

MANITOBA ) Order No. 55/03  
THE PUBLIC UTILITIES BOARD ACT )  
April 4, 2003

**BEFORE:** G. D. Forrest, Chairman  
M. Girouard, Member  
Mario J. Santos, Member

**AN ORDER ADDRESSING MOTIONS BY CENTRA GAS MANITOBA INC. AND BY  
THE CONSUMERS' ASSOCIATION OF CANADA (MANITOBA) INC. AND  
THE MANITOBA SOCIETY OF SENIORS  
IN RESPECT OF THE CENTRA GAS MANITOBA INC.  
GENERAL RATE APPLICATION FOR THE 2003/04 FISCAL YEAR**

## **Background**

Centra Gas Manitoba Inc. (“Centra”) filed a General Rate Application (“GRA”) with The Public Utilities Board (the “Board”), seeking, amongst other things, approval of new sales rates for supplemental gas, transportation (to Centra), and distribution to customers, all to be effective April 1, 2003, with respect to all natural gas consumed on and after August 1, 2003.

The Consumers’ Association of Canada (Manitoba) Inc. and The Manitoba Society of Seniors (“CAC/MSOS”) applied for and were granted intervenor status with respect to Centra’s GRA. The Board issued procedural Order 9/03, dated January 22, 2003, which included a timetable for the orderly exchange of information and evidence among the parties.

Both Centra and CAC/MSOS filed Motions with the Board.

The Board gave notice to all parties that both motions would be heard March 27, 2003 at the Board’s Office. Only Centra and CAC/MSOS attended and made submissions on the motions. The Board was also assisted by the Book of Documents assembled by CAC/MSOS and referred to in the submissions by CAC/MSOS.

## **Motion by Centra**

In its motion Centra sought:

1. An Order that the evidence of John D. Todd, filed in the above noted Application, and dated March 21, 2003, be struck from the record of these proceedings;
2. A direction that the Board will decline to admit evidence in respect of “Comments on the Future Regulatory Methodology” and related matters at the hearing of the above noted Application;
3. An Order that the timetable for the orderly exchange of information be suspended or amended as may be required in order to accommodate the hearing of this Motion and the Board’s ruling;

Centra objects to Mr. Todd’s evidence being part of the record in this proceeding, arguing that while it raises matters that are important, such evidence and matters should not be discussed in the forum of a GRA. Centra maintains the purpose of a GRA is to examine the reasonableness of Centra’s sales rates, and it is inappropriate to admit Mr. Todd’s evidence as it could raise uncertainty as to whether the Board would rule on Centra’s sales rates. Centra also submitted that Mr. Todd’s

evidence would also impact on Manitoba Hydro (“Hydro”) and other interested parties, none of whom are a party to this proceeding. In addition, Centra submitted there are jurisdictional differences between Hydro and Centra, and there have been no public notices setting out the scope of Mr. Todd’s evidence or its potential to impact the regulatory methodology.

Centra also requested that the timetable, which includes the dates for asking Information Requests of Intervenor evidence, be held in abeyance pending the decisions on the motion.

CAC/MSOS opposes Centra’s Motion and maintains that Mr. Todd’s evidence is relevant to matters before the Board, and should not be removed from the record of this proceeding.

CAC/MSOS notes that while Hydro is not a registered intervenor in this proceeding, Centra has no employees, and is really Hydro, and Hydro therefore must be taken as being present.

CAC/MSOS stresses that Mr. Todd’s evidence is not about new legislative changes in regulation, but rather deals with the new structure and environment under which the regulation of the gas utility is to be conducted pursuant to existing legislation. CAC/MSOS also submits that the Board can hear any evidence it wants to, at any time,

as long as it is relevant, and Centra always bears the onus and has to discharge its burden of proof as to whether it should be granted the rate increases it seeks.

CAC/MSOS also argued that the Board has an obligation and a duty on each and every occasion to deal with the issue of the appropriateness of the regulation.

CAC/MSOS reviewed various previous Board Orders and transcript references in support of their arguments and position.

### **Motion by CAC/MSOS**

In its motion, CAC/MSOS sought:

1. An Order compelling Centra to provide answers and produce documents for CAC/MSOS/Centra 7 and CAC/MSOS/Centra 54(e);
2. An Order compelling Centra to produce any interim report(s) prepared in connection with the Blank Page Analysis;
3. A direction that the Board will admit evidence in respect of future regulation and related matters at the hearing of the above noted Application.

CAC/MSOS relies on its submissions in respect of Mr. Todd's evidence made in response to Centra's motion and seeks a response to Information Request CAC/MSOS/Centra 7 (which was repeated in CAC/MSOS/Centra 159(c)). Information Request CAC/MSOS 7 sought disclosure and information of Centra's Corporate Strategic Plan and particularly its strategy to "recommend legislation for natural gas mandate."

Centra opposes CAC/MSOS' requests for information as not being relevant to the GRA. Centra also maintains that the requested report being sought does not belong to Centra, but was prepared by Hydro for its Minister, and was not intended for public review.

CAC/MSOS' request for an answer to CAC/MSOS/Centra 54(e) relates to quantification of regulatory costs if Hydro/Centra's legislative reform is enacted. Centra has declined to answer as it is hypothetical and would require a number of assumptions, which would make the answer of no probative value.

Additionally, CAC/MSOS requested Centra file all interim reports related to the "Blank Page Analysis", as this matter is long overdue. CAC/MSOS proposed alternatives for the public review of the analysis.

Centra acknowledges that although significant work has been done by its consultant, there is still additional work to be done, there are no conclusions, and there is no report to present. Centra advised that the report from the consultant will be provided to Centra in May, 2003.

## **Board Findings**

### **Evidence of John Todd**

The Board finds the pre-filed evidence by Mr. Todd relates to possible adaptations to regulatory processes that may be appropriate in the continuing regulation of Centra under existing legislation. This evidence is provided on behalf of CAC/MSOS at this time, as this is Centra's first GRA since its integration with Hydro. CAC/MSOS wants the Board and all parties to consider the regulatory model to be utilized under the existing legislation.

The ongoing regulation of Centra, and any appropriate changes as a result of its shares being acquired by Hydro, is a matter properly before the Board. It is appropriate that parties provide the Board with their views on the most effective and efficient ongoing regulation of Centra under existing legislation.

While parties are at liberty to advance evidence respecting the ongoing regulation of Centra under existing legislation, the Board cautions all parties that suggestions for legislative change for future regulation is not relevant to this GRA. Unless the Board initiates, or is specifically tasked to conduct, an investigation and report on possible legislative changes for future regulation, that is a matter for the Legislature. All interested parties are at liberty, at any time, to submit their views and positions to the Legislature.

The Board therefore finds the evidence by John Todd to be relevant and admissible.

Hydro has, according to the procedural timetable, the opportunity to file rebuttal evidence in respect of this matter, should it so decide.

This GRA is being conducted pursuant to existing legislation and all parties are expected to keep within that parameter.

**CAC/MSOS' Request for Centra to Answer CAC/MSOS/Centra 7**

CAC/MSOS is seeking specific information on Hydro's purpose, rationale and justification for seeking a new regulatory framework through legislation. As indicated above, these questions relate to matters beyond the Board's jurisdiction in

respect of Centra's GRA and are not relevant to this proceeding. Centra will not be compelled to answer these questions.

**CAC/MSOS' Request for Centra to Answer CAC/MSOS/Centra 54(e)**

CAC/MSOS seeks an estimate of Centra's regulatory costs, if Hydro/Centra's proposal for revised legislation for future regulation is enacted. Also, as indicated above, this question relates to matters beyond the Board's jurisdiction in respect of Centra's GRA and is not relevant to this proceeding. Centra will not be compelled to answer this question.

**CAC/MSOS' request for Production of Interim Report(s) Prepared in Connection with the Blank Page Analysis**

That the matter of the Blank Page Analysis has long been on the regulatory agenda is an understatement. It is remarkable that Centra has expended approximately \$400,000 and has nothing tangible to show for that expenditure to date, though Centra advises the consultant's report will be delivered to Centra in May 2003.

The Board accepts Centra's responses that it has no report on the Blank Page Analysis and therefore is unable to file any report for this GRA. The timing and

process, for the public review of the Blank Page Analysis and Centra's response, will be addressed in this GRA.

**Centra's Request to Suspend or Amend the Timetable**

The date originally set for Information Requests to be advanced to Intervenor witnesses was March 27, 2003. Centra wants the timetable to be amended to accommodate the hearing of the motions and the Board's rulings.

The Board intends the public hearing to commence on April 14, 2003 as indicated in previous public notices.

The Board expects all interested parties will use their best efforts to submit and respond to the Information Requests to Intervenor witnesses. With all parties using their best efforts, the Board is confident the remaining items on the timetable can be completed before the commencement of the public hearing.

**IT IS THEREFORE ORDERED THAT:**

1. Centra's request for the evidence of Mr. Todd to be struck from the record of this proceeding, BE AND IS HEREBY DENIED.
2. Centra's request for a directive of the Board that it will decline to admit Mr. Todd's evidence in respect of "Comments on the Future Regulatory Methodology" and related matters at the public hearing, BE AND IS HEREBY DENIED.
3. CAC/MSOS' request for an Order compelling Centra to provide answers and produce documents with respect to Information Requests CAC/MSOS/Centra 7 and CAC/MSOS/Centra 54(e), BE AND IS HEREBY DENIED.
4. CAC/MSOS' request for an Order compelling Centra to produce any interim report(s) prepared in connection with the Blank Page Analysis, BE AND IS HEREBY DENIED.

5. Parties are to utilize their best efforts in concluding the items remaining on the timetable leading up to the commencement of the public hearing on April 14, 2003.

THE PUBLIC UTILITIES BOARD

"G.D. FORREST"

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Chairman

"H. M. SINGH"

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Acting Secretary

Certified a true copy of Order No. 55/03  
issued by The Public Utilities Board

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Acting Secretary