

December 5, 2017

Business Council of Manitoba  
Suite 800  
One Lombard Place  
Winnipeg, Manitoba R3B 0X3

Dear Mr. Leitch;

Re: **Budget Variance Request – Manitoba Hydro General Rate Application 2017/18 & 2018/19**

In Order 70/17, the Board directed that any approved Intervener that determines that its approved budget will be exceeded by 10% or more was to notify the Board, explain the need to revise the budget, and propose the amount of additional funding being sought.

By letter dated August 25, 2017, the Board approved a budget for the Business Council of Manitoba's participation in the Manitoba Hydro General Rate Application ("GRA") in the amount of \$62,500 for legal fees. On November 22, 2017, the Business Council of Manitoba wrote to the Public Utilities Board ("Board") seeking approval of a budget variance request for an additional \$71,250 (plus taxes) for its legal budget.

The Business Council of Manitoba states that the budget variance is required because more time has been expended by legal counsel than was anticipated, including to review evidence and materials filed in the GRA, largely because the Business Council of Manitoba was not approved for funding of experts to assist with its intervention in the proceeding. It also explains that, as a new Intervener, it was not in a good position to anticipate the level of involvement necessary to prepare for the GRA hearing.

As of the date of its letter to the Board, the Business Council of Manitoba has invoiced legal fees, third party costs, and taxes to a total of \$57,273.21. As the hearing has not yet commenced, the Business Council of Manitoba therefore expects to exceed its approved budget. Specifically, it expects that the hearing will require 150 hours of Senior Counsel time and 150 hours of Junior/Intermediate Counsel time at the Board-approved rates. The Business

Council of Manitoba has calculated this as requiring an additional budget of \$71,250.00 for legal fees (before taxes).

After receiving the Business Council of Manitoba's budget variance request, the Board sought comments from Manitoba Hydro. On November 24, 2017, Manitoba Hydro provided its comment that it has no objection to the Business Council of Manitoba's requested budget increase.

By this letter, the Board adjudicates the Business Council of Manitoba's budget variance request. The Board approves an additional budget for legal fees in the amount of \$60,000, bringing the Business Council of Manitoba's pre-tax budget to \$122,500.

The Board notes that the Business Council of Manitoba's budget was set by the Board at \$62,500 as this amount reflected the scope of work and the anticipated number of hearing days for the Business Council of Manitoba's participation on the items within its scope of work. The Board did not approve the Business Council of Manitoba's budget for expert witnesses because the Business Council of Manitoba did not identify the witnesses for which funding was required and requested budget amounts that did not appear linked to the rates of the witnesses. The Board also found that the areas that the Business Council of Manitoba proposed to be the subject of expert evidence were being addressed by other experts and Interveners in the proceeding and the Business Council of Manitoba did not explain as to how its experts would bring added value.

While the Business Council of Manitoba applied to the Board to Review and Vary the Board's budget decision to deny funding for the Business Council of Manitoba to retain experts, that application was denied. The Board found that the Business Council of Manitoba had not raised substantial doubt as to the correctness of the Board's decision, had not raised new facts or circumstances not available at the time of the original adjudication, or that the Board's decision was prejudicial to the Business Council of Manitoba.

At the time of its original budget application and Review and Vary Application, the Business Council of Manitoba did not explicitly identify the need for funding of experts to assist in the Business Council of Manitoba's review of the materials filed in the proceeding and participation in written discovery processes; rather, the focus was on providing evidence on issues of interest to the Business Council of Manitoba. However, on review of the Business Council of Manitoba's budget variance request and Manitoba Hydro's comments on the request, the Board is satisfied that the denial of funding to retain experts has resulted in additional and unanticipated legal costs being incurred by the Business Council of Manitoba. The Board finds that, with preparation time and the time required for attendance at the hearing on the issues within the Business Council of Manitoba's approved scope, the Business Council of Manitoba's intervention will require the additional legal funding approved by this letter.

The Business Council of Manitoba is directed to allocate its total budget amount appropriately among its counsel and to make efforts to efficiently use its approved budget. Where Senior Counsel time is not required, time should be allocated so as to reduce overall legal costs.

The Board's decisions on Intervener budgets, including as set out in this letter, do not automatically entitle Interveners to a full cost award. The Business Council of Manitoba is reminded that it will have to file with this Board a complete Cost Application at the conclusion of this GRA proceeding that demonstrates compliance with the Board's requirements for participation as an Intervener in this proceeding, including as noted in Order 70/17.

Should any party have questions of clarification, please contact our office.

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 ("Rules"). The Board's Rules may be viewed on the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca)

Sincerely,



**Darren Christle**  
Secretary / Executive Director  
Manitoba Public Utilities Board

cc: Kevin Williams, Taylor MaCaffrey  
P. Ramage, MB Hydro  
G. Barnlund, Mb Hydro  
S. Gregoraschuk, MB Hydro  
Approved Interveners (as per attached list)  
Board Counsel