

Order No. 112/17

**MOTIONS BY MANITOBA HYDRO
SEEKING CONFIDENTIAL TREATMENT OF INFORMATION IN THE 2017/18 &
2018/19 GENERAL RATE APPLICATION AND MOTION BY THE CONSUMERS
COALITION SEEKING ACCESS TO DOCUMENTS CLAIMED AS CONFIDENTIAL**

October 24, 2017

**BEFORE: Marilyn Kapitany, B.Sc., (Hon), M.Sc., Vice-Chair
Hugh Grant, Ph.D., Member**

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1.0 Executive Summary

By this Order, the Public Utilities Board (“Board”) grants in part Manitoba Hydro’s Motions seeking confidential receipt by the Board of certain responses (or portions thereof) to Board Minimum Filing Requirements and Board Information Requests. As identified in this Order, the Board directs public filing of certain responses to Board Minimum Filing Requirements and Board Information Requests where the criteria for confidential treatment are not met.

By this Order, the Board grants in part the Consumers Coalition’s (“Coalition”) Rule 13 Motion seeking access to certain responses to Board Minimum Filing Requirements, Board Information Requests and Coalition Information Requests. Specific aspects of the Coalition’s Motion are denied as the Board has determined that disclosure of the requested information to the Coalition is not in the public interest.

2.0 Overview

The Board’s Rules for Receipt of Confidential Filings

Proceedings before the Board are public. By standard protocol, and pursuant to the Board’s Rules of Practice and Proceeding (available on the Board’s website at www.pubmanitoba.ca), documents filed with the Board by a party to a proceeding are placed on the public record. However, Rule 13(2) provides that the Board may receive information in confidence on any terms it considers appropriate in the public interest. This exception to the general rule of public disclosure arises where the test under Rule 13(2) is met:

- (a) If the Board is of the opinion that disclosure of the information could reasonably be expected
 - i. to result in undue financial loss or gain to a person (including Manitoba Hydro and other corporations) directly or indirectly affected by the proceeding; or
 - ii. to harm significantly that person’s competitive position

or

(b) if

- i. the information is personal, financial, commercial, scientific or technical in nature; or
- ii. the information has been consistently treated as confidential by a person directly affected by the proceeding; and
- iii. the Board considers that the person's interest in confidentiality outweighs the public interest in the disclosure of the information.

On hearing a motion under Rule 13, the Board may order the information in question be placed on the public record, order the document not be placed on the public record with such conditions on access imposed as the Board considers appropriate, order an abridged version of the document be placed on the public record, or make any other order the Board finds to be in the public interest.

Rule 13(5) allows the filing party to request that the document be withdrawn prior to being placed on the public record where the Board has determined to place any part of the document on the public record.

Procedural History

By letter dated March 31, 2017, the Board provided Manitoba Hydro with a list of Minimum Filing Requirements for Manitoba Hydro to address in its General Rate Application filing. Following the issuance of Order In Council 92/17, which assigns the Board the duty of considering capital expenditures by Manitoba Hydro as a factor in reaching a decision regarding electricity rates, the Board provided Manitoba Hydro with a list of additional Minimum Filing Requirements to address capital expenditure information in its General Rate Application filing.

In Order 82/17, the Board approved a process to provide efficiently confidential and voluminous documentation to the Board's Independent Expert Consultants reviewing Manitoba Hydro's capital projects and other matters. The Board also approved a process for Manitoba Hydro to seek to keep certain Third Party documentation confidential pending the filing and adjudication of a Rule 13 Motion, without relinquishing the temporary ability to retract such documentation and notify the Third Party of a decision by the Board to grant other Parties and/or the public access to that documentation.

On September 5, 2017, Manitoba Hydro filed its responses to First Round Information Requests. In the responses to certain of the Board's Information Requests, Manitoba Hydro redacted or removed information from the public filing on the basis that Manitoba Hydro considers the information to be confidential or commercially sensitive. In certain of the responses to Information Requests posed by Interveners, Manitoba Hydro referred the party to a response to a Board Minimum Filing Requirement or Information Request that had information redacted or removed from the public filing due to a claim to confidentiality.

On September 7, 2017, Manitoba Hydro filed a Motion with the Board in which Manitoba Hydro sought an Order of the Board that it would receive in confidence Manitoba Hydro's responses, or portions thereof, to the Board's Minimum Filing Requirements pursuant to Rule 13 of the Board's Rules of Practice and Procedure ("MFR Motion"). Manitoba Hydro's MFR Motion seeks confidential treatment of a number of the Board's Minimum Filing Requirements, organized for the purposes of the Motion within the following 9 categories and sub-categories:

- Export Contracts, Revenues and Related Information
- Export Price Forecasts
- Internal Load Forecast
- Corporate Risk Management Report
- Credit Rating Agency Reports

- Construction of Major Projects – Keeyask and Bipole III
 - Tenders, Proposals, Bids and Contracts
 - Critical Energy Infrastructure Information
 - Reserves, Contingencies, Expenditures and Contract Costs
 - Productivity Rates
 - Risk Registry
 - Estimate Reports, Summary Reports and Reports to Management
 - Environmental and Regulatory License Costs
- Great Northern Transmission Line
- Manitoba-Saskatchewan Transmission Project
- Boston Consulting Group Reports

On September 21, 2017, Manitoba Hydro filed another Motion with the Board in which Manitoba Hydro sought an Order of the Board pursuant to Rule 13 that it would receive in confidence Manitoba Hydro's responses to six of the Board's Round 1 Information Requests: PUB/MH 1-6a-b, PUB/MH 1-43, PUB/MH 1-50a-c, PUB/MH 1-51, PUB/MH1-52, PUB/MH 1-131b-c ("IR Motion")

The Board sought submissions to Manitoba Hydro's Motions from the approved Interveners in the General Rate Application. The Board received submissions from the Consumers Coalition, the Green Action Centre, and the Manitoba Industrial Power Users Group.

In its response to Manitoba Hydro's MFR Motion, the Consumers Coalition filed its own Motion under Rule 13 for an Order of the Board that the Consumers Coalition would be granted access, under specific conditions, to select documents filed by Manitoba Hydro as responses to Minimum Filing Requirements and certain of the responses to the Consumers Coalition's Round 1 Information Requests ("Coalition Motion").

Manitoba Hydro's MFR Motion

In its July 11, 2017 Process Motion filing, Manitoba Hydro committed to conducting the General Rate Application in the most transparent means possible and keeping its requests of the Board to hold information in confidence to a minimum and only where absolutely necessary. Manitoba Hydro indicated it would employ techniques such as aggregating information, averaging and providing summaries as a means to avoid disclosure of information that is confidential, proprietary or commercially sensitive to ensure that as much information as possible will be placed on the public record. However, Manitoba Hydro also indicated that, in certain situations, in order to be fully responsive to the requests for information from the Board and Interveners, disclosure of confidential information would be required. Manitoba Hydro has also indicated there are reasons that certain of the requested information should not be placed on the public record, but filed in confidence with the Board.

Manitoba Hydro has responded in full to a majority of the Board's Minimum Filing Requirements. However, with respect to a number of the Minimum Filing Requirements, Manitoba Hydro has filed responses with the portions of information that it claims to be confidential redacted and obscured from the public record. Other responses have not been filed on the public record on the basis that Manitoba Hydro claims the entirety of the information in the response is confidential. In general, the responses and portions of responses that Manitoba Hydro has not filed publicly are:

- Third Party proprietary, confidential or otherwise commercially sensitive information which Manitoba Hydro states it is bound to maintain in confidence or is not authorized to reproduce or distribute by virtue of a contractual or fiduciary duty to the third party ("Third Party Information"); or
- Manitoba Hydro confidential or commercially sensitive information.

In its MFR Motion, Manitoba Hydro is seeking an Order of the Board that the Board will receive in confidence the responses or portions of responses to Minimum Filing Requirements that Manitoba Hydro has not filed publicly.

As noted above, in response to Manitoba Hydro's MFR Motion, the Coalition filed its own Motion seeking an Order of the Board that the Consumers Coalition would be granted access, under specific conditions, to select documents filed by Manitoba Hydro as responses to Minimum Filing Requirements and certain of the responses to the Consumers Coalition's Round 1 Information Requests. Where there is overlap between the information that is the subject of Manitoba Hydro's Motion and the Coalition Motion, the Board's findings on both are set out in this section.

In the Consumers Coalition's Motion and in the responses of the Green Action Centre and Manitoba Industrial Power Users Group to the MFR Motion, these Interveners suggest that, where broader public disclosure would be harmful to Manitoba Hydro or a person directly or indirectly impacted by the proceeding, they should be granted access to certain of the confidential information or commercially sensitive information pursuant to a Board authorized Non-Disclosure Agreement. Manitoba Hydro is opposed to such Intervener requests as it claims Non-Disclosure Agreements do not adequately protect the confidential information of Manitoba Hydro and Third Parties. Manitoba Hydro indicates the membership of some Intervener groups includes individuals or entities who actively oppose Manitoba Hydro's plans and operations. Manitoba Hydro is concerned that even the most well intentioned individuals could be replaced or over-ruled by their membership. Some may not be adequately informed as to the significance of the information.

Further concerns of Manitoba Hydro include that some Interveners and legal counsel and advisors actively participate in other regulatory processes and once the information has been seen, it cannot be unlearned. According to Manitoba Hydro, the stakes are too high and the risk of disclosure, inadvertent or otherwise, too great.

Additionally, Manitoba Hydro cautions that it owes a contractual or fiduciary duty to maintain Third Party information in confidence unless consents to disclosure are provided by the Third Parties. While generally the Third Parties consent to disclosure of their confidential information to the Board or to Board appointed Independent Expert Consultants, the Third Parties have not consented to disclosure to Interveners pursuant to terms of confidentiality agreements.

Manitoba Hydro's IR Motion

Manitoba Hydro is seeking confidential treatment of the responses or portions thereof to Board Information Requests PUB/MH 1-6a, 1-43, 1-50a-c, 1-51, 1-52 and 1-131b-c. Manitoba Hydro submits that release of the information that it identifies as confidential in the responses to these Information Requests would result in undue financial loss to the Utility or third parties and/or harm the competitive position of the Utility or third parties.

3.0 Party Positions and Board Findings

Manitoba Hydro's MFR Motion

Export Contracts, Revenues, and Related Information

The Board's Minimum Filing Requirements 24, 81, 82, 83, 84, 197 and 198 request information derived from export contracts, as well as copies of export contracts between Manitoba Hydro and SaskPower. The agreements between Manitoba Hydro and counterparties in the United States and Canada contain information on pricing, revenues, energy volumes, capacity volumes and other terms and conditions related to the sale or proposed sale of electricity. Manitoba Hydro has obtained the consent of counterparties to file the information requested in the above-noted Minimum Filing Requirements only with the Board, and by extension the Board-retained Independent Expert Consultants, but not with the Interveners or on the public record.

In general, while aggregate sale volume and revenue information has been provided on the public record, Manitoba Hydro is seeking to keep confidential the breakdown of information as between opportunity and firm sales and detailed revenue information, as well as contract-specific information regarding revenues, pricing, and – in one case – the identity of the counterparty. The information in question includes marketing and sales strategies; pricing of sales contracts; information related to historical sales contracts; contracted power prices; specific terms and conditions within export contracts; and customer name, where requested by the counterparty.

The Coalition seeks a full response to its Information Request Coalition/MH 1-101a-c, which requests clarification and details regarding the response to PUB Minimum Filing Requirement 83. Manitoba Hydro claims confidentiality with respect to both PUB Minimum Filing Requirement 83 and Coalition/MH 1-101a-c.

Board Findings

The Board finds that the responses and portions of responses to Board Minimum Filing Requirements 24, 81, 82, 83, 197 and 198 claimed as confidential by Manitoba Hydro will be received by the Board and Board-retained Independent Expert Consultant in confidence pursuant to Rule 13(2)(a)(i), 13(2)(a)(ii), and 13(2)(b)(ii) and (13(2)(b)(iii). The Board has determined that no further access will be granted.

Rule 13(2)(a)(i) is met as disclosure of the information could reasonably be expected to result in undue financial loss to Manitoba Hydro. Long-term export sales contracts include confidentiality provisions, the breach of which could result in financial penalty to Manitoba Hydro. Manitoba Hydro has received consent to disclose the information only to the Board and by extension the Board-retained Independent Expert Consultant. The Board accepts Manitoba Hydro's submission that disclosure beyond this, even on the condition of confidentiality agreements, could result in financial loss to Manitoba Hydro. Financial loss to Manitoba Hydro could lead to higher rates for Manitoba Hydro's ratepayers.

Additionally, the Board finds that Rule 13(2)(a)(ii) is met as disclosure of the information could also reasonably be expected to harm significantly Manitoba Hydro's competitive position in future sales negotiations. In particular, counterparty knowledge of pricing negotiated by other customers or average unit price or average unit revenues or both will negatively impact Manitoba Hydro's negotiations with those counterparties, including to the point of renegotiation of existing Term Sheets or withdrawal from ongoing or future negotiations. Disclosure of volume information facilitates reverse engineering of revenues and pricing using other information in the public domain.

In addition, the Rule 13(b)(2)(ii) and (iii) criteria are met because Manitoba Hydro has consistently treated the information as confidential and has sought confidential treatment in prior proceedings, including the Needs For and Alternatives To ("NFAT") hearing.

Given the degree of potential harm to Manitoba Hydro if the information is filed on the public record, Manitoba Hydro's interest in confidentiality outweighs the public interest in disclosure, given the availability of aggregated information to facilitate analysis by Interveners. The confidential information will also be received by the Board-retained Independent Expert Consultants, who will file a public report. Parties to the proceeding will have the opportunity to pose information requests on the Independent Expert Consultant report and to cross-examine the Independent Expert Consultant during the oral hearing.

With respect to the Coalition Information Request, Manitoba Hydro states that it will now respond on the public record to Coalition/MH 1-101a. The Board finds that the remainder of the information requires confidential treatment for the reasons outlined above.

Export Price Forecasts

Manitoba Hydro is seeking confidential treatment of information contained in the response to the Board's Minimum Filing Requirement 79, which relates to five purchased export price forecasts and Manitoba Hydro's consensus electricity export price forecast and requests an explanation of changes to the Utility's forecasting methodology. Manitoba Hydro filed a response to the Minimum Filing Requirement with redactions to export price forecast information and information regarding changes in forecasting methodology and how carbon pricing is incorporated into the forecast.

The purchased forecasts are generated using modelling formulas that are proprietary to the forecasters. Manitoba Hydro is obligated by contract to treat the forecasts and methodologies as confidential. Written consent from the forecasters is required to disclose the information to any third parties. Manitoba Hydro advises that the five purchased export price forecasters have consented to filing of their forecast information with the Board – and by extension the Board-retained Independent Expert Consultant, but not with the Interveners or on the public record.

Manitoba Hydro's export price forecast is derived from the combined results of the five purchased forecasts and is used for financial modelling purposes. It forms the basis of Manitoba Hydro's negotiations for long-term firm export sales contracts.

The Coalition is seeking access to information contained in the response to Board Minimum Filing Requirement 79, as well as related responses to Board Information Request 1-50b and Coalition Information Requests Coalition/MH 1-51, 1-52, 1-55, 1-56, and 1-57.

The Green Action Centre states that the position taken by Manitoba Hydro with respect to Board Minimum Filing Requirement 79 has an effect on the responses to Green Action Centre Information Requests GAC/MH 1-21, 1-27, 1-29, 1-30, 1-31 and 1-34. The Green Action Centre is therefore also seeking access to this information.

Board Findings

The Board finds that the information that has been redacted in the response to Board Minimum Filing Requirement 79 and related responses to Board Information Request 1-50b, Coalition Information Requests Coalition/MH 1-51, 1-52, 1-55, 1-56 and 1-57, and Green Action Centre Information Requests GAC/MH 1-21, 1-27, 1-29, 1-30, 1-31 and 1-34 will be received in confidence by the Board and the Board-retained Independent Expert Consultant pursuant to Rule 13(2)(a)(i), 13(2)(a)(ii) and 13(2)(b)(ii) and (iii). The Board accepts Manitoba Hydro's submission that disclosure beyond this, even on the condition of confidentiality agreements, could result in financial loss to Manitoba Hydro.

Disclosure of the information would result in financial loss to the creators of the price forecasts as the forecasts are proprietary and are generated using proprietary modeling. The identities of the forecasters must also be kept confidential in order to prevent counterparties from recreating Manitoba Hydro's consensus forecast.

Disclosure of Manitoba Hydro's consensus export price forecast would significantly harm Manitoba Hydro's competitive position and negatively impact export power sale negotiations. If this information were disclosed, counterparties would gain knowledge of Manitoba Hydro's views regarding the future price of power. This would limit Manitoba Hydro's ability to negotiate export sales agreements at values higher than Manitoba Hydro's forecast values.

In addition, Manitoba Hydro has consistently treated this information as confidential, confidential treatment of this information has previously been accepted by the Board, and Manitoba Hydro's interest in confidentiality outweighs the public interest in disclosure. In this regard, the Board-retained Independent Expert Consultant, will have access to the confidential information and will review the export price forecasts. The identities of the forecasters will be available to Independent Expert Consultant and, given the Independent Expert Consultant's experience, the reputations of the forecasters will be known to them. Parties can pose information requests to the Independent Expert Consultant and cross-examine the Independent Expert Consultant

in the public oral hearing. This will allow for public confirmation and testing of the information.

Internal Load Forecast

Manitoba Hydro is seeking confidential treatment of only a portion of the response to the Board's Minimum Filing Requirement 97, specifically Appendix A to the Internal Load Forecast. This affects the response to the Coalition's Information Request 1-29.

Appendix A to the Internal Load Forecast contains a forecast of the electricity consumption of Manitoba Hydro's top consumers. The Internal Load Forecast is based on Manitoba Hydro's analysis of individual operating plans and expansion or construction plans collected from industry news and publications, company prospectuses and confidential disclosure of business plans made by those top consumers to Manitoba Hydro. The top consumers voluntarily provide their business plans to Manitoba Hydro so that the Utility can develop its Internal Load Forecast. The provision of information is done on a confidential basis so as to not reveal the business plans of the top consumers to competitors in their markets. This information provides substantive value to Manitoba Hydro as it plans for future transmission and distribution needs.

The Manitoba Industrial Power Users Group supports confidential treatment of Appendix A to the Internal Load Forecast. This Intervener states that specific industry forecasts contain sensitive company-specific information and are provided to Manitoba Hydro on a confidential basis. It submits that the provision of aggregate information on the public record is sufficient and states that this approach to Appendix A to the Internal Load Forecast did not hamper the NFAT proceeding.

Board Findings

The Board finds that Appendix A to the Internal Load Forecast will be received in confidence and available only to the Board and the Board-retained Independent Expert Consultant, without any further disclosure to the parties or on the public record.

Pursuant to Rule 13(2)(a)(i) and 13(2)(a)(ii), the information should be received in confidence as disclosure would result in financial loss to and could harm significantly the competitive position of the top consumers who confidentially provide their business plans to Manitoba Hydro. This information also meets Rule 13(2)(b)(ii) and (iii) as the information has consistently been treated as confidential by both the top consumers and Manitoba Hydro and the interest in confidentiality outweighs the public interest in disclosure. It is important that Manitoba Hydro continues to be able to rely on the voluntary provision of information from top consumers in order to develop the Utility's load forecast.

The Board finds that the information contained in the response to Coalition Information Request Coalition/MH 1-29 must also be received by the Board and the Board-retained Independent Expert Consultant in confidence. The energy inputs to the load forecast sought by the Coalition are derived from the gas price forecast, which is sensitive proprietary intellectual property and should be received in confidence pursuant to Rule 13(2)(b)(i), (ii) and (iii).

The Independent Expert Consultant will have access to the confidential information and will file a public report. Parties can pose information requests and cross-examine the Independent Expert Consultants in the public oral hearing.

Corporate Risk Management Report

The Board's Minimum Filing Requirement 9 requests filing of Manitoba Hydro's Corporate Risk Management Report. This report contains information on the major risks facing Manitoba Hydro as it carries out its mandate. The report identifies and assesses each risk, describes the activities used to manage the risks and provides estimates of the potential residual impact to Manitoba Hydro in terms of likelihood and consequences after mitigation actions have been taken. Information about Manitoba Hydro's tolerance for each risk is also provided.

Manitoba Hydro has filed a redacted copy of the report on the public record. It is seeking confidential treatment of the redacted portions of the report. It explains that the following information is the subject of the request for confidential treatment:

- References which could harm third party relationships and Manitoba Hydro negotiations
- Comments on export prices
- References to regulatory, licensing and legal risks which are typically not publicly disclosed
- Information regarding the security of assets that could harm future operations.

Board Findings

The Board finds that the redactions of information on export prices and security of assets will be received in confidence by the Board and the Board's Independent Expert Consultants without further disclosure to the Interveners or on the public record.

However, Manitoba Hydro has not established that confidential treatment is required for the redactions that Manitoba Hydro asserts are to information that, if disclosed, could harm third party relationships and Manitoba Hydro negotiations and to information regarding regulatory, licensing and legal risks. Manitoba Hydro has broadly asserted these categories of redactions and has not explained the information sought to be protected in sufficient detail to justify confidential treatment. In addition, as noted by the Manitoba Industrial Power Users Group, an entire "high likelihood, high consequence" risk is redacted, including the identification of the category of risk in section 3.3.3 at page 13 of the Report and topic "I" at page 21 of the Report. In addition, Manitoba Hydro's assertion that such information is "typically not publicly disclosed" does not meet the Rule 13(2)(b)(ii) criterion, which requires consistent confidential treatment. The Board finds that the following redactions should be lifted and the information placed on the public record:

- Redactions made by Manitoba Hydro on the basis of harm to third party relationships and Manitoba Hydro negotiations;

- Redactions made by Manitoba Hydro on the basis that it is information regarding regulatory, licensing and legal risks;
- The “high likelihood, high consequence” risk at section 3.3.3 of page 13 of the Report and at topic “I” at page 21 of the Report; and
- Redactions made by Manitoba Hydro on the basis that the information is “typically not publicly disclosed”.

Credit Rating Agency Reports

Manitoba Hydro is seeking confidential treatment of the responses to the Board’s Minimum Filing Requirements 60 and 78i, which request current credit rating reports for Manitoba Hydro and the Province as well as all credit or debt rating agency reports or both on the Utility and the Province since the NFAT proceeding. Specifically, as Moody’s and Standard and Poor’s have not consented to filing of their reports beyond the Board, Manitoba Hydro is seeking confidential treatment of the most current Moody’s and Standard and Poor’s reports. Under Manitoba Hydro’s contracts with Moody’s and Standard and Poor’s, consent is required for the reports to be distributed.

The Coalition seeks access to Standard and Poor’s reports dating to December of 2014 and Moody’s reports dating to July of 2015, through disclosure of the responses to the Board’s Minimum Filing Requirements 60 and 78i. The Coalition also seeks a complete response to Board Information Request PUB/MH 1-60b, as Manitoba Hydro provided copies of presentations that it made to the credit rating agencies, but did not include any presentations made by the agencies to Manitoba Hydro. The Coalition states that its expert, Morrison Park, requires access to the information in order to meaningfully participate in the hearing and conduct the analysis that the Board has approved it to conduct.

The Manitoba Industrial Power Users Group argues that the reports should be produced through a mechanism that would maintain compliance with the public non-disclosure provisions in Manitoba Hydro's contracts with the agencies. The Manitoba Industrial Power Users Group is concerned that the credit rating agency reports will be relied on by parties to the hearing to support the rate increase sought by Manitoba Hydro, without the reports or report authors available for testing in the proceeding. In support of its position, the Manitoba Industrial Power Users Group notes that quotes and summaries from the reports, including 2017 reports, have been placed on the public record without any apparent concerns related to confidentiality.

In reply, Manitoba Hydro refined its position. The Utility now agrees that Morrison Park should access the Moody's report online and include the costs of doing so in its final bill to its clients, the Coalition and the Manitoba Industrial Power Users Group. Manitoba Hydro acknowledges that this cost will be included in the final hearing costs for these Interveners. Manitoba Hydro also now states that it will provide the Coalition and Manitoba Industrial Power Users Group with one copy each of the requested Standard and Poor's reports on the condition that the Reports be used for the purpose of the General Rate Application, not be reproduced or distributed, and that any commercially sensitive material contained within the Reports be kept confidential.

Board Findings

The Board finds the information should be received in confidence pursuant to Rule 13(2)(a)(i), due to the contractual terms regarding non-disclosure, and Rule 13(2)(b)(i) and (iii) as the information is technical and scientific, and the public interest in disclosure is outweighed by the interest in confidentiality. The Board finds that it is appropriate in the public interest to receive the information in confidence on the condition and terms that Morrison Park Advisors be given access to the Moody's Reports online, with the cost included in the final bills for the Coalition and MIPUG, and that Manitoba Hydro supply the Coalition and MIPUG with one copy each of the requested Standard and Poor's Reports on the condition that the Reports be used for the purpose of the General Rate Application, not be reproduced or distributed, and that any commercially sensitive

material contained within the Reports be kept confidential. The Board directs that Manitoba Hydro provide the Coalition and MIPUG with the Standard and Poor's Reports on receipt of written acknowledgement of agreement from the Coalition and MIPUG to the conditions ordered by the Board.

Manitoba Hydro states that it has responded fully to the Board's Information Request 1-60b. The credit rating agencies did not make any presentations to Manitoba Hydro, Manitoba Hydro did not prepare any reports following the meetings and minutes were not exchanged. The Board will therefore not make any order with respect to this Information Request.

Construction of Major Projects

Keeyask and Bipole III – Tenders, Proposals, Bids and Contracts

Manitoba Hydro is seeking confidential treatment of the responses to Board Minimum Filing Requirements 131, 133, 137, 138, 141, 156, 159 and 163. These Minimum Filing Requirements request the tenders, proposals and contracts for Keeyask and Bipole III.

The requests for proposals and contracts each contain terms regarding property ownership, use rights and confidentiality. In addition, Manitoba Hydro states that it is generally obliged to protect proprietary information contained in tender materials and contracts, such as pricing, designs, drawings, and methodologies. Manitoba Hydro says that disclosure will expose it to liability and may also impact future competitive bid processes. As well, in the NFAT proceeding, a number of documents such as those that are in response to these Minimum Filing Requirements were made available to the Independent Expert Consultant but were otherwise kept confidential in the proceeding.

Board Findings

The Board finds that the information will be received in confidence by the Board and its Independent Expert Consultant only pursuant to Rule 13(2)(a)(i), as disclosure would expose Manitoba Hydro to liability and therefore result in financial harm, Rule 13(2)(b)(i), as the information is technical and scientific, and Rule 13(2)(b)(ii) as the information has consistently been treated as confidential by Manitoba Hydro. The interest in confidentiality outweighs the public interest in disclosure.

The Independent Expert Consultant retained by the Board will have access to the information and will file a public report. Parties can pose Information Requests to the Independent Expert Consultant and can cross-examine the Independent Expert Consultant in the public oral hearing.

Keeyask and Bipole III – Critical Energy Infrastructure Information

Manitoba Hydro is seeking confidential treatment of the information contained in the responses to Board Minimum Filing Requirements 156, 157, 159, 163, and 188. These responses include critical energy information about cyber assets that, if disclosed, could be used to gain unauthorized access or pose a security threat to the bulk electric system. The Northern American Electric Reliability Corporation, Inc. maintains reliability standards that, if breached, could result in risks to reliability, penalties against Manitoba Hydro, and the imposition of mandatory mitigation plans to address the violation. Manitoba Hydro states that information that is responsive to Board Minimum Filing Requirement 188 has been accepted as confidential by the Federal Energy Regulatory Commission.

As noted under the previous heading, responses to Board Minimum Filing Requirements 156, 159, and 163 will be received in confidence as confidential tender, proposal, bid, and contract information.

Board Findings

The Board finds that the information in Board Minimum Filing Requirements 157 and 188 will be received in confidence by the Board and the Independent Expert Consultant pursuant to Rule 13(2)(a)(i). Disclosure could result in undue financial loss to Manitoba Hydro, both as a result of potential security risks being realized as well as penalties related to violation of the Northern American Electric Reliability Corporation, Inc. The information will also be received in confidence pursuant to Rule 13(2)(b)(i) and (2)(b)(iii). The information is scientific and technical in nature. Given the security threat posed by disclosure, Manitoba Hydro's interest in confidentiality outweighs the public interest in disclosure.

The Independent Expert Consultant retained by the Board will have access to the information and will file a public report. Parties can pose Information Requests to the Independent Expert Consultant and can cross-examine the Independent Expert Consultant in the public oral hearing.

Keeyask and Bipole III – Reserves, Contingencies, Expenditures and Capital Costs

Manitoba Hydro is seeking confidential treatment of the information contained in the responses to Board Minimum Filing Requirements 123, 142, 145, 155, 165, 167, and 168. These Minimum Filing Requirements request detailed breakdowns including reserves, contingencies, escalation, interest, and major contract costs by expense category. They also request:

- a summary of the forecast contract values, including actual expenditures to date and forecast expenditures at completion, and
- drawn down remaining and allocated amounts, including which contracts they are assigned to and for what purpose.

In general, detailed budget and contingency amounts at the specific contract level have been redacted from these responses, as have Community Development Initiative participant details. The full aggregated contingency amounts are filed on the public record.

The Coalition is seeking access to the response to Board Minimum Filing Requirement 155, the Capital Project Justification and addenda for Bipole III.

Board Findings

The Board finds that the redacted information in the responses to these Minimum Filing Requirements will be received by the Board and the Independent Expert Consultant in confidence. This information meets the Rule 13(2)(a)(i) criterion as disclosure of detailed contingency and budget information could put Manitoba Hydro at risk of undue financial loss. Disclosure of this information would provide contractual counterparties with insight into the monies allocated to the contracts. The Rule 13(2)(a)(ii) criterion is also met as it is reasonable to expect that Manitoba Hydro's competitive position would be significantly harmed in negotiations of work orders related to any delays.

The Independent Expert Consultant retained by the Board will have access to the information and will file a public report. Parties can pose Information Requests to the Independent Expert Consultant and can cross-examine the Independent Expert Consultant in the public oral hearing.

With respect to the Coalition's request for access to the response to Board Minimum Filing Requirement 155 and Addendum 08a, Manitoba Hydro states that this information has now been provided publicly except for contingency amounts and remaining risks.

Keeyask and Bipole III – Productivity Rates

Manitoba Hydro is seeking confidential treatment of information contained in the responses to Board Minimum Filing Requirements 143 and 144. Detailed productivity information comparing forecast versus actual productivity is redacted. This also affects the response to Coalition Information Response 1-208a. The Coalition is seeking access to the response to that Information Request as well as the full response to Board Minimum Filing Requirement 143.

Manitoba Hydro states that a contractor's competitive position in the market could be harmed when bidding on future work if detailed productivity rates are disclosed. Specifically, a competitor to Manitoba Hydro's contractor could unfairly best the forecasted productivity rate in a future bid. Manitoba Hydro also submits that disclosure could harm the Utility if such manipulative activity takes place in response to Manitoba Hydro's Requests for Proposals.

Board Findings

The Board finds that the information in the responses to these Minimum Filing Requirements and Coalition Information Request Coalition/MH 1-208a will be received in confidence by the Board and the Independent Expert Consultant pursuant to Rule 13(2)(a)(i) and 13(2)(a)(ii) due to the potential for disclosure to cause undue financial loss and significant harm to the competitive positions of the contractors. There will be no further disclosure to the Interveners or on the public record.

The Independent Expert Consultant retained by the Board will have access to the information and will file a public report. Parties can pose Information Requests to the Independent Expert Consultant and can cross-examine the Independent Expert Consultant in the public oral hearing.

Keeyask and Bipole III – Risk Registry

A risk registry outlines the risks associated with a project, identifies parties associated with those risks and provides details regarding strategic actions to be taken and timeframes associated with any actions. Board Minimum Filing Requirements 129 and 169 require filing of copies of the risk registry for the Keeyask and Bipole III projects together with a description regarding risks that have materialized and how Manitoba Hydro addressed the risk and its financial impact. Manitoba Hydro is seeking confidential treatment of the risk registries in their entirety, as well as redactions to information contained in the summary information for Keeyask, including mitigation actions and estimated dollar values. Manitoba Hydro explains that it is not necessary to redact the summary information for the Bipole III project because the project is closer to completion – the time for material risks has effectively passed, mitigation actions have been taken and financial impacts are known.

The Coalition is seeking access to the Keeyask Risk Registry (Board Minimum Filing Requirement 129).

Board Findings

The Board finds that the redacted portions of the responses to Board Minimum Filing Requirements 129 and 169 will be received in confidence by the Board and the Independent Expert Consultant. There will be no further disclosure to the Interveners or on the public record. The Rule 13(2)(a)(i) criterion is met as disclosure would allow parties adverse in interest to Manitoba Hydro to undermine Manitoba Hydro's mitigation plans and further their own interests at the expense of Manitoba Hydro. The Rule 13(2)(a)(ii) criterion is also met as disclosure is likely to negatively impact future negotiations, accommodations or arrangements associated with mitigating risks. In addition, the information has also been consistently treated as confidential, including the confidential treatment of the Keeyask Risk Registry during the NFAT, and the public interest in disclosure is outweighed by the interest in confidentiality.

The Independent Expert Consultant retained by the Board will have access to the information and will file a public report. Parties can pose Information Requests to the Independent Expert Consultant and can cross-examine the Independent Expert Consultant in the public oral hearing.

Keeyask and Bipole III – Estimate Reports, Summary Reports and Reports to Management

Manitoba Hydro is seeking confidential treatment of the responses or redacted portions of responses to Board Minimum Filing Requirements 130, 134, 135, 136, 139, 140, 161, 162, 164 and 166. Although Manitoba Hydro initially sought confidential treatment of the response to Board Minimum Filing Requirement 160, it now indicates that it will file the full response on the public record.

In addition to Board Minimum Filing Requirement 160, the Coalition is seeking access to the responses to Board Minimum Filing Requirements 161 and 164.

The responses to these Minimum Filing Requirements include a mix of externally commissioned and internally prepared reports and documents, including information related to project target prices, project contingencies and contingency breakdowns, project designs, bids for cost items and total bids, and contract values and forecast expenditures to completion. Redacted copies of Board Minimum Filing Requirements 136, 139, 160, 161, 164 and 166 have been filed on the public record, while the remaining responses have not been filed publicly. With respect to Board Minimum Filing Requirement 164, which requests a copy of the Rashwan Consultant report on the Bipole III cost estimate, the report itself has been filed on the public record but the appendices have been redacted. The appendices include Rashwan Consultant's base estimate, contingency estimate, escalation estimate and total estimate together with recommendations for project delivery strategy, and details regarding Budgetary Estimate and Management Reserve for project components. Manitoba Hydro states that the redactions are appropriate as the detailed estimate documents in the appendices do not add context to report itself.

Board Findings

The Board finds that the responses or portions thereof to Board Minimum Filing Requirements 130, 134, 135, 136, 139, 140, 161, 162 and 166 will be received in confidence by the Board and the Independent Expert Consultant retained by the Board. There will be no further disclosure to the Interveners or on the public record. The information includes the proprietary information of contractors, including bids and pricing. Disclosure could significantly harm a contractor's competitive position in the market when bidding on future work, and therefore Rule 13(2)(a)(ii) is met. Disclosure of cost breakdowns and contingency risks could also put Manitoba Hydro at risk of undue financial loss. The Independent Expert Consultant retained by the Board will have access to the information and will file a public report. Parties can pose Information Requests to the Independent Expert Consultant and can cross-examine the Independent Expert Consultant in the public oral hearing.

The Board finds that the response to Board Minimum Filing Requirement 164 will not be received in confidence and will be filed in its entirety on the public record. The Rule 13 criteria are not met for the information contained in the appendices to the Rashwan Consulting Report on Bipole III. The project is almost completed and equipment choices have all been made. Manitoba Hydro has not demonstrated a continuing need for confidentiality in the information. Manitoba Hydro's statement that the appendices do not add context to the Report itself is not a valid justification under Rule 13.

Keeyask and Bipole III – Environmental and Regulatory License Costs

Manitoba Hydro is seeking confidential treatment of the redacted portions of the response to Board Minimum Filing Requirement 178. The response identifies various environmental monitoring, engagement and educational activities as well as net project costs related to construction conditions and tower placement and routing. Estimate values for the projects have been redacted.

Manitoba Hydro submits that the redacted portions of the responses should be received in confidence because the costs have been structured to satisfy specific license conditions and disclosure may serve to identify the treatment of specific affected parties including mitigation and compensation information by region. Manitoba Hydro argues that disclosure will negatively impact its ability to negotiate settlements and may also cause harm to relationships and potentially additional costs for those communities who perceive that they should be provided additional compensation in order to be equal to other communities.

Board Findings

The Board finds that the response to Board Minimum Filing Requirement 178 will not be received in confidence and the full response will be filed on the public record. The redactions obscure from the public record estimated values provided in aggregate. Manitoba Hydro's justification for confidential treatment does not explain why this aggregated information satisfies the Rule 13 criteria. While Manitoba Hydro submits that disclosure may serve to identify the treatment of specific affected parties, the Board does not accept that the risks asserted by Manitoba Hydro will materialize when the information sought to be received in confidence is not provided at a detailed project level or on the basis of specific parties.

Great Northern Transmission Line

Manitoba Hydro is seeking confidential treatment of the responses to Board Minimum Filing Requirements 20, 186, 188, 189 and 192. These responses relate to the construction of the Great Northern Transmission Line. A subsidiary of Manitoba Hydro, 6690271 Manitoba Ltd, and Minnesota Power are responsible for funding the costs of the project. Minnesota Power is the construction manager for the project.

The Coalition is seeking access to the responses to Board Minimum Filing Requirements 186, the Capital Project Justification for the project, and 187, the capital and operating cost responsibilities. The Manitoba Industrial Power Users Group argues that the full response to Board Minimum Filing Requirement 20 should be placed on the public record and submits that the information is Manitoba Hydro's own forecast of financial impacts.

Manitoba Hydro states that the responses should be received in confidence because the Construction Management Agreement between Minnesota Power and the subsidiary is subject to confidentiality provisions that allow disclosure only on prior written permission. Minnesota Power has consented to disclosure to the Board only. Manitoba Hydro argues that disclosure could irreparably harm Manitoba Hydro's relationship with Minnesota Power and could impact on future negotiations. The redactions in Board Minimum Filing Requirements 20, 186 and 187 protect Minnesota Power's commercially sensitive information, while the redactions in Board Minimum Filing Requirements 188 and 189 are the same as those made by Minnesota Power in filings with the Federal Energy Regulatory Commission. With respect to the Manitoba Industrial Power Users Group's position, Manitoba Hydro submits that the redacted information is derived from the Minnesota Power construction cost estimate and should be held in confidence until Minnesota Power releases the information in order to prevent reverse engineering.

Board Findings

The Board finds that the responses to and portions thereof of the Minimum Filing Requirements will be received in confidence by the Board and the Independent Expert Consultant retained by the Board. There will be no further disclosure to the Interveners or on the public record. The responses contain Minnesota Power's information and Minnesota Power would be harmed if the information was disclosed. Rule 13(2)(a)(i) and (2)(a)(ii) are met as disclosure would result in undue loss to Minnesota Power and significant harm to Minnesota Power's competitive position. In addition, the response to Board Minimum Filing Requirement 188 contains critical energy infrastructure

information and will be received in confidence for the reasons in the section on Critical Energy Infrastructure Information. With respect to the information contained in the response to Board Minimum Filing Requirement 20, the Board accepts Manitoba Hydro's submission that confidential treatment is necessary as disclosure would allow for information related to Minnesota Power's construction cost estimate to be reverse engineered.

Manitoba – Saskatchewan Transmission Project

Manitoba Hydro is seeking confidential treatment of the responses to Board Minimum Filing Requirements 195 and 196, which request the Capital Project Justification for the Manitoba – Saskatchewan Transmission Project and the Saskatchewan Power 100/140 MW Sale Evaluation. Both responses have been filed on the public record with information redacted. This also affects the responses to Coalition Information Requests Coalition/MH 1-213a and 1-213b, which the Coalition seeks access to in its Rule 13 Motion.

Manitoba Hydro states that it has obtained the consent of Saskatchewan Power to disclose the information to the Board but not on the public record or to Interveners. The Capital Project Justification discloses specific contract terms, including confidential information which is governed by confidentiality provisions in the contracts. The contracts prevent disclosure without prior written consent. Manitoba Hydro submits that compelled disclosure would harm Manitoba Hydro's relationship with Saskatchewan Power and the Saskatchewan government and could adversely affect the Utility's position in ongoing negotiations and undermine future negotiations.

Board Findings

The Board finds that the information in the Minimum Filing Requirements and Coalition Information Requests will be received in confidence by the Board and the Board-retained Independent Expert Consultants with no further disclosure to Interveners or on the public record. The information includes contracts governed by confidentiality

provisions and SaskPower has not consented to release to Interveners or the public more broadly. This meets the Rule 13(2)(a)(i) criterion. Rule 13(2)(a)(ii) is also met as disclosure could adversely affect Manitoba Hydro's ongoing and future negotiations with SaskPower. The Independent Expert Consultant retained by the Board will have access to the information and will file a public report. Parties can pose Information Requests to the Independent Expert Consultant and can cross-examine the Independent Expert Consultant in the public oral hearing.

Boston Consulting Group

Board Minimum Filing Requirement 72 seeks all Boston Consulting Group reports, presentations, scope of work, retainer, and correspondence to the Manitoba Hydro Electric Board. Manitoba Hydro is seeking confidential treatment of the redacted portions of the publicly filed response to Board Minimum Filing Requirement 72.

The Manitoba Industrial Power Users Group submits that the cost of the report and the rates paid to Boston Consulting Group should not be received in confidence. The total cost of the report is publicly available information and is set out in Manitoba Hydro's reply to the Manitoba Industrial Power Users Group. However, the Board finds that detailed information about the rates charged by Boston Consulting Group on a weekly and/or hourly basis will be received in confidence by the Board pursuant to Rule 13(2)(a) as disclosure could cause undue financial loss to the Boston Consulting Group and would harm significantly its competitive position in negotiating rates for services in the future.

With respect to the other portions of the response to Board Minimum Filing Requirement 72 for which Manitoba Hydro seeks confidential treatment, the Board examined the un-redacted response pursuant to Rule 13(4) to ascertain whether the claims to confidentiality would be sustained.

Board Findings

The Board finds that a number of the redactions pertain to information that is within the categories adjudicated in Manitoba Hydro's MFR Motion, including export contracts, export price forecasts, the internal load forecast, risks including project-specific contingencies, risks and mitigation strategies, third party information subject to statutory or contractual confidentiality requirements and Minnesota Power's information with respect to the Great Northern Transmission Line. This information will be treated consistently with the Board's decisions on these categories of information as previously explained in this Order. As a result, and except as identified below, the Board will receive all information redacted in the response to Board Minimum Filing Requirement 72 as confidential for the reasons identified in the decisions on the other categories of documents. This information will be received by the Board and the Board-retained Independent Expert Consultants only. There will be no further disclosure to the Interveners or on the public record.

The exceptions to confidential treatment of the redacted information contained in the response to Board Minimum Filing Requirement 72 are as follows:

- Page 33 of 615: The Board does not accept that the majority of the redactions on this page require confidential treatment as this is aggregate information that is already publicly available. Manitoba Hydro has not established how the redaction criteria relate to the information that it seeks to keep confidential. Manitoba Hydro has not explained why it now requires confidential treatment and therefore Rule 13(2) is not met. Due to the potential harm that disclosure could cause to Manitoba Hydro's competitive position, the Board will receive in confidence the information redacted in the two parentheses and the footnote on this page.
- Page 58 of 615: The Panel finds that the redaction on this page will not be received in confidence and will be filed on the public record. Manitoba Hydro has identified that the redaction on this page obscures information that is subject to statutory or contractual confidentiality provisions. It is not clear how this relates to

the redacted information and Manitoba Hydro has not provided sufficient explanation. Manitoba Hydro has therefore not justified how this information meets the criteria in Rule 13(2).

- Page 78 of 615: The Panel finds that the redaction on this page will not be received in confidence as this is information that is already publicly available. Manitoba Hydro has not established how the redaction criteria relate to the information that it seeks to keep confidential. Manitoba Hydro has not explained why it now requires confidential treatment and therefore Rule 13(2) is not met.
- Page 84 of 615: The Panel finds that the redaction on this page will not be received in confidence as this is information that is already publicly available. Manitoba Hydro has not established how the redaction criteria relate to the information that it seeks to keep confidential. Manitoba Hydro has not explained why it now requires confidential treatment and therefore Rule 13(2) is not met.
- Page 97 of 615: The Board finds that the redaction on this page will not be received in confidence and will be filed on the public record. Manitoba Hydro claims that the redacted information is specific data, forecast, terms, conditions, prices, revenue projections contained in reports, agreements, contracts, proposals, term sheets together with information which facilitates back calculation of the foregoing information. However, the redacted information has previously been publicly disclosed. Manitoba Hydro has not justified why this information currently requires confidential treatment under Rule 13(2)
- Page 98 of 615: The Board finds that it will receive all of the information redacted on this page in confidence except for the content of the “seasonal diversity” bullet. While the other redacted information on the page could facilitate back calculation of Manitoba Hydro’s forecast, price and revenue information, the information in the “seasonal diversity” bullet has previously been publicly disclosed. Manitoba Hydro has not justified why this information currently requires confidential treatment under Rule 13(2).

- Page 114 of 615: The Board finds that the redaction on this page will not be received in confidence and will be filed on the public record. While Manitoba Hydro claims that the redactions are to protect sensitive relationship management information, the Utility has not established how this relates to the information. Rule 13(2) is therefore not met.
- Page 191 of 615: The Panel finds that the redaction on this page will not be received in confidence as this is information that is already publicly available. Manitoba Hydro has not established how the redaction criteria relate to the information that it seeks to keep confidential. Manitoba Hydro has not explained why it now requires confidential treatment and therefore Rule 13(2) is not met.
- Page 310 of 615: The Board finds that the redaction on this page will not be received in confidence and will be filed on the public record. The redacted information is disclosed elsewhere in the Minimum Filing Requirement response. The Utility has not justified why the redacted information on this page requires confidential treatment under Rule 13(2).
- Page 363 of 615: The Board finds that the information redacted in the first bullet will not be received as confidential. This information is disclosed elsewhere in the response to this Minimum Filing Requirement. The Utility has not justified why the redacted information in the first bullet requires confidential treatment under Rule 13(2). With respect to the information in the third bullet, only the detailed cost information should be redacted. Disclosure of the detailed cost information in the third bullet could cause Manitoba Hydro undue financial harm and cause harm to its competitive position. The information in the second bullet will be received as confidential by the Board and Board-retained Independent Expert Consultant as disclosure could cause Manitoba Hydro undue financial harm and cause harm to its competitive position.

- Page 365 of 615: The Board finds that the information redacted in the box on the right-hand side of the page will be received as confidential. Disclosure could cause Manitoba Hydro undue financial harm and cause harm to its competitive position. The Board finds that the information redacted under the column labeled as “Scenarios” will not be received as confidential. This information is disclosed elsewhere in the response to the Minimum Filing Requirement. The Utility has not justified why the redacted information on this page requires confidential treatment under Rule 13(2).
- Page 408 of 615: The Board finds that the redaction on this page will not be received in confidence and will be filed on the public record. While Manitoba Hydro claims that the redaction is to protect power contracts, revenue and price forecast information, it is not clear how this relates to the redacted information and Manitoba Hydro has not provided sufficient explanation. Manitoba Hydro has therefore not justified how this information meets the criteria in Rule 13(2).
- Page 484 of 615: The Board finds that the redaction of the title on this page will not be received in confidence and will be filed on the public record. This information is publicly available elsewhere. The Utility has not justified why this information currently requires confidential treatment under Rule 13(2). The remainder of the page will be received as confidential by the Board as disclosure could cause Manitoba Hydro undue financial harm and cause harm to its competitive position.
- Page 526 of 615: The Board finds that the redaction of the information contained in the main bullet and the sub-bullet on the right-hand side of this page will not be received in confidence and will be filed on the public record. This information is publicly available elsewhere. The Utility has not justified why this information currently requires confidential treatment under Rule 13(2). The remainder of the page will be received as confidential by the Board as disclosure could cause Manitoba Hydro undue financial harm and cause harm to its competitive position.

- Page 550 of 615: This page is the same as page 484 of 615. The Board finds that this page will be given the same treatment as page 484, as set out above.
- Page 609 of 615: This page is the same as page 526 of 615. The Board finds that this page will be given the same treatment as page 526, as set out above.

Manitoba Hydro's IR Motion

Manitoba Hydro is seeking confidential treatment of the responses or portions thereof to Board Information Requests PUB/MH 1-6a, 1-43, 1-50a-c, 1-51, 1-52 and 1-131b-c.

Board Information Request PUB/MH 1-6a

This Information Request seeks the Keyask Recovery Plan, reports, and presentations by and to BBE Hydro Constructors LP. Manitoba Hydro has not filed a redacted version of the response on the public record. Manitoba Hydro states that the recovery plan provides the Utility with a strategy to respond to project delays and cost overruns for the Keyask Project.

Manitoba Hydro states that the response to Board Information Request PUB/MH 1-6a is confidential and commercially sensitive as it contains:

- Party/Contract Specific Detail provided to Manitoba Hydro with an expectation that confidentiality will be maintained - Detailed business arrangements with third parties to construct/operate/own facilities. Specific pricing, terms, conditions in contracts or third party responses to request for proposals related to the construction procurement of a generation, transmission or distribution resource on the MH system;
- Documents Related to Risk/Benefit Identification, Quantification and Strategic Actions - Sales and marketing strategies/initiatives;

- Sensitive Relationship Management Information – Employment, labour relations, counterparty or stakeholder information, which if disclosed could result in labour issues, work stoppages, contract breach or demands for renegotiation.

Board Findings

The Board finds that the information contained in the response to Board Information Request PUB/MH 1-6a will be received in confidence by the Board and the Board-retained Independent Expert Consultant pursuant to Rule 13(2)(a) and 2(b)(ii) and (iii). The information relates to strategies to address risks, disclosure of which could lead to undue financial loss and significant harm to Manitoba Hydro's competitive position. The response also includes confidential legal opinions regarding contractual rights and obligations, which has consistently been treated as confidential by Manitoba Hydro. The public interest in disclosure is outweighed by Manitoba Hydro's interest in confidentiality.

Board Information Request PUB/MH 1-43

This Information Request seeks information about whether Manitoba Hydro is insured for the risks identified in the Corporate Risk Map and, for each of the risks that are insured, identification of the insurance coverage limits. Manitoba Hydro has not filed a public version of the response to the Information Request other than a brief explanation as to why the requested information is confidential.

Manitoba Hydro states that the response to Board Information Request PUB/MH 1-43 is confidential as it contains:

- Documents Related to Risk/Benefit Identification, Quantification and Strategic Actions – Identification of risks and benefits with details on relative significance, quantification, strategic actions and timeframes. Identification of specific parties who have an interest in or ability to influence the risk/benefit outcomes

- Sensitive Relationship Management Information – Employment, labour relations, counterparty or stakeholder information, which if disclosed could result in labour issues, work stoppages, contract breach or demands for renegotiation.

Board Findings

The Board finds that the information contained in the response to Board Information Request PUB/MH 1-43 will be received in confidence pursuant to both Rule 13(2)(a) criteria. There will be no further disclosure to Interveners or on the public record. Disclosure of Manitoba Hydro's insurance coverage, liability limits and deductibles could be used against the Corporation when settling claims and to undermine negotiations. It could also negatively impact competition when Manitoba Hydro goes to market for liability insurance coverage.

Board Information Request PUB/MH 1-50a-c

This Information Request relates to dependable energy and capacity premiums in Manitoba Hydro's export price forecasts.

Manitoba Hydro states that the response to Board Information Request PUB/MH 1-50a-c is redacted as it contains:

- Power Contracts, Revenue & Price Forecast Information – specific data, forecast, terms, conditions, prices, revenue projects contained in reports, agreements, contracts, proposals, term sheets together with information which facilitates back calculation of the foregoing information
- Power Contracts, Revenue & Price Forecast Information – Manitoba Hydro commodity price forecasts for electricity, natural gas and carbon including annual pricing escalators including third party proprietary input forecasts
- Sensitive Analysis and Operational Data Facilitating Back Calculation – Breakdown of export sales quantity or revenue by product type, customer or province.

Board Findings

The Board finds that it will receive the information contained in the redacted portions of the response to Board Information Request PUB/MH 1-50a-c in confidence pursuant to Rule 13(2)(a)(ii). The redacted information relates to export premiums and is confidential for the reasons set out in the Export Contracts and Export Price Forecast sections of this decision.

Board Information Request PUB/MH 1-51

This Information Request asks Manitoba Hydro to file current and impending export commitments in addition to those commitments that commence in 2020/21.

Manitoba Hydro states that the response to Board Information Request PUB/MH 1-51 is redacted as it contains:

- Party/Contract Specific Detail provided to Manitoba Hydro with an expectation that confidentiality will be maintained – specific domestic customer load information, current or forecast
- Party/Contract Specific Detail provided to Manitoba Hydro with an expectation that confidentiality will be maintained – Information subject to statutory or contractual confidentiality provisions
- Power Contracts, Revenue & Price Forecast Information – specific data, forecast, terms, conditions, prices, revenue projects contained in reports, agreements, contracts, proposals, term sheets together with information which facilitates back calculation of the foregoing information
- Sensitive Analysis and Operational Data Facilitating Back Calculation – Committed and uncommitted capacity and energy surplus quantities for export

- Sensitive Analysis and Operational Data Facilitating Back Calculation – Breakdown of export sales quantity or revenue by product type, customer or province.

Board Findings

The Board finds that it will receive the information contained in the redaction portions of the response to Board Information Request PUB/MH 1-51 in confidence pursuant to Rule 13(2)(a)(ii) and 2(b)(ii) and (iii). There will be no further disclosure to Interveners or on the public record. The response relates to export sales and is confidential for the reasons set out in the Export Contracts section of this decision.

Board Information Request PUB/MH 1-52

This Information Request asks Manitoba Hydro to file copies of specific export sales contracts. Manitoba Hydro states that the response to Board Information Request PUB/MH 1-52 is redacted as it contains:

- Party/Contract Specific Detail provided to Manitoba Hydro with an expectation that confidentiality will be maintained – Information subject to statutory or contractual confidentiality provisions
- Power Contracts, Revenue & Price Forecast Information – specific data, forecast, terms, conditions, prices, revenue projects contained in reports, agreements, contracts, proposals, term sheets together with information which facilitates back calculation of the foregoing information
- Sensitive Relationship Management Information – Employment, labour relations, counterparty or stakeholder information, which if disclosed could result in labour issues, work stoppages, contract breach or demands for renegotiation.

Board Findings

The Board finds that it will receive the response to Board Information Request PUB/MH 1-51 in confidence pursuant to Rule 13(2)(a)(ii) and 2(b)(ii) and (iii). The response includes export sales contracts and is confidential for the reasons set out in the Export Contracts section of this decision.

Board Information Request PUB/MH 1-131b-c

This Information Request seeks the derivation of the marginal values and an explanation of whether the changes in the export revenue forecast are reflected in the current marginal value. Manitoba Hydro states that the response to Board Information Request PUB/MH 1-131b-c is redacted as it contains:

- Sensitive Analysis and Operational Data Facilitating Back Calculation – Resource planning assumptions and analysis including the generation component of marginal cost.

The Coalition is seeking access to the response to Board Information Request PUB/MH 1-131-b as it relates to the levelized cost at a 4.15% Discount Rate for all-in summer and winter marginal values. While the Coalition accepts that the annual values for generation marginal cost can remain redacted as they are reflective of annual export prices, it argues that the levelized values for summer and winter should represent a calculated result at an aggregate level for many years of values. The Coalition argues that this information should be public and states that disclosure is unlikely to harm Manitoba Hydro's financial health or competitive position.

The Green Action Centre states that the position taken by Manitoba Hydro has an effect on the response to Green Action Centre Information Requests GAC/MH 1-27, GAC/MH 1-30 and GAC/MH 1-34. The Green Action Centre submits that this annual values information is internal non-confidential work product and ought to be released. The Green Action Centre also argues that utilities routinely provide forecasts of market prices. The refusal to provide a breakout of the avoided costs between generation

energy costs and generation capacity costs leaves the Green Action Centre experts unable to tell how the avoided or marginal costs would vary between classes with different load factors or by time of use. The Green Action Centre experts are also unable to evaluate seasonal rate design due to redaction of Manitoba Hydro's seasonal marginal cost forecast.

In Reply to the Coalition and the Green Action Centre, Manitoba Hydro states that its generation component of marginal cost represents the bottom line in its sale negotiations, below which it would not enter into a sale. The seasonal and capacity components of marginal cost are also confidential because they are derived from and with the generation component of marginal cost. Manitoba Hydro also submits that the information should be treated confidentially due to the possible development of a Midcontinent Independent System Operator seasonal resource adequacy construct or capacity market. Manitoba Hydro also says that it has answered the Green Action Centre's questions in the response to Green Action Centre Information Request GAC/MH 1-41.

Board Findings

The Board finds that it will receive the information contained in the response to Board Information Requests PUB/MH 1-131b and 1-131c in confidence pursuant to Rule 13(2)(a)(ii). The Board-retained Independent Expert Consultant will also have access on a confidential basis. The information in the response is derived from or closely related to the electricity export price forecast, which the Board has accepted is confidential under Rule 13(2).

The Coalition's Rule 13 Motion

In addition to the responses that the Coalition seeks access to that are adjudicated above, the Coalition seeks a response to its Information Request Coalition/MH 1-208j, which requests the Recovery Plan Strategy Report for Keeyask.

Board Findings

The Board finds that this information will be received in confidence by the Board and the Independent Expert Consultant pursuant to Rule 13(2)(a)(i) and (ii). If disclosed, the information could cause Manitoba Hydro undue financial loss and significantly harm Manitoba Hydro's competitive position. Disclosure is likely to negatively impact future negotiations, accommodations or arrangements associated with mitigating risks. Disclosure would allow parties adverse in interest to Manitoba Hydro to undermine Manitoba Hydro's mitigation plans and further their own interests at the expense of Manitoba Hydro.

The Independent Expert Consultant retained by the Board will have access to the information and will file a public report. The Coalition can pose Information Requests to the Independent Expert Consultant and can cross-examine the Independent Expert Consultant in the public oral hearing.

4.0 IT IS THEREFORE ORDERED THAT:

1. Manitoba Hydro's Motion seeking confidential treatment of certain of the responses or portions thereof to the Board's Minimum Filing Requirements is granted in part, as detailed above and in Appendix "A" to this Order;
2. Manitoba Hydro's Motion seeking confidential treatment of certain of the responses or portions thereof to the Board's Information Requests is granted, as detailed above and in Appendix "B" to this Order;
3. The Coalition's Rule 13 Motion seeking access to Manitoba Hydro's responses to certain of the Board's Minimum Filing Requirements, the Board's Information Requests, and the Coalition's Information Requests is granted in part, as detailed above and in Appendix "C" to this Order; and

4. Manitoba Hydro file responses to Minimum Filing Requirements and Information Requests or portions thereof that the Board has ordered be placed on the public record within three business days of the issuance of this Order.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca.

THE PUBLIC UTILITIES BOARD

"Marilyn Kapitany"
Vice-Chair

"Darren Christle"
Secretary

Certified a true copy of Order No. 112/17
issued by The Public Utilities Board



Secretary

Appendix "A"

<u>Manitoba Hydro MFR Motion</u>		
MFR #	Board Order	Treatment of Information
<u>Export Contracts, Revenues, and Related Information</u>		
24	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
82	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
83	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
84	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
197	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
198	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
<u>Export Price Forecasts</u>		
79	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
<u>Internal Load Forecast</u>		
97	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only

Corporate Risk Management Report

9	Manitoba Hydro Motion Granted in Part	<p>The portions of the response on export prices and security of assets will be received in confidence by the Board and the Board's Independent Expert Consultants.</p> <p>The portions of the response containing references which could harm third party relationships and Manitoba Hydro negotiations and references to regulatory, licensing and legal risks will not be received in confidence and will be placed on the public record.</p>
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Credit Rating Agency Reports

60 and 78i)	Manitoba Hydro Motion Granted	<p>Received by the Board in confidence on the conditions that Morrison Park Advisors be given access to the Moody's Reports online, with the cost included in the final bills for the Coalition and MIPUG, and that Manitoba Hydro supply the Coalition and MIPUG with one copy each of the requested Standard and Poor's Reports on the condition that the Reports be used for the purpose of the GRA, not be reproduced or distributed, and that any commercially sensitive material contained within the Reports be kept confidential.</p> <p>The Board directs that Manitoba Hydro provide the Coalition and MIPUG with the Standard and Poor's Reports on receipt of written acknowledgement of agreement from the Coalition and MIPUG to the conditions ordered by the Board.</p>
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Construction of Major Projects*Keeyask and Bipole III – Tenders, Proposals, Bids and Contracts*

131	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
133	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
137	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
138	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
141	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
156	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
159	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
163	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only

Construction of Major Projects*Keeyask and Bipole III – Critical Energy Infrastructure Information*

156	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
157	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
159	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
163	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
188	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only

Construction of Major Projects*Keeyask and Bipole III – Reserves, Contingencies, Expenditures and Capital Costs*

123	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
142	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
145	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
155	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only

165	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
167	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
168	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
<u>Construction of Major Projects</u> <i>Keeyask and Bipole III – Productivity Rates</i>		
143	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
144	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
<u>Construction of Major Projects</u> <i>Keeyask and Bipole III – Risk Registry</i>		
129	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
169	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only

Construction of Major Projects*Keeyask and Bipole III – Estimate Reports, Summary Reports and Reports to Management*

130	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
134	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
135	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
136	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
139	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
140	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
161	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
162	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
164	Manitoba Hydro Motion Denied	The complete response will be filed on the public record
166	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only

<i>Keeyask and Bipole III – Estimate Reports, Summary Reports and Reports to Management</i>		
178	Manitoba Hydro Motion Denied	The complete response will be filed on the public record.
<u>Great Northern Transmission Line</u>		
20	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
186	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
188	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
189	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
192	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
<u>Manitoba-Saskatchewan Transmission Project</u>		
195	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
196	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only

Boston Consulting Group

72	Manitoba Hydro Motion Granted in Part	<p>The Information will be filed with the Board and Board-retained Independent Expert Consultant only, except as follows:</p> <ul style="list-style-type: none">• Page 33 of 615: the information will be placed on the public record except for the information in the two parentheses and the footnote• Page 58 of 615: the redacted information will be placed on the public record• Page 78 of 615: the redacted information will be placed on the public record• Page 84 of 615: the redacted information will be placed on the public record• Page 97 of 615: the redacted information will be placed on the public record• Page 98 of 615: the information redacted in the “seasonal diversity bullet” will be placed on the public record• Page 114 of 615: The redacted information will be placed on the public record• Page 191 of 615: the redacted information will be placed on the public record• Page 310 of 615: The redacted information will be placed on the public record• Page 363 of 615: The information redacted in the first bullet will be placed on the public record. The information redacted in the third bullet will be placed on the public record except for the detailed cost information.• Page 365 of 615: The information redacted in the column labeled “Scenario” will be placed on the public record.• Page 408 of 615: The redacted information will be placed on the public record.• Page 484 of 615: The title of this page will be placed on the public record.• Page 526 of 615: The information redacted in the main bullet and sub-bullet on the right-hand side of the page will be placed
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		<p>on the public record.</p> <ul style="list-style-type: none">• Page 550 of 615: The title of this page will be placed on the public record.• Page 609 of 615: The information redacted in the bullet on the right-hand side of the page will be placed on the public record.
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Appendix "B"

<u>Manitoba Hydro's IR Motion</u>		
IR #	Board Order	Treatment of Information
PUB/MH 1-6a	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
PUB/MH 1-43	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
PUB/MH 1-50a-c	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
PUB/MH 1-51	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
PUB/MH 1-52	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only
PUB/MH 1-131b-c	Manitoba Hydro Motion Granted	Filed with the Board and Board-retained Independent Expert Consultant only

Appendix "C"

<u>Coalition Rule 13 Motion</u>		
MFR or IR #	Board Order	Treatment of Information
Coalition/MH 1-101a-c	Coalition Motion Denied	Manitoba Hydro will publicly respond to Coalition/MH 1-101a Coalition/MH 1-101b-c filed with the Board and Board-retained Independent Expert Consultant only
PUB MFR 83	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
PUB MFR 79	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
PUB MFR 1- 50b)	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
Coalition/MH 1-56	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
Coalition/MH 1-57	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
Coalition/MH 1-51	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
Coalition/MH 1-52	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
Coalition/MH 1-55	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only

Coalition/MH 1-54	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
Coalition/MH 1-29	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
PUB MFR 60 and 78i)	Coalition Motion Granted	<p>Received by the Board in confidence on the conditions that Morrison Park Advisors be given access to the Moody's Reports online, with the cost included in the final bills for the Coalition and MIPUG, and that Manitoba Hydro supply the Coalition and MIPUG with one copy each of the requested Standard and Poor's Reports on the condition that the Reports be used for the purpose of the GRA, not be reproduced or distributed, and that any commercially sensitive material contained within the Reports be kept confidential.</p> <p>The Board directs that Manitoba Hydro provide the Coalition and MIPUG with the Standard and Poor's Reports on receipt of written acknowledgement of agreement from the Coalition and MIPUG to the conditions ordered by the Board.</p>
PUB MFR 60b)	Coalition Motion Denied	The Minimum Filing Requirement has been answered in full.
PUB MFR 155	Coalition Motion Denied	<p>Filed with the Board and Board-retained Independent Expert Consultant only</p> <p>Addendum 08a has been filed publicly</p>
PUB MFR 143	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only

Coalition/MH 1-208a)	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
PUB MFR 129	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
PUB MFR 160	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
PUB MFR 161	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
PUB MFR 164	Coalition Motion Granted	The complete response will be filed on the public record
PUB MFR 186	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
PUB MFR 187	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
Coalition/MH 1-213a-b	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
PUB/MH 131b)	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only
Coalition/MH 1-208j)	Coalition Motion Denied	Filed with the Board and Board-retained Independent Expert Consultant only