

May 30, 2018

Mr. D. Christle
Secretary and Executive Director
Public Utilities Board
400-330 Portage Avenue
Winnipeg, Manitoba R3C 0C4

Dear Mr. Christle:

RE: Manitoba Hydro Application to Review and Vary Order 59/18 and Order 68/18

I am attaching a copy of Manitoba Hydro's Application to Review and Vary Public Utilities Board Order 59/18 and Public Utilities Board Order 68/18.

Please note that the relief requested in Appendix "A" to the Review and Vary Application dealing with Directive 6, Bill Affordability and the First Nation On Reserve Residential Class, requests an immediate stay of the operation of Directive 6 as well as an immediate stay of the operation of Order 68/18 as it relates to the First Nation On-Reserve Residential class and First Nations Residential customers in the diesel zone communities. Given Order 68/18 approves rate schedules effective June 1, 2018, Manitoba Hydro requests the PUB expedite its review and decision with respect to Manitoba Hydro's request for an immediate stay.

Yours truly,

MANITOBA HYDRO LEGAL SERVICES

Per:



PATRICIA J. RAMAGE
Barrister & Solicitor

PJR/
attach.

Available in accessible formats upon request

BACKGROUND

Manitoba Hydro filed a Letter of Application with the Public Utilities Board (“PUB”) on May 5, 2017 as part of its General Rate Application (GRA) requesting, in part, the following approvals:

1. finalization of the 3.36% interim rate increase to be effective August 1, 2016;
2. approval of a 7.9% interim rate increase to be effective August 1, 2017; and
3. a further 7.9% rate increase to be effective April 1, 2018.

Manitoba Hydro’s application for an interim 7.9% rate increase effective August 1, 2017 was heard by way of oral submissions by both Intervenors and Manitoba Hydro on July 18 and 19, 2017. On July 31, 2017, the PUB issued Order 80/17 wherein a majority of the PUB approved, on an interim basis, a 3.36% interim rate increase effective August 1, 2017.

On May 1, 2018, the PUB issued Order 59/18 in which the PUB approved, as final, the 3.36% interim rate increase effective August 1, 2016, and the 3.36% interim rate increase effective August 1, 2017. Order 59/18 also approved a 3.6% rate increase effective June 1, 2018. In addition to the rate approvals, the PUB issued a number of directives and recommendations to Manitoba Hydro, including a directive requiring the creation of a First Nations On-Reserve Residential customer class.

On May 15, 2018, pursuant to Directive 8 of Order 59/18, Manitoba Hydro filed a schedule of rates reflecting the overall rate increase and differentiated rates effective June 1, 2018 and supporting information. Manitoba Hydro’s May 15, 2018 compliance filing stated “Manitoba Hydro is providing this compliance filing as directed in Order 59/18 without prejudicing its right to Review and Vary or appeal any portion of Order 59/18.

On May 29, 2018 the PUB issued Order 59/18 titled “Final Order with Respect to Manitoba Hydro’s 2017/18 and 2018/19 Rate Application” which approved the Rate Schedules contained in Manitoba Hydro’s May 15, 2018 compliance filing.

Relief Sought

Section 36 of The *Public Utilities Board Rules of Practice and Procedure* (the “Rules”) provides that the PUB may, on application to it, review, rescind, change, alter or vary any decision or order by it. Pursuant to Rule 36 of the Rules, Manitoba Hydro requests that the PUB Review and Vary Order 59/18 and Order 68/18 as thereby required as specified in the attached appendices:

- Appendix A: Bill Affordability and First Nation On Reserve Residential Class (Directive 6)
- Appendix B: Excess Energy Purchase Rate (Directive 7)
- Appendix C: Retain Consultant to Report on Asset Management Program, Progress of UMS Report and Corporate Value Framework (Directive 14)
- Appendix D: Technical Conference on Minimum Equity (Directive 9)
- Appendix E: Determination of Timing of a Future Rate Increase and Time of Use Rate Proposal (Directive 29 and Board Findings p. 171)

The grounds, analysis and relief sought for each issue is articulated in the details to Appendices A to E attached to this Application to Review and Vary.

Manitoba Hydro also provides comments with respect to a number of Recommendations and Board Findings contained in Order 59/18 in Appendix F. Insofar as these matters are not Directives, Manitoba Hydro has not sought to vary the Recommendations or findings but instead outlines its concerns so as to ensure the PUB is aware of Manitoba Hydro’s views with respect to these matters. That Manitoba Hydro has not commented on a Recommendation or finding should not be inferred as acceptance or agreement by Manitoba Hydro of those Recommendations or findings. Rather, Manitoba Hydro has commented on those matters which arguably serve to create expectations regarding operational decision making in the near term.

APPENDIX A

Bill Affordability and First Nation On-Reserve Residential Class

Directive 6 of Order 59/18 states:

Manitoba Hydro create a First Nations On-Reserve Residential customer class. This customer class is to receive a 0% rate increase for the 2018/19 Test Year, such that the rate for this class will be maintained at the August 1, 2017 approved Residential rate. A 0% rate increase is to also apply to First Nations Residential customers in the diesel zone communities.

Background

As noted in PUB Order 59/18, in 2008 pursuant to PUB Order 116/08 the PUB concluded that it would be acting within its legislated mandate if it were to direct Manitoba Hydro to implement a bill assistance program. No such program was ordered to be implemented in Order 116/08. In Order 73/15, the PUB again determined that ordering a bill affordability program was within the PUB's legislative powers and that any future proposals for bill assistance would be evaluated from a comprehensive policy perspective, rather than focused on the issue of legal jurisdiction¹. While the PUB ordered Manitoba Hydro to initiate a collaborative process to research bill affordability with its stakeholders, the PUB did not order a bill affordability program be established.

In PUB Order 59/18, the PUB again concluded that it has the jurisdiction under its governing statutory framework to order a bill affordability program such as a lower-income rate, and to take into account affordability as a factor in setting just and reasonable rates². The majority of the PUB further directed in Order 59/18 that Manitoba Hydro was to establish a First Nations On-Reserve Residential customer class for existing First Nations reserves and that this customer class receive a 0% rate increase for the 2018/19 Test Year. The PUB also ordered that a 0% rate increase for 2018/19 was to apply to First Nations diesel zone residential customers.³

¹ PUB Order 73/15 dated July 24, 2015, pgs. 29-30

² PUB Order 59/18 dated May 1, 2018, pg. 217 of 222

³ PUB Order 59/18 dated May 1, 2018, pg. 217 of 231

Order 68/18 served to approve rate schedules for a First Nations On-Reserve Residential customer class, which class received a 0% rate increase for the 2018/19 Test Year and further approved a 0% rate increase for First Nation Residential customers in the diesel zones. A 4.04% average rate increase was approved for the balance of the Residential class.

Grounds

1. Manitoba Hydro seeks to Review and Vary Directive 6 on the grounds that the PUB has exceeded its jurisdiction and made error in law in directing Manitoba Hydro to create a First Nations On-Reserve customer class, which class is to receive a 0% rate increase for the 2018/19 Test Year and to apply 0% rate increase to First Nation Residential customers in the diesel communities. In particular, the PUB's conclusion that the PUB "has jurisdiction under its governing statutory framework to order a bill affordability program such as a lower-income rate, and to take into account affordability as a factor in setting just and reasonable rates" constitutes an error of jurisdiction and law.
2. The PUB's conclusion that "The First Nation On-Reserve Residential customer class is consistent with the requirements of The Hydro Act because this customer class is not defined solely on the basis of the region of the province in which customers are located" constitutes an error of law and fact. In addition, the PUB's conclusion that it possesses jurisdiction to order the creation of a new customer class constitutes an error of jurisdiction and law.

Analysis

Manitoba Hydro submits that the analysis of the PUB's jurisdiction under *The Public Utilities Board Act*, *The Crown Corporations Governance and Accountability Act* and *The Manitoba Hydro Act* ignores the plain and ordinary meaning of the legislation and seeks to expand the PUB's jurisdiction beyond that provided in the statutes. Manitoba Hydro's full legal argument was set forth at pages 169-178 of its written closing argument. Manitoba Hydro continues to rely on its full written argument however for the purposes of this Review and Vary application, and for ease of reference Manitoba Hydro has attached same as Schedule A to this submission. This submission is intended to identify or expand upon those areas where the PUB in Order 59/18 has erred in findings of jurisdiction, law and fact.

The PUB recognizes on page 217 of Order 59/18 that its jurisdiction with respect to Manitoba Hydro arises from the statutory scheme involving *The Public Utilities Board Act*, (*The PUB Act*) *The Crown Corporations Governance and Accountability Act* (*The Crown Act*) and *The Manitoba Hydro Act* working together.

Section 2(5) of *The PUB Act* specifies that the PUB's authority over Manitoba Hydro is limited to Part 4 of *The Crown Act* and that the provisions of *The PUB Act* do not apply, except as they relate to the conduct of a public hearing in respect of an application made to the PUB under subsection 38(2) or 50(4) of *The Manitoba Hydro Act*.

Application to Manitoba Hydro

2(5) Subject to Part 4 of *The Crown Corporations Public Review and Accountability Act* and except for the purposes of conducting a public hearing in respect of an application made to the board under subsection 38(2) or 50(4) of *The Manitoba Hydro Act*, this Act, other than subsection 83(4) and the regulations under that subsection, does not apply to Manitoba Hydro and the board has no jurisdiction or authority over Manitoba Hydro.

In determining its jurisdiction, the PUB in Order 59/18 focused on section 25(4)(a)(viii) and (ix) of Part 4 *The Crown Corporations Governance and Accountability Act*:

Factors to be considered, hearings

25(4) In reaching a decision pursuant to this Part, The Public Utilities Board may

1. Take into consideration

....

- (viii) any compelling policy considerations that the board considers relevant to the matter, and
- (ix) any other factors that the Board considers relevant to the matter;

However, in Manitoba Hydro's respectful submission, the PUB erred in law and thereby exceeded its jurisdiction by virtue of failing to consider sections 25(1) and 25(2) in reaching its decision:

Hydro and MPIC rates review

25(1) Despite any other Act or law, rates for services provided by Manitoba Hydro and the Manitoba Public Insurance Corporation shall be reviewed by The Public Utilities Board under *The Public Utilities Board Act* and no changes in rates for service shall be introduced without the approval of The Public Utilities Board.

Definition: "rate for services"

25(2) For the purposes of this Part, "rates for services" means

- (a) In the case of Manitoba Hydro, prices charged by that corporation with respect to the provision of power as defined in *The Manitoba Hydro Act*;

...

These sections limit the PUB's jurisdiction to reviewing and approving changes in rates for service as defined, that is, reviewing and approving changes in the price charged by Manitoba Hydro for power as defined in *The Manitoba Hydro Act*. *The Manitoba Hydro Act* defines power as:

Definitions

- 1 In this Act, "power" means electrical power howsoever generated, and includes electrical energy;

The Manitoba Hydro Act further defines the price of power sold by the Corporation under section 39 of *The Manitoba Hydro Act*:

Price of power sold by corporation

39(1) The prices payable for power supplied by the corporation shall be such as to return to it in full the cost to the corporation, of supplying the power, including ...

Thus, while the PUB has broad discretion in the factors it may take into consideration in setting rates, such discretion is to be used to fulfill a narrow mandate - setting the price

charged by Manitoba Hydro for power. The broad discretion afforded to fulfill the PUB's rate approval mandate cannot be used to expand that mandate. Rate assistance, rate programs and the creation of new customer classes are not contemplated in the wording or definition of "rates for services" under Part 4 of *The Crown Act* or *The Manitoba Hydro Act*.

While the PUB clearly has authority to review and approve changes in the rate or price for power pursuant to the operation of *The Manitoba Hydro Act* and *The PUB Act*, such authority does not extend to the creation of terms and conditions of service as is required to establish new rate assistance programs or create new customer classes. The ability to establish terms and conditions of service falls squarely within the jurisdiction of the Manitoba Hydro Electric Board:

Regulations as to supply of power

28(1) The board may, by regulation, prescribe

- (a) the terms and conditions upon and subject to which the corporation will supply power to the users of the power supplied by it;

While s. 39(2) of *The Manitoba Hydro Act* expressly recognizes that the price for power set pursuant to s. 39(1) is subject to PUB approval pursuant to Part 4 of *The Crown Act*, PUB review of Manitoba Hydro set terms and conditions is not contemplated in *The Manitoba Hydro Act*:

Fixing of price by corporation

39(2) Subject to Part 4 of *The Crown Corporations Governance and Accountability Act* and to subsection (2.1), the corporation may fix the prices to be charged for power supplied by the corporation.

The Manitoba Hydro-Electric Board has authority to prescribe terms and conditions by regulation, which when enacted have the force of law. It would be illogical to, at the same time assign a regulatory body authority to approve or change terms and conditions given such terms and conditions may be enshrined in legislation. Properly interpreted, the statutory framework is both logical and internally consistent. Manitoba Hydro is assigned the authority to set the terms and conditions subject to which power will be supplied to the users of the power and has the ability to prescribe those terms and conditions by regulation. Manitoba Hydro also has the authority to fix the price to be charged for power. However, the price for power is expressly subject to PUB review and approval and is not

included in Manitoba Hydro's regulation making authority. Manitoba Hydro develops the product and proposes a price, the PUB reviews and approves the price.

It is of note that *The Manitoba Hydro Act* consistently distinguishes between terms and conditions and the price or rate payable for power, such that PUB jurisdiction with respect to rates for service/price for power cannot be implied or assumed to include jurisdiction with respect to terms and conditions associated with the service being offered. For example:

Transmission access

15(4) The corporation may enter into agreements, or issue a tariff prescribing terms and conditions and a rate schedule, under which the corporation may provide access to the transmission facilities of the corporation to any person entitled under section 21 to purchase power for resale in Manitoba or to any person for sale or use outside Manitoba.

Terms and conditions of service extensions

49.1 The extension or enhancement of the supply of power by the corporation to any customer shall be on terms and conditions, which may include a contribution to, or payment for, capital expenditures, acceptable to the corporation.

The PUB's interpretation of s. 25(4)(viii) of *The Crown Act* providing the PUB authority to take into consideration "any compelling policy considerations that the board considers relevant to the matter" in reaching its decision under Part 4 of *The Crown Act* fails to recognize that s. 25(4)(viii) authorizes the PUB to take into account policy considerations within the context of approving the price for power sold by Manitoba Hydro, not to create policy or otherwise broaden its mandate.

The Nova Scotia Court of Appeal addressed this issue in determining the Nova Scotia Public Utility and Review Board's jurisdiction:

The Board's regulatory power is a proxy for competition, not an instrument of social policy.⁴

⁴ Dalhousie Legal Aid Service v. Nova Scotia Power Inc., 2006 NSCA 74 (CanLII) at para 33

The Alberta Energy and Utilities Board found that tariff applications were an unsuitable forum to address social issues such as lifeline rates:

While the Board has some sympathy for the residents of the institutional customers represented by the CCG, the Board considers that a specific tariff application is an unsuitable forum within which to address the social issues raised by programs such as lifeline rates. The Board also recognizes the administrative complexities that could result from the implementation of such a program in a utility's billing system.⁵

As noted by Board Member Ring, "Manitoba Hydro is an energy utility, not a social service agency of the provincial government".⁶

Even if the PUB possessed the ability to create policy, such policy must fall within the limits of its jurisdiction and be consistent with governing legislation. *The Manitoba Hydro Act* prohibits the use of funds of the Corporation for government purposes:

Funds of government and corporation not to be mixed

43(3) Except as specifically provided in this Act, the funds of the corporation shall not be employed for the purposes of the government or any agency of the government as that expression is defined in *The Civil Service Act*, other than the corporation, and the funds of the government shall not be employed for the purposes of the corporation except as advances to the corporation by the government by way of loan or as a result of a guarantee by the government of indebtedness of, or assumed by, the corporation or liability for the repayment of which is an obligation of the corporation.

Section 43(3) places limits on the use of Manitoba Hydro's funds and marks a delineation with respect to the use of funds for intended and legitimate purposes as set out in Manitoba Hydro's mandate as set forth section of *The Manitoba Hydro Act* and other social policy purposes which are within the purview and jurisdiction of the legislature. Clearly the PUB errs in law where it purports to create, adopt or support a policy consideration which serves to contravene *The Manitoba Hydro Act*.

⁵ The Alberta energy and Utilities Decision 2004-066 at p.161

⁶ PUB Order 59/18 dated May 1, 2018, pg. 235 of 316

The PUB found in Order 59/18 that it has legal jurisdiction to order implementation of lower-income rate assistance⁷ and that its constating legislation does not prohibit the creation of a customer class that pays less than the average cost to serve such customers.⁸

The majority decision of the PUB references the amendments to *The Manitoba Hydro Act* in 2001 which resulted in the elimination of regional zone rates and the addition of sections 39 (2.1) and (2.2) to the legislation. Section 39 (2.1) and (2.2) reads as follows:

Equalization of rates

39(2.1) The rates charged for power supplied to a class of grid customers within the province shall be the same throughout the province.

Interpretation

39(2.2) For the purposes of subsection (2.1),

- (a) grid customers are those who obtain power from the corporation's main interconnected system for transmitting and distributing power in Manitoba; and
- (b) customers shall not be classified based solely on the region of the province in which they are located or on the population density of the area in which they are located.

As noted above, section 39(1) of *The Manitoba Hydro Act* that requires that "The prices payable for power supplied by the corporation shall be such as to return to it in full the cost to the corporation, of supplying the power, including" operating expenses, interest and debt service costs, working capital, and reserves. Read together, these sections impose a clear obligation that Manitoba Hydro fully recover its costs to supply power and that in doing so, each class of customers be charged a uniform set of rates. There is no ability in legislation to take a sub-set of a class and charge them less than the remainder of the class. As noted by Board Member Ring in his dissenting opinion, the approach taken by the majority of selecting a particular sub-set of residential ratepayers to pay less than may be required to serve those customers is making social policy and social policy should be made by the provincial government.⁹

⁷ PUB Order 59/18 dated May 1, 2018, pg. 217 of 316

⁸ PUB Order 59/18 dated May 1, 2018, pg. 218 of 316

⁹ PUB Order 59/18 dated May 1, 2018, pg. 236

The majority of the PUB go on to state that the only limitation on the PUB's authority to create a new class of customers is that customers not be classified solely based on the region or population density as directed by s. 39(2.2) of *The Manitoba Hydro Act*. Manitoba Hydro included, in its written closing submission, the Hansard excerpts which explain the express purposes of sections 39(2.1) and (2.2). The Hansard excerpts clearly identify the intent of the legislature to create one single residential class and create a single rate for residential hydro users."¹⁰ As noted in Manitoba Hydro written closing legal argument, courts have repeatedly cautioned that "a liberal and purposive interpretation cannot supplant a textual and contextual analysis simply in order to give effect to a policy decision different from the one made by Parliament."¹¹ While the majority decision of the PUB did not appear to take this into consideration in reaching their decision, the dissenting opinion of Board Member Ring recognized the policy decision of the provincial government to introduce intra-class subsidization, as the cost of servicing rural and Northern customers is not equivalent to the cost of serving customers in the City of Winnipeg.

The majority of the PUB seeks to justify its direction to create an on-reserve rate class based on the flawed reasoning that reserves are defined by the legal relationship between the Crown and Indigenous people, not by the region of the Province in which they are located. Order 59/18 goes on to acknowledge that there are 63 First Nation reserves in Manitoba, "located in regions through-out the Province".¹² The PUB's own decision recognizes that the First Nation reserves are confined to geographic regions through-out the Province. When one looks at the definition of "reserve" as defined in subsection 2(1) of the *Indian Act*, it is clear that there is a link between the legal relationship and the geographical region in which the reserves are located.

Definitions

2(1) In this Act,

¹⁰ Legislative Assembly of Manitoba Debates and Proceedings Official Report (Hansard), Vol L1 No. 38 – 1:30 pm, Wednesday, May 30, 2001

¹¹ *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53 at paragraph 62; also see *Gould v. Yukon Order of Pioneers*, [1996] 1 S.C.R. 571 at paragraph 50 per Forest, J concurring; *Placer Dome Canada Ltd. v. Ontario (Minister of Finance)*, 2006 SCC 20 at paragraph 23.

¹² PUB Order 59/18 dated May 1, 2018, pg. 233 of 316

reserve

- (a) means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band, and
- (b) except in subsection 18(2), section 20 to 25, 28, 37, 38, 42, 44, 46, 48 to 51 and 58 to 60 and the regulations made under any of those provisions, includes designated lands

The First Nation On-Reserve class created by the PUB requires that unless an individual resides within a specific tract of land which has been set aside by the Crown (a reserve), they cannot be a member of the new class. Further, although the PUB has suggested that this is not the sole criteria for eligibility for this class, the PUB erred in failing to consider that the additional circumstances ascribed to the class are not unique to customers living on reserve and that the defining feature of the new rate class is geographical location.

The majority suggests that the creation of the First Nation On-Reserve customer class is justified by the need to address energy poverty on-reserve, and the poor housing stock on reserves.¹³ Manitoba Hydro submits the PUB has made an error of fact and law in this regard. As noted by Board Member Ring in his dissenting opinion at page 237, individuals living on reserves are not the only ratepayers who experience energy poverty, nor are they the only ratepayers who have no choice but to heat with a higher-cost option such as electricity as opposed to natural gas. The desire to address on-reserve poverty and housing issues is not a justification to ignore s. 39(2.2) of *The Manitoba Hydro Act* or the mandates of the PUB and Manitoba Hydro.

As filed in Manitoba Hydro's application at Tab 10.5 at page. 69, the Residential Energy Use Survey identified households with self-declared Indigenous ancestry for energy burdens to be only one of the categories of customers where energy poverty is prevalent. Other categories of customers across the Province where poverty tends to be common are customers who occupy older and/or electrically heated residences, households consisting of either a single member or five or more members and households with incomes less than LICO-125.

¹³ PUB Order 59/18 dated May 1, 2018, pg. 232

The quality of housing stock varies among and within reserves, and is not different from that experienced by some customers outside reserves. Customers without access to natural gas are not limited to those living on reserves, and in fact the PUB noted in its order that 2 of 63 reserves do in fact have access to natural gas, such that this would exclude those customers from participation in the rate class¹⁴, if the criteria were anything other than the fact that they reside on a reserve. Further, such policy considerations cannot serve as justification to exceed the jurisdiction afforded to the PUB.

The PUB stated on page 232 that “On average, First nations on-reserve customers consume more energy than off-reserve residential customers, despite the efforts of Manitoba Hydro to use demand side management programming to improve energy efficiency for homes on reserves.” This too is an error of fact. Consumption patterns are not specific to reserves, and vary between northern and southern reserves as shown by the evidence presented by Manitoba Hydro during the course of the hearing. Manitoba Hydro’s Residential Energy Use Survey results were filed as an attachment to the response to PUB/MH I-125a. Pg. 38 shows that the average electric heat use for single detached homes in the entire Province of Manitoba is approximately 28,984 kWh. This is consistent with the amount of energy consumed by First Nations residential customers who also reside in single detached homes and heat with electric heat.¹⁵

Customers throughout the Province deal with similar issues such as energy poverty, poor housing stock and limited heat source options. The only feature which distinguishes customers of the PUB’s newly created class from other customers in the Province is the fact that they are geographically restricted to reserves. In Manitoba Hydro’s submission, this violates s. 39(2.2).

The majority of the PUB also suggests that the creation of the customer class and related affordability measure of a 0% rate increase are also consistent with the principle of

¹⁴ PUB Order 59/18 dated May 1, 2018, pg. 232

¹⁵ AMC/MH I-23. While this information request inquired about electricity consumption generally for all residential customers and then separately for First Nations residential customers, the usage shown in response to this IR is not comparable. The residential customers shown in response to the IR include all types of homes (single detached, multi-attached, apartment suits) and all heating types (including natural gas). The First Nations residential customers’ usage shown in response to the IR is limited to single detached homes using electric heat.

reconciliation as defined in *The Path to Reconciliation Act*.¹⁶ While Manitoba Hydro strives to maintain mutually respectful relationships with Indigenous and non-Indigenous people in order to build trust, affirm historical agreements, address healing, and create a more equitable and inclusive society, this legislation cannot be relied upon to broaden the scope of the PUB's rate review jurisdiction in order to achieve a policy objective which is not contemplated in the legislative framework which establishes the Public Utilities Board. As noted by Board Member Ring in his dissenting opinion, *The Path to Reconciliation Act* mandates that it is the provincial government that is to take the lead in advancing measures to promote reconciliation, through the responsible minister's development of a strategy for reconciliation.

Relief Sought

Manitoba Hydro requests that the PUB set aside Directive 6.

In the alternative, Manitoba Hydro requests the PUB exercise the power granted to it under section 58.4(1) of *The Public Utilities Board Act* and state a case in writing for the opinion of the Court of Appeal:

Does the PUB have the jurisdiction to order implementation of lower-income rate assistance program or other bill affordability program;

Does the PUB have jurisdiction to direct the establishment of a First Nation On-Reserve Residential customer class and to direct the application of different rates for service for that class than are applied to other Residential customers.

Manitoba Hydro further requests the PUB immediately stay the operation of Directive 6 and in particular the requirement that the First Nation On-Reserve Residential class receive a 0% rate increase for the 2018/19 Test Year and that a 0% rate increase also apply to First Nations Residential customers in the diesel zone communities, pending the PUB's decision on this Review and Vary application and pending the decision of the Manitoba Court of Appeal should a stated case or appeal be necessary. During the period of the stay the rate

¹⁶ PUB Order 59/18 dated May 1, 2018, pg. 233

increase applicable to the Residential customer class pursuant to Order 59/18 will apply to First Nation On-Reserve customers as well as Residential customers in the diesel zone.

In this regard, Manitoba Hydro is attaching as Schedule B to this submission revised rate schedules, proof of revenue statement and bill impact schedules. These materials reflect uniform rate increases to all Residential class customers regardless of their situation, as well as class rate adjustments that are differentiated in order to commence moving the General Service Small Non Demand, General Service Large 30 – 100 kV and General Service Large > 100 kV classes towards the Zone of Reasonableness as set out in Directive 5 of the Order.

Manitoba Hydro requests that the PUB Review and Vary the Residential Rate Class Rate Schedules approved in Order 68/18 and replace same with those attached in Schedule B.

Manitoba Hydro further requests the PUB immediately stay the operation of Order 68/18 as it relates to the First Nation On-Reserve Residential class and First Nations Residential customers in the diesel zone communities, pending the PUB's decision on this Review and Vary application and pending the decision of the Manitoba Court of Appeal should a stated case or appeal be necessary. During the period of the stay, the Residential Rate Class Rate Schedules attached as Schedule B shall apply.

Manitoba Hydro submits that the objectives of rate stability and certainty are far better served by staying the majority decision pending the outcome of this Review and Vary and a possible stated case or appeal. Both Manitoba Hydro and the PUB have voiced concerns with respect to retroactive rate adjustments in the past. These adjustments have the potential to create economic hardship, rate instability and uncertainty. As noted in Board Member Ring's dissent:

I am also concerned that the new customer class will become entrenched in the regulation of Manitoba Hydro rates, such that the class will be difficult to remove or revise in future proceedings. Even if the 0% rate increase is only implemented for 2018/19, it will create a rate differential with the general Residential rate that will, for all practical purposes, be permanently entrenched absent a government program that specifically eliminates the differential. Otherwise, to eliminate the differential would require the Board to approve a rate increase targeted to the First Nations On-Reserve

Residential class over and above any rate increase approved for the Residential class.¹⁷

If an immediate stay is not granted and the views of Board Member Ring and Manitoba Hydro prove correct, it will be necessary to eliminate the differential as described by Board Member Ring. It is more practical to implement a rate increase to all Residential customers on June 1, 2018 pending final resolution of this issue.

¹⁷ PUB Order 59/18 dated May 1, 2018, pg. 238

APPENDIX B

Excess Energy Rate

Directive 7 of Order 59/18 states:

Manitoba Hydro credit net-metered customers' excess energy put on the grid at the rate of 8.196¢/kWh for 2018/19. Manitoba Hydro must apply to the Board for approval of any future net-metered rate or changes to the 8.196¢/kWh rate.

Background

The generation of electricity within the province by individuals or entities other than Manitoba Hydro is referred to as “Non-Utility Generation” and the generator is a “Non-Utility Generator”. Manitoba Hydro has had policies in place supporting Non-Utility Generation and the purchase price paid for excess energy generated by these generators since 2000. The treatment of Non-Utility Generation less than 200 kW has also been discussed at previous hearings before the PUB, as recently as the Manitoba Hydro 2015/16 & 2016/17 General Rate Application.

Although it is not clear, it appears based on the discussion contained in Order 59/18 that Directive 7 relates to the load displacement program introduced as a pilot program in the spring of 2016 which provided incentives to support the installation of solar photovoltaic generation systems known as the “Solar Energy Pilot Program”. As acknowledged in Order 59/18 (at pages 239 - 240):

- While solar photovoltaic systems (“Solar PV”) can be configured as off-grid systems, the systems to which Manitoba Hydro’s Solar Energy Pilot Program applies are tied into the Manitoba Hydro grid.
- Manitoba Hydro purchases any electricity generated in excess of that consumed by the owner of the non-utility generation system at the same price as the PUB approved residential rate for the supply of power by Manitoba Hydro. Manitoba Hydro testified that it was reviewing its policy of crediting customer’s excess electricity at the full residential rate.

No other Non-Utility Generation programs are specifically discussed in Order 59/18.

May 30, 2018

Customers installing a non-utility generator 200 kW or less, such as a Solar PV system, install a bi-directional meter which will separately record both the amount of electricity supplied by Manitoba Hydro to the customer and how much excess energy is generated by the customer's installation and put on the Manitoba Hydro grid. All electricity supplied by Manitoba Hydro to the customer is billed to the customer at the applicable approved PUB rates including applicable taxes. A separate line item reflecting the value of any excess energy is presented on the customer's bill and netted from the overall amount owing to Manitoba Hydro for energy purchased by the customer from the grid.

The PUB determined that

Rate designs for net metered customers must be brought before the Board for review and rate approvals. The Board has legal jurisdiction to review and approve the electricity rate that Manitoba Hydro applies to customers participating in the Solar Energy Program, or to customers with any on-site generation, for the return of excess energy to the grid.¹⁸

In support of its findings, the PUB states that its "jurisdiction with respect to reviewing and approving rates is framed broadly under The Crown Act and extends to all rates, rate changes and new rates for electricity "howsoever generated". There is no exclusion for customer-generated electricity."¹⁹ The PUB also states that its conclusion is supported by section 38 of The Manitoba Hydro Act and that section 38 should be understood broadly as demonstrating the intention of the legislature to protect all persons who are paid a unilaterally set price in a monopoly market.

Grounds

Manitoba Hydro seeks to Review and Vary Directive 7 on the grounds that the PUB's conclusion that it possesses "legal jurisdiction to review and approve the electricity rate that Manitoba Hydro applies to customers participating in the Solar Energy Program, or to customers with any on-site generation, for the return of excess energy to the grid" is based upon errors of jurisdiction, law and fact.

¹⁸ PUB Order 59/18 dated May 1, 2018, pg. 241

¹⁹ PUB Order 59/18 dated May 1, 2018, pg. 241

Clarification is required in order to identify which Manitoba Hydro programs are impacted by these errors.

Analysis

Manitoba Hydro submits that the PUB's analysis of its jurisdiction is inconsistent with the grammatical and ordinary meaning of the governing legislation and the intent of the legislative scheme. The PUB's conclusion is also inconsistent with the historical application of the legislation in Manitoba.

The Supreme Court of Canada clearly enunciated the modern rule of statutory interpretation in *Bell Express Vu Limited Partnership v. Rex*, adopting what it described as Elmer Driedger's "definitive formulation" in his *Construction of Statutes* (2nd ed. 1983):

Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.²⁰

The PUB's scope of authority is derived exclusively from the enacting legislation. In determining the PUB's jurisdiction to set rates, three pieces of legislation must be read together, *The Public Utilities Board Act (The PUB Act)*, *The Crown Corporations Governance and Accountability Act (The Crown Act)* and *The Manitoba Hydro Act*. In general terms, the PUB does not have jurisdiction with respect to Manitoba Hydro subject to certain specific exceptions:

2(5) Subject to Part 4 of *The Crown Corporations Governance and Accountability Act* and except for the purposes of conducting a public hearing in respect of an application made to the board under subsection 38(2) or 50(4) of *The Manitoba Hydro Act*, this Act, other than subsection 83(4) and the regulations under that subsection, does not apply to Manitoba Hydro and the board has no jurisdiction or authority over Manitoba Hydro.²¹

²⁰ 2002 SCC 42 (CanLII) at para. 26

²¹ *The PUB Act*, s. 2(5)

The import of s. 2(5) of *The PUB Act* cannot be ignored. The PUB's jurisdiction with respect to Manitoba Hydro is not broad as asserted in Order 59/18, but rather is specific and defined, and must be interpreted accordingly.

Part 4 of *The Crown Act* sets out the PUB's rate approval jurisdiction:

Hydro...rates review

25(1) Despite any other Act or law, rates for services provided by Manitoba Hydro... shall be reviewed by The Public Utilities Board under *The Public Utilities Board Act* and no change in rates for services shall be made and no new rates for services shall be introduced without the approval of The Public Utilities Board.

Definition: "rates for services"

25(2) For the purposes of this Part, "rates for services" means

- (a) in the case of Manitoba Hydro, prices charged by that corporation with respect to the provision of power as defined in *The Manitoba Hydro Act*;

The PUB has jurisdiction to approve rates for services provided by Manitoba Hydro, meaning the price charged by Manitoba Hydro for the provision of power as defined in *The Manitoba Hydro Act*. *The Manitoba Hydro Act* defines power as:

"power" means electrical power howsoever generated, and includes electrical energy;

The Manitoba Hydro Act sets out what is to be recovered in the price of power sold by the Corporation and confirms the PUB's rate approval authority at s. 39:

Price of power sold by corporation

39(1) The prices payable for power supplied by the corporation shall be such as to return to it in full the cost to the corporation, of supplying the power, including ...

Fixing of price by corporation

39(2) Subject to Part 4 of *The Crown Corporations Governance and Accountability Act* and to subsection (2.1), the corporation may fix the prices to be charged for power supplied by the corporation.

The Crown Act and *The Manitoba Hydro Act* are consistent in limiting the PUB's rate approval jurisdiction as it relates to Manitoba Hydro to the price charged by Manitoba

Hydro for power supplied by Manitoba Hydro. The legislation clearly limits the PUB's jurisdiction and rate setting powers to setting the price for power - where Manitoba Hydro supplies power to customers.

The price paid by Manitoba Hydro to non-utility generators, such as those participating under the Solar Energy Pilot Program, is not a supply of power but rather a power purchase:

MS. DAYNA STEINFELD: And you mentioned wind, so should the panel understand that right now the solar rate is -- is more equivalent to what the utility does with wind, and that it's also not cost-based. It's more of a power purchase agreement situation.

MR. GREG BARNLUND: These are really power purchase under the non-utility generation policy.

Order 59/18 affirms that the transfer of power from Solar PV owners to Manitoba Hydro is a "power purchase agreement" (p. 239) and describes this aspect of the Solar Energy Program as "the Utility purchasing customers' excess solar energy" (p. 242). Despite this acknowledgement, the PUB goes on to assert that "This unilateral fee is a price charged by Manitoba Hydro, as it is an expense or cost that Manitoba Hydro sets for the supply of excess solar power" (p. 241). In this regard the PUB has made an error of law and fact as the price at issue is that which is paid by Manitoba Hydro for the purchase of non-utility generated power and is not the price charged by Manitoba Hydro for the supply of power as contemplated by the legislation.

The PUB's reasoning that it must approve "All rates for services, changes in rates for services, and new rates for services provided by Manitoba Hydro" (p. 241) ignores the statutory definition of "rates for services" which is limited to the price for power supplied by Manitoba Hydro and clearly does not include the price paid by Manitoba Hydro for electricity purchased by it. It is of note that Manitoba Hydro has relied on purchasing power from multiple sources in order to meet its mandate throughout its existence, yet the PUB has never before purported to possess jurisdiction to approve such purchases.

That the definition of "power" means electrical power "howsoever generated" does not serve to expand the PUB's jurisdiction to include Manitoba Hydro power purchases as stated in Order 59/18. Reference to the definition of "power" serves to establish that the

source of the power sold by Manitoba Hydro (i.e. whether it was generated by Manitoba Hydro using water, gas, coal etc. or purchased from a third party) does not impact the PUB's jurisdiction with respect to the sale of power by Manitoba Hydro. The price for power supplied by Manitoba Hydro to its Manitoba customers must be approved by the PUB, regardless of how the power was generated. Substitution of the full definition of the term "power" into the relevant provisions clearly demonstrates that the PUB's jurisdiction under these provisions is not expanded by virtue of the definition of "power".

25(2) For the purposes of this Part, "rates for services" means
(a) in the case of Manitoba Hydro, prices charged by that corporation with respect to the provision of *electrical power howsoever generated*

39(2) Subject to Part 4 of *The Crown Corporations Governance and Accountability Act* and to subsection (2.1), the corporation may fix the prices to be charged for *electrical power howsoever generated* supplied by the corporation.

The operative words of the legislation, "prices charged by the corporation with respect to the provision of power" and "prices to be charged for power supplied by the corporation" are clear and unambiguous. The legislation refers to a sale by Manitoba Hydro, not a purchase by Manitoba Hydro. The jurisdiction afforded to the PUB pursuant to Part 4 of *The Crown Act* and related provisions in *The Manitoba Hydro Act* clearly does not provide the PUB with authority to review and approve the price paid by Manitoba Hydro for its power purchases.

The claim that "section 38 should be understood broadly as demonstrating the intention of the legislature to protect all persons who are paid a unilaterally set price in a monopoly market" (Order 59/18 at p. 242) is not supportable by the plain and ordinary meaning of s. 38;

Price of power requisitioned

38(1) The price to be paid by the corporation for power supplied to it on its requisition pursuant to clause 16(c) shall be computed by the board at the amount of the actual cost of producing it, including a reasonable allowance for employed capital; and the prices so paid shall not necessarily be the same as between different suppliers.

Review by P. U. Board

38(2) Any person required by the board to supply power to the corporation may apply to The Public Utilities Board to review the price computed under subsection (1) for power supplied to the corporation.

The PUB's ability to review the price computed for power supplied to Manitoba Hydro only arises under the conditions set forth in section 38(1), which requires the power having been supplied by requisition pursuant to section 16(c) of *The Manitoba Hydro Act*.

Powers of corporation with approval of L.G. in C.

16(1) With the approval of the Lieutenant Governor in Council the corporation may

...

- (c) require any person generating, transmitting, distributing, or supplying power, to supply such power to the corporation as the board may from time to time require or designate;

It is of note that Order 59/18 does not reference s. 16(c) or discuss the significance of the Lieutenant Governor in Council's approval role.

The notion that the legislation affords the PUB with broad jurisdiction to protect persons from a unilaterally set price ignores the fact that the legislature's grant of authority authorizing the PUB to review a price for power supplied to Manitoba Hydro arises in extremely limited circumstances and only where the Lieutenant Governor in Council has authorized the expropriation of the power. That this provision relates only to "power supplied to it on its requisition", which requisition must be accompanied by an Order-In-Council (OIC) demonstrates that the legislation was not intended to confer general jurisdiction on the PUB to review the price paid by Manitoba Hydro for the purchase of power. It is also of note that s. 38(2) requires an application be made by the person from whom power was requisitioned in order for the PUB to assert its jurisdiction and, in accordance with s. 38(1), the determination of the price paid is to focus on the actual costs of the producer of the power, not Manitoba Hydro's costs.

Clearly the legislature did not intend to confer general jurisdiction on the PUB to review the price Manitoba Hydro pays for purchased power and instead contemplates a very specific and extraordinary circumstance, akin to the exercise of the power of expropriation, in order

to invoke section 38 jurisdiction. In the case of Non-Utility Generation, including those participating in the Solar Energy Pilot Program, no person is being compelled to sell or otherwise transfer power which they have generated, no OIC has issued compelling the sale or transfer of power to Manitoba Hydro nor has application been made by an aggrieved generator of power seeking PUB review.

Section 38 of *The Manitoba Hydro Act* demonstrates that the legislature turned its mind to Manitoba Hydro acquiring power from power producers in Manitoba. The legislature did not grant PUB jurisdiction to review such purchases generally, but instead only in the limited circumstance where the power was expropriated by means of OIC. Where an arrangement is made between Manitoba Hydro and a customer for the voluntary supply of power to Manitoba Hydro, as with the Solar Energy Pilot Program, the PUB's power to review the price established in the transaction under section 38(2) does not arise.

The PUB's statement that demand side management programs introduced by Manitoba Hydro to support customer-generated power are subject to review by the PUB is incorrect at law. The PUB's jurisdiction is restricted to the review of the price for the provision of power under Part 4 of *The Crown Act* together with the limited jurisdiction afforded by s. 38(2) of *The Manitoba Hydro Act* (review price for power requisitioned under authority of OIC), s. 50(4) (review costs of ordered interconnection) and s. 83(4) (construction standards) together with recently introduced dispute resolution role with respect to reliability standards (s. 15.0.1(1)(f)). None of these assignments relate to the review of demand side management programming and no such jurisdiction can be inferred. It is correct that Manitoba Hydro has in the past provided information regarding its demand side management activities in the course of rate review applications, however this has been for the purpose of rate review. The PUB does not possess jurisdiction to review, approve or change Manitoba Hydro's demand side management programs.²²

²² The recently enacted *Efficiency Manitoba Act* grants the PUB jurisdiction to review and make recommendations to the Minister regarding Efficiency Manitoba's efficiency plans. While Manitoba Hydro will have a role carrying out Efficiency Manitoba's Minister approved efficiency plan, it cannot be said that the PUB has acquired jurisdiction to review, approve, reject or change Manitoba Hydro's demand side management programs by virtue of *The Efficiency Manitoba Act*. Further, Efficiency Manitoba has not yet submitted its Efficiency Plan for PUB review and it is unknown whether the Solar Energy Program will form part of that plan.

While Order 59/18 focuses on Manitoba Hydro's Solar Energy Pilot Program, Directive 7 requires Manitoba Hydro credit net-metered customers' excess energy put on the grid at the rate of 8.196¢/kWh for 2018/19 and to apply for approval of any future net-metered rate or changes to the 8.196¢/kWh rate. While the PUB has characterized the Solar Energy Pilot Program participants as net-metered customers, there is no net metering of energy. Customers with non-utility generation are billed for all energy they consume from Manitoba Hydro's system at the applicable PUB approved rate, including applicable taxes. Noted separately on their bill is a credit for the value of any electricity that they may have generated in excess of their requirements and sold to Manitoba Hydro at the contracted or published price. This credit is applied against the amount owing by the customer to Manitoba Hydro. Exhibit MH-132 clarified that under Manitoba Hydro's Non-Utility Generation policy, customer's (including those owning solar PV systems) energy use and production is not assessed on a net annual or net monthly basis. Based on Manitoba Hydro terminology, the PUB's use of the term "net-metered customers" to describe Manitoba Hydro customers who own Solar PV or other Non-Utility Generation systems constitutes an error of fact.

The information reviewed at the GRA regarding the Solar PV program dealt only Manitoba Hydro's policy with respect to residential and small commercial customers with less than 200 kW of electrical generation. The 8.196¢/kWh price offered by Manitoba Hydro for the purchase of Non-Utility Generated electricity only applied to customers with less than 200 kW of electrical generation. No information was reviewed regarding Non-Utility Generators whose electric generation exceeds 200 kW and there is no evidence on the record upon which the PUB can base a decision impacting these larger Non-Utility Generators. The PUB's directive is that Manitoba Hydro must apply to the Board for approval of any future net-metered rate or changes to the 8.196¢/kW rate. Given the confusion regarding the term "net-metered customers" it is unclear whether the PUB intended its ruling to apply only to the Non-Utility Generators to whom the rate applies (i.e. Solar PV installations) or all future Non-Utility Generators, which would include much larger installations. Based upon Manitoba Hydro's use of the term as set out in Exhibit MH-132 Manitoba Hydro has no net-metered customers, including solar PV customers. Obviously this was not the intended result of the PUB and Directive 7 requires clarification regarding to which Non-Utility Generation arrangements the directive is intended to apply.

There is no evidence on the record regarding Manitoba Hydro's arrangements with Non-Utility Generators whose generation exceeds 200 kW (nor would same be expected given the PUB's jurisdictional limits). It should however be understood that any attempt to interfere with these contractual arrangements will have significant ramifications to both Manitoba Hydro and Non-Utility Generators, present and future. Large publicly known Non-Utility Generators include the Wuskwatim Power Limited Partnership, wind farms situate in Manitoba and will include the Keeyask Hydropower Limited Partnership once construction is complete.

The price paid for power provided to Manitoba Hydro by Non-Utility Generators whose electric generation exceeds 200 kW is a project specific negotiated contract price, dependent on the product Manitoba Hydro is provided and which at a minimum reflects the value of the excess energy to Manitoba Hydro. Manitoba Hydro is currently in negotiations with parties looking to enter into Non-Utility Generation agreements. Negotiations cannot continue if the 8.196¢/kW is to apply as it does not represent the value of the product to the Corporation. It is thus imperative to immediately confirm that the PUB did not intend its direction with respect to the 8.196¢/kWh price (published by Manitoba Hydro for Non-Utility Generators with less than 200 kW of electrical generation) to apply to Non-Utility Generators with greater than 200 kW of electrical generation. In absence of such confirmation, Manitoba Hydro submits that the PUB made an error of fact and law by assuming, without an evidentiary basis, that all Non-Utility Generators were offered the 8.196¢/kWh price published by Manitoba Hydro (for Non-Utility Generators with less than 200 kW of electrical generation) and/or concluding that there exists any basis to set that price to apply to Non-Utility Generators with greater than 200 kW of electrical generation, whose product and value thereof, varies by project and where quantities purchased result in greater financial impact to the utility.

Manitoba Hydro's contracts with Non-Utility Generation suppliers have existed for many years and do not contemplate PUB reviewing or changing the agreed upon prices set out therein. In addition, Manitoba Hydro has previously been in communication with the participants of the Solar Energy Pilot Program regarding contracts and commercial terms for the purchase by Manitoba Hydro of excess energy. Parties have made investment decisions based upon freely entered commercial arrangements or expectations of commercial arrangements and are entitled to expect that commitments freely entered will be honoured. There exists no legislation setting out how the price for power purchased by

Manitoba Hydro is to be calculated or what factors are to be considered when approving a purchase price. Directive 7 serves to create uncertainty where the need for certainty in order to make investment decisions is critical.

Relief Sought

Manitoba Hydro requests the PUB set aside Directive 7.

In the alternative, Manitoba Hydro requests the PUB exercise the power granted to it under s. 58.4(1) of *The PUB Act* and state a case in writing for the opinion of the Court of Appeal:

Does the PUB possess jurisdiction to review and approve the price paid by Manitoba Hydro to Non-Utility Generators for the purchase of energy put on the grid by the Non-Utility Generator pursuant to contractual arrangements with Manitoba Hydro.

Manitoba Hydro further requests the PUB issue an immediate stay of the operation of Directive 7, pending the PUB's decision on this Review and Vary application and pending the decision of the Manitoba Court of Appeal should a stated case or appeal be necessary. Manitoba Hydro also requests the PUB immediately clarify that Directive 7 is not intended to apply to Non-Utility Generation other than the Solar Energy Pilot Program.

APPENDIX C

Retain Consultant to Report on Progress of UMS Report

Directive 14 of Order 59/18 states:

Manitoba Hydro retain an independent consultant to assess Manitoba Hydro's development of its asset management program and its progress in addressing the recommendations made by UMS, as well as the progress of the development of the Corporate value Framework. Manitoba Hydro is to file with the Board by June 29, 2018 the Terms of Reference for the consultant for the Board's review and comment. Manitoba Hydro is directed to report back to the Board on its progress and the result of the consultant's assessment at the next GRA.

Background

As part of its General Rate Applications (GRA), Manitoba Hydro files its Capital Expenditure Forecast setting out the Corporation's ten year projection of Manitoba Hydro's capital expenditures for new and replacement facilities to meet electricity (and natural gas) service requirements in the province as well as expenditures required to meet firm sale commitments outside the province. Capital expenditures are categorized between Major New Generation and Transmission projects and Business Operations capital. The Capital Expenditure Forecast is filed to provide the PUB insight into the financial requirements associated with Manitoba Hydro's capital programs which ultimately must be recovered in rates.

Over the past decade, the PUB has demonstrated increased interest in Manitoba Hydro's capital programs and in particular its asset management practices. A number of orders were made directing Manitoba Hydro take steps towards developing more enhanced asset management practices. Manitoba Hydro did not appeal these directives. Steps were taken by Manitoba Hydro towards developing a new asset management program; however such steps were not always consistent with the timing desired by the PUB. Most recently, in Order 59/16, the PUB directed Manitoba Hydro "file the complete asset condition assessment information for generation, transmission and distribution at the next General Rate Application. The next GRA referenced would be Manitoba Hydro's 2017/18 GRA.

Order-In-Council 0002092/17 (OIC 92/17) was issued on April 5, 2017. OIC 92/17 assigned the duty of considering capital expenditures by Manitoba Hydro as a factor in reaching a decision regarding rates for service under Part IV of *The Crown Corporations Public Review and Accountability Act*. OIC 92/17 required Manitoba Hydro provide the PUB with existing records relating to planned capital expenditures such as details on new, current committed, and proposed, planned or forecast major capital expenditures and base/sustaining capital expenditures. OIC 92/17 also required Manitoba Hydro file existing records related to project justification, such as capital project justification forms, cost-benefit analyses, business case and other supporting information related to Manitoba Hydro capital expenditures identified by the PUB, including Asset Condition Assessments for current, previous and proposed major capital expenditures and base/sustaining capital expenditures.

As part of its 2017/18 GRA, filed May 12, 2017, Manitoba Hydro provided detailed information regarding its base/sustaining capital expenditures including its Corporate Asset Management initiative which was launched in 2016 (see GRA, Tab 5). Manitoba Hydro reported that an external asset management consultant, UMS Group, had been retained through a competitive request for proposal process to provide expert asset management advice and assist in the development of a corporate asset management framework in three separate phases. A copy of the UMS Group's Asset Management Gap Assessment Report of Findings to Manitoba Hydro dated December 15, 2016 was filed for information as part of the GRA (Appendix 5.3 of Tab 5). During the oral portion of the hearing, the PUB heard evidence from a Manitoba Hydro panel regarding base capital expenditures as well as the evidence of METSCO, a witness sponsored by the Consumers Coalition.

Order 59/18 directed Manitoba Hydro retain an independent consultant to assess Manitoba Hydro's development of its asset management program and its progress in addressing the recommendations made by UMS, as well as the progress of the development of the Corporate Value Framework. Terms of Reference for such retainer are to be filed with the PUB by June 29, 2018.

Grounds

Manitoba Hydro seeks to Review and Vary Directive 14 on the grounds that the PUB has exceeded its jurisdiction and made an error at law in ordering Manitoba Hydro retain an independent consultant, and thereby incur expense, to review the Corporation's base capital asset management process and decisions made thereunder.

Analysis

It is well understood that the PUB does not, in the ordinary course, possess jurisdiction to approve reject or vary Manitoba Hydro capital projects:

It must be emphasized at the outset that the jurisdiction of the Board is expressly limited to the fixing of rates (see s. 2(5) of the Act). Section 26(1) of the Crown Corporations Public Review and Accountability and Consequential Amendments Act makes it clear that "rates for service" in the case of Manitoba Hydro simply means the prices charged by that corporation with respect to the provision of power. In the *Public Utilities Board v. The Attorney General of Manitoba et al.* (unreported decision released October 3, 1989), the court dealt with a stated case to determine whether the Board had jurisdiction to approve, reject or vary Manitoba Hydro's capital projects. This question was answered in the negative. The court was not prepared to imply such intention in the legislation as it then stood. There has been no change in the relevant provisions of the legislation since then.²³

It follows that the PUB cannot direct the Corporation to prepare reports with respect to matters that are beyond its jurisdiction.

In reaching its conclusion that the PUB lacked jurisdiction to approve, reject or vary Manitoba Hydro's capital projects, the Manitoba Court of Appeal noted that that there had been no change in the provisions of the legislation since the Court's 1989 ruling that the PUB did not possess such jurisdiction. It is necessary to consider whether OIC 92/17 served to expand the PUB's jurisdiction, particularly with respect to the ability to require studies be undertaken for review at future GRAs.

²³ *Manitoba Keewatinowi Okimakinak Inc. v. Manitoba Hydro-Electric Board*, (1992) 78 Man R. (2d) 141 (MBCA) at para. 8

In this regard it should be recognized that the stated purpose of Directive 14 is to create a report for review “at the next GRA”. OIC 92/17 clearly only applies to the 2017 GRA²⁴ and thus it cannot be said to support the objects of Directive 14.

Further, while OIC 92/17 directs Manitoba Hydro to provide the PUB with certain information at a level of detail not previously undertaken in previous GRA’s, it does not grant the PUB any additional powers. The PUB is to take that information into account in reaching a decision under Part 4 of *The Crown Act*. OIC 92/17 does not purport to authorize the PUB to approve, vary or reject Manitoba Hydro’s capital projects or alter its ordinary jurisdiction in any manner. Both MIPUG and the Consumers Coalition acknowledged that OIC 92/17 does not serve to alter the jurisdiction of the PUB.²⁵

Directive 14 requires Manitoba Hydro to retain an external consultant to assess Manitoba Hydro’s development of its asset management program and progress with respect to recommendations contained in the UMS Report. It should be understood that when Manitoba Hydro retains a consultant to review and make recommendations with respect to high level subject matter such as asset management best practice, the recommendations are guidance to management in determining how to proceed, rather than discrete imperatives to accomplishing the objective. This stands in sharp contrast to an audit, which the UMS gap assessment was not, where management is responsible to determine which findings and recommendations will be implemented and which are to be rebutted.

The determination on how to proceed is made based on management’s judgment which takes into account considerations often beyond the scope of the external contractors review. Management discretion relies on management’s in-depth knowledge of Manitoba Hydro’s unique business requirements and challenges in its market and takes into account

²⁴ See OIC 92/17 Order paragraph 2 : “For the purposes of the PUB’s consideration of capital expenditures **in the next review** of Manitoba Hydro rates for services...” and Background paragraph 2 “Manitoba Hydro intends to submit a general rate application in the PUB in 2017”.

²⁵ Counsel for MIPUG “And just for the record, I—I think it’s in our submission, too, we don’t view the Order in Council as changing the jurisdiction of this Board at all. It’s always looked at capital in the past, and the impact on rates.” (Pre-Hearing Conference, June 12, 2017, tr. p. 196); Counsel for Consumers Coalition “...that like our friends from the Manitoba Industrial Power Users Group, we did not see the Order in Council sig—expanding the Board’s jurisdiction in any meaningful way. We did say it—see it as streamlining the transfer of information between the –the regulatory process and Manitoba Hydro.” (Pre-Hearing Conference, June 12, 2017, tr. p. 273)

factors such as competing expense priorities to assess the value of proceeding with a particular recommendation. The directive requiring an external consultant to report on the progress of another external consultant's recommendations is thus either based on an error of fact (assuming all of the UMS recommendations are to be implemented) or alternatively errs in law and jurisdiction by usurping the management function and imposing PUB's views regarding the need to obtain external input regarding the planning processes and management of Manitoba Hydro's capital requirements and associated expenditures, all of which are beyond the PUB's jurisdiction.

Directive 14, requiring Manitoba Hydro retain an external consultant to assess development of the Corporation's asset management program and its progress in addressing the recommendations of UMS as well as the development of the Corporate Value Framework effectively serves to put Manitoba Hydro's business operations planning initiatives to the external consultant with the expectation that Manitoba Hydro decision making, and/or the PUB in its decision following the next GRA, will be guided by the views provided by the external consultant. Determinations regarding the retention of external consultants and the adoption or rejection of their recommendations regarding capital planning processes is a management function and is not the role of the regulator. That the PUB mandates the retainer, directs the Terms of Reference for such retainer be reviewed by the PUB and states that the ensuing report will be reviewed at the next GRA demonstrates the PUB is directly inserting itself into the capital planning process, not just for the purpose of recommendation but rather to direct the corporation on matters beyond its jurisdiction (capital) and beyond its role as regulator (versus management).

In *British Columbia Hydro and Power Authority v. British Columbia Utilities Commission*²⁶, the British Columbia Court of Appeal was asked to consider whether the British Columbia Utilities Commission (BCUC) had jurisdiction to mandate guidelines regarding the Integrated Resource Planning (IRP) processes to be undertaken by BC Hydro, including the establishment of an external review committee providing input into the IRP process.

I restate the question before us. It is whether there is statutory authority for the Commission's imposition of Guidelines to the extent required relevant Directions in the Decision on what is essentially an internal process for which

²⁶ [1996]B.C.J. No. 379

the directors of B.C. Hydro have ultimate responsibility, both in respect of the process and for the selection of the product of the process.²⁷

In addition to rate approval authority, the governing legislation:

- required the BCUC issue a certificate confirming that public convenience and necessity require the operation or construction of a public utility plant or system prior to the construction or operation of same;
- required utilities file annually with the BCUC information regarding the extensions to its facilities that it planned to construct;
- granted the BCUC general supervisory powers; and
- directed the BCUC to make examinations and conduct inquiries necessary to keep informed regarding the conduct of public utility business.

The Court determined that these powers did not serve to authorize the BCUC to direct how the utility's business was conducted. The court noted that no section of the legislation expressly enabled the regulator to direct its chosen form of controlling planning. The court further rejected the argument that the BCUC's guidelines merely constituted a form of information gathering:

I am unable to agree with that characterization as in my opinion the IRP process is specific to the planning phase of the utility's response to its statutory obligations and its enforcement by order is an exercise of management as it relates to neither the certification process as such or to the supervision of the utility's use of its property devoted to the provision of service.

...

Otherwise the management of a public utility remains the responsibility of those who by statute or the incorporating instruments are charged with that responsibility.

One of the primary responsibilities and functions of the directors of a corporation is the formulation of plans for its future. In the case of a public utility these plans by necessity extend many years into the future and be constantly revised to meet changing conditions. In the case at bar the effect of the Commissions directions is to place a group, whose interests are disparate, in a superior position of planning and to require the directors to

²⁷ Ibid at para 28

justify a deviation from the product of the IRP process in the exercise of their responsibilities.

Taken as a whole the Utilities Act, viewed in the purposive sense required, does not reflect any intention on the part of the legislature to confer upon the Commission a jurisdiction so to determine, punishable on default by sanctions, the manner in which the directors of a public utility manage its affairs.²⁸

Clearly if a regulator, such as the BCUC, that possesses, in addition to its rate approval authority, capital approval authority, general supervisory powers and the express obligation to keep itself apprised of the utility's business, is found to lack authority to insert itself into the utility's planning processes (including imposition of an external committee review requirement), a regulator, such as the PUB, possessing rate approval authority alone, also lacks the requisite jurisdiction to impose a requirement that an external consultant be retained to review planning processes.

In addition, the PUB's jurisdiction to approve rates for service does not extend to requiring the Corporation incur expense for the purpose of preparing reports aimed at assessing Manitoba Hydro's processes for reviewing and approving its capital plans. The Manitoba Court of Appeal has ruled that the PUB's jurisdiction to approve rates for service does not extend to requiring the Corporation expend money related to capital projects:

...the Board has no jurisdiction to order Manitoba Hydro to improve the level or quality of service because this in turn would require the expenditure of monies for capital projects.²⁹

A review of OIC 92/17 confirms that no additional powers were granted so as to authorize the expenditure of monies for the purposes of creating reports. To the contrary, OIC 92/17 consistently limits the information to be provided to the PUB to "existing records", which direction, as previously noted, is for the purpose of the 2017 GRA, not future GRA's.

²⁸ Ibid at paras 55 - 58

²⁹ Manitoba Keewatinowi Okimakinak Inc. v. Manitoba Hydro-Electric Board, (1992) 78 Man R. (2d) 141 (MBCA) at para. 11

Relief Sought

Manitoba Hydro requests the PUB set aside Directive 14.

Manitoba Hydro is prepared to include a status report for information purposes in future GRAs, regarding the Corporation's asset management program. The status report will detail progress on specific development initiatives such as development of the Corporate Value Framework, as well as the status of Corporation's plans to mature its asset management practice, which are informed by UMS' recommendations. The Corporation may, at its discretion and when deemed appropriate, also commission an external consultant to refresh the asset management gap assessment initially performed by UMS.

In the alternative, Manitoba Hydro requests the PUB exercise the power granted to it under s. 58.4(1) of *The PUB Act* and state a case in writing for the opinion of the Court of Appeal:

- Does the PUB possess jurisdiction to require Manitoba Hydro expend monies for the purpose of retaining an external consultant?
- Does the PUB possess jurisdiction to require Manitoba Hydro retain an external consultant for the purpose of assessing the development of Manitoba Hydro's base/sustaining capital asset management program?

Manitoba Hydro further requests the PUB stay the operation of Directive 14 and in particular the requirement that Manitoba Hydro file by June 29, 2018, the Terms of Reference for the external consultant with the PUB, pending the PUB's decision on this Review and Vary application and pending the decision of the Manitoba Court of Appeal should a stated case or appeal be necessary, with such stay remaining operative a minimum of two months following the final determination (by the PUB or Court of Appeal, as applicable) with respect to Directive 14.

APPENDIX D

Technical Conference on Minimum Equity

Directive 9 of Order 59/18 states:

Manitoba Hydro participate in a technical conference hosted by Board Staff or an external consultant appointed by the Board for the consideration of the establishment of a minimum retained earnings or similar test to provide guidance in the setting of consumer rates for use in rule-based regulation.

Background

The PUB calls into question the use of debt: equity ratio as a consideration for rate-setting purposes on a number of occasions in Order 59/18. For example:

- At page 20, the PUB states that it “finds that a particular equity level or pace to achieve such a target should not determine the rate increases approved in this GRA”;
- At page 63, the PUB states that it “accepts Morrison Park Advisors’ evidence that debt-to-equity is a questionable metric for a vertically integrated Crown utility with a debt guarantee from the provincial government”;
- At page 65 the PUB states that “Retained Earnings should be used to manage drought risk in combination with regulatory action” but that “interest rate and export price risks over the long term should be addressed with rate increases as and when those risks materialize. Rates should not be set to increase Retained Earnings to manage those longer-term risks”;
- At page 66, the PUB states that “the test or rule is to be based on maintaining appropriate or minimum levels of retained earnings and meeting other financial metrics in the face of potential risks to the Utility”;
- At page 65 the PUB agrees with Morrison Park Advisors that “a primary purpose of having Retained Earnings is to withstand a drought” and notes at page 8 that “Currently, Manitoba Hydro’s Retained Earnings are at record levels and already twice the level that would be required to deal with the negative financial impacts of a five-year drought”. (Emphasis added throughout)

Read together with Directive 9, Manitoba Hydro interprets that the PUB is seeking to use a technical conference to establish for itself an objective, quantitative means of setting rates to assure a reasonable probability that Manitoba Hydro maintains minimum retained earnings during the test years. Manitoba Hydro understands this directive to mean that going forward, so long as retained earnings are at a minimum level (which Manitoba Hydro interprets Order 59/18 to say is, at most, today's level) then rates will be set such that there is a reasonable probability of Manitoba Hydro achieving zero net income. This view is reinforced by the PUB's statements at page 66 wherein it says "assessing whether Manitoba Hydro is meeting its ongoing financial obligations, the focus should be on the accrual accounting methodology used in the Utility's audited financial statements and the financial forecasts used for rate setting".

At the same time, Order 59/18 appears to say that financial targets remain a long-term objective. For example:

- At Page 63-64, the PUB states "As noted by Manitoba Hydro's external consultant KPMG, there is a 'practical recognition that this target will not be met during a period of large capital expenditures when newly constructed assets are placed in service. Accordingly, the 75/25 could remain the long-term objective.' The Board supports this view";
- At page 64, "The Board is not prepared to look at the issue of pacing to achieve a particular equity level target at least until the current phase of major capital construction is completed, now projected by Manitoba Hydro to be in 2024";
- At page 64, "The 25% equity level target is "self-imposed"....the Board does not accept that consumer rate increases should be generated at the level proposed by Manitoba Hydro so that the Utility can achieve its target within a 10-year time frame";
- At page 64, "The Board finds that Manitoba Hydro's forecast achievement of \$6.56 billion of Retained Earnings by 2027 is too aggressive considering that the two major capital projects contributing most to the doubling of the Utility's assets are still under construction." (Emphasis added throughout).

Unfortunately, Order 59/18 provides no clarity on how or when the achievement of financial targets are to be actioned or on what a long term plan acceptable to the regulator will look like.

Order 70/17, a Procedural Order in respect of the 2017/18 and 2018/19 GRA, identified the issues to be included in the scope of the hearing, and specifically included “Appropriate Capital structure for Crown utility (debt: equity levels)”, appropriate financial targets, and pacing to achieve financial targets. The evidence as it related to the debt: equity target was focused on the appropriate time-frame for achieving a 75:25 debt: equity ratio, not whether consideration of such a target was appropriate.

Grounds

Manitoba Hydro seeks to Review and Vary Directive 9 on the grounds that the PUB has made errors in law and fact in directing the Terms of Reference for its technical conference for the purpose of establishing rule-based guidance in the consideration of future rate increases be limited to a minimum retained earnings or similar test.

Further the PUB erred in fact if it concluded that it supported the long term objective of meeting a 75/25 debt to equity target while also endorsing a minimum retained earnings test as a 75/25 debt to equity ratio will not be achieved if a minimum retained earnings test guides future rate applications.

Analysis

Guidance on Objectives is Critical

Manitoba Hydro acknowledges that the PUB sets rates for service for relatively short time horizons. Nonetheless, consistent with its own evidence and that of certain Intervenors during this proceeding, Manitoba Hydro submits that it is critical that all parties receive definitive guidance from the PUB on the longer term objectives it sees as reasonable and appropriate with respect to Manitoba Hydro’s financial condition. These objectives necessarily include specific guidance as to timing of achievement.

Financial targets, capital structure and the pace at which the debt to equity target should be achieved were included in the scope of this proceeding as set out in Order 70/17. Manitoba Hydro respectfully submits that Order 59/18 fails to make clear the PUB’s intention on these matters. In order to develop a responsive and responsible financial plan and a

prospective rate strategy to underpin future General Rate Applications, further guidance on these matters is required.

The largest determinant of Manitoba Hydro's future financial results is its annual interest expense which, following the completion of Keeyask, is expected to exceed \$1.2 billion annually, more than double its next largest category of annual cash outlay³⁰. The only material lever presently available to control interest expense is rate action which will generate sufficient revenue to allow for debt reduction. Manitoba Hydro has and will continue to pursue all means within its control to abate debt growth. However, it is a practical reality that even if achieved, the contributions of incremental export contracts, further O&A cost reductions or further business operations capital efficiency are dwarfed in potential impact on net debt and therefore interest expense relative to meaningful rate relief. Manitoba Hydro has no legitimate means of achieving its current or any other financial targets without a definitive expectation of support from the PUB for the requisite rate increases necessary to meet such targets. Any signaling of financial objectives Manitoba Hydro wishes to communicate to stakeholders such as the Province of Manitoba as owner and debt guarantor, customers, rating agencies or creditors is meaningless if it is not consistent with what the PUB is prepared to support.

The Implications of an MRET Rate-Setting Strategy

Manitoba Hydro has prepared an illustrative financial projection, attached as Schedule A to this Appendix, which demonstrates the impact of what Manitoba Hydro understands to be the direction in Order 59/18, specifically to target minimum retained earnings levels and to apply the accrual accounting methodology. Manitoba Hydro notes that this information was not requested of it during the GRA process. Rather it would appear that the PUB has mistakenly interpreted the Exhibit 93 filed in the proceeding as representing the outcome of the Minimum Retained Earnings Test ("MRET") and accrual accounting methodology described in Order 59/18. Manitoba Hydro respectfully requests that the PUB review and clarify its intention with respect to the abandonment of targets in place for decades, indeed, Manitoba Hydro is uncertain that the PUB appreciates that adopting its MRET as understood will effectively abandon these targets, not only for the short term but in the long term as well.

³⁰ MH Exhibit 93

Schedule A provides an illustrative financial projection based on Exhibit 93 which demonstrates that the implications of following a MRET rate-setting strategy as implied by Order 59/18 are significant. There would be no limitation on the growth of Manitoba Hydro's debt now or at any point in the future. Schedule A demonstrates equity levels would decline to 12% and remain at such level or below effectively in perpetuity. In order to abate debt growth and eventually reduce debt Manitoba Hydro must generate positive net income which, by definition, results in an increase to retained earnings. An MRET approach to rate setting foregoes net income and therefore incapacitates debt reduction.

Manitoba Hydro testified that the annual reinvestment needs of Manitoba Hydro (including annual payments on account of mitigation and Winnipeg Hydro liabilities) exceed what Manitoba Hydro records in depreciation expense, thereby causing Manitoba Hydro's debt to grow³¹. This is the case in fiscal year 2017/18 where depreciation expense (including amortization recognized in net movement) of \$419 million compares to forecast cash outlays of \$763 million on account of Business Operations Capital, Demand Side Management, Mitigation and Other Deferred Expenditures, Major Development/City of Winnipeg & Other Liability Payments and Disallowed Overhead. Given inflation and the needs of aging infrastructure, Manitoba Hydro expects this condition will not reverse materially, if at all, in the foreseeable future. Schedule A demonstrates that with retained earnings static at FY2019/20's level of \$3.0 billion, debt continues to rise throughout the 19 year forecast period including well after the completion of the Keeyask Generating Station.

Manitoba Hydro reiterates and relies on its submissions in Section 3.2 (page 24) of its Final Argument regarding the nature, role and ownership of equity. The significance of relying on a minimum retained earnings balance to manage and sustain Manitoba Hydro given the nature and quantum of its financial risks cannot be understated. This is even more critical given the PUB's direction on accounting policy which will act to create almost \$1.1 billion in retained earnings through the reassignment of costs (recognized under IFRS) to regulatory asset accounts by 2035/36. As can be seen from Exhibit 93, using the PUB directed accounting policy will see Regulatory Deferral Balances grow to \$2.2 billion from \$534 million at the end of 2017/18. This compares to Manitoba Hydro's proposed

³¹ MH Exhibit 64

accounting treatment (MH16 Update with Interim) wherein Regulatory Deferral Balances would only grow to \$1.1 billion. A policy of setting rates to maintain retained earnings at today's levels of approximately \$3 billion would mean that by 2036 over 35% of Manitoba Hydro's equity would be a product of the non-cash generative deferral of costs from 2018/19 onward due solely to the accounting policy changes confirmed by the PUB in Order 59/18. In addition, \$0.4 billion of Manitoba Hydro's forecast retained earnings of \$3.0 billion would be due to the non-cash amortization into revenue of the Bipole III Reserve Account from 2018/19 to 2023/24. Therefore together fully 50% of Manitoba Hydro's retained earnings will be the byproduct of new or temporary accounting treatments none of which are cash generative.

Manitoba Hydro gave evidence that relative to its customer base and electric load, at \$25 billion Manitoba Hydro's debt will remain greater than 300% above the levels experienced from the early 1990's (post Limestone) to 2008³². Following an MRET policy as suggested in Order 59/18 precludes the adjustment of Manitoba Hydro's debt levels relative to the size of its business. Manitoba Hydro respectfully submits that the PUB erred in failing to appreciate the impact of following a MRET policy on debt levels and the susceptibility of Manitoba Hydro's customers to rising interest rates, and in particular that without a path to reduce debt, this risk will remain effectively in perpetuity.

Further, Manitoba Hydro submits that given the significant potential for short-term earnings volatility from factors largely beyond Manitoba Hydro's ability to control, a relatively short-term and reactive rate adjustment strategy as endorsed by Order 59/18 is at odds with both rate-setting principles and customer testimony on gradualism and predictability that the PUB appears to have valued highly in reaching its conclusions. The policy to not scale reserves (Retained Earnings) to help mitigate impacts of foreseeable business risks such as rising interest rates, fluctuations in export values or sustaining capital needs but instead to deal with such eventualities if and when they occur will **increase** the level of rate volatility and unpredictability experienced by Manitoba Hydro customers. Schedule A demonstrates that even in a reference case, significant rate volatility is introduced by following the PUB's direction on accrual accounting methodology combined with MRET. Negligible rate increases are required over the next several years in order to sustain Retained Earnings at 2019 levels, however, bringing into service the Keeyask Generating Station necessitates a 34.4% rate increase over the four year period

³² Ibid.

commencing 2022/23 to maintain \$nil net income equilibrium. In the absence of rates sufficient to produce revenue to contribute to reserves, sharp and potentially infeasible corrective rate action to maintain the minimum retained earnings threshold could be necessary.

In endorsing a strategy which appears to accept reserves that are not scaled to the size and risk of Manitoba Hydro's business, Manitoba Hydro submits that the PUB has failed to meet the intent of the legislation. Section 40 of *The Manitoba Hydro Act* requires that reserves be established, maintained and adjusted as required for purposes including the stabilization of the price for power, meeting extraordinary contingencies, and such other requirements or purposes as in the opinion of the Manitoba Hydro-Electric Board are proper. The legislation also permits the use of reserves for the purposes of renewing and replacing property and works and contributing to statutory sinking fund obligations.

The Crown Corporations Governance and Accountability Act s. 25(4) provides that the PUB may consider in setting rates, among other things, "reserves for replacement, renewal and obsolescence of works of the corporation", "any other payments that are required to be made out of the revenue of the corporation" (including, for example, liability payments on account of mitigation, major development and City of Winnipeg), and any other compelling policy considerations or other factors that the PUB considers relevant to the matter. Manitoba Hydro respectfully submits that adherence to an "accrual accounting methodology" in combination with a MRET policy for rate setting which has as its objective sustaining (but not growing) retained earnings defeats the intention of the legislation when considering the duties of the Manitoba Hydro Board of Directors and the considerations outlined for the PUB to consider in setting rates, and may be construed as an error in law.

Reversal of Over 20 Years of PUB Guidance on Financial Targets

In Order 59/18 the PUB describes Manitoba Hydro's financial targets as "self-imposed". It is accurate that the Manitoba Hydro Electric Board is responsible for the setting of the Corporation's financial targets. However, the PUB itself has had significant opportunity since 1995 when the current 25% equity ratio target was established to reject its importance in setting rates. In numerous PUB Orders, the PUB has in fact done the opposite.

In Order 101/04, page 29 the PUB acknowledged the importance of the 25% equity ratio for rate stability and assurance that the full costs of the utility would be borne by the ratepayers:

With a debt:equity ratio of 75:25 ratepayers would have increased assurance of future rate stability....It would also provide increased confidence that a direct financial contribution to MH's capital would not be sought from the Province.

At page 31 of the same Order, the PUB provided tacit endorsement of the 25% equity ratio:

Achieving a debt:equity ratio of 75:25 would provide increased rate stability benefits, and hold down financial charges. The 75:25 benchmark represents a modest target, one comparable with the current debt:equity ratios of similar Crown hydroelectric utilities in other Canadian provinces (BC Hydro and Hydro-Quebec). In summary, meeting this target within a reasonable period of time would reduce long-term pressure on domestic electricity rates, better assure bondholders and thus constrain financial charges and provide a hedge against a future drought.

In Order 90/08, the PUB wrote:

"...the Board reconfirms the validity of the targeted debt:equity ratio of 75:25, while expressing concern as to the likelihood of its achievement" and notes "continuing business risks relating to interest rates (now at recent historic lows), the risk of further currency fluctuations, drought, inflation, market access problems, and other concerns" before concluding "The Board is focused on the risks that lie ahead and determined to ensure as reasonably as possible that Manitoba Hydro has the financial strength to meet the risks." (emphasis added)

The PUB reiterated the importance of not allowing Manitoba Hydro's equity ratio to deteriorate too far at page 23 of Order 43/13 and, importantly, the need for reserves to be scaled to deal with risks beyond simply drought:

The Board is concerned that, by moving towards a 90:10 debt-to-equity ratio by the end of the decade, there will be an insufficient retained earnings reserve to deal with droughts and other risks such as infrastructure failure or rising interest rates. (emphasis added)

While Manitoba Hydro acknowledges that the PUB is not bound by its past decisions, it is deeply concerned if the PUB has radically departed from a common, long-held mutual understanding of the importance of long term financial objectives, risk management practices, reserves and debt constraint with limited explanation or guidance as to future rate approvals. This has implications for all stakeholders who have relied on this understanding, including the Province of Manitoba, customers, credit rating agencies and lenders.

Repudiation of Qualified Expert Testimony

The financial plan brought forward by Manitoba Hydro in this proceeding reflects the expert judgment of a senior executive team steeped in experience managing large scale financial risk and setting financial policies and targets. The plan was endorsed by a Manitoba Hydro-Electric Board who individually have extensive personal experience in such matters. Moreover, in rejecting the equity target, the PUB has repudiated the expert reports of two large, sophisticated and internationally recognized firms who have studied these issues for Manitoba Hydro (RBC Capital Markets in 1995 and KPMG in 2015 and 2017 filed as Appendix 4.1 and 4.5 respectively to Manitoba Hydro's Application) and opined that the 25% equity target is of vital importance to Manitoba Hydro, the Province of Manitoba and its customers.

The PUB appears to have overlooked the evidence of the Manitoba Industrial Power Users Group who noted in their testimony (Tr. 6015, lines 21-23) that "Hydro's financial strength and ability to deliver stable rates is very important to customers". Manitoba Hydro notes that in its Final Argument submission (Exhibit MIPUG-33, page vii), MIPUG advocates that rate-setting principles be based both on progressing toward a 75% debt ratio (albeit over approximately 20 years) and an MRET.

Relief Sought

Manitoba Hydro respectfully requests that the PUB clarify its direction with respect to the objectives of the technical conference directed by providing comment and guidance on the following items before circulating for comments the scope of the technical conference:

1. Is the MRET meant to be a shorter term approach until the conclusion of the major capital projects?
2. Is the objective of establishing a test for use in rule-based regulation to determine a rate which **only** meets the MRET or does the PUB anticipate rules which will determine rates which will provide sufficient revenue to allowing the corporation to progress towards achievement of a 75/25 debt to equity target?
3. Exhibit 93, which the PUB states "...is therefore reflective of many of the Board's decisions in this Order" (p. 173) reflects even annual rate increases of 3.57% to achieve a 25% equity ratio by 2035/36. Should parties, for the purposes of the technical conference assume that the PUB endorses achievement of a 25% equity target over 19 years or some other period, and if so, what period?
4. Given what Manitoba Hydro understands to be the PUB's indication that it will not consider rate increases sufficient to make a contribution to equity until the completion of BiPole III and Keeyask (p. 64), and given the PUB's statements on accrual accounting, what direction can the PUB provide for the technical conference to consider and for Manitoba Hydro to plan for the step change in Manitoba Hydro costs with the in-service of Keeyask in the 2021/22 to 2023/24 time frame which would necessitate a 34.4% rate increase over the four year period commencing in 2023 in order to maintain \$nil net income and \$3 billion of retained earnings?

Given the language and implications of Directive 9 in isolation, Manitoba Hydro requests that the PUB vary Directive 9 to remove the reference to a "minimum retained earnings or similar test". For the reasons noted above, Manitoba Hydro submits that a Minimum Retained Earnings Test cannot be used in isolation as a long-term approach to rate setting, and respectfully requests that any technical conference mandate advanced by the PUB focus on financial targets for rate-setting which will ensure that Manitoba Hydro will, over time, adequately fund its operation and generate sufficient earnings to control and reduce debt.

APPENDIX E

Determination of Timing of Future Rate Increase and Time of Use Rate Proposal

Order 59/18 states:

Therefore in the absence of unforeseen or emergency circumstances, The Board will not consider future interim rate increases.

Filing of a GRA after September 1, 2018 but before December 1, 2018 is required for consideration of a request for a revised rate in fiscal year 2019/20. For the next GRA, the Board will not consider rate increases for more than two Test Years. (pg. 171)

Directive 29 of Order 59/18 states:

Manitoba Hydro file with the next GRA a time-of-use rate design proposal including the results of consultation undertaking with General Service Large customers prior to filing the proposal with the Board.

Grounds

Manitoba Hydro seeks to Review and Vary the PUB's findings on page 171 identified above on the grounds that these findings constitute errors of law.

Manitoba Hydro seeks to Review and Vary the PUB's directive 29 on the grounds that there exists multiple tasks that are currently expected to be completed prior to the next GRA as well as competing regulatory priorities. It is not possible to complete all such tasks and attend to all competing regulatory within the timelines prescribed.

Background

Order 59/18 directs Manitoba Hydro file certain information with its next GRA including:

- File details of its Operating and Administrative expenditures with an explanation of how Manitoba Hydro is carrying on its operations with reduced staffing levels (Directive 12);

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- File details of Manitoba Hydro's Operating and Administrative expenditures dating back 10 years along with forecast Operating and Administrative expenditures by cost element and business unit (Directive 13);
- Retain an independent consultant to assess Manitoba Hydro's development of its asset management program (Directive 14);
- Report to the PUB whether and to what extent Manitoba Hydro has implemented the recommendations made by the Independent Expert Consultants at the 2017/18 GRA with respect to Keeyask, Manitoba-Minnesota Transmission Project and the Great Northern Transmission Line (Directive 15);
- Provide Manitoba Hydro's rationale for the declining block rate design (Directive 28);
- File a time of use rate design proposal, including the results of a consultation process undertaken with General Service Large Customers prior to filing the proposal with the PUB (Directive 29);
- Provide details on the Solar Energy Program and other net metering installations in Manitoba

Order 59/18 also requires Manitoba Hydro:

- Participate in a technical conference for the establishment of a minimum retained earnings or similar tests to be used as a guide in the setting of consumer rates (Directive 9);
- Provide confirmation to the Board that the Executed diesel zone settlement documents have been received and advise the PUB of its intentions regarding finalization of diesel zone rates (Directive 36);
- File with the PUB, on or before August 1, 2018, the status of compliance with all outstanding and ongoing directives, along with a process for feedback and clarification on PUB directives (Directive 37);

In addition to dealing with the finalization of diesel rates noted above, Manitoba Hydro and the PUB are expecting to participate in a natural gas GRA in the near term.

Both Manitoba Hydro and the PUB have other significant regulatory work. Manitoba Hydro is currently in the midst of the National Energy Board's Review of the Manitoba-Minnesota Transmission Line. The PUB will presumably be required to hear Manitoba Public Insurance's General Rate Application in the fall of 2018.

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While not in its Directive section, Board Findings at p. 171 of Order 59/18 requires Manitoba Hydro to file its next GRA no later than September 1, 2018 if it requires a rate increase by April 1, 2019. The PUB further indicates that filing a GRA after September 1, 2018 but before December 1, 2018 is required for a revised rate in fiscal year 2019/20. The PUB also indicated that absent emergency or unforeseen circumstances, it would not consider future interim rate increases

Analysis

The PUB has directed a significant amount of work be undertaken and completed prior to the next GRA. It is simply not possible to do all of the required work by September 1, 2018 nor, given competing priorities, December 1, 2018.

While Manitoba Hydro has sought to Review and Vary Directive 9 requiring Manitoba Hydro participate in a PUB led technical conference on the establishment of a minimum retained earnings or similar tests (see Appendix D), such Review and Vary is in part for the purpose of better understanding parameters and expectations prior to establishing the scope of the technical conference, so that ultimately its conclusion and outputs will provide value for Manitoba Hydro and the PUB. In Manitoba Hydro's view this technical conference should take place prior to its next GRA. There is little merit in Manitoba Hydro developing a financial plan and associated rates absent an understanding of the financial targets that will be relied upon by the PUB. The subject matter is complex and it is difficult to imagine that the technical conference process can be completed, a report prepared, and a GRA drafted all in time for a September 1 or December 1 filing.

Manitoba Hydro has also sought to Review and Vary Directive 14 requiring the retainer of an independent consultant to review and report on Manitoba Hydro's asset management program based on errors of jurisdiction, law and fact in Appendix C. As alternative to the Directive as written, Manitoba Hydro offers to provide its own report to the PUB. It should be understood however that it is not reasonable to expect that such report, regardless of whether by an independent consultant or Manitoba Hydro will be completed in time to meet the PUB's GRA filing deadlines (nor will material change have transpired in the months following the completion of oral evidence to merit the preparation of such report by the next GRA).

While Manitoba Hydro has no objection to providing operational plans with respect to reduced staffing levels, the restructuring of Manitoba Hydro's workforce and redeployment of work assignments is an enormous and evolving task. Management must be afforded time to make the necessary changes, test their operational success and adjust as required. Concurrently reporting on this evolving process to meet a September 1 or December 1 presents significant challenges. Manitoba Hydro has not sought to vary this directive, but cautions that in the near term, any reporting will be focused on numerical as opposed to operational detail and while the resources required to prepare such report will not be inconsequential, such report at this stage in the process will be of limited value.

Pursuant to Directive 29, Manitoba Hydro must develop a Time of Use proposal, conduct consultations with General Service Large customers and include the results of such consultation as part of its filing – all by December 1 if Manitoba Hydro wishes a rate increase in fiscal 2019/20. December 1, 2018 is a challenging and ambitious deadline when one considers the time required to meaningfully engage customers in finalizing such a rate proposal. In addition, given other pressing matters such as the Centra GRA or Diesel Rate Review that fully consume many of the same staff, completion of a meaningful consultation process and other reporting requirements is not possible by the date of filing the next GRA as directed.

By way of example, in Order 73/15, Manitoba Hydro was directed to study the issue of bill affordability and lead a collaborative process. The PUB will recall that while the initial timeline for a written report to be provided to the PUB was set for approximately one year from the filing of terms of reference, an extension had to be requested by the Working Group. Considering Order 59/18 was issued on May 1, 2018, a 4-7 month window as contemplated by the PUB in its Order is not an adequate amount of time to complete this work.

Manitoba Hydro can advise that given the work currently before it, it does not see a path to allow the preparation and filing of a GRA in the 2018 calendar year. Manitoba Hydro can also advise that it does not specifically require rate changes be made on April 1 of each year. It is the objective of establishing a regular and predictable cycle for implementing rate changes is important to the Corporation.

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Manitoba Hydro shares the PUB's desire for timely filings. Setting timetables that do not fully take into account the work that must be completed and the reality of competing priorities does not in the end promote timely filings. Improved regulatory efficiency, the setting of priorities and working to realistic schedules must be all occur in order to achieve timely filings and the efficient review thereof.. As such, a task Manitoba Hydro wishes to add to the list of work which must be undertaken in the near term is to work with PUB staff to set priorities and develop a timetable so that Manitoba Hydro can provide the PUB with the information it requires, recognizing the realities of resource constraints on the part of all parties.

From a legal perspective, Manitoba Hydro submits that the laws of natural justice and procedural fairness dictate that applications must be afforded a fair hearing, including the opportunity to present evidence and have that evidence considered by the PUB prior to the PUB making its determination. The PUB speaks through its Orders and the commentary contained therein. GRA's must be judged on their merits and the time required to conduct the GRA must be assessed based on material filed and issues determined to be in scope. The requirement that Manitoba Hydro file an application either before September 1, 2018 for an April 1, 2019 rate increase or between September 1 and December 1, 2018 in order for the PUB to approval a rate increase effective during the 2019/20 fiscal year assumes, prior to being presented with any evidence that a 7-18 month review period will be required, despite a comprehensive review having just been completed. This runs contrary to the PUB's own comments in Order 59/18 that "Future GRAs by Manitoba Hydro are not expected to be of this magnitude or duration as process improvements have an will continue to be implemented to focus the scope and expedite proceedings."

Manitoba Hydro appreciates the PUB's concern with respect to allowing sufficient time for the PUB's review of the next GRA. Manitoba Hydro however must be permitted to consider all factors in bringing an application before the PUB. This includes the need to complete work and directives specified by the PUB in Order 59/18 and to present the merits of an application which allows the PUB to establish a process adequate to meet its requirement to balance the needs of the utility and the ratepayers. It is incumbent on the PUB to hear that evidence prior to reaching a conclusion on whether a rate increase should be approved for the years being sought in an application.

Manitoba Hydro's applications to the PUB are made pursuant to *The Crown Corporations Governance and Accountability Act*. Section 26(1) specifically provides that

Multi-year approvals

26(1) A corporation may submit for approval of The Public Utilities Board pursuant to this part proposals regarding rates for services relating to a period of not more than three years and the board shall identify in its order the change approved, if any, with respect to each year.

Pursuant to *The Crown Corporations Governance and Accountability Act*, Manitoba Hydro is authorized to submit a proposal for rates for a period of up to three years and the PUB is required under this section to identify in its order the change approved, if any, with respect to each year. If the PUB is required to identify any change approved, if any, for the years identified in an application in an Order, it is clear that the legislature intended that the PUB would have to, at a minimum, consider the evidence presented and consider the application on its merits for each year identified in the application, up to a maximum of three years. Rejecting a third year rate proposal out of hand, without any evidence upon which to judge its merits is not only procedurally unfair but also serves to eliminate one of the tools the legislature has provided in order that rate review can be conducted in an orderly manner. Multi-year approvals allow time to compile requested reports, undertake consultations and develop rate programs prior to the next review process. Single and two year rate approvals serve to increase the need to rely on interim rate increases as between processes in order to complete work that must be undertaken.

The power of the PUB to consider interim rate requests is addressed in section 47(2) of *The Public Utilities Board Act*:

Interim Order

47(2) The board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter, or for further application.

The legislative provision is clear that the PUB has the authority to make orders interim as opposed to final. The legislature did not impose any conditions, requirements or restrictions on the interim rate approval authority of the PUB and instead gave the PUB broad discretion in this regard. There is no requirement for some type of urgency, unforeseen or

emergency circumstances under the legislation which is required in order for the PUB to grant interim relief to Manitoba Hydro.

The PUB has consistently rejected the notion that urgency is a required condition in order to issue an interim rate order (Order 18/10, pg. 5; Order 40/11, pg. 28; Order 116/12, pg. 18; Order 49/14, pg. 16 & 17). Most recently in Order 80/17, the current PUB confirmed at pg. 13 that “Specifically, subsection 47(2) of the PUB Act grants the Board the authority to make an interim order. This authority is broad and permissive, and is not subject to pre-conditions.”

Manitoba Hydro submits that any application, including an interim application, must be heard on its own merits, taking into consideration the factors impacting the timing and nature of the application. The legislative authority used by the PUB to grant previous interim rate increases is the same legislative authority in place today. This authority cannot be amended, changed or fettered unless the applicable legislation is changed.

Manitoba Hydro agrees that interim rate applications should not be the norm, however any attempts to fetter future board’s ability to review an application on its merits is contrary to the legislation and exceeds the PUB’s jurisdiction. Manitoba Hydro believes that the best means of addressing this issue is to work with the PUB to develop a realistic work plan and timetable as well as determine priorities as between various regulatory demands.

Relief Sought

Manitoba Hydro requests the PUB set aside Directive 29.

Manitoba Hydro suggests that this matter form part of the discussion between the PUB and Manitoba Hydro regarding prioritization of regulatory work and developing a workable regulatory schedule and timelines.

Manitoba Hydro requests the PUB reconsider its comments related to requirements for a filing a General Rate Application by a certain date, rejecting consideration of multi-year rate and interim rate proposals otherwise authorized by legislation, prior to reviewing evidence with respect to same. Instead Manitoba Hydro proposes it work with the PUB to develop a timetable to accommodate each of the processes that require review by the PUB, utilizing

the tools made available by the legislature as appropriate, with the goal of getting on track to an orderly and manageable rate schedule, requiring less reliance on interim rate approval while still meeting the public interest goal of maintaining a financially strong utility.

APPENDIX F

Recommendations

Manitoba Hydro is providing comments with respect to a number of Recommendations and findings contained in Order 59/18. While Manitoba Hydro has not commented on all Recommendations, the lack of comments should not be inferred as acceptance or agreement with the Recommendation. Rather, Manitoba Hydro has commented on those Recommendations which arguably serve to create expectations regarding operational decision making in the near term as a result of misunderstanding of the evidence and matters which are not within the purview or control of Manitoba Hydro. In addition, the PUB justified its decision to reduce the requested rate increases in Order 59/18, in part, taking into consideration these Recommendations and findings.

In particular, the PUB justified its decision to reduce the requested rate increases in Order 59/18, in part, taking into consideration the following:

1. A reduction in Business Operations Capital of \$160 million;³³
 2. A reduction in Demand Side Management spending³⁴; and
 3. Not meeting the onus of proof by failing to provide evidence as to the macroeconomic impacts of the proposed rate plan, including the test years³⁵.
1. Reduction to 2018/19 Business Operations Capital of \$160 Million

PUB Order 59/18 found at page 21 that:

For the 2018/19 Test Year, in advance of the analytical data-driven approaches to managing capital assets being developed by Manitoba Hydro, ***the Utility identified \$160 million of Business Operations Capital expenditures that can be safely deferred. (emphasis added)***

³³ PUB Order 59/18 dated May 1, 2018, pg. 111 of 316

³⁴ PUB Order 59/18 dated May 1, 2018, pg. 120 of 316

³⁵ PUB Order 59/18 dated May 1, 2018, pg. 162 of 316

Based upon the above-noted finding, at pages 110 and 111 of Order 59/18, the PUB concluded:

The Board finds that Business Operations Capital spending can be safely decreased by \$160 million, based on Manitoba Hydro's evidence that it can defer \$160 million of spending in the Test Year.

The board recognizes that Order in Council 92/2017 does not give the Board authority to direct Manitoba Hydro to amend its planned Business Operations Capital spending. Rather the Board has factored into its rate decision the reduction in Business Operations Capital of \$160 million. Manitoba Hydro can decide whether to accept the Board's findings and reduce its Test Year Business Operations Capital spending, or to incur additional debt in order to maintain spending at the proposed levels in CEF16.

Manitoba Hydro submits that there is no evidentiary or factual basis on the record of this proceeding which supports the PUB's finding or conclusion that \$160 million of Business Operations Capital expenditures can be safely deferred by Manitoba Hydro.

Contrary to the Board finding at page 21 and the conclusion reached at pages 110 and 111 of Order 59/18, not once in the entirety of Manitoba Hydro's evidence did it, or any other party to the proceeding, suggest or identify that \$160 million (or any amount for that matter) of Business Operations Capital for the 2018/19 Test Year could be safely deferred.

Manitoba Hydro respectfully submits that the Board finding at page 21 of Order 59/18 and the conclusion reached at pages 110 and 111 completely ignores the unequivocal testimony of Manitoba Hydro that the entire amount of the Business Operations Capital investment identified for the Test Year, as summarized in section 9.1 of Manitoba Hydro's written final argument, was critical and necessary for the safe and reliable operation of the system.

At pg. 113 of Order 59/18, the PUB suggests that the cost pressures related to major capital spending mean that Manitoba Hydro can no longer continue to fund Business Operations Capital at historic levels unless and until it can demonstrate through mature asset management processes that those investments are necessary.

Manitoba Hydro respectfully submits that there can be no linkage between major capital investments and business operations capital as each category deals with different types of assets. Major capital projects provide significant new generation and transmission capacity and include projects of a substantial cost. Business Operations capital addresses requirements to sustain electricity and natural gas service through replacement of aging or obsolete assets, capacity enhancements as well as system expansion due to load growth.

The process for dealing with requirements for replacement of ageing or obsolete assets, capacity enhancements and system expansions due to load growth need to be evaluated on their own merits. Manitoba Hydro's evidence at transcript pg. 1294 is clear that planning business operations capital is needed to ensure safety and reliability:

MR. JOEL WORTLEY: The business operations capital planning process involves striking the right balance between cost performance and risk for the customer. No one wants to pay more than they have to. I'm a customer too. I don't want to pay more than I have to but I also want my lights to be on and I want my furnace to run when -- when it's cold out.

And so when we plan the business operations capital, it's with an eye towards keeping the system running safely and reliably for customers. And as much as we'd rather not have to pay when we --for things that are necessary, if they are necessary and they're going to impact the reliability of the system, then we plan them and proceed with those investments.

So it's very much with an eye towards what's going to be the best for the customer and striking that balance between cost performance and risk that drive our planning processes.

Mr. Wortley further explained the types of concerns that are directly evident and are being addressed through the expenditures in business operation capital. At transcript page 1299:

MR. JOEL WORTLEY: No, not in that -- within our systems as they exist today we are not able to make a direct prediction of what reliability performance will result from a given level of investment; that's something we're working on.

But it is also important to understand that reliability isn't the only -- the only thing at stake when it comes to investing in -- in the various systems. I think clearly on the distribution system the assets are throughout the province and public safety is a significant concern. Things like streetlight bases rusting out, potentially falling into traffic. Employee safety is another concern if we've got wood poles that are rotting and -- and employees need to be able to climb them safely so they need to be renewed on a -- before they become unsafe.

And so it's a significant challenge and a complicated assessment to be able to predict what say -- what investments would not occur which would push us to acute -- second quartile performance while keeping other risks in check; that -- that requires a very complex analysis to get it right.

Manitoba Hydro submits that the PUB disregarded the evidence of both Manitoba Hydro and METSCO, the expert witness of the Consumers Coalition, who concurred with Manitoba Hydro's warnings regarding the pitfalls of deferring sustainment funding at transcript page 7089:

MR. THOR HJARTARSON: It's -- it's always hard because the -- sustainment funding is a year-to-year thing. You cannot really just skip it for some time. Your assets do age and you'll have -- you'll be in real problem.

And reason why we say this also, we've seen it som -- somewhere else where a Utility had a big generation project, for instance, in one case they had a nuclear project they were building. They actually did no sustainment for several years while there was being funded. After that they were having real problems getting back to -- back to their state. The reliability was going down and so on. So we're really pointing that out from that perspective.

For Manitoba Hydro to simply reduce business operations capital by over 30%, directly opposite to its industry acknowledged professional expertise and advise, without any supporting factual evidence or corresponding analysis to ensure that

the safety and reliability of the electrical system would not be compromised, is reckless. The suggested reduction would be completely arbitrary, without any regard to the evidence presented by Manitoba Hydro in the proceeding that there are upward pressures and that the analytical tools being developed may show that sustainment funding needs to be increased to account for some aging and deteriorating assets³⁶. METSCO concurred with Manitoba Hydro's assessment in this regard (transcript pages 7095-96):

MR. BOB PETERS: Is it in METSCO's view possible for Manitoba Hydro to decrease its sustainment capital spending without jeopardizing reliability?

MR. THOR HJARTARSON: We -- we do not have evidence to support for decreasing it or increasing it. I -- I would say that -- that kind of -- if those asset management processes were in place, you could have more a basis on determining that. Intuitively -- I don't know if you want to hear my intuition -- is that they're probably not spending enough on system renewal.

The Boston Consulting Group drew similar conclusions in their reports which were filed by Manitoba Hydro in its response to PUB MFR 72. Boston Consulting Group concluded the following regarding Manitoba Hydro's sustaining capital:

- At pages 179 of 615:
 - For generation – “MH sustaining capital in line with peers if excluding major projects”
 - For transmission – “MH sustaining capital lower than total for many peer utilities”
 - For distribution – “MH Dx spend lower than many peer utilities”

³⁶ Transcript page 690-691 - Evidence was presented on the 16,000 wood poles that were added from 1945-1960 which need to be replaced in the next 10 – 20 years; currently Manitoba Hydro is only replacing about 7,000 a year and so the replacement rate will need to increase. IN addition, Mr. Wortley comments on how modern computer aided design technologies allow for more efficiency, thinner designs that degrade faster, which suggests an increasing pace or rate of reinvestment.

- At pages 341-342
 - “Benchmarks indicate spend has been similar or less than peers”
 - “System renewal capital insufficient to replace aging assets. Suggests little room to prudently decrease sustaining capital — should look to optimize current spend.”

In summary, Manitoba Hydro submits that there is no evidentiary or factual basis on the record of this proceeding from any party from which the PUB could correctly or reasonably base its finding or conclusion that \$160 million of Business Operations Capital expenditures can be safely deferred.

No such factual basis or evidence is identified or referred to in Order 59/18 by the Board in support of its finding or conclusion.

The only evidentiary reference in the proceeding where the potential deferral of \$160 million of Business Operations Capital expenditures was canvassed is in Manitoba Hydro’s response to PUB/MH I-117b)-d) and in an exchange between the PUB’s legal counsel, Mr. Bob Peters and Mr. Wortley at transcript page 1309-1311:

MR. BOB PETERS: But the decision to defer them, Mr. Wortley, --

MR. JOEL WORTLEY: Oh please don't --

MR. BOB PETERS: -- more accurately the decision that you're not able to defer 81 percent of them is based not on a cost-benefit analysis?

MR. JOEL WORTLEY: So there would be a cost-benefit analysis to justify the project to begin with. If the project is already in flight and some money has been invested to defer it at that point and forego this -- the system efficiency that was to be achieved by the project, which was justified by the project spend to begin with, it's -- unless something has changed fundamentally in the -- in the business case for the project, it would only make sense to carry on.

MR. BOB PETERS: Mr. Wortley, before we leave that chart that's shown on the screen at page 652 of the book of documents, volume 4, has Manitoba Hydro calculated the dollar value of the projects that could be deferred?

MR. JOEL WORTLEY: That's where these numbers came from, yes.

MR. BOB PETERS: And so let me ask it directly then: By turning what -- what is the value of the business operation capital projects that could be deferred past 2019 based on this chart?

MR. JOEL WORTLEY: Subject to check, I believe it's \$160 million.

Mr. Wortley then clarified that Manitoba Hydro can't defer all of these projects without compromising safety and reliability of the electrical system at transcript pg. 1313:

MR. JOEL WORTLEY: -- the deferral that we talked about a moment ago from the business operations capital might push the costs out a year, maybe a little bit longer, depending on the project and how much risk is willing to be taken in deferring those, but it certainly couldn't be adjusted by \$100 million a year, every year. That would leave a far too large a -- the -- the corresponding balance of risk would be unacceptable, and so the -- the -- these two (2) are not directly comparable in terms of scenarios.

MR. BOB PETERS: The risk you refer to, Mr. Wortley, is that there may be more interruptions, or there -- the interruptions that happen could be longer in duration. That's what you're referring to?

MR. JOEL WORTLEY: That's one (1) potential impact. The -- these are risks to the safe and reliable operation of the system. So it -- it could be customer impacts in terms of reliability. It could be safety to the public, safety to our own staff. These -- these all come into play.

In PUB/MH I-117b)-d), when asked why volitional projects were being done in the test years, Manitoba Hydro clearly answered that the expenditures were considered a priority for the Corporation:

*"The projects and programs that could be deferred, but were not deferred in 2016/17, 2017/18 and 2018/19 have been deemed to be priority projects by the capital planning process as described in PUB/MH I-119a-c. **These investments are either mitigating one or more of the significant operational risks described in PUB/MH I-119a-c, are critical to operations or take advantage of opportunities to increase operational efficiency.**"*

This exchange between Mr. Peters and Mr. Wortley and the reference in Manitoba Hydro's response to PUB/MH I-117b)-d) does not, in any way, equate to an identification or admission by Manitoba Hydro that it could safely defer \$160 million of Business Operations Capital expenditures for the 2018/19 Test Year.

For all of the above reasons, Manitoba Hydro submits that the finding and conclusion by the PUB that the \$160 million in Business Operations Capital could be safely deferred is an error in fact and in law. The evidence examined during the course of the proceedings did not in any way suggest that \$160 million of Business Operations Capital could be safely deferred. Manitoba Hydro's explained in its direct evidence and explored during the proceedings (transcript page 2159-2215), that it maintains a flexible planning process targeted at achieving a balance of cost, performance and risk that will benefit the customer. Potential investments are considered on an annual basis for advancement to execution based on the urgency of the work and limiting constraints of capital funds and available staff resources. For the 2018/19 Test Year, Manitoba Hydro will continue to plan investments on this basis, deferring or advancing investment in the best interest of the customer and will subsequently seek approval from the PUB to recover these necessary amounts through rates at its next proceeding

2. Reduction of DSM Spending

At pages 118, 119 and 120 of Order 59/18, the PUB stated:

The Board finds that Manitoba Hydro's revenue requirement should be reduced to reflect lower demand side management spending as a result of the new lower marginal value.³⁷

The Board's approved rate increase takes into consideration a reduction in demand side management spending as well as an increase in domestic load that will result from fewer demand side management programs. This reduction in the revenue requirement is appropriate for rate-setting purposes while Manitoba Hydro remains responsible for demand side management spending and programming.

³⁷ PUB Order 59/18 dated May 1, 2018, pg. 118 of 316

While Manitoba Hydro has forecast demand side management spending to achieve energy savings over the next 10 years at a level of 0.3% below the energy savings target in The Efficiency Manitoba Act, the amount of spending is not justified for the Test Year. Efficiency Manitoba is not yet operational and once it is, there are legislated steps that must occur prior to the entity's implementation of an approved efficiency plan. The adverse rate impacts that arise from Manitoba Hydro's plan are not reasonable in the present context.³⁸

Consumer rates should not, at this time, recover the costs of demand side management programs that are no longer cost effective, unless justified by having a lower-income target market.... In light of the above, the Board recommends that Manitoba Hydro reduce its demand side management spending.³⁹

As part of its GRAs, Manitoba Hydro files its one year DSM Plan along with the most recent 15 year DSM Plan Supplemental Report which sets forth the Power Smart initiatives targeted to achieve energy and demand savings. The Reports provide insight into new DSM initiatives as well as enhancements to existing initiatives which have been introduced to assist all Manitoba Hydro customers. The reports also provide insight into the savings achieved through each of the initiatives which have been implemented as well as targets of savings to be achieved for new initiatives. The one year DSM Plan and the 15 year Supplemental Plan are filed to provide the PUB insight into the DSM programming costs which ultimately must be recovered in rates. As set out in Appendix B, at page 9, the PUB does not maintain jurisdiction to approve, reject or vary the Corporation's demand side management programs or direct the implementation of new rate programs under current or new legislation,

It should be understood that while the PUB has reviewed Manitoba Hydro's demand side management programs and activities in the course of rate review applications, such reviews were conducted in the context of rate applications and the financial impacts of these programs. The ability to conduct such review does not provide the PUB with jurisdiction to approve, reject or vary the Corporation's demand side

³⁸ PUB Order 59/18 dated May 1, 2018, pg. 119 of 316

³⁹ PUB Order 59/18 dated May 1, 2018, pg. 120 of 316

management programs or direct the implementation of new rate programs (See Appendix B, page 9 for additional commentary).

In 2017, the Province of Manitoba tabled legislation, *The Efficiency Manitoba Act* ("*The Efficiency Act*") to create a new crown corporation to be known as Efficiency Manitoba which has a mandate to provide Demand Side Management programming. On January 24, 2018 *The Efficiency Act* was proclaimed and is now in effect.⁴⁰ While Efficiency Manitoba is still in its formative stage, Manitoba Hydro continues to deliver Power Smart programs to meet the needs of Manitoba customers until the full transition occurs to Efficiency Manitoba. In addition, section 49 of *The Efficiency Act* which repeals *The Energy Savings Act* has not yet been proclaimed. Until such time as the transition occurs to Efficiency Manitoba and *The Energy Savings Act* has been repealed, the obligations of Manitoba Hydro to consult with the Minister to prepare a yearly energy efficiency plan, remain in effect.

Manitoba Hydro filed its most recent 2017/18 Demand Side Management in response to PUB MFR 61. The plan filed with the PUB was the plan that Manitoba Hydro prepared in consultation with the Minister appointed to administer *The Energy Savings Act*. Section 7 of *The Energy Savings Act* sets forth that :

Energy efficiency plan

- 7(1) The board must, in consultation with the minister,
- (a) Prepare an energy efficiency plan by March 31, 2013; and
 - (b) Prepare an update to the plan annually after that.

⁴⁰ With the exception of sections 37, 44 and 49 which deal with the establishment of regulations governing Efficiency Manitoba's administration of the affordable energy fund, the repealing of *The Energy Savings Act* and agreements entered into under the on-meter efficiency improvements program pursuant to *The Energy Savings Act*.

Content of plan

- 7(2) The energy efficiency plan must set out
- (a) Energy efficiency targets in relation to the projected use of power and natural gas by the corporation's customers in Manitoba;
 - (b) A strategy for achieving the energy efficiency targets;
 - (c) The programs, services and projects that the corporation will support to implement the strategy, which may include programs, services and projects that
 - (i) Replace or improve equipment and materials related to the use of power and natural gas and the production of greenhouse gas emissions,
 - (ii) Enhance space heat retention and heating efficiency, and
 - (iii) Change customer behavior relating to the use of power and natural gas and the production of greenhouse gas emissions; and
 - (d) The estimated annual cost of implementing the strategy and indicate how the cost will be funded.

The targets and spending on energy efficiency and demand side management detailed in the reports filed with the PUB are set in consultation with the Government. Targets and spending set in consultation with Government cannot be unilaterally adjusted by the PUB or Manitoba Hydro.

While the PUB stated that the amount of spending is not justified in the Test Years, the evidence the PUB received during the course of the proceeding related to fiscal years 2016/17 and 2017/18. The 2016/17 15-year Supplemental Report was filed as Appendix 7.2 to Manitoba Hydro's Application and outlines the 15 year forecast of energy and demand savings which were anticipated in 2016. As noted by Ms. Morrison in her testimony at transcript pages 2621 and 2622.

MS. LOIS MORRISON: We aren't assessing programs at this point in time, because until the Efficiency Manitoba begins and then the regulations that describe how they will be measured and what their success factors will be, we aren't reassessing programs. As I

mentioned, we're in care and control until they come back with their plans as to how to pursue the targets that have been outlined in the Act.

And

MS. LOIS MORRISON: No. As I mentioned, Manitoba Hydro is not doing any work, or any adjustments, or pursuing any changes to our current DSM offering. That mandate is moving over to Efficiency Manitoba. We are not making any changes until that has successfully transferred. That will then be the direction of Efficiency Manitoba.

The PUB received no evidence during the course of the proceeding regarding the current targets and spending for the Test Year. No update was provided to the 15 year Supplemental Report as Ms. Morrison testified that with the mandate for energy efficiency and demand side management transferring to Efficiency Manitoba, there would be no changes as Efficiency Manitoba will be bringing forth their own plan. The PUB did not receive a 2018/19 Demand Side Management Plan during the course of the proceedings as Manitoba Hydro was in the midst of consulting with government as to the targets and spending to be set for the 2018/19 fiscal year. Only when this consultation is complete will the 2018/19 Demand Side Management Plan established. Given the role of government in establishing that plan, its spending targets, whatever they may be, must be respected in the context of determining Manitoba Hydro's revenue requirement.

The recently enacted *Efficiency Manitoba Act* grants the PUB jurisdiction to review and make recommendations to the Minister regarding Efficiency Manitoba's future efficiency plans. The PUB's review role of efficiency plans will arise from section 11 of *The Efficiency Manitoba Act*.

Review and recommendation by PUB

11(1) The PUB must review an efficiency plan and make a report, with recommendations, to the minister as to whether the plan should be

- (a) approved;
- (b) approved with suggested amendments; or

(c) rejected.

Mandatory considerations

11(4) In reviewing an efficiency plan and making recommendations to the minister, the PUB must consider

- (a) the net savings required to meet the savings targets and the plans to address any existing shortfall;
- (b) the benefits and cost-effectiveness of the initiatives proposed in the plan;
- (c) whether Efficiency Manitoba is reasonably achieving the aim of providing initiatives that are accessible to all Manitobans; and
- (d) any additional factors prescribed by the regulations.

Optional recommendations

11(5) The PUB may recommend to the minister

- (a) an increase in a savings target if it is reasonably satisfied that it is in the public interest for Efficiency Manitoba to achieve additional net savings; or
- (b) a decrease in a savings target if it is reasonably satisfied that the existing savings target is not in the public interest.

Pursuant to section 11 of *The Efficiency Manitoba Act*, the PUB must review and make recommendations to the minister as to whether the plan submitted by Efficiency Manitoba should be approved, approved with suggested amendments or rejected and may recommend a decrease in a savings target if the PUB is reasonably satisfied that the existing savings target is not in the public interest. This however, only occurs once Efficiency Manitoba submits a plan for the PUB's review in accordance with the legislation.

Pursuant to *The Efficiency Manitoba Act* it is also clear that the final decision with respect to the targets and spending associated with targets will be made by government. Section 12 provides:

Ministerial approval

12(1) After receiving an efficiency plan and the PUB's recommendations respecting the plan, the minister must

- (a) approve the plan as submitted; or

- (b) refer the plan back to Efficiency Manitoba for further action, with any directions the minister considers appropriate.

Ultimately the Minister will determine whether to accept or reject the PUB's recommendations. Similar to the current process, all Parties must respect and abide by the Minister's decision both with respect to implementing the plans and in the context of determining Manitoba Hydro's revenue requirement associated with such implementation. Until such time as government authorizes a decrease in savings targets, it is inappropriate to depart from the government sanctioned plan and assume otherwise.

3. Failure to Present Economic Impact Evidence

At page 162 of Order 59/18, the PUB found that

Manitoba Hydro did not provide evidence as to the macroeconomic impacts of its proposed rate plan, including the Test Year increase. This is a factor in the Board's conclusion that Manitoba Hydro did not meet its onus to establish that the rate increase sought by the Utility is just and reasonable.

On May 5, 2017, Manitoba Hydro filed its Letter of Application setting forth the approvals sought by Manitoba Hydro in the application filed with the PUB.

On May 12, 2017, Manitoba Hydro filed revenue requirement materials in support of its application and filed the remaining Cost of Service and Proposed Rates and Customer Impact materials on May 26, 2017.

The PUB conducted a pre-hearing conference on June 12, 2017 where Intervenors made submissions with respect to issues of interest to be canvassed during the course of the GRA and the scope of the PUB's process.

Procedural Order 70/17 was issued by the PUB on June 30, 2017 and identified the issues which were considered to be in scope during the review of Manitoba Hydro's General Rate Application. With respect to the issue of macroeconomic impacts, the PUB stated at pg. 25 of Order 70/17 that:

The following issues are not in scope, or are only in scope to the extent specifically identified below:

- *The examination of macro economic impacts is restricted to the impact that Manitoba Hydro rate increases, or lack thereof, will have on the aggregate Manitoba provincial economy, and which sectors of the economy are particularly at risk;*

This was the first time the PUB has included such issues within the scope of a GRA.

The PUB retained the services of Dr. Adonis Yatchew on or about July 31, 2017 and pursuant to his scope of work, Dr. Yatchew was to examine the economic impacts of the proposed electricity rate increases. Several intervenors presented evidence with respect to the economic impacts of the proposed rate increase:

- The Consumers Coalition filed the evidence of Dr. Wayne Simpson and Dr. Janice Compton and also presented a panel comprised of residential consumers
- The City of Winnipeg filed the evidence of Tyler Markowsky
- GSS/GSM/KAP filed the evidence of London Economics
- MIPUG presented a panel of MIPUG members

Manitoba Hydro did not file evidence or a present a witness dealing with provincial macro-economic impacts of its proposed rate increase. Manitoba Hydro has never in the past presented such evidence in a GRA.

Section 39(10) of *The Manitoba Hydro Act* sets out the information that Manitoba Hydro must file as part of its applications:

Material supplied by corporation

39(10) Where an application is made to The Public Utilities Board under this Act, the corporation, upon request of The Public Utilities Board, shall provide The Public Utilities Board with

- (a) a statement showing the prices fixed or proposed to be fixed and the prices which were or are in effect prior to the new prices being fixed;

- (b) a statement of the reasons for any changes in the prices fixed or proposed to be fixed including a statement of the facts supporting those reasons;
- (c) a statement of the manner in which and a time at which the changes in the prices were or are proposed to be implemented; and
- (d) such further information incidental thereto as The Public Utilities Board may reasonably require.

Section 25(4) of *The Crown Act* sets out the factors to be considered when reaching a decision with respect to a Manitoba Hydro a rate application:

Factors to be considered, hearings

25(4) In reaching a decision pursuant to this Part, The Public Utilities Board may

- (a) take into consideration
 - (i) the amount required to provide sufficient funds to cover operating, maintenance and administration expenses of the corporation,
 - (ii) interest and expenses on debt incurred for the purposes of the corporation by the government,
 - (iii) interest on debt incurred by the corporation,
 - (iv) reserves for replacement, renewal and obsolescence of works of the corporation,
 - (v) any other reserves that are necessary for the maintenance, operation, and replacement of works of the corporation,
 - (vi) liabilities of the corporation for pension benefits and other employee benefit programs,
 - (vii) any other payments that are required to be made out of the revenue of the corporation,
 - (viii) any compelling policy considerations that the board considers relevant to the matter, and
 - (ix) any other factors that the Board considers relevant to the matter; and
- (b) hear submissions from any persons or groups or classes of persons or groups who, in the opinion of the Board, have an interest in the matter.

Consistent with *The Manitoba Hydro Act*, s. 25(4) of *The Crown Act* focuses on the financial and economic circumstances of the utility. There exists no requirement under *The Manitoba Hydro Act* nor *The Crown Act* that Manitoba Hydro provide or the PUB consider

evidence as to the macroeconomic impacts of its proposed rate plan or Test Year increases. The only requirement is for the Corporation to provide evidence related to the prices which are proposed to be implemented, the reasons and evidence supporting the reasons for the changes and the proposed timing for implementation of the changes to the rates. Manitoba Hydro is clearly in the position to provide this evidence and routinely does so in its GRA filings.

The PUB exercised its authority to consider “any other factors the Board considers relevant to the matter” and included provincial economic impacts as being within scope in Procedural Order 70/17 issued June 30, 2017, roughly six weeks after Manitoba Hydro filed its evidence in the GRA. Provincial economic impact evidence is not the type of information that Manitoba Hydro possesses studies or is in a position to provide nor has Manitoba Hydro previously filed such evidence in support of a GRA. There was no indication in Order 70/17 that the PUB expected Manitoba Hydro to file evidence on this topic nor was accommodation made in the schedule for the filing of such evidence.

The PUB provided a process and heard the concerns of Manitoba Hydro’s ratepayers as evidenced in Order 59/18. With the evidence provided, the PUB’s role is to balance the concerns of the ratepayers and the financial health of the utility. That the PUB determines that it intends to take a certain consideration into account in making its determination does not serve to create an onus on Manitoba Hydro to file evidence on that topic.

To such extent the PUB wishes and is authorized to take into consideration the impact of proposed rate increases on ratepayers, the PUB should not automatically look to the utility to provide such information but rather Intervenors who have ties to the affected sectors of the economy or utilize Independent Expert Consultants. The utility may or may not file evidence to highlight its position or it may elect to test the evidence under consideration by means of cross-examination. The utility does not however have an “onus” to submit evidence on all matters that the PUB takes into consideration as part of its deliberations.

Manitoba Hydro remains concerned that an assessment of macroeconomic impacts on the province requires a study of the behavior and performance of the economy as a whole. This type of study goes far beyond balancing of interests and into the realm of government. Manitoba Hydro respectfully submits the consideration of such interests is properly the role of the Government of Manitoba. Manitoba Hydro considers the topic of macroeconomic

impacts on the province or particular sectors and associated evidence to have been unique to the 2017/18 GRA and is not planning on developing expertise or retaining consultants to study this topic as part of its financial planning process going forward.

1 *I believe these issues are best left to government, who are responsible for*
2 *establishing the appropriate policy framework and directives for both Manitoba*
3 *Hydro and this Board to follow.”*
4

5 **14.3 Legal Issues to be Considered**

6 Manitoba Hydro is aware that in Public Utilities Board of Manitoba (“PUB”) Order 73/15,
7 the PUB noted on page 28 that the PUB remained of the view, consistent with the
8 findings in Order 116/08, that it had the jurisdiction to order the implementation of a
9 bill affordability program. Manitoba Hydro’s legal position on the issue has not changed
10 since the last GRA. In our respectful view, there is a serious jurisdictional question, and
11 concern that the PUB’s conclusion in Order 73/15 cannot be reconciled with the current
12 statutes in Manitoba. This jurisdictional issue remains untested in the court in
13 Manitoba.
14

15 Manitoba Hydro submits that the PUB, ought to reconsider the issue and as such has set
16 forth its legal position on the matter below. It is noteworthy that while the Nova Scotia
17 Court of Appeal decision was raised in argument during the 2014/15 GRA, the PUB
18 declined to provide reasons in Order 73/15 as to why this decision was not considered
19 or applied. Furthermore, this issue has been considered in two additional Canadian
20 jurisdictions, British Columbia and Alberta. Manitoba Hydro submits that the decisions
21 of these two regulatory authorities are persuasive and ought to be considered.
22

23 As an administrative tribunal, the PUB is not bound by the concept of stare decisis - it is
24 not obliged to follow its own previous decisions on similar issues. An administrative
25 decision maker has the capacity to determine the scope of his or her own jurisdiction.
26 The determination of an administrative tribunal’s jurisdiction is a question of statutory
27 interpretation.⁸ The object of statutory interpretation is to *“seek the intent of*
28 *Parliament by reading the words of the provision in their entire context and according to*
29 *their grammatical and ordinary sense, harmoniously with the scheme and object of the*
30 *Act and the intention of the legislature”*.⁹ While the jurisprudence is clear that a broad,
31 liberal and purposive approach should be taken to statutory interpretation, Canadian
32 courts have repeatedly cautioned that *“a liberal and purposive interpretation cannot*

⁸ *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53 at paragraph 33.

⁹ *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53 at paragraph 33.

1 *supplant a textual and contextual analysis simply in order to give effect to a policy*
2 *decision different from the one made by Parliament.”¹⁰*
3

4 The PUB derives its jurisdiction to review Manitoba Hydro rates from section 25(1) of
5 *The Crown Corporations Governance and Accountability Act* which provides as follows:

6
7 25(1) Despite any other Act or law, rates for services provided by Manitoba
8 Hydro and the Manitoba Public Insurance Corporation shall be reviewed by The
9 Public Utilities Board under The Public Utilities Board Act and no change in rates
10 for services shall be made and no new rates for services shall be introduced
11 without the approval of The Public Utilities Board.

12
13 Section 25(4) of *The Crown Corporations Governance and Accountability Act* contains a
14 list of factors which the PUB may consider in a rate review application. None of those
15 factors expressly permit the PUB to consider affordability or customers’ ability to pay. It
16 is worth noting that of the nine factors set out in section 25(4)(a), seven relate to
17 Manitoba Hydro’s fiscal needs. The remaining two factors permit the PUB to consider
18 any “*compelling policy consideration*” or “*any other factor*” that the PUB may consider
19 relevant to the rate for services application before it. When read in isolation paragraphs
20 25(4)(a)(viii) and (ix) are vague and expansive. However, the PUB does not have limitless
21 discretion to consider any factor it chooses. The grant of discretion must be interpreted
22 within the context of Part IV of *The Crown Corporations Governance and Accountability*
23 *Act* and the entire statutory scheme relating to the price for supply of power, and the
24 PUB’s primarily role to set just and reasonable rates.¹¹
25

26 Subsection 39 of *The Manitoba Hydro Act* is germane to the issue. The Act states:

27
28 Price of power sold by corporation

¹⁰ *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53 at paragraph 62; also see *Gould v. Yukon Order of Pioneers*, [1996] 1 S.C.R. 571 at paragraph 50 per Forest, J concurring; *Placer Dome Canada Ltd. v. Ontario (Minister of Finance)*, 2006 SCC 20 at paragraph 23.

¹¹ See *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2006 SCC 4 at paragraph 47 wherein the Supreme Court of Canada considered the jurisdiction of a utilities regulator to impose any condition in an order that was necessary for the public interest. The Court held “These provision on their own are vague and open-ended. It would be absurd to allow the Board an unfettered discretion to attach any condition it wishes to an order it makes. Furthermore, the concept of “public interest” found in s. 15(3) is very wide and elastic; the Board cannot be given total discretion over its limitations”.

1 39(1) The prices payable for power supplied by the corporation shall be such
2 as to return to it in full the cost to the corporation, of supplying the power,
3 including

4 (a) the necessary operating expenses of the corporation, including the cost of
5 generating, purchasing, distributing, and supplying power and of operating,
6 maintaining, repairing, and insuring the property and works of the corporation,
7 and its costs of administration;

8 (b) all interest and debt service charges payable by the corporation upon, or in
9 respect of, money advanced to or borrowed by, and all obligations assumed by,
10 or the responsibility for the performance or implementation of which is an
11 obligation of the corporation and used in or for the construction, purchase,
12 acquisition, or operation, of the property and works of the corporation, including
13 its working capital, less however the amount of any interest that it may collect
14 on moneys owing to it;

15 (c) the sum that, in the opinion of the board, should be provided in each year for
16 the reserves or funds to be established and maintained pursuant to
17 subsection 40(1).

18
19 Fixing of price by corporation

20 39(2) Subject to Part 4 of *The Crown Corporations Governance and*
21 *Accountability Act* and to subsection (2.1), the corporation may fix the prices to
22 be charged for power supplied by the corporation.

23
24 Equalization of rates

25 39(2.1) The rates charged for power supplied to a class of grid customers
26 within the province shall be the same throughout the province.

27
28 Interpretation

29 39(2.2) For the purpose of subsection (2.1),

30 (a) grid customers are those who obtain power from the corporation's main
31 interconnected system for transmitting and distributing power in Manitoba; and

32 (b) customers shall not be classified based solely on the region of the province in
33 which they are located or on the population density of the area in which they are
34 located.

1 Simply put, the price charged for power must allow the Corporation to recover its costs
2 of supplying such power inclusive of certain specified business expenses. The rates
3 charged for power supplied to a class of grid customers must be the same throughout
4 the province, and customers must not be classified solely on their location or on the
5 population density of the area in which they are located.
6

7 Subsections 39(2.1) and (2.2) were enacted by *The Manitoba Hydro Amendment Act*, SM
8 2001, c 23. The purpose of this amendment was to ensure Manitoba Hydro charged a
9 consistent rate for all customers regardless of point of delivery. The amendment was
10 characterized as one of “*fundamental fairness*” with the aim to make “*uniform*
11 *electricity rates a reality in Manitoba and put everybody on an equal footing when it*
12 *comes to the rates charged for basic services.*”¹² The purpose of section 39(2.1) and (2.2)
13 was to create a “*single rate for residential hydro users*”.¹³
14

15 It is expected that parties to this proceeding may ask the PUB to implement a low
16 income program targeting First Nations living on reserves. Such a program would
17 necessarily classify customers based upon their geographic location within the Province
18 of Manitoba. Manitoba Hydro submits that a First Nations living on reserve class would
19 violate the express prohibition contained within subsection 39(2.2) of *The Manitoba*
20 *Hydro Act*.
21

22 The PUB’s rate setting function must also be interpreted having regard to Manitoba
23 Hydro’s mandate. Section 2 of *The Manitoba Hydro Act* provides that the purpose and
24 object of the Corporation is to provide for the supply of power adequate to meet the
25 province’s needs and to promote economy and efficiency in all matters related to the
26 generation, transmission, distribution and use of power. Subsection 43(3) states the
27 Corporation’s funds shall not be employed for the purposes of the government or any
28 government agency. Accordingly, the only appropriate use for Manitoba Hydro funds
29 are the legitimate purposes set out in section 2.
30

¹² Legislative Assembly of Manitoba, Debates and Proceedings, 2nd Session 37th Legislature, May 30, 2001 at page 2505 (Hon. Greg Selinger). Found as **Appendix 14.1** to this Section.

¹³ Legislative Assembly of Manitoba, Debates and Proceedings, 2nd Session 37th Legislature, May 30, 2001 at page 2505 (Hon. Greg Selinger).

1 Manitoba Hydro does not have a mandate, either express or implied, to engage in social
2 programming. The bill affordability programs discussed by some Interveners during the
3 evidentiary portion of the hearing aim to mitigate existing social inequities through rate
4 setting. While such a goal is laudable, it falls outside Manitoba Hydro's stated mandate.
5 Manitoba Hydro respectfully submits that absent express language to the contrary, the
6 PUB cannot, through its rate setting function, expand the mandate and purpose of
7 Manitoba Hydro.

8
9 The PUB's jurisdiction is expressly limited to the approval of rates which appropriately
10 balance the interests of ratepayers and the financial health of the utility.¹⁴ *The Public*
11 *Utilities Board Act* applies to Manitoba Hydro only to the degree necessary to fulfill the
12 function set out in Part IV of *The Crown Corporations Governance and Accountability*
13 *Act*.

14
15 In Manitoba Hydro's respectful submission, the text, context and purpose of *The Crown*
16 *Corporations Governance and Accountability Act*, *The Manitoba Hydro Act* and *The*
17 *Public Utilities Board Act* clearly demonstrate that the PUB does not have the
18 jurisdiction to order the implementation of low income rates or other bill affordability
19 programs.

20
21 The Supreme Court of Canada held that only after a textual, contextual and purposive
22 approach reveals a genuine ambiguity, should a court resort to any subsidiary principles
23 of statutory interpretation, including consideration of constitutional values and other
24 external aids.¹⁵ Where there are two equally plausible interpretations, the
25 interpretation that complies with constitutional values will generally be preferred.
26 However, reliance upon the *Charter* as an interpretive aid cannot be used to defeat
27 clear legislative intent.¹⁶

¹⁴ *Manitoba Keewatinowi Okimakanak Inc. v. Manitoba Hydro-Electric Board*, 1992 CarswellMan 373 at paragraph 9 and *Consumers' Assn. of Canada (Manitoba) Inc. v. Manitoba Hydro Electric Board*, 2005 MBCA 55 at paragraphs 64-65.

¹⁵ *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42 at paragraphs 28 and 55.

¹⁶ Ruth Sullivan, *Sullivan and Driedger on the Construction of Statutes*, 4 ed (Markham: LexisNexis, 2002) at page 369.

1 While it may be appropriate for the PUB to consider relevant constitutional values in the
2 exercise of its discretion,¹⁷ reliance upon constitutional values in the determination of
3 its jurisdiction is unnecessary absent a genuine ambiguity. The interpretation of the
4 PUB's statutory grant of authority is not ambiguous when the modern principles of
5 statutory interpretation are applied. As such, resort to constitutional principles is
6 unnecessary, and could be considered improper.

7
8 Any efforts to rely upon constitutional values and *The Path to Reconciliation Act* is an
9 attempt to broaden the purpose of the PUB's rate review function to achieve a policy
10 objective not contemplated in the legislation. If permitted, this would result in an
11 unreasonable expansion of the PUB's jurisdiction beyond what was contemplated by the
12 Legislature.

13
14 While not binding upon the PUB in this matter, it is persuasive to consider parallel
15 legislation in other Canadian jurisdictions.¹⁸ Public utilities regulators in Ontario, Nova
16 Scotia, New Brunswick, Alberta and British Columbia have considered whether their
17 governing legislation grant jurisdiction to consider ability to pay in the exercise of its
18 rate setting function.

19
20 The Ontario Energy Board, pursuant to section 36(3) of the *Ontario Energy Board Act*,
21 1998, SO 1998, c. 15, has the jurisdiction to adopt any method or technique that it
22 considers appropriate in fixing just and reasonable rates.¹⁹ This provision has been
23 interpreted to allow the regulator to employ specific methods or techniques that it
24 considers appropriate to further its statutory objectives of energy conservation and the
25 protection of customer interests with respect to prices.²⁰ A majority of the Ontario
26 Superior Court of Justice held that, while cost of service and cost causality are the root
27 principles underlying the determination of rates by the Ontario Energy Board,
28 subsection 36(3) of the *Ontario Energy Board Act* permits deviation from those
29 principles and allows for the consideration of income level.²¹

¹⁷ *Doré v Barreau du Québec*, 2012 SCC 12.

¹⁸ *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53 at paragraphs 57 – 58.

¹⁹ *Advocacy Centre for Tenants-Ontario v. Ontario Energy Board*, 2008 CanLII 23487 (Ont Sup Ct J). Found as **Appendix 14.2** to this Section.

²⁰ *Advocacy Centre for Tenants-Ontario v. Ontario Energy Board*, 2008 CanLII 23487 at paragraph 55 (Ont Sup Ct J).

²¹ *Advocacy Centre for Tenants-Ontario v. Ontario Energy Board*, 2008 CanLII 23487 at paragraphs 52-53 (Ont Sup Ct J).

1
2 In Manitoba, there is no equivalent provision to subsection 36(3) of the *Ontario Energy*
3 *Board Act*. The majority of the Ontario superior Court of Justice found subsection 36(3)
4 to be the primary source of the Ontario Energy Board’s jurisdiction to order low income
5 rates. In the absence of similar statutory language in Manitoba, the Ontario
6 jurisprudence is of limited assistance to the PUB. In addition, it is noteworthy that the
7 dissenting opinion of the Ontario Superior Court of Justice commented “*Were the board*
8 *to assume jurisdiction to order a rate affordability assistance program, it would be*
9 *taking on a significant new role as a regulator of social policy. Given the dramatic*
10 *change in the role that it has historically played, as well as a departure from common*
11 *law principles, it would require express language from the Legislature to confer such*
12 *jurisdiction.*”²²

13
14 The Nova Scotia Utility and Review Board does not have jurisdiction to implement a rate
15 assistance program for low income customers. The Board’s governing legislation, the
16 *Public Utilities Act*, requires all uniform rates be charged to customers in substantially
17 similar circumstances in respect of service of the same description:

18
19 67(1) All tolls, rates and charges shall always, under substantially similar
20 circumstances and conditions in respect of service of the same description, be
21 charged equally to all persons and at the same rate, and the Board may by
22 regulation declare what shall constitute substantially similar circumstances and
23 conditions.²³

24
25 The Nova Scotia Court of Appeal upheld the utility board’s finding that low income
26 residential customers receive substantially the same level of service as all other
27 residential customers and as such, subsection 67(1) of the *Public Utilities Act*, R.S.N.S.
28 1989, c. 380 prohibited differential rates based upon the customer’s income.²⁴

²² *Advocacy Centre for Tenants-Ontario v. Ontario Energy Board*, 2008 CanLII 23487 at paragraph 106 (Ont Sup Ct J).

²³ *Public Utilities Act*, RSNS 1989, c. 380, subsection 67(1).

²⁴ *Dalhousie Legal Aid Service v. Nova Scotia Power Inc.*, 2006 NSCA 74 at paragraph 24, leave to appeal to SCC refused 31627 (January 18, 2007) . Found as **Appendix 14.3** to this Section.

1 The Court of Appeal went on to confirm that “[t]he Board’s regulatory power is a proxy
2 for competition, not an instrument of social policy.”²⁵ Implementation of a rate
3 assistance program was found to be a public policy initiative properly within the purview
4 of the legislature, not the regulator.²⁶

5
6 Finally, the Court of Appeal considered the appellant’s argument the *Public Utilities Act*
7 ought to be interpreted in a manner that is consistent with the *Charter*. The Appellant
8 submitted that poverty is an analogous category under section 15 and as such the Court
9 could direct the institution of an ameliorative program. The Court of Appeal declined to
10 apply the *Charter* as an interpretative aid, on the grounds that there was no ambiguity
11 in the statute and the statutory language could not accommodate the construction
12 suggested by the Intervener.²⁷

13
14 In Manitoba Hydro’s respectful submission, section 67 of the Nova Scotia *Public Utilities*
15 *Act* is similar to section 39(2.1) of *The Manitoba Hydro Act*. Both provisions require
16 equal rates be charged to customers receiving substantially similar levels of service.²⁸

17
18 The New Brunswick Board of Commissioner of Public Utilities also declined to order
19 relief for low income customers, including the lowering or elimination of service
20 charges, as such programming would necessarily result in some customers paying more
21 for the same service.²⁹ The Board found that it has no legislative authority to establish
22 rates that discriminate between similarly situated customers on the basis of income.

23
24 There are a number of parallels between the New Brunswick *Electricity Act*, S.N.B. 2013,
25 c.7 and *The Crown Corporations Governance and Accountability Act*. Both statutes set
26 out a number of factors for the regulator to consider in approving rates for services

²⁵ *Dalhousie Legal Aid Service v. Nova Scotia Power Inc.*, 2006 NSCA 74 at paragraph 33.

²⁶ *Nova Scotia Power Inc., Re*, 2005 NSUARB 27 (CanLII) at paragraph 256.

²⁷ *Dalhousie Legal Aid Service v. Nova Scotia Power Inc.*, 2006 NSCA 74 at paragraph 36-39.

²⁸ In PUB Order 164/16, Order in Respect of a Review of Manitoba Hydro’s Cost of Service Study Methodology, December 20, 2016 at page 5, the PUB stated “customers are grouped into customer classes according to their similar characteristics in terms of their electricity consumption and service requirements.

²⁹ *Review of New Brunswick Power Distribution and Customer Service Corporation’s Customer Care Policies*, 29 January 2007 at pages 12-13.

1 which include “any other factors that the Board considers relevant.”³⁰ Manitoba Hydro
2 respectfully submits that the PUB can be guided by the New Brunswick jurisprudence.

3
4 The Alberta Energy and Utilities Board also held that it does not have the jurisdiction to
5 order reduced rates for certain groups of individuals based upon the social principle of a
6 customer’s ability to pay³¹, referred to as “lifeline rates”. That Board found that tariff
7 applications were an unsuitable forum to address social issues such as lifeline rates. It
8 further held that in the absence of express statutory authority, differential rates based
9 upon a customer’s ability to pay may contravene the statutory requirement that rates
10 not be unduly preferential, arbitrary or unjustly discriminatory.³²

11
12 Most recently, the British Columbia Utilities Commission found that it has the
13 jurisdiction to approve a low-income rate if there is an economic or cost of service
14 reason to do so.³³ The Commission concluded that a low-income rate in the absence of
15 an economic or cost of service justification is necessarily unduly discriminatory because
16 it differentiates between customers on the grounds of personal characteristics as
17 opposed to energy consumption.³⁴ The Commission concluded that “affordability is not
18 a regulatory justification” for the proposed low income rate.³⁵ Leave to appeal the
19 Commission’s decision was refused on the grounds that there was no reasonable
20 prospect for success.³⁶

21
22 Subsection 59(2) of the British Columbia *Utilities Commission Act*, R.S.B.C. 1996, c. 473 is
23 akin to section 39(2.1) of *The Manitoba Hydro Act*. Subsection 59(2) provides:

24
25 59(2) A public utility must not

³⁰ *Electricity Act*, S.N.B. 2013, c.7, s.103(8)(e) and *The Crown Corporations Governance and Accountability Act*, C.C.S.M. c. C336, s 25(4)(a)(ix)

³¹ Enmax Power Corporation, 2004 Distribution Tariff Application, Decision 2004-066, August 13, 2004 at page 160-161.

³² Enmax Power Corporation, 2004 Distribution Tariff Application, Decision 2004-066, August 13, 2004 at page 161.

³³ British Columbia Utilities Commission Decision and Order G-5-7, in the Matter of British Columbia Hydro and Power Authority 2015 Rate Design Application, January 20, 2017 at page 80.

³⁴ British Columbia Utilities Commission Decision and Order G-5-7, in the Matter of British Columbia Hydro and Power Authority 2015 Rate Design Application, January 20, 2017 at page 59.

³⁵ British Columbia Utilities Commission Decision and Order G-5-7, in the Matter of British Columbia Hydro and Power Authority 2015 Rate Design Application, January 20, 2017 at page 93.

³⁶ *British Columbia Old Age Pensioners’ Organization v. British Columbia Utilities Commission*, 2017 BCCA 400. Found in **Appendix 14.4** to this Section.

- 1
- 2 a) As to rate or service, subject any person or locality, or a particular description
- 3 of traffic, to an undue prejudice or disadvantage, or
- 4 b) Extend to any person a form of agreement, a rule or a facility or privilege,
- 5 unless the agreement, rule, facility, or privilege is regularly and uniformly
- 6 extended to all persons under substantially similar circumstances and
- 7 conditions for service of the same description.
- 8

9 Regulators in most other Canadian jurisdictions recognize the departure from non-

10 discriminatory rates is a significant matter, and one which ought not be undertaken

11 without express statutory authority. While recognizing that these decisions are not

12 binding on the PUB, the regulatory schemes in Nova Scotia, New Brunswick, Alberta and

13 British Columbia are sufficiently similar to that in Manitoba, and the PUB may

14 reasonably draw upon the principles set out in the above decisions.

15

16 The Appellate Court in Nova Scotia has upheld this determination, clearly articulating

17 the distinction between social policy and rate-setting. The subsidization between

18 customers on the basis of income is a policy decision that ought to be considered by the

19 Legislature. To the extent that the decision of the Ontario Energy Board departs from

20 this principal, Manitoba Hydro submits that its authority to do so is contemplated by the

21 statutory framework in Ontario, and that neither *The Crown Corporations Governance*

22 *and Accountability Act* nor *The Manitoba Hydro Act* grant the PUB similar discretion to

23 implement “any method or technique to set rates”.

24

25 **14.4 Bill Affordability Collaborative Process**

26 As directed by the PUB in Order 73/15 Manitoba Hydro led a collaborative process in

27 2016 to examine bill affordability issues. The collective effort of the participants assisted

28 in shaping the research questions and methods to be utilized to help discover and build

29 knowledge of these issues within a Manitoba context.

30

31 The Working Group members collaborated to hire a third party facilitator and research

32 firm to guide the process in the defined time period imposed by the Public Utilities

33 Board of Manitoba (“PUB”). All decisions made through the Collaborative Process were

34 done by consensus. A significant amount of work was undertaken by all actively

35 engaged working group members, with over 30 meetings (working group and

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018

RATE SCHEDULES

EFFECTIVE

JUNE 1, 2018

IN ACCORDANCE WITH

MANITOBA HYDRO'S REVIEW AND VARY APPLICATION DATED MAY 30, 2018



Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018

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DEFINITIONS

All Rates Schedules in the publication are applied on a MONTHLY basis except as noted.

The following expressions shall have the following meanings:

- a) "Basic Charge": a fixed charge that that does not change with the amount of electricity used. This includes the direct costs of metering, portions of the distribution system, as well as billing administration.
- b) "Billing Demand": The greatest of the following (expressed in kVA)
 - i. measured demand; or
 - ii. % of contract demand; or
 - iii. % of the highest measured demand in the previous 12 months.
- c) "Billing Month": the period of time, generally 30 days, in which Energy and/or Demand is consumed and thereafter billed to the Customer.
- d) "Demand": the maximum use of power within a specified period of time.
- e) "Demand Charge": that portion of the charge for electric service based upon the electric capacity (kVA) consumed and billed on the basis of the billing demand under an applicable rate schedule.
- f) "Energy": power integrated over time and measured or expressed in kilowatt-hours (kWh).
- g) "Energy Charge": that portion of the charge for electric service based upon the electric energy (kWh) consumed or billed.
- h) "Kilo-Volt Amperes (kVA)": also referred to as apparent power, is the product of the volts times current of a circuit divided by 1000. It is composed of both real and reactive power.
- i) "Kilowatt Hour (kWh)": the basic unit of electric energy equal to one kilowatt of power supplied to or taken from an electric circuit steadily for one hour.
- j) "Measured Demand": the highest demand recorded in the Billing Month.
- k) "Power Factor": is the ratio of real power (kW) to apparent power (kVA) for any given load and time. Generally it is expressed as a percentage ratio.
- l) "Watt (W)": the electrical unit of power or rate of doing work; the rate of energy transfer equivalent to one ampere flowing under a pressure of one volt at unity power factor.

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RESIDENTIAL RATES

RESIDENTIAL - TARIFF NO. 2018-01

Basic Charge:	\$ 8.40
PLUS	
Energy Charge:	
All kWh	@ 8.517 ¢ / kWh
Minimum Bill:	\$ 8.40

Services over 200 amps will have \$8.40 added to the Basic Charge.

Applicability:

The Residential rate is applicable for all residential purposes as follows:

- a) individually metered single family dwellings including those in multiple residential projects and single or three phase farm operations served through the same meter if:
 - i. the connected business load does NOT exceed 3 kW; or
 - ii. the combined agricultural and residential load does NOT exceed a demand of 50 kW.
- b) services for personal use outside the home, such as residential water wells, private garages, boat houses and swimming pools (use can be for household, recreational and hobby activities).
- c) single metered multiple residential projects meeting all the following criteria:
 - i. monthly demand does not exceed 50 kVA;
 - ii. the meter serves four or less individual suites or dwelling units;
 - iii. none of the units are used for business purposes;
 - iv. individual dwelling units are:
 - self-contained rental apartments with common facilities; or
 - row housing with self-contained rental dwelling units and common facilities; or
 - buildings with condominium type dwellings incorporated under *the Condominium Act*; or individual residential services within a trailer park established prior to May 1, 1969.

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RESIDENTIAL RATES

SEASONAL - TARIFF NO. 2018-02

Annual Basic Charge:	\$ 100.80
PLUS	
Energy Charge:	
All kWh	@ 8.517 ¢ / kWh
Minimum Annual Bill:	\$ 100.80

The account is billed twice a year, April and October, each for a six-month period. The April billing is for the Annual Basic Charge plus past winter season's consumption. The October billing is for the summer season's consumption only.

Applicability:

The Seasonal rate is applicable to customers outside of the Winnipeg area using less than 7,500 kWh per season and is for residential purposes on an individually metered service when usage is of a casual or intermittent nature.

DIESEL - TARIFF NO. 2018-03

Basic Charge:	\$ 8.40
PLUS	
Energy Charge:	
All kWh	@ 8.517 ¢ / kWh
Minimum Bill:	\$ 8.40

Applicability:

The Residential rate applies to all residential services in the Diesel Communities, provided the service capacity does not exceed 60 A, 120/240 V, single phase.

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RESIDENTIAL

FLAT RATE WATER HEATING RATES

(NOT available for new services)

<u>Element Size</u>	<u>TARIFF NO. 2018-09</u> <u>Controlled</u>	<u>TARIFF NO. 2018-10</u> <u>Uncontrolled</u>
500 W	\$ 13.11	\$ 17.33
600 W	\$ 15.55	\$ 20.63
750 W	\$ 19.08	\$ 25.44
900 W	\$ 22.69	\$ 30.23
1,000 W	\$ 25.01	\$ 33.47
1,200 W	\$ 28.40	\$ 37.56
1,250 W	\$ 29.24	\$ 38.64
1,500 W	\$ 33.47	\$ 43.58
2,000 W	\$ 40.28	\$ 52.55
2,500 W	\$ 45.35	\$ 58.88
3,000 W	\$ 49.63	\$ 65.28
3,500 W	\$ 55.79	\$ 72.71
4,000 W	\$ 61.86	\$ 80.15
4,500 W	\$ 69.08	\$ 88.98
6,000 W	\$ -	\$ 115.28
1,500 / 1,000 W	\$ 26.03	\$ 34.81
2,000 / 1,000 W	\$ 26.71	\$ 35.67
3,000 / 1,000 W	\$ 27.28	\$ 36.94
2,000 / 1,500 W	\$ 36.24	\$ 48.45
3,000 / 1,500 W	\$ 37.09	\$ 49.35
4,500 / 1,500 W	\$ 38.36	\$ 51.32
3,000 / 2,000 W	\$ 44.54	\$ 59.71

Applicability:

Available only for services continuously energized since November 11, 1969.

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GENERAL SERVICE

0 TO NOT EXCEEDING 200 kVA

(Utility-Owned Transformation)

SMALL SINGLE PHASE - TARIFF NO. 2018-20

Basic Charge:	\$ 21.03
PLUS	
Energy Charge:	
First 11,000 kWh	@ 8.882 ¢ / kWh
Next 8,500 kWh	@ 6.315 ¢ / kWh
Balance of kWh	@ 4.106 ¢ / kWh
	PLUS
Demand Charge:	
First 50 kVA of Monthly Billing Demand	No Charge
Balance of Billing Demand	@ \$ 10.51 / kVA
Minimum Bill:	
Demand Charge PLUS Basic Charge	

SMALL THREE PHASE - TARIFF NO. 2018-21

Basic Charge:	\$ 29.65
PLUS	
Energy Charge:	
First 11,000 kWh	@ 8.882 ¢ / kWh
Next 8,500 kWh	@ 6.315 ¢ / kWh
Balance of kWh	@ 4.106 ¢ / kWh
	PLUS
Demand Charge:	
First 50 kVA of Monthly Billing Demand	No Charge
Balance of Billing Demand	@ \$ 10.51 / kVA
Minimum Bill:	
Demand Charge PLUS Basic Charge	

Accounts where the Monthly Billing Demand is 50 kVA or less within the past 12-month period, ALL energy in excess of 11,000 kWh will be charged @ 6.315 ¢ / kWh.

Primary metering of multiple Utility-Owned transformation services has an additional 2% added to the kVA for each transformation greater than one. There is also a 1% reduction on recorded demand and energy to account for transformer losses.

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Applicability:

The General Service Small Rate is applicable to:

- a) service with Utility-Owned transformation for all non-residential purposes including churches, community clubs and other community service and recreation facilities and all commercial and general purposes wherein the conduct of business activities or operation is associated with the distribution of goods and/or services.
- b) occupied dwellings where the connected business load exceeds 3 kW to not exceeding 200 kW.
- c) single metered multiple residential projects meeting any of the following criteria:
 - i. monthly demand exceeds 50 kVA to not exceeding 200 kVA ; or
 - ii. the meter serves five or more individual suites or dwelling units; or
 - iii. any of the units are used for business purposes.
- d) farm services:
 - i. without an occupied dwelling being used for agricultural or commercial purposes; or
 - ii. where the connected business load exceeds 3 kW to not exceeding 200 kW; or
 - iii. where the combined agricultural and residential load exceeds a demand of 50 kVA to not exceeding 200 kVA.

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GENERAL SERVICE

0 TO NOT EXCEEDING 50 kVA

(Utility-Owned Transformation)

SEASONAL - TARIFF NO. 2018-22

Annual Basic Charge:	\$ 252.36
PLUS	
First 66,000 kWh	@ 8.882 ¢ / kWh
Balance of kWh	@ 6.315 ¢ / kWh
Minimum Annual Bill:	\$ 252.36

SEASONAL THREE PHASE - TARIFF NO. 2018-27

Annual Basic Charge:	\$ 355.80
PLUS	
First 66,000 kWh	@ 8.882 ¢ / kWh
Balance of kWh	@ 6.315 ¢ / kWh
Minimum Annual Bill:	\$ 355.80

The account is billed twice a year, April and October, each for a six-month period. The April billing is for the Annual Basic Charge plus past winter season's consumption. The October billing is for the summer season's consumption only.

Applicability:

The General Service Seasonal rate is applicable for businesses outside of the Winnipeg area whose:

- a) demand does NOT exceed 50 kVA;
- b) usage is of an intermittent or casual nature;
- c) consumption is primarily summer time and usage is limited in the winter; and
- d) business load is greater than 3 kW in a residence.

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018
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GENERAL SERVICE

0 TO NOT EXCEEDING 200 kVA

(Utility-Owned Transformation)

COOKING AND HEATING STANDARD - TARIFF NO. 2018-23

Basic Charge:	\$ 21.03
PLUS	
Energy Charge:	
First 11,000 kWh	@ 8.882 ¢ / kWh
Balance of kWh	@ 6.315 ¢ / kWh
Minimum Bill:	\$ 21.03

COOKING AND HEATING SEASONAL - TARIFF NO. 2018-24

Annual Basic Charge:	\$ 252.36
PLUS	
Energy Charge:	
First 66,000 kWh	@ 8.882 ¢ / kWh
Balance of kWh	@ 6.315 ¢ / kWh
Minimum Annual Bill:	\$ 252.36

Seasonal Cooking and Heating accounts are billed twice a year, April and October, each for a six-month period. The April billing is for the Annual Basic Charge plus past winter season's consumption. The October billing is for the summer season's consumption only.

Applicability:

The General Service Cooking and Heating rate is applicable to services existing prior to April 1, 1976 for separately metered cooking, heating, process heating or car plug service in the same building or an extension of that building where the primary requirement is for General Service.

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018
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GENERAL SERVICE

DIESEL - TARIFF NO. 2018-40

Basic Charge:	\$ 21.03
PLUS	
Energy Charge:	
First 2,000 kWh	@ 8.882 ¢ / kWh
Balance of kWh	@ 42.617 ¢ / kWh
Minimum Bill:	\$ 21.03

The General Service rate applies to all commercial accounts excluding those classed as Government and /or First Nation Education.

GOVERNMENT AND FIRST NATION EDUCATION - TARIFF NO. 2018-41

Basic Charge:	\$ 21.03
PLUS	
Energy Charge:	@ \$2.59382 / kWh
Minimum Bill:	\$ 21.03

The First Nation Education rate is applicable to all Diesel First Nation facilities providing instructional services for members of the Diesel First Nations, including schools, teacherages and student residences.

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018
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GENERAL SERVICE

EXCEEDING 200 kVA

(Utility-Owned transformation)

MEDIUM - TARIFF NO. 2018-30

Basic Charge:	\$ 31.31
PLUS	
Energy Charge:	
First 11,000 kWh	@ 8.882 ¢ / kWh
Next 8,500 kWh	@ 6.315 ¢ / kWh
Balance of kWh	@ 4.106 ¢ / kWh
PLUS	
* Demand Charge:	
First 50 kVA of Monthly Billing Demand	No Charge
Balance of Billing Demand	@ \$ 10.51 / kVA
Minimum Bill:	
Demand Charge PLUS Basic Charge	

Monthly Billing Demand *

The greatest of the following (expressed in kVA):

- a) measured demand; or
- b) 25 % of contract demand; or
- c) 25% of the highest measured demand in the previous 12 months.

Primary metering of multiple Utility-Owned transformation services has an additional 2% added to the kVA for each transformation greater than one. There is also a 1% reduction on recorded demand and energy to account for transformer losses.

Applicability:

The General Service Medium rate is applicable to services where the registered demand exceeds 200 kVA and where the transformation is provided by the Corporation.

Customers who, by nature of their business, do not require service during the months of December, January, and February may qualify for the General Service Short-Term Power rate. For further details see page 17.

GENERAL SERVICE

(Customer-Owned Transformation)

LARGE 750 V TO NOT EXCEEDING 30 KV - TARIFF NO. 2018-60

Energy Charge: @ 3.854 ¢ / kWh
PLUS
* Demand Charge: @ \$ 8.91 / kVA

Minimum Bill: Demand Charge

LARGE 30 KV TO NOT EXCEEDING 100 KV - TARIFF NO. 2018-61

Energy Charge: @ 3.546 ¢ / kWh
PLUS
* Demand Charge: @ \$ 7.55 / kVA

Minimum Bill: Demand Charge

LARGE EXCEEDING 100 KV - TARIFF NO. 2018-62

Energy Charge: @ 3.440 ¢ / kWh
PLUS
* Demand Charge: @ \$ 6.72 / kVA

Minimum Bill: Demand Charge

Monthly Billing Demand *

The greatest of the following (expressed in kVA):

- a) measured demand; or
- b) 25 % of contract demand; or
- c) 25% of the highest measured demand in the previous 12 months.

Applicability:

The General Service Large rate is applicable to services where the transformation is provided by the customer and connected directly to the Corporation's distribution, subtransmission or transmission lines.

Customers who, by nature of their business, do not require service during the months of December, January and February may qualify for the General Service Short-Term Power rate.

GENERAL SERVICE

LIMITED USE OF BILLING DEMAND RATE OPTION

0 TO NOT EXCEEDING 200 kVA

(Utility-Owned Transformation)

LUBD SMALL SINGLE PHASE - TARIFF NO. 2018-50

Basic Charge:	\$ 21.03
PLUS	
Energy Charge:	@ 10.169 ¢ / kWh
PLUS	
Demand Charge:	
First 50 kVA of Monthly Recorded Demand	No Charge
Balance of Recorded Demand	@ \$ 2.63 / kVA
Minimum Bill:	
Demand Charge PLUS Basic Charge:	

LUBD SMALL THREE PHASE - TARIFF NO. 2018-51

Basic Charge:	\$ 29.65
PLUS	
Energy Charge:	@ 10.169 ¢ / kWh
PLUS	
Demand Charge:	
First 50 kVA of Monthly Recorded Demand	No Charge
Balance of Recorded Demand	@ \$ 2.63 / kVA
Minimum Bill:	
Demand Charge PLUS Basic Charge:	

Primary metering of multiple Utility-Owned transformation services has an additional 2% added to the kVA for each transformation greater than one. There is also a 1% reduction on recorded demand and energy to account for transformer losses.

Eligibility:

Any customer eligible for service on the General Service Small rate can request billing on this option, except customers who have been billed on this option during the 12 months prior to their request, but subsequently reverted to billing at regular General Service Small rates.

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018
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GENERAL SERVICE

LIMITED USE OF BILLING DEMAND RATE OPTION

EXCEEDING 200 kVA

(Utility-Owned Transformation)

LUBD MEDIUM - TARIFF NO. 2018-52

Basic Charge:	\$ 31.31
PLUS	
Energy Charge:	@ 10.169 ¢ / kWh
PLUS	
* Demand Charge:	
First 50 kVA of Monthly Recorded Demand	No Charge
Balance of Recorded Demand	@ \$ 2.63 / kVA
Minimum Bill:	
Demand Charge PLUS Basic Charge	

Monthly Billing Demand *

The greatest of the following (expressed in kVA):

- a) measured demand; or
- b) 25% of contract demand; or
- c) 25% of the highest measured demand in the previous 12 months.

Primary metering of multiple Utility-Owned transformation services has an additional 2% added to the kVA for each transformation greater than one. There is also a 1% reduction on recorded demand and energy to account for transformer losses.

Eligibility:

Any customer eligible for service on the General Service Medium rate can request billing on this option, except customers who have been billed on this option during the 12 months prior to their request, but subsequently reverted to billing at regular General Service Medium rates.

GENERAL SERVICE

LIMITED USE OF BILLING DEMAND RATE OPTION

(Customer-Owned Transformation)

LUBD LARGE 750 V TO NOT EXCEEDING 30 KV - TARIFF NO. 2018-53

Energy Charge: @ 8.994 ¢ / kWh

PLUS

* Demand Charge: @ \$ 2.23 / kVA

Minimum Bill: Demand Charge

LUBD LARGE 30 KV TO NOT EXCEEDING 100 KV - TARIFF NO. 2018-54

Energy Charge: @ 7.902 ¢ / kWh

PLUS

* Demand Charge: @ \$ 1.89 / kVA

Minimum Bill: Demand Charge

LUBD LARGE EXCEEDING 100 KV - TARIFF NO. 2018-55

Energy Charge: @ 7.317 ¢ / kWh

PLUS

* Demand Charge: @ \$ 1.68 / kVA

Minimum Bill: Demand Charge

Monthly Billing Demand *

The greatest of the following (expressed in kVA):

- a) measured demand; or
- b) 25 % of contract demand; or
- c) 25% of the highest measured demand in the previous 12 months.

Eligibility:

Any customer eligible for service on the General Service Large rate can request billing on this option, except customers who have been billed on this option during the 12 months prior to their request, but subsequently reverted to billing at regular General Service Large rates.

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018

GENERAL SERVICE**FLAT RATE WATER HEATING RATES****(NOT available for new services)****TARIFF NO. 2018-29**

<u>Element Size</u>	<u>Uncontrolled</u>
500 W	\$ 18.22
600 W	\$ 21.79
750 W	\$ 27.19
1,000 W	\$ 36.56
1,200 W	\$ 43.74
1,500 W	\$ 54.41
2,000 W	\$ 68.22
2,500 W	\$ 82.03
3,000 W	\$ 95.45
3,500 W	\$ 108.87
3,800 W	\$ 120.33
4,000 W	\$ 122.29
4,500 W	\$ 135.72
5,000 W	\$ 149.13
6,000 W	\$ 175.99
6,500 W	\$ 194.85
7,000 W	\$ 202.80
7,500 W	\$ 222.45
8,000 W	\$ 229.64
9,000 W	\$ 256.45
10,000 W	\$ 283.33
10,500 W	\$ 296.80
12,000 W	\$ 337.03
12,500 W	\$ 350.45
13,000 W	\$ 363.89
13,500 W	\$ 377.15
14,500 W	\$ 404.00
15,000 W	\$ 417.54
16,000 W	\$ 444.38
16,500 W	\$ 470.92
18,000 W	\$ 498.13
19,000 W	\$ 539.86
20,000 W	\$ 551.78
23,000 W	\$ 650.32
24,000 W	\$ 677.98
25,000 W	\$ 685.90
3,000 / 1,000 W	\$ 44.54
2,000 / 1,500 W	\$ 56.39
3,000 / 1,500 W	\$ 57.02
4,500 / 1,500 W	\$ 58.41

GENERAL SERVICE

SHORT-TERM POWER RATE

The General Service Short-Term application is available throughout the Province of Manitoba except in the Diesel Zone, for customers with services exceeding 200 kVA who, by the nature of their business, do not require service during the months of December, January, and February. Qualifying customers will be billed at, and subject to the conditions of, the appropriate General Service Medium or Large rate.

Services must be disconnected from 00:00 hours, December 1 to 24:00 hours, February 28/29. Customers may use up to a maximum of 1,000 kWh during these months for security purposes only (i.e. alarm system, security lighting) but must notify Manitoba Hydro each year in advance of their operation shutdown.

Service must be taken for a minimum of four months, normally consecutively, during the period March 1 to November 30. Customers will be subject to the same 25% ratchet provisions as applicable to General Service Medium and Large customers, with the exception that no ratchets will apply for the months of December, January or February unless the customer exceeds the 1,000 kWh per month allowable use during those months.

General Service Short-Term is NOT available in conjunction with other services at the same point of delivery.

UNMETERED SERVICES

Billed on the General Service Small Rate Tariff No. 2018-20 or 2018-21:

The Unmetered Service rate is applicable:

- a) for non-residential customers where the load is constant and the consumption is consistent and metering is unnecessary or undesirable, specifically including traffic signals, pedestrian walkway lighting, directional traffic signs, hazard flashers, cable television power amplifiers, telephone booths, transit shelters (both heated and unheated), cathodic protection rectifiers (for oil and natural gas pipelines), water gauge wells, highway traffic counters, governmental navigational lights (both nautical and aerial), municipal sirens and Canadian Emergency Measures Organization emergency siren alarms.
- b) for existing railway crossings, sign lighting and window lighting. Customers will be required to provide metering facilities if additional load is connected.
- c) for services such as fairs, summer midways, television production and welding schools where service is required for less than 30 days.
- d) for oil field pumping services connected prior to April 1, 1980 with oil pumping motors of the counter balanced (nodding or piston) type.

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018
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GENERAL SERVICE

SHORT-DURATION, INTERMITTENT RATE

TERMS AND CONDITIONS

General

Manitoba Hydro will supply short-duration, intermittent power and energy to customers whose operation requires short periods of high demand combined with overall, very low energy consumption.

The Corporation may regulate timing of the customer's demand requirements so that they do not coincide with other system peak demands.

The Corporation may interrupt the supply at any time, for any length of time and for any reason.

Conditions of Service

Qualifying customers will be billed at, and subject to the conditions of, the appropriate General Service Large or Medium rate with the following provisions:

- a) Measured demand will be reduced by 50% for billing purposes.
- b) Customers will be assessed a monthly energy entitlement based on a 1% load factor (monthly demand x 0.01 x 730) to be billed at the applicable General Service rate.
- c) Energy consumption in excess of the monthly energy entitlement will be billed at a rate equal to 10 times the usual applicable General Service rate.

Customers will be required to enter into a formal contract with Manitoba Hydro. The contract will document the above conditions as well as any others considered necessary due to the nature of a specific service.

Rate Application

The General Service Short-Term, Intermittent rate is available to all customers, except those in the Diesel Rate Zone, to customers qualifying for the General Service Large and General Service Medium rates.

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018
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AREA AND ROADWAY LIGHTING

OUTDOOR LIGHTING

LEGEND

I Incandescent

F Fluorescent

CF Compact Fluorescent

LED Light Emitting Diode

MH Metal Halide

MV Mercury Vapour

HPS High Pressure Sodium Vapour

Q Quartz

Exclusive Pole: A corporate-owned pole for the primary purpose of supporting outdoor lighting devices.

Shared Pole: A pole of the primary purpose of supporting electrical circuits other than outdoor lighting.

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018

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AREA AND ROADWAY LIGHTING

(Incandescent and Mercury Vapour are NOT available for new installations)

OUTDOOR LIGHTING RATE - TARIFF NO. 2018-80:

Watts	Rate Per Month	
	Shared Pole/Luminaire	Exclusive Pole/Luminaire
200 F	-	\$ 11.46
20 CF	-	\$ 2.45
100 I	\$ 5.27	\$ 11.46
150 I	-	\$ 11.46
300 I	-	\$ 16.34
500 I	\$ 13.80	\$ 22.51
400 MH	-	\$ 27.43
175 MV	\$ 10.20	\$ 16.34
250 MV	\$ 11.68	\$ 18.50
400 MV	\$ 16.01	\$ 22.12
70 HPS	\$ 8.77	\$ 14.40
70 HPS 24 hours	-	\$ 16.19
100 HPS	\$ 9.10	\$ 15.19
150 HPS	\$ 11.16	\$ 17.16
250 HPS	\$ 14.22	\$ 19.78
400 HPS	\$ 16.31	\$ 27.43
400 HPS 2/100'	-	\$ 42.41
400 HPS 4/100'	-	\$ 31.14
750 HPS	\$ 25.29	\$ 40.10
1 000 HPS	-	\$ 46.53
1 000 HPS 1/60'	-	\$ 47.60
1 000 HPS 2/100'	-	\$ 57.05
1 000 HPS 4/100'	-	\$ 48.92

Applicability:

The Area and Roadway rate is available throughout the Province of Manitoba and applies to area and roadway lighting installed by agreement for public authorities

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018
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AREA AND ROADWAY LIGHTING

OUTDOOR LIGHTING RATE - *TARIFF NO. 2018-80*:

Watts	Rate Per Month	
	Shared Pole/Luminaire	Exclusive Pole/Luminaire
10 LED (1 – 30 W)	-	\$ 2.23
40 LED (> 30 – 50 W)	\$ 7.55	\$ 13.17
40 LED 24 hr (> 30 – 50 W)	-	\$ 14.96
60 LED (> 50 – 80 W)	\$ 7.70	\$ 13.78
90 LED (> 80 – 120 W)	\$ 9.22	\$ 15.21
150 LED (> 120 – 180 W)	\$ 10.97	\$ 16.53
150 LED 2/100' (>120 – 180)	-	\$ 26.76
150 LED 4/100' (>120 – 180)	-	\$ 18.66
250 LED (> 180 – 280 W)	\$ 11.13	\$ 22.25
250 LED 2/100' (> 180 – 280 W)	-	\$ 37.21
250 LED 4/100' (> 180 – 280 W)	-	\$ 25.96

Applicability:

The Area and Roadway rate is available throughout the Province of Manitoba and applies to area and roadway lighting installed by agreement for public authorities.

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AREA AND ROADWAY LIGHTING

(NOT available for new installations)

FLOOD LIGHTING RATE - *TARIFF NO. 2018-81*:

Watts	Rate Per Month	
	Shared Pole/Luminaire	Exclusive Pole/Luminaire
100 I	\$ 5.98	-
150 I	\$ 5.98	\$ 12.39
300 I	\$ 10.89	-
500 I	\$ 14.66	\$ 24.00
250 MV	\$ 13.50	\$ 19.75
400 MV	\$ 16.50	\$ 22.16
500 Q	\$ 22.69	\$ 28.74

Applicability:

The Floodlighting rate is applicable for floodlighting services existing prior to April 1, 1976 for lighting of public buildings, structures, monuments, parks, grounds and Department of Highways overhead signs served from the Corporation distribution system where the Corporation owns and maintains the luminaires.

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AREA AND ROADWAY LIGHTING

SEASONAL RATE - *TARIFF NO. 2018-82*:

Watts	Rate Per Month	
	Shared Pole/Luminaire	Exclusive Pole/Luminaire
70 HPS	\$ 8.77	\$ 14.40
100 HPS	\$ 9.10	\$ 15.19
150 HPS	\$ 11.16	\$ 17.16
250 HPS	\$ 14.22	\$ 19.78
40 LED (> 30 – 50 W)	\$ 7.54	\$ 13.17
60 LED (> 50 – 80 W)	\$ 7.70	\$ 13.78
90 LED (> 80 – 120 W)	\$ 9.22	\$ 15.21
150 LED (> 120 – 180 W)	\$ 10.97	\$ 16.53
250 LED (> 180 – 280 W)	\$ 11.13	\$ 22.25

Applicability:

The Seasonal Area and Roadway Lighting rate is available only outside the City of Winnipeg and is applicable for area and roadway lighting installed by agreement for Municipal Corporation, local government districts, Provincial and Federal Governments.

Lighting will be energized from May 1 to October 31 of each year and will be disconnected from November 1 to April 30.

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AREA AND ROADWAY LIGHTING

SENTINEL LIGHTING RATE - *TARIFF NO. 2018-83*:

Watts	Rate Per Month	
	Flat Rate (Energy and Rental)	Metered (Rental Only)
100 HPS	\$ 11.29	\$ 7.78
150 HPS	\$ 14.95	\$ 10.62
175 MV	\$ 11.65	\$ 7.78
400 MV	\$ 19.28	\$ 10.62
60 LED	\$ 9.88	\$ 7.78
90 LED	\$ 13.01	\$ 10.62

Applicability:

Sentinel lighting is available for security lighting of private or public areas on a dusk-to-dawn basis throughout the Province of Manitoba. Rental units are intended for continuous year-round service and are not provided on a temporary basis.

Sentinel lighting is available for rental as follows:

- a) on a flat rate basis when connected directly to the Manitoba Hydro distribution system; or
- b) exclusive of electricity if connected to the customer's metered circuits.

Proposed Rates for June 1, 2018 in Accordance with MH's R&V Application Dated May 30, 2018
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AREA AND ROADWAY LIGHTING

DECORATIVE LIGHTING - *TARIFF NO. 2018-85*

Connected load @ \$1.005/kW per night of scheduled use:

Minimum Monthly Bill: \$ 20.53

Applicability:

The Decorative Lighting rate is applicable for new and existing unmetered municipally-owned decorative lights on frames or modules mounted on roadway lighting poles or ornamental standards and/or Christmas trees. The customer is required to advise the Corporation prior to any change in the nights contracted for operation and/or the connected lighting kilowatts.

BILL COMPARISONS

AUGUST 1, 2017 RATES

VS

JUNE 1, 2018 RATES

IN ACCORDANCE WITH

MANITOBA HYDRO'S REVIEW AND VARY
APPLICATION DATED MAY 30, 2018



Bill Comparison

Residential

Forecast Customers: 492,793

kWh	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
250	\$28.57	\$29.69	\$1.12	3.92%
750	\$69.55	\$72.28	\$2.73	3.93%
1 000	\$90.04	\$93.57	\$3.53	3.92%
2 000	\$172.00	\$178.74	\$6.74	3.92%
5 000	\$417.88	\$434.25	\$16.37	3.92%

Residential Seasonal

Forecast Customers: 19,284

kWh	August 1, 2017 \$ / Summer	June 1, 2018 \$ / Summer	Difference in \$ / Summer	Percent Change
250	\$117.45	\$122.09	\$4.64	3.95%
750	\$158.43	\$164.68	\$6.25	3.94%
1 000	\$178.92	\$185.97	\$7.05	3.94%
2 000	\$260.88	\$271.14	\$10.26	3.93%
5 000	\$506.76	\$526.65	\$19.89	3.92%

Residential Diesel

Forecast Customers: 593

kWh	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
250	\$28.57	\$29.69	\$1.12	3.92%
750	\$69.55	\$72.28	\$2.73	3.93%
1 000	\$90.04	\$93.57	\$3.53	3.92%
2 000	\$172.00	\$178.74	\$6.74	3.92%
5 000	\$417.88	\$434.25	\$16.37	3.92%

Bill Comparison

General Service Small < 50 kVA

Forecast Customers: 53,051

kWh	August 1, 2017 \$/ Month	June 1, 2018 \$/ Month	Difference in \$ / Month	Percent Change
750	\$86.48	\$87.65	\$1.16	1.35%
2 000	\$194.09	\$198.67	\$4.58	2.36%
5 000	\$452.36	\$465.13	\$12.77	2.82%
10 000	\$882.81	\$909.23	\$26.42	2.99%
36 500 ¹	\$2,501.76	\$2,617.00	\$115.24	4.61%

General Service Small 51 kVA

Forecast Customers: 13,271

Load Factor	August 1, 2017 \$/ Month	June 1, 2018 \$/ Month	Difference in \$ / Month	Percent Change
25%	\$842.32	\$866.90	\$24.58	2.92%
50%	\$1,443.05	\$1,498.07	\$55.02	3.81%
75%	\$1,828.14	\$1,899.80	\$71.66	3.92%
100%	\$2,195.21	\$2,281.95	\$86.74	3.95%

General Service Small 100 kVA

Forecast Customers: 13,271

Load Factor	August 1, 2017 \$/ Month	June 1, 2018 \$/ Month	Difference in \$ / Month	Percent Change
25%	\$1,916.14	\$1,990.01	\$73.87	3.86%
50%	\$2,661.32	\$2,766.97	\$105.65	3.97%
75%	\$3,381.10	\$3,516.31	\$135.21	4.00%
100%	\$4,100.88	\$4,265.66	\$164.78	4.02%

¹ Manitoba Hydro has added a bill impact for customers using 36,500 kWh per month, the theoretical maximum usage for the General Service Small Non-Demand class.

Bill Comparison

General Service Seasonal

Forecast Customers: 960

kWh	August 1, 2017 \$ / Summer	June 1, 2018 \$ / Summer	Difference in \$ / Summer	Percent Change
750	\$327.49	\$318.98	(\$8.51)	-2.60%
2 000	\$435.10	\$430.00	(\$5.10)	-1.17%
5 000	\$693.37	\$696.46	\$3.09	0.45%
10 000	\$1,123.82	\$1,140.56	\$16.74	1.49%

General Service Diesel

Forecast Customers: 117

kWh	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
750	\$86.48	\$87.65	\$1.17	1.35%
2 000	\$194.09	\$198.67	\$4.58	2.36%
5 000	\$1,472.60	\$1,477.18	\$4.58	0.31%
10 000	\$3,603.45	\$3,608.03	\$4.58	0.13%

General Service Government and First Nation Education

Forecast Customers: 67

kWh	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
750	\$1,967.28	\$1,966.40	(\$0.88)	-0.04%
2 000	\$5,209.55	\$5,208.67	(\$0.88)	-0.02%
5 000	\$12,991.01	\$12,990.13	(\$0.88)	-0.01%
10 000	\$25,960.11	\$25,959.23	(\$0.88)	0.00%

Bill Comparison

General Service Medium 500 kVA

Forecast Customers: 1,947

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
25%	\$8,862	\$9,221	\$359	4.05%
50%	\$12,461	\$12,967	\$506	4.06%
75%	\$16,060	\$16,714	\$654	4.07%
100%	\$19,659	\$20,461	\$802	4.08%

General Service Medium 1 000 kVA

Forecast Customers: 1,947

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
25%	\$17,511	\$18,222	\$711	4.06%
50%	\$24,709	\$25,716	\$1,007	4.08%
75%	\$31,907	\$33,209	\$1,302	4.08%
100%	\$39,105	\$40,703	\$1,598	4.09%

Bill Comparison

General Service Large - 750 V to 30 kV 5 000 kVA

Forecast Customers: 326

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
25%	\$76,695	\$79,718	\$3,023	3.94%
50%	\$110,539	\$114,886	\$4,347	3.93%
75%	\$144,384	\$150,053	\$5,669	3.93%
100%	\$178,229	\$185,221	\$6,992	3.92%

General Service Large - 30 kV to 100 kV 10 000 kVA

Forecast Customers: 43

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
25%	\$136,326	\$140,215	\$3,889	2.85%
50%	\$199,252	\$204,929	\$5,677	2.85%
75%	\$262,178	\$269,644	\$7,466	2.85%
100%	\$325,104	\$334,358	\$9,254	2.85%

General Service Large - Over 100 kV 50 000 kVA

Forecast Customers: 14

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
25%	\$631,458	\$649,900	\$18,442	2.92%
50%	\$936,415	\$963,800	\$27,385	2.92%
75%	\$1,241,373	\$1,277,700	\$36,327	2.93%
100%	\$1,546,330	\$1,591,600	\$45,270	2.93%

Bill Comparison

Limited Use Billing Demand - General Service Small 100 kVA

Forecast Customers: 45

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
5%	\$513.89	\$528.20	\$14.31	2.78%
10%	\$870.38	\$899.37	\$28.99	3.33%
15%	\$1,226.88	\$1,270.54	\$43.66	3.56%
20%	\$1,583.37	\$1,641.70	\$58.33	3.68%

Limited Use Billing Demand - General Service Medium 500 kVA

Forecast Customers: 19

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
5%	\$2,953.59	\$3,069.53	\$115.94	3.93%
10%	\$4,736.07	\$4,925.37	\$189.30	4.00%
15%	\$6,518.54	\$6,781.21	\$262.67	4.03%
20%	\$8,301.02	\$8,637.06	\$336.04	4.05%

Bill Comparison

Limited Use Billing Demand - General Service Large - 750 V to 30 kV 5 000 kVA

Forecast Customers: 2

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
5%	\$26,495	\$27,552	\$1,057	3.99%
10%	\$42,291	\$43,966	\$1,675	3.96%
15%	\$58,086	\$60,380	\$2,294	3.95%
20%	\$73,882	\$76,794	\$2,912	3.94%

Limited Use Billing Demand - General Service Large - 30 kV to 100 kV 10 000 kVA

Forecast Customers: 0

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
5%	\$46,428	\$47,717	\$1,289	2.78%
10%	\$74,457	\$76,560	\$2,103	2.82%
15%	\$102,485	\$105,402	\$2,917	2.85%
20%	\$130,513	\$134,244	\$3,731	2.86%

Limited Use Billing Demand - General Service Large - Over 100 kV 50 000 kVA

Forecast Customers: 3

Load Factor	August 1, 2017 \$ / Month	June 1, 2018 \$ / Month	Difference in \$ / Month	Percent Change
5%	\$211,276	\$217,535	\$6,259	2.96%
10%	\$341,052	\$351,071	\$10,019	2.94%
15%	\$470,827	\$484,606	\$13,779	2.93%
20%	\$600,603	\$618,141	\$17,538	2.92%

PROOF OF REVENUE***In Accordance with MH's Review & Vary Application Dated May 30, 2018***

**August 1, 2017 Rates vs June 1, 2018 Rates
Impact on Fiscal Year ended March 31, 2019**

	Calculated Revenue August 1, 2017 Rates	Calculated Revenue Jun 1, 2018 Rates	Diff. in Revenue Dollars	Diff. in Revenue Percent
Basic	\$ 677,671,573	\$ 700,062,759	\$ 22,391,186	3.30%
Diesel	\$ 789,348	\$ 815,379	\$ 26,031	3.30%
Seasonal	\$ 7,820,199	\$ 7,955,316	\$ 135,117	1.73%
FRWH	\$ 1,076,172	\$ 1,111,060	\$ 34,888	3.24%
Residential	\$ 687,357,292	\$ 709,944,513	\$ 22,587,222	3.29%
Small Non-Demand	\$ 159,511,605	\$ 162,993,506	\$ 3,481,901	2.18%
Small Demand	\$ 174,278,918	\$ 179,782,366	\$ 5,503,448	3.16%
Seasonal	\$ 714,745	\$ 721,070	\$ 6,325	0.88%
FRWH	\$ 444,987	\$ 454,682	\$ 9,695	2.18%
GS Small	\$ 334,950,255	\$ 343,951,624	\$ 9,001,369	2.69%
GS Medium	\$ 207,653,123	\$ 214,689,541	\$ 7,036,417	3.39%
Large 750 V - 30 kV	\$ 105,498,365	\$ 108,975,410	\$ 3,477,045	3.30%
Large 30 - 100 kV	\$ 84,901,975	\$ 86,946,980	\$ 2,045,005	2.41%
Large > 100 kV	\$ 188,788,270	\$ 193,412,758	\$ 4,624,488	2.45%
GS Large	\$ 379,188,610	\$ 389,335,148	\$ 10,146,538	2.68%
Diesel GS & Gov.	\$ 7,570,475	\$ 7,571,965	\$ 1,490	0.02%
SEP	\$ 859,088	\$ 859,088	\$ -	0.00%
General Service	\$ 930,221,552	\$ 956,407,366	\$ 26,185,815	2.82%
Area & Roadway Lighting	\$ 25,537,757	\$ 26,371,405	\$ 833,648	3.26%
DSM Reduction	\$ (33,137,511)	\$ (34,141,683)	\$ (1,004,172)	3.03%
Misc Revenue & Adjs	\$ 7,135,375	\$ 8,073,871	\$ 938,495	13.15%
Domestic Revenue	\$ 1,617,114,464	\$ 1,666,655,472	\$ 49,541,007	3.06%

PROOF OF REVENUE**In Accordance with MH's Review & Vary Application Dated May 31, 2018**

August 1, 2017 Rates vs June 1, 2018 Rates

Annualized for year ended March 31, 2019

	Calculated Revenue August 1, 2017 Rates	Calculated Revenue Jun 1, 2018 Rates	Diff. in Revenue Dollars	Diff. in Revenue Percent
Basic	\$ 677,671,573	\$ 704,234,093	\$ 26,562,520	3.92%
Diesel	\$ 789,348	\$ 820,289	\$ 30,940	3.92%
Seasonal	\$ 7,820,199	\$ 8,127,282	\$ 307,084	3.93%
FRWH	\$ 1,076,172	\$ 1,118,217	\$ 42,045	3.91%
Residential	\$ 687,357,292	\$ 714,299,880	\$ 26,942,589	3.92%
Small Non-Demand	\$ 159,511,605	\$ 163,666,020	\$ 4,154,416	2.60%
Small Demand	\$ 174,278,918	\$ 180,807,655	\$ 6,528,737	3.75%
Seasonal	\$ 714,745	\$ 719,202	\$ 4,457	0.62%
FRWH	\$ 444,987	\$ 456,621	\$ 11,633	2.61%
GS Small	\$ 334,950,255	\$ 345,649,497	\$ 10,699,243	3.19%
GS Medium	\$ 207,653,123	\$ 216,061,188	\$ 8,408,065	4.05%
Large 750 V - 30 kV	\$ 105,498,365	\$ 109,644,559	\$ 4,146,194	3.93%
Large 30 - 100 kV	\$ 84,901,975	\$ 87,319,876	\$ 2,417,901	2.85%
Large > 100 kV	\$ 188,788,270	\$ 194,313,536	\$ 5,525,266	2.93%
GS Large	\$ 379,188,610	\$ 391,277,972	\$ 12,089,361	3.19%
Diesel GS & Gov.	\$ 7,570,475	\$ 7,572,292	\$ 1,817	0.02%
SEP	\$ 859,088	\$ 859,088	\$ -	0.00%
General Service	\$ 930,221,552	\$ 961,420,038	\$ 31,198,486	3.35%
Area & Roadway Lighting	\$ 25,537,757	\$ 26,538,071	\$ 1,000,314	3.92%
DSM Reduction	\$ (33,137,511)	\$ (34,334,428)	\$ (1,196,917)	3.61%
Misc Revenue & Adjs	\$ 7,135,375	\$ 7,392,249	\$ 256,874	3.60%
Domestic Revenue	\$ 1,617,114,464	\$ 1,675,315,809	\$ 58,201,345	3.60%

**ELECTRIC OPERATIONS
PROJECTED OPERATING STATEMENT
APPENDIX D ATTACHMENT
(In Millions of Dollars)**

For the year ended March 31

	ACTUAL										
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
REVENUES											
Domestic Revenue at approved rates	1,515	1,578	1,565	1,551	1,537	1,544	1,542	1,542	1,553	1,567	1,583
additional*	-	37	102	110	116	125	402	548	575	708	727
BPIII Reserve Account	(96)	(151)	4	79	79	79	79	26	-	-	-
Extraprovincial	460	514	469	420	567	693	779	788	805	667	671
Other	28	30	31	31	33	33	34	34	35	35	36
	<u>1,907</u>	<u>2,008</u>	<u>2,170</u>	<u>2,192</u>	<u>2,332</u>	<u>2,475</u>	<u>2,836</u>	<u>2,938</u>	<u>2,967</u>	<u>2,977</u>	<u>3,016</u>
EXPENSES											
Operating and Administrative	536	518	501	511	513	524	536	548	559	571	583
Finance Expense	608	587	678	752	834	917	1,178	1,220	1,221	1,216	1,229
Finance Income	(17)	(17)	(21)	(29)	(35)	(33)	(38)	(14)	(13)	(13)	(17)
Depreciation and Amortization	375	396	471	515	555	597	689	714	726	739	752
Water Rentals and Assessments	131	130	120	110	113	117	127	128	131	131	131
Fuel and Power Purchased	132	124	140	158	165	156	140	135	138	127	129
Capital and Other Taxes	119	132	145	154	161	166	174	175	176	177	177
Other Expenses	60	116	109	481	94	92	71	64	67	71	76
Corporate Allocation	8	8	8	8	8	8	8	8	8	8	8
	<u>1,952</u>	<u>1,995</u>	<u>2,151</u>	<u>2,662</u>	<u>2,409</u>	<u>2,544</u>	<u>2,886</u>	<u>2,978</u>	<u>3,014</u>	<u>3,027</u>	<u>3,069</u>
Net Income before Net Movement in Reg. Deferral	(46)	13	20	(470)	(78)	(69)	(50)	(39)	(47)	(50)	(53)
Net Movement in Regulatory Deferral	66	72	115	473	83	78	60	51	51	52	56
Non-recurring Gain	20	-	-	-	-	-	-	-	-	-	-
Net Income	<u>41</u>	<u>85</u>	<u>135</u>	<u>3</u>	<u>5</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>3</u>	<u>2</u>	<u>3</u>
Net Income Attributable to:											
Manitoba Hydro before Non-recurring Item	33	94	136	1	-	-	-	-	-	-	-
Non-recurring Gain	20	-	-	-	-	-	-	-	-	-	-
Manitoba Hydro	<u>53</u>	<u>94</u>	<u>136</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Non-controlling Interest	(12)	(8)	(1)	2	5	9	10	11	3	2	3
	<u>41</u>	<u>85</u>	<u>135</u>	<u>3</u>	<u>5</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>3</u>	<u>2</u>	<u>3</u>
* Additional Domestic Revenue											
Percent Increase		3.36%	3.60%	0.00%	0.45%	0.47%	16.68%	7.47%	1.11%	5.98%	0.50%
Cumulative Percent Increase		3.36%	7.08%	7.08%	7.56%	8.07%	26.10%	35.52%	37.02%	45.22%	45.94%
Financial Ratios											
Equity	16%	15%	14%	13%	13%	12%	11%	12%	12%	12%	12%
EBITDA Interest Coverage	1.51	1.54	1.63	1.52	1.51	1.53	1.60	1.61	1.62	1.63	1.64
Capital Coverage	1.53	1.40	1.33	1.07	1.18	1.28	1.39	1.47	1.35	1.32	1.31

**ELECTRIC OPERATIONS
PROJECTED OPERATING STATEMENT
APPENDIX D ATTACHMENT
(In Millions of Dollars)**

For the year ended March 31

	2028	2029	2030	2031	2032	2033	2034	2035	2036
REVENUES									
Domestic Revenue at approved rates	1,599	1,614	1,630	1,647	1,673	1,701	1,729	1,757	1,786
additional*	754	751	744	789	784	814	841	860	959
BPIII Reserve Account	-	-	-	-	-	-	-	-	-
Extraprovincial	662	677	697	709	705	701	696	694	602
Other	36	37	38	38	39	40	40	40	41
	3,052	3,080	3,109	3,184	3,201	3,255	3,305	3,351	3,388
EXPENSES									
Operating and Administrative	595	607	620	633	646	660	674	688	702
Finance Expense	1,234	1,231	1,229	1,268	1,272	1,294	1,304	1,306	1,315
Finance Income	(15)	(16)	(15)	(15)	(16)	(16)	(17)	(17)	(19)
Depreciation and Amortization	765	776	790	805	822	840	857	872	888
Water Rentals and Assessments	132	132	132	133	133	133	134	134	134
Fuel and Power Purchased	131	134	138	147	129	128	134	143	133
Capital and Other Taxes	179	180	181	183	185	186	188	189	196
Other Expenses	79	84	87	87	89	91	92	95	96
Corporate Allocation	8	8	5	3	3	3	3	3	3
	3,106	3,136	3,169	3,245	3,263	3,319	3,368	3,413	3,449
Net Income before Net Movement in Reg. Deferral	(54)	(56)	(60)	(61)	(62)	(64)	(63)	(62)	(61)
Net Movement in Regulatory Deferral	58	62	68	70	73	77	77	78	77
Non-recurring Gain	-	-	-	-	-	-	-	-	-
Net Income	4	5	8	10	11	13	14	15	16
Net Income Attributable to:									
Manitoba Hydro before Non-recurring Item	-	0	-	-	-	-	-	-	-
Non-recurring Gain	-	-	-	-	-	-	-	-	-
Manitoba Hydro	0	0	0	0	0	0	0	0	0
Non-controlling Interest	4	5	8	10	11	13	14	15	16
	4	5	8	10	11	13	14	15	16
* Additional Domestic Revenue Percent Increase	0.87%	-0.44%	-0.63%	1.58%	-0.73%	0.69%	0.55%	0.22%	3.18%
Cumulative Percent Increase	47.21%	46.56%	45.64%	47.94%	46.85%	47.86%	48.68%	49.00%	53.74%
Financial Ratios									
Equity	12%	12%	12%	12%	12%	12%	12%	12%	12%
EBITDA Interest Coverage	1.65	1.66	1.67	1.66	1.67	1.67	1.68	1.69	1.70
Capital Coverage	1.31	1.27	1.29	1.25	1.26	1.27	1.27	1.18	1.18

**ELECTRIC OPERATIONS
PROJECTED BALANCE SHEET
APPENDIX D ATTACHMENT
(In Millions of Dollars)**

For the year ended March 31

	ACTUAL										
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
ASSETS											
Plant in Service	13,065	13,679	19,062	19,684	20,747	26,168	30,504	31,034	31,670	32,334	32,945
Accumulated Depreciation	(972)	(1,301)	(1,731)	(2,178)	(2,616)	(3,125)	(3,705)	(4,328)	(4,942)	(5,607)	(6,212)
Net Plant in Service	12,093	12,378	17,332	17,506	18,131	23,043	26,799	26,706	26,727	26,727	26,732
Construction in Progress	7,079	9,471	6,745	7,522	8,012	3,836	367	454	418	414	411
Current and Other Assets	1,773	1,915	2,191	2,611	2,523	1,970	1,552	1,663	1,678	1,750	1,794
Goodwill and Intangible Assets	327	541	782	926	1,348	1,302	1,256	1,211	1,167	1,123	1,081
Total Assets before Regulatory Deferral	21,272	24,305	27,049	28,565	30,015	30,150	29,973	30,034	29,990	30,014	30,018
Regulatory Deferral Balance	462	534	649	1,122	1,205	1,283	1,343	1,394	1,445	1,497	1,553
	21,733	24,839	27,698	29,687	31,220	31,434	31,316	31,428	31,434	31,511	31,571
LIABILITIES AND EQUITY											
Long-Term Debt	15,725	18,141	21,376	22,589	23,594	24,050	25,056	24,929	24,641	24,180	25,222
Current and Other Liabilities	3,204	3,643	3,047	3,819	4,361	4,152	3,032	3,191	3,475	4,002	3,010
Provisions	70	50	49	48	46	45	43	42	41	40	39
Deferred Revenue	450	465	491	520	542	551	561	571	582	593	603
BPIII Reserve Account	196	347	343	264	185	106	26	(0)	(0)	(0)	(0)
Retained Earnings	2,749	2,843	2,978	2,979	2,979	2,979	2,979	2,979	2,979	2,979	2,979
Accumulated Other Comprehensive Income	(709)	(699)	(636)	(580)	(537)	(497)	(430)	(333)	(332)	(331)	(331)
Total Liabilities and Equity before Regulatory Deferral	21,684	24,790	27,650	29,638	31,171	31,385	31,267	31,379	31,386	31,462	31,522
Regulatory Deferral Balance	49	49	49	49	49	49	49	49	49	49	49
	21,733	24,839	27,698	29,687	31,220	31,434	31,316	31,428	31,434	31,511	31,571
Net Debt	15,427	18,473	20,821	22,694	23,941	24,782	24,990	24,914	24,909	24,905	24,908
Total Equity	2,856	3,163	3,435	3,489	3,515	3,520	3,223	3,316	3,331	3,345	3,359
Equity Ratio	16%	15%	14%	13%	13%	12%	11%	12%	12%	12%	12%

**ELECTRIC OPERATIONS
PROJECTED BALANCE SHEET
APPENDIX D ATTACHMENT
(In Millions of Dollars)**

For the year ended March 31

	2028	2029	2030	2031	2032	2033	2034	2035	2036
ASSETS									
Plant in Service	33,553	34,299	34,958	35,790	36,566	37,361	38,104	38,907	39,975
Accumulated Depreciation	(6,906)	(7,603)	(8,311)	(9,040)	(9,788)	(10,577)	(11,366)	(12,168)	(12,975)
Net Plant in Service	26,647	26,696	26,647	26,749	26,778	26,785	26,739	26,739	26,999
Construction in Progress	493	454	490	400	374	366	406	461	257
Current and Other Assets	2,071	2,223	2,178	2,176	2,366	2,533	2,846	3,021	4,096
Goodwill and Intangible Assets	1,040	1,001	962	924	885	848	810	773	736
Total Assets before Regulatory Deferral	30,251	30,374	30,278	30,249	30,403	30,531	30,801	30,993	32,088
Regulatory Deferral Balance	1,611	1,672	1,740	1,811	1,884	1,961	2,038	2,115	2,192
	31,861	32,047	32,018	32,059	32,287	32,492	32,839	33,109	34,280
LIABILITIES AND EQUITY									
Long-Term Debt	25,554	23,377	21,284	23,144	23,508	24,570	25,080	25,859	27,143
Current and Other Liabilities	2,958	5,312	7,367	5,540	5,394	4,528	4,354	3,835	3,712
Provisions	38	37	36	35	34	33	32	31	30
Deferred Revenue	615	624	634	644	654	665	676	687	699
BPIII Reserve Account	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Retained Earnings	2,979	2,979	2,979	2,979	2,979	2,979	2,979	2,979	2,979
Accumulated Other Comprehensive Income	(331)	(331)	(331)	(331)	(331)	(331)	(331)	(331)	(331)
Total Liabilities and Equity before Regulatory Deferral	31,812	31,998	31,969	32,011	32,238	32,443	32,790	33,060	34,232
Regulatory Deferral Balance	49	49	49	49	49	49	49	49	49
	31,861	32,047	32,018	32,059	32,287	32,492	32,839	33,109	34,280
Net Debt	24,906	24,920	24,923	24,948	24,962	24,973	24,976	25,034	25,090
Total Equity	3,374	3,379	3,387	3,394	3,402	3,411	3,420	3,429	3,439
Equity Ratio	12%	12%	12%	12%	12%	12%	12%	12%	12%

ELECTRIC OPERATIONS
PROJECTED CASH FLOW STATEMENT
APPENDIX D ATTACHMENT
(In Millions of Dollars)

For the year ended March 31

	ACTUAL										
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
OPERATING ACTIVITIES											
Cash Receipts from Customers	1,901	2,152	2,155	2,101	2,240	2,383	2,744	2,900	2,954	2,964	3,003
Cash Paid to Suppliers and Employees	(555)	(892)	(843)	(870)	(885)	(894)	(904)	(916)	(934)	(934)	(948)
Interest Paid	(553)	(531)	(635)	(704)	(778)	(866)	(1,124)	(1,188)	(1,195)	(1,191)	(1,203)
Interest Received	17	5	12	23	26	18	8	6	6	6	10
	<u>810</u>	<u>734</u>	<u>689</u>	<u>550</u>	<u>602</u>	<u>641</u>	<u>723</u>	<u>802</u>	<u>831</u>	<u>845</u>	<u>862</u>
FINANCING ACTIVITIES											
Proceeds from Long-Term Debt	2,166	3,468	3,600	2,560	2,390	1,590	1,360	390	390	750	1,190
Sinking Fund Withdrawals	146	0	0	120	318	813	182	58	352	157	254
Sinking Fund Payment	(146)	(182)	(222)	(260)	(296)	(353)	(252)	(263)	(272)	(268)	(273)
Retirement of Long-Term Debt	(320)	(407)	(1,002)	(349)	(1,293)	(1,366)	(1,141)	(290)	(412)	(715)	(1,178)
Other	(5)	(10)	(10)	(11)	(11)	(11)	11	(5)	(5)	(5)	(5)
	<u>1,841</u>	<u>2,869</u>	<u>2,366</u>	<u>2,061</u>	<u>1,108</u>	<u>673</u>	<u>160</u>	<u>(110)</u>	<u>53</u>	<u>(81)</u>	<u>(12)</u>
INVESTING ACTIVITIES											
Property, Plant and Equipment, net of contributions	(2,925)	(3,659)	(3,002)	(2,391)	(1,760)	(1,368)	(898)	(720)	(724)	(752)	(776)
Other	(35)	(89)	(57)	(46)	(89)	(109)	(99)	(96)	(96)	(82)	(81)
	<u>(2,960)</u>	<u>(3,748)</u>	<u>(3,059)</u>	<u>(2,437)</u>	<u>(1,850)</u>	<u>(1,477)</u>	<u>(997)</u>	<u>(816)</u>	<u>(820)</u>	<u>(834)</u>	<u>(858)</u>
Net Increase (Decrease) in Cash	<u>(309)</u>	<u>(146)</u>	<u>(4)</u>	<u>173</u>	<u>(139)</u>	<u>(163)</u>	<u>(114)</u>	<u>(123)</u>	<u>65</u>	<u>(70)</u>	<u>(8)</u>
Cash at Beginning of Year	943	634	488	484	657	518	355	242	118	183	113
Cash at End of Year	<u>634</u>	<u>488</u>	<u>484</u>	<u>657</u>	<u>518</u>	<u>355</u>	<u>242</u>	<u>118</u>	<u>183</u>	<u>113</u>	<u>105</u>

ELECTRIC OPERATIONS
PROJECTED CASH FLOW STATEMENT
APPENDIX D ATTACHMENT
(In Millions of Dollars)

For the year ended March 31

	2028	2029	2030	2031	2032	2033	2034	2035	2036
OPERATING ACTIVITIES									
Cash Receipts from Customers	3,039	3,066	3,095	3,170	3,187	3,241	3,291	3,337	3,373
Cash Paid to Suppliers and Employees	(963)	(979)	(996)	(1,019)	(1,015)	(1,028)	(1,049)	(1,073)	(1,083)
Interest Paid	(1,213)	(1,225)	(1,232)	(1,258)	(1,256)	(1,288)	(1,303)	(1,315)	(1,327)
Interest Received	14	24	23	15	11	23	25	36	43
	876	886	890	908	928	948	964	986	1,006
FINANCING ACTIVITIES									
Proceeds from Long-Term Debt	390	190	2,370	4,390	2,750	2,540	1,760	1,500	1,770
Sinking Fund Withdrawals	150	60	510	540	0	230	58	10	275
Sinking Fund Payment	(274)	(282)	(290)	(280)	(272)	(285)	(288)	(301)	(316)
Retirement of Long-Term Debt	(150)	(60)	(2,440)	(4,396)	(2,573)	(2,390)	(1,471)	(1,294)	(665)
Other	(5)	(5)	(5)	(5)	(5)	(7)	(4)	(4)	(5)
	111	(97)	145	249	(100)	88	54	(89)	1,059
INVESTING ACTIVITIES									
Property, Plant and Equipment, net of contributions	(787)	(818)	(813)	(852)	(860)	(877)	(890)	(968)	(986)
Other	(80)	(74)	(72)	(73)	(72)	(71)	(70)	(68)	(67)
	(867)	(893)	(884)	(925)	(933)	(948)	(960)	(1,036)	(1,053)
Net Increase (Decrease) in Cash	120	(103)	150	232	(105)	88	59	(139)	1,012
Cash at Beginning of Year	105	225	122	273	505	400	488	546	408
Cash at End of Year	225	122	273	505	400	488	546	408	1,420