

LITIGATION
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January 29, 2018

Darren Christie, MPA, B.A., CCLP, P. Log., MCIT
Secretary and Executive Director
The Public Utilities Board
400 - 330 Portage Avenue
Winnipeg, Manitoba
R3C 0C4

Dear Sirs:

Re: Board Decision:

2. On or before 5:00 PM Monday January 29, 2018 any Party intending to raise legal issues and legal arguments in Closing Submissions is to provide written notice of such intention to all other Parties. That written notice should provide a summary of the intended legal arguments including reference to any legislative provisions that underpin those legal arguments

MKO will be raising an argument regarding the application of The Path To Reconciliation Act. The intended argument will be that when Manitoba Hydro relies upon the interpretation of the word "equitable" in the context of rate setting that word is modified and subservient to the meaning and intent of the word "equitable" as used in the said Act.

This intervener is not as concerned about what legal arguments are to be raised in its own submission as it is in what Manitoba Hydro intends to argue. We have been clear that our focus is on:

1. Reduced rates for MKO First Nations ratepayers; and/or
2. Immediate implementation of a low income program that targets MKO on reserve ratepayers; and/or
3. A direction from the Board that DSM programs must continue for First Nation on reserve residents with the primary intent being to ameliorate the effect of increased rates; and/or

4. An immediate program to assist in payment of arrears with a provision that in certain circumstances debt forgiveness be applied; and/or
5. That the financial consequences of such rates and programs be shared among all classes; and/or
6. The cost of remedial programs and payments made to MKO First Nations on account of Hydro actions not be included in the rates paid by these First Nations; and/or
7. MKO ratepayers who are resident on reserve are not subject to taxation and are not taxpayers. "Hidden taxes" are no different than direct taxes. The portion of the rate that consists of payments by Hydro to the Provincial government should not be included as part of the rate charged to MKO First Nations ratepayers.

The purpose of setting out these arguments is to direct Manitoba Hydro to disclose any legal arguments they may raise regarding the jurisdiction of the Board to make such findings.

Yours truly,

A handwritten signature in black ink, appearing to read "G. J. Orle".

George J. Orle Q.C.

cc. All other participants