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May 20, 2011

Mr. H. Singh  
The Public Utilities Board  
400 - 330 Portage Avenue  
WINNIPEG, Manitoba R3C 0C4

Dear Mr. Singh:

**RE: Manitoba Hydro General Rate Application-  
Undertaking Questions Posed by PUB Counsel May 17, 2011**

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On May 17, 2011, Manitoba Hydro and intervenors were copied with a set of PUB undertaking questions 1 to 25 for response by the independent consultants, Dr. Kubursi and Dr. Magee (“KM”). Manitoba Hydro has a number of concerns with these undertakings.

KM were retained by the PUB in January, 2010 to conduct an independent review of risk management issues associated with Manitoba Hydro. A schedule setting out the process for the review of evidence leading up to the oral hearing, including that of KM, was issued and in accordance therewith, the KM Risk Report was distributed to all parties on November 17, 2010. All parties were provided an opportunity to submit information requests with respect to these materials and responses to the information requests were filed in December, 2010. Shortly prior to their scheduled testimony, the PUB and CAC/MSOS each filed a series of “Pre-Ask” questions of KM, which process was not contemplated in the PUB’s schedule. Three days were set aside for KM’s evidence, May 4, 5, and 6, 2011. Only the direct examination and cross examination by PUB Counsel were concluded during this time period which has necessitated the allocation of two additional days, May 26 and 31, 2011 to allow for cross examination of KM by intervenors and Manitoba Hydro. On May 17, 2011, PUB counsel filed an additional series of 25 Undertaking Questions, due May 26, 2011.

A number of the questions relate directly to the “wisdom” of Manitoba Hydro’s capital plans. Manitoba Hydro recognizes the PUB’s interest in these plans despite its limited jurisdiction regarding same and has made its best efforts to respond to the PUB’s questions in this regard. However, it is important to note that the evidence accumulated in responding to such inquiries is significantly different than the evidence Manitoba Hydro would put forward in the Needs For And Alternatives To review (“NFAAT”) which will take place prior to Manitoba Hydro being authorized to proceed with its plans.

In order for a tribunal to be in a position to opine on the wisdom of a development sequence, the corporation would file detailed information such as:

- The need for and timing of the additional capacity based on projections of domestic load;
- A review of other resource options, their financial and environmental costs, and reliability issues;
- A detailed description of the project, updated estimates (if applicable) of related costs including construction materials, type and cost of labour and associated costs, estimates for contingencies tied to market conditions, foreign exchange and other considerations specific to the project;
- A detailed economic analysis including IRR, NPV, forecasts of revenues and sensitivity analyses on the various scenarios;
- An analysis of ancillary economic, environmental and other benefits to the local communities and province;
- Details of relationships with other investors, including the value and propriety of such arrangements;
- Impacts of the projects on neighbouring communities and jurisdictions;
- Related export sale arrangements and their attendant benefits;
- Associated transmission and interconnection costs and benefits.

It is not possible to secure a meaningful understanding of a significant capital project without such information. This information is not before the PUB and is not within the scope of the current hearing. Furthermore, this information is not in the possession of KM, nor does it form part of their report. It is not appropriate to ask KM to opine on Manitoba Hydro's capital projects at this juncture. Manitoba Hydro expects that the issues raised by the PUB will be fully canvassed prior to any final decision being made with respect to the construction of new generating facilities. However, the present hearing is not the appropriate venue for such a review.

KM have been qualified as experts in econometrics, statistics, including time series analysis, economics, production systems, risk analysis and optimization models. They are not engineers or hydrologists and have not claimed expertise regarding the North American energy market, power system operations or power planning. A number of the undertaking questions posed would require KM to have detailed knowledge of the operations and strategic plans of other utilities or of North American energy markets in order to provide an informed opinion. Still other questions would require KM to speculate on Manitoba Hydro motives for pursuing certain sales activities or ask KM to opine on what the corporation would do or should have done in certain circumstances.

The PUB set out a process for the testing of the KM evidence which included the opportunity to pose information requests and cross-examine KM. Manitoba Hydro acknowledges that the PUB is authorized to set its own process, however having done so, it is incumbent on the regulator to follow that process. The PUB's process does not contemplate the posing of additional undertakings following the conclusion of a party's cross examination. Processes and schedules are set to facilitate a fair and orderly exchange of information. From a procedural fairness perspective and

setting aside Manitoba Hydro's concerns with the nature of the questions, none of the undertakings sought are based on information that has arisen since May 6 and all could have been asked during cross examination. The remaining Parties will not be in a position to properly prepare their cross examinations, particularly given that the responses will only be delivered the day cross examinations are scheduled to resume and that a number of the undertakings relate to information not contained in the KM Report. There is no apparent justification for the departure from the normal rules of the process, or the PUB process which has been established in respect of this matter.

Manitoba Hydro therefore wishes to note its objection to the imposition of these questions at this juncture, and in particular, objects to Undertaking Questions numbers 1, 2, 4, 5, 6, 7, 8, 10, 13, 14, 15, 16, 18, 22, 23, 24, and 25 on the grounds noted above as being questions which are outside the scope of the retainer and report of KM and/or of this hearing, and in some cases requiring speculation of what MH would have, or could have done in certain circumstances, requiring hydrological and engineering expertise. In addition, Manitoba Hydro wishes to note its objection to Undertaking Question 3 which asks KM to repeat or recant evidence given on May 6, and Undertaking Question 17 which also seeks to have KM change conclusions which are clear from their report.

Undertaking Questions 9, 11, 12, 19, 20, 21, are questions which appear to be within the scope of the retainer of KM, and are objected to on the basis of the procedural considerations outlined above.

Manitoba Hydro is prepared to attend before the PUB to argue the matters outlined in this letter in the event that this becomes necessary, and will await the direction of the PUB in this regard.

Yours truly,

**MANITOBA HYDRO LAW DEPARTMENT**

Per:



**MARLA BOYD**

Barrister and Solicitor

MDB/

- cc. Bob Peters, Fillmore Riley LLP, by email
- Anita Southall, Fillmore Riley LLP, by email
- Gavin Wood, Solicitor for Dr. Kubursi and Dr. Magee, by email
- Registered Intervenors, by email