

MANITOBA
THE PUBLIC UTILITIES BOARD ACT
THE MANITOBA HYDRO ACT
THE CROWN CORPORATIONS PUBLIC
REVIEW AND ACCOUNTABILITY ACT

Order No. 76/03

May 5, 2003

Before: G. D. Forrest, Chairman
R. Mayer Q.C., Vice-Chairman

**APPLICATION BY THE GOVERNMENT OF CANADA TO ADJOURN
THE PROCEEDINGS REGARDING AN APPLICATION BY
MANITOBA HYDRO TO INCREASE RATES IN REMOTE
COMMUNITIES SERVED BY DIESEL GENERATION**

1.0 Background

By letter dated December 2, 2002, Manitoba Hydro (“Hydro”) filed an application with The Public Utilities Board (“the Board”) to increase certain rates applying in communities served by diesel generation effective April 1, 2003. Subsequently, a Notice of Public Hearing was issued which included a timetable for the orderly exchange of information, and a public hearing to be held in Thompson, Manitoba commencing on March 3, 2003.

By letter dated January 23, 2003, the Government of Canada (“Canada”) requested an adjournment of the application “for a period of at least two or three months” to allow sufficient time to find an appropriate witness and to prepare for the hearing. This request was supported by Manitoba Keewatinowi Okimakanak Inc. (“MKO”). As a result of this request, the original timetable was amended to allow further time for the submission of intervenor evidence, and to allow sufficient time for interested parties to submit information requests on that evidence. The revised timetable postponed the commencement of the public hearing until June 17, 2003.

2.0 Request for Further Adjournment

By letter to the Board dated April 14, 2003, Canada made a formal request of the Board to adjourn this matter until such time “as the issue of liability for funding is clarified.” Canada stated their position that no contractual relationship exists between Hydro and Canada with respect to the provision of diesel generation electrical service, and that this matter “is not something that the Board itself can determine.”

By letter to the Board dated April 17, 2003, Canada further stated their view that Hydro has based its application, in part, on the mistaken assumption that Canada is contractually bound to continue to fund the First Nation customers by way of subsidy. Canada recommended that the

Board “adjourn this matter until Hydro resolves this important issue with Canada either through negotiation or through the courts”.

By letter dated April 17, 2003, the Board requested Hydro and all interested parties to provide comments to the Board on Canada’s request.

3.0 Comments of Interested Parties

Manitoba Hydro

Hydro’s letter to the Board of April 22, 2003 stated, in part, that the application before the Board deals with rate increases within a rate structure that has been in existence for approximately 20 years. Hydro further stated that the entire regulatory process would come to a standstill if Hydro was required to establish the identity of the party liable for payment of an account prior to the regulator establishing rates. Hydro stated that costs of producing diesel service have increased dramatically over the last several years, and it is imperative that the Board review these costs in order that rates be adjusted to properly reflect current cost of service. Hydro submitted that the Board should reject Canada’s motion to adjourn the diesel hearing in order that current rates can be established.

MKO

MKO’s letter to the Board of April 22, 2003 stated that the matters central to the dispute between Canada and Hydro should be resolved at the earliest opportunity, and that it is premature to proceed until such time as the basis on which Hydro is providing service to the diesel communities is determined with certainty. MKO further stated that, in their view, the matter cannot reasonably proceed until Hydro and Canada either preliminarily agree as to the

basis for the provision of diesel service, or the matter is finally determined by a court of competent jurisdiction.

**Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors
("CAC/MSOS")**

CAC/MSOS's letter to the Board of April 20, 2003 stated that the current application demands prompt regulatory attention given the number of diesel related issues which Hydro has let slide over the past decade. CAC/MSOS further stated that the alleged dramatically rising costs of service in the diesel communities have created a shortfall in revenue which must be recovered. A referral of the contractual issue to a court will not resolve the question of whether the costs incurred by Hydro in serving diesel communities are just and reasonable. CAC/MSOS encouraged the Board to reject Canada's motion in order to achieve a timely and effective resolution of the current matter.

Board Findings

The Board is not prepared to grant the requested indefinite adjournment of the upcoming hearing, until Hydro and Canada resolve their dispute through negotiation or through the courts.

The "Government Surcharge" on Federal and Provincial accounts can be traced back to 1984 . The "Full Cost" and "Surcharge" portion of the rates currently approved by this Board for the Diesel Zone were implemented November 1, 1993 and confirmed in PUB Order 62/94, issued April 8, 1994. The Application currently before the Board is Hydro's first application since 1994 to change the "Full Cost" and "Surcharge" portions of the rates in the Diesel Zone. The Board finds it appropriate to conduct the public hearing, without further adjournment, to examine

the costs of providing diesel service which have apparently increased significantly since 1994. In addition to the examination of the costs, parties may advance evidence and/or submissions on how approved costs can best be recovered by the utility.

The Board does not consider that a determination of the issue of liability for funding, between Canada and Hydro is a prerequisite to conducting the upcoming public hearing.

The Board will therefore deny Canada's request for an adjournment.

It Is Therefore Ordered That:

1. The request by Canada to adjourn Manitoba Hydro's Diesel rate application, until such time as the issue of liability for funding is clarified, BE AND IS HEREBY DENIED.

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"

Chairman

"G. O. BARRON"

Secretary

Certified a true copy of Order No. 76/03
issued by The Public Utilities Board

Secretary