the facility and labour rationalization plans that will assist in achieving the synergies. Mr. Bentz indicated that he can review those plans with any Member of Council.

The Committee discussed the proposed Board composition of MergeCo in comparison to the current PowerStream Board.

There was discussion relative to forecasted tangible and intangible customer benefits with this proposed merger/acquisition.

Moved by Regional Councillor Jim Jones

Seconded by Regional Councillor Nirmala Armstrong

- 1) That the presentation by Mr. Andy Taylor, Chief Administration Officer entitled “Proposed Merger of PowerStream, Enersource and Horizon, and Acquisition of Brampton Hydro”, be received.

Carried

4. Deputations

Michael Gannon, on behalf of MCCRG addressed the Committee regarding the proposed PowerStream merger/acquisition and spoke in opposition.

Marilyn Ginsburg, Markham resident addressed the Committee with respect to the proposed PowerStream merger/acquisition and spoke in opposition.

Robert Mok, on behalf of Downtown Markham Ratepayers Association addressed the Committee regarding the PowerStream merger/acquisition and spoke in opposition.

Wayne Chen, Markham resident addressed the Committee with respect to the PowerStream merger/acquisition and asked some questions and stated some concerns.

Mayrose Gregorios, Markham resident addressed the Committee with respect to PowerStream merger/acquisition and stated concerns.

Moved by Regional Councillor Jim Jones  
Seconded by Regional Councillor Nirmala Armstrong

That the deputations provided by Michael Gannon, Marilyn Ginsburg, Robert Mok, Wayne Chen and Mayrose Gregorios be received.

Carried

5. Report - Powerstream Merger  
Report Appendix 1 Appendix 2

Moved by Regional Councillor Jim Jones  
Seconded by Regional Councillor Nirmala Armstrong

**That the proposed recommendation be referred directly to the November 19, 2015 Special Council meeting:**

Whereas Markham Enterprises Corporation (“MEC”) and The Corporation of the City of Markham (the “City”), Vaughan Holdings Inc. (“VHI”), The Corporation of The City of Vaughan, Barrie Hydro Holdings Inc. (“BHHI”), and The Corporation of the City of Barrie, PowerStream Holdings Inc. and PowerStream Inc. are parties to the Unanimous Shareholders’ Agreement for PowerStream Holdings Inc., dated November 1, 2013 (the “PowerStream Shareholder Agreement”); and,

Whereas MEC owns 34.185% of the shares of PowerStream Holdings Inc.; and,

Whereas MEC is a wholly owned holding company of the City, incorporated under the provisions of the *Electricity Act, 1998 (Ontario)*; and,

Whereas the Board of Directors of PowerStream has approved and has recommended to its shareholders the approval of a merger of the local hydro distribution companies of PowerStream Holdings Inc. (“PowerStream”), Horizon Holdings Inc. (“Horizon”), and Enersource Holdings Inc., a holding company to be established by Enersource Corporation (“Enersource”); and,

Whereas the Board of Directors of PowerStream has approved and has recommended to its shareholders the purchase of Hydro One Brampton Networks Inc. (“Brampton”), conditional upon the completion of both the Merger Participation Agreement and the Share Purchase Agreement, in accordance with the terms set out in both agreements; and,

Whereas the PowerStream Shareholders' Agreement requires unanimous approval by its Shareholders for transactions including the merger and the acquisition of Brampton; and,

Whereas the merger of PowerStream, Horizon, Enersource and acquisition of Brampton will form a new organization currently referred to as "MergeCo";

Whereas MEC, together with VHI and BHHI, retained independent consulting and legal services as follows:

- Navigant Consulting Ltd., on the proposed Transaction ;
- BDR NorthAmerica Inc., on the proposed Transaction;
- Gowlings LLP, on the proposed governance structure and the draft agreements:
  - Merger Participation Agreement;
  - Unanimous Shareholders' Agreement; and
  - Share Purchase Agreement; and,

Whereas the City, at its General Committee meeting on October 7, 2015, received presentations and reports from:

- Navigant Consulting Ltd.
- PowerStream
- City Staff; and,

Whereas the merger and the acquisition (the "Transaction") require a significant equity contribution of \$43-47.3M, depending on the amount of closing costs and adjustments; and,

Whereas the City holds a promissory note in the amount of \$67.9M and the interest rate approved by the OEB for shareholder promissory notes will be reduced from 5.58% to approximately 4.54%; and,

Whereas the dividends forecasted for the core business, are expected to increase; and,

Whereas the MergeCo dividend policy carries incremental uncertainty as compared to the PowerStream dividend policy; and,

Whereas under the proposed terms of the merger, dividend income and equity return from PowerStream's solar assets are segregated for the benefit of the shareholders of PowerStream, as set out in the draft PowerStream Solar Business Services and Indemnity Agreement Indicative Term Sheet; and,

Whereas the Net Present Value of the solar dividends in MergeCo will be decreased by approximately \$1M; and,

Whereas the financial modeling and the analysis indicate a return on the incremental investment greater than 5%; and,

Whereas, although staff have negotiated significant amendments to the Transaction to reduce associated risks, the investment is not financially compelling given the remaining risk and the investment criteria of both MEC and the City of Markham; and,

Whereas the Transaction can not be recommended by City staff solely on an investment basis; and further,

Whereas the Transaction will deliver meaningful benefits to PowerStream customers beginning in year six after the merger, estimated at an average of \$40/year for all customers and \$25-\$30 on the average residential utility bill (representing approximately 5% to 9% of the distribution portion of the utility bill), in the form of reductions in the cost increases on the distribution portion of such bills;

Now therefore be it resolved:

- 1) That subject to conditions set out in clauses 1 and 2 hereof, The Corporation of the City of Markham, in its capacity as a shareholder of MEC, approves:
  - a. the merger of PowerStream, Horizon and Enersource, substantially in accordance with the draft Merger Participation Agreement dated October 9, 2015 and the Unanimous Shareholders' Agreement dated October 9, 2015;
  - b. The purchase of Hydro One Brampton Networks Inc., substantially in accordance with the terms of the Share Purchase Agreement dated October 8, 2015, between Her Majesty the Queen in Right of Ontario as represented by the Minister of Energy (the "Province") and Brampton Distribution Holdco Inc. as the vendor, and Horizon, Enersource and PowerStream as purchaser; and,
- 2) That the completion of the merger and the purchase of Brampton be conditional on the following:
  - a. The terms of the Transaction being substantially as set out in the Merger Participation Agreement dated October 9, 2015, the Share Purchase Agreement dated October 8, 2015, the Unanimous Shareholders' Agreement dated October 9, 2015 and the draft PowerStream Solar Business Services and Indemnity Agreement dated October 5, 2015.
  - b. Amendments to the agreements in a form satisfactory to the Chief Administrative Officer as follows:
    - i. Unanimous shareholder approval required for mergers and acquisitions until 75% of the targeted synergy savings have been achieved;
    - ii. Extension of the term of the Shareholder promissory notes for 20 years from 2016 with right to extend for a further 20 years, at the interest rate approved by the Ontario Energy Board;
    - iii. Improvements to section 8.3 of the Unanimous Shareholders' Agreement to achieve clarity on the tax mitigation strategies for first and subsequent sales of shares in MergeCo that trigger departure and transfer taxes;
  - c. That a financial back stop be negotiated with one or more of the municipal partners participating in this Transaction, on terms satisfactory to the Chief Administrative Officer;

- d. That the equity investment required to complete the merger and acquisition be no greater than \$47.3M;
  - e. Approval of the Strategic Plan by the Board of Directors of MEC; and,
- 3) That the City work with MEC staff and other shareholders, to reduce the equity contribution required for the Transaction to occur, including but not limited to a formal, municipally led sale of 10% of MEC's shareholding in PowerStream with consideration for MergeCo's value; and,
  - 4) That in the event that the sale is not successful, staff shall report back with alternate funding options, including funding options that will not require funding from the City of Markham; and,
  - 5) That the Mayor and Clerk be authorized and directed to execute the Merger Participation Agreement, the Unanimous Shareholders' Agreement and the PowerStream Solar Business Services and Indemnity Agreement based on the draft Indicative Term Sheet, subject to any modifications or amendments approved by the Chief Administrative Officer; and,
  - 6) That the Mayor and Clerk be authorized and directed to execute and deliver all other documents, notices, articles, certificates to be signed and or delivered under or in connection with the Merger Participation Agreement, the Unanimous Shareholders' Agreement or Share Purchase Agreement or to take any action(s) required to give effect to the foregoing resolutions; and further,
  - 7) That staff be authorized to do and to take any action necessary to give effect to these resolutions, including the execution of any documents.

#### ADJOURNMENT

Moved by Councillor Amanda Collucci  
Seconded by Councillor Colin Campbell

That the Special General Committee meeting adjourn at 11:11 PM

Carried