

An Overview of the
**Regulatory and
Hearing Processes**

Role of the Public Utilities Board

The Public Utilities Board operates under the authority of The Public Utilities Board Act and other Manitoba statutes. The nine board members are appointed by the Lieutenant-Governor and serve indefinite terms. They serve on panels that provide administrative tribunal rulings.

The board oversees:

- natural gas and propane utilities and brokers
- Manitoba Hydro
- Manitoba Public Insurance
- water and sewer utilities (excluding the City of Winnipeg)
- for-profit cemeteries and crematoriums
- natural gas and propane pipeline safety
- appeals of Highway Traffic Board rulings
- maximum allowable fees for cashing government cheques
- maximum allowable fees for payday loans
- operation of local transportation services in the City of Winnipeg
- other areas of public interest

Board functions include:

- setting utility rates and fees
- reviewing utilities' service terms and conditions
- consumer utility complaints and appeals

Role of Board Staff and Professional Advisors

- ensure relevant regulatory matters and information are brought to the board's attention
- help all parties in a public hearing on matters of procedure
- communicate board decisions and plans to the public
- consult with the public on matters involving the board

Board staff and advisors will not:

- take a position on any application before the board
- recommend any application for approval, denial or variance
- advocate for the position of any party involved in a proceeding

Role of the Public

Manitobans can express concerns and positions about utilities and areas of public interest regulated by the board. They may participate either as presenters or interveners.

Public involvement helps ensure all public issues come to the board's attention.

1. An **intervener** is someone who wants to take a position on an application before the board, and who:
 - may provide information or evidence
 - will attend the hearing
 - may wish to question the applicant
 - will be available to answer questions
 - may provide a closing statement of position at the end of the hearing

A prospective intervener must register with the board before the hearing.

2. A **presenter** is someone who wants to make a statement to the board about the application being reviewed in a public hearing. Presenters may attend the hearing but are not required to participate in the same way as an intervener. While presenters are not required to pre-register with the board, they should notify the board before or at the start of the hearing of their intention to present. Presenters are encouraged to also provide a written copy of their presentations.
3. An interested member of the public may ask questions about

issues or bring matters of interest to the attention of the board, outside of a hearing.

The Hearing Process

Hearing process steps usually include:

- an application for a hearing, usually by a regulated utility
- public notice of hearing, which may be either a public hearing or a paper-based process
- a pre-hearing conference attended by people interested in intervening
- the public hearing or paper-based process
- the board's decision, which comes in the form of an order

The board may also hold a hearing at its discretion or on referral from the Government of Manitoba, into other matters. Such hearings are usually called in response to an application.

The board may temporarily deal with an application. Their temporary decisions are subject to review and finalization or variance at a later date. The board also deals with matters (such as individual consumer complaints that don't really affect the general public) without holding a public hearing. All board decisions are available to the public and posted on the board's website.

The Application

The hearing process generally begins when someone applies to the board, for a decision on a matter of interest.

An applicant may be:

- a regulated body
- a consumer or company
- a representative of a consumer or special interest group

Applicants for rate changes must demonstrate to the board that change is appropriate. The board must protect the public interest and its decisions are not only based on financial criteria.

Applicants must provide information to support their requests, and respond to pre-hearing questions from the board and interveners. Information provided before and at the hearing is examined during the hearing and is usually made available to the public through the board office.

Notice of a Public Hearing

The board must inform the public about issues to be reviewed at a public hearing. Notices of public hearings are usually published in daily and weekly newspapers throughout Manitoba, or posted within a community. Notices may also be mailed or electronically transmitted to individuals, groups or

associations who have expressed an interest in the issues.

Notice usually provides:

- a brief explanation of the issues
- an indication of the potential impact on ratepayers
- the time, date and place of a pre-hearing conference
- the time, date and place of the public hearing
- the procedures and process to be followed
- an indication that the board may accept, deny or vary the application

Pre-Hearing Conference

Before a public hearing on a rate change application from a major provincial utility, the board may hold a pre-hearing conference to:

- outline the issues to be addressed
- identify the parties interested in the hearing (interveners and presenters)
- set a timetable for the exchange of information between the applicants, the board and other interested people
- address any opening motions that may be made by the applicant or any other person or group

The Hearing

At the beginning of a public hearing, the applicant and interveners are asked to summarize their positions. The application is examined by the board, its advisors and interveners. The applicant and interveners are then given an opportunity to make a final statement. When the hearing is over, the board considers the evidence and makes its decision.

For major hearings, the proceedings are usually recorded by a court reporter, with transcripts available on the board's website.

Board Orders

Orders state the board's decision, recommendations and reasons for them. Orders are in writing and available to all Manitobans. They are legal, binding documents, subject to appeal. All orders are posted on the board's website.

The board will reconsider an order:

- at the timely request of the applicant
- at the timely request of interested parties
- on its own initiative

Board orders may be appealed to the provincial court on questions of law or jurisdiction.

Rules of Practice and Procedure

The board has adopted formal Rules of Practice and Procedure which, among other things, outline the conduct of public hearings. They are available online at:
www.pub.gov.mb.ca

Questions and Answers

1. Who pays the costs for participating in a public hearing?

Costs incurred by the Public Utilities Board, directly or indirectly, are charged to the regulated utility, and are usually reflected later in utility rates.

An intervener to a board hearing may apply to recover hearing costs. These applications are considered by the board under Section 43 of Rules of Practice and Procedure (posted on the board's website). The section outlines the criteria the board uses to assess the costs for an applicant. These include:

- the level of contribution to the proceeding made by the person who is asking for an award of costs
- evidence of an intervener's responsible co-operation with other interveners
- evidence of the intervener's financial need

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- evidence of the intervener representing a significant group of consumers or ratepayers

The board does not award costs to presenters, government agencies or private firms with a financial interest in the proceedings.

2. Do I need a lawyer to take part in a board hearing?

No, particularly if you simply want to make a presentation and not cross-examine a utility or other witnesses. However, presenters and interveners may use the services of a lawyer, other interested citizens or groups, in preparing a presentation. Board staff are available to consult with participants.

Participants who want to intervene, cross-examine witnesses or present final arguments, generally represent a private company, association or special interest group. Legal counsel or other professional advice can be helpful. However, intervening is possible without a lawyer.

3. Do I have to be there for the whole hearing?

No, particularly if you are a presenter. However, in the interest of restraining regulatory costs, interveners cannot ask questions covered by others during an absence.

4. Can I recover the cost of lost wages to attend the hearing?

No, you can only apply for out-of-pocket expenses such as travel and meals. Such costs are rarely awarded and are reserved for interveners.

5. Is a consumer who makes an application liable for costs?

Yes, though this rarely happens. It is best to ask about costs before making an application to the board.

If you have other questions, please contact the board:

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