

July 13, 2020

Ms. Patricia J. Ramage
Legal Counsel
Manitoba Hydro
22 – 360 Portage Avenue
Winnipeg, MB R3C 0G8

and -

Past Interveners of Record (per attached list)

Re: Manitoba Hydro – First Nation On-Reserve Residential Customer Class

The Board acknowledges receipt of the attached letter dated June 23, 2020, from Manitoba Hydro (“Hydro”) in which Hydro advised that it plans to change, effective August 1, 2020, the rates currently being paid by customers in the First Nation On-Reserve Residential (“FNORR”) customer class.

Hydro’s letter states that in light of the Manitoba Court of Appeal’s decision to set aside the Board’s directive establishing the FNORR customer class, Hydro has prepared and attached revised rate schedules effective August 1, 2020 for the Board’s review. Specifically, Hydro states that, as of August 1, 2020, Hydro will eliminate the FNORR customer class, and the rates for former FNORR customers and Diesel Zone Residential customers will be changed to the June 1, 2019 rates approved by the Board for the Residential Class. These adjustments result in a 6.6% rate increase for former FNORR customers and Diesel Zone Residential customers. Hydro further advises in its letter that all rates included in the rate schedules “were approved in Board Order 75/19, and that no rates are changing and no new rates are being proposed”.

The Board’s Mandate to Review and Approve Rates

Section 25(1) of the Crown Corporations Governance and Accountability Act requires the Board to review rates for services provided by Hydro, and prohibits Hydro from implementing any changes in rates for services or any new rates for service without the approval of the Board. In addition, the Manitoba Court of Appeal confirmed that the rate-related provisions of The Public Utilities Board Act (“Board Act”) apply to Hydro rates and that the Board is mandated under the Board Act to review rates on the basis of whether they are just and reasonable.

In accordance with this mandate, the Board directs Hydro not to implement the revised rate schedules on August 1, 2020. The Board's review and approval of the changes in rates for the service provided to the FNORR customer class and for customers in the Diesel Zone Residential class is required.

In order to review the revised rate schedules and to ensure that the rates are consistent with the Court of Appeal's decision, the Board requires more information and clarification from Hydro. In addition, an August 1, 2020 implementation date will not allow the Board to seek comments regarding the revised rate schedules from past Interveners of Record in the 2017/18 & 2018/19 and 2019/20 General Rate Applications, including those representing the affected customer classes ("Interveners"). Once the Board has received Hydro's responses to the Board's questions and any comments from Interveners, the Board will decide whether a further process to review the revised rate schedules is necessary.

Background

In Order 59/18, the Board directed the creation of the FNORR customer class and approved a 0% rate increase for this class. The Board also ordered a 0% rate increase to apply to customers in the Diesel Zone Residential class. In that same Order, the Board approved a 3.6% average revenue increase for Hydro, and directed Hydro to calculate the required rates to achieve this approved revenue increase. The Board stated in Order 59/18 that despite the 0% rate increase for the FNORR customer class, "Manitoba Hydro is kept whole because the cost of the 0% rate increase for this new customer class has been factored into the level of the average general rate increase granted for the Test Year [3.6%] to all other customer classes".

As directed in Order 59/18, Hydro filed rate schedules that would achieve the approved revenue increase of 3.6%. By Order 68/18, the Board approved these rate schedules effective June 1, 2018. To recover the approved revenue increase of 3.6% and due to the revenue to cost coverage ratio rate adjustments, the Residential class rate increase approved was 4.04%.

In Order 69/19, the Board approved a 2.5% rate increase for most, but not all, customer classes, effective June 1, 2019. In that Order, the Board determined that no rate increase was required for Hydro's operations, and directed that all revenues from the 2.5% rate increases were to be placed in a deferral account for major capital projects that were currently under construction. The Board also approved a 0% rate increase for the FNORR customer class and for customers in the Diesel Zone Residential class. In Order 75/19, the Board approved rate schedules effective June 1, 2019 filed by Hydro that would achieve the 2.5% rate increases for the specified customer classes.

Hydro sought and was granted leave to appeal the Board's directive in Order 59/18 to create the FNORR customer class ("Directive 6"). In its decision dated June 9, 2020, the Manitoba Court of Appeal held that Board exceeded its jurisdiction in issuing Directive 6 and accordingly set aside Directive 6. The Court of Appeal stated in its decision that the 0% rate increase applied to the FNORR customer class was subsidized by rates paid by other ratepayers. The Court stated that establishing the FNORR customer class meant that "all other customer classes must pay more for the provision of power to account for

the shortfall resulting from the zero per cent increase to prices charged to the FNORR customer class”.

The Board’s Questions for Hydro

The Board requires additional information and clarification from Hydro to review the proposed August 1, 2020 revised rate schedules. The Board has set out a series of questions below, and in order to ensure an efficient process, asks that Hydro provide responses to the Board and Interveners copied on this letter no later than July 20, 2020 to permit the Interveners of Record to submit any comments by July 27, 2020.

1. In its letter, Hydro states that it is not seeking to “retroactively recover the estimated \$5.5 million of foregone revenues from the former FNORR customers for the fiscal periods 2018/19 through to 2020/21 as doing so would increase the financial impacts experienced by these customers”. Provide the following:
 - a. calculations demonstrating the foregone revenues from FNORR and Diesel Zone Residential customers separately from maintaining the August 1, 2017 rates for those customers effective both June 1, 2018 and June 1, 2019, and for each set of these customers and by fiscal year, demonstrating the total of \$5.5 million foregone from these customers,
 - b. calculations demonstrating the additional revenues recovered from other customer classes, by fiscal year and by customer class, on account of maintaining the August 1, 2017 rates for FNORR and Diesel Zone Residential customers effective June 1, 2018 and the Board’s approval of a 3.6% general revenue increase for Hydro, and
 - c. calculations demonstrating the additional revenues recovered from other customer classes, by fiscal year and by customer class, on account of maintaining the August 1, 2017 rates for FNORR and Diesel Zone Residential customers effective June 1, 2019.
 - d. In Hydro’s view:
 - i. were the rates effective June 1, 2018 for other customer classes designed to recover the approved revenue increase of 3.6%, including the revenues foregone from the FNORR and Diesel Zone Residential customers on account of maintaining the August 1, 2017 rates for those customers in that year?
 - ii. were the rates effective June 1, 2019 for other customer classes designed to recover the 2.5% rate increase to the Residential, General Service Small-Demand, General Service Medium, General Service Large, and Area & Roadway Lighting customer classes and to the grid portion of the Diesel Zone General Service rates, including the revenues foregone from the FNORR and Diesel Zone Residential customers on account of maintaining the August 1, 2017 rates for those customers in that year?

- iii. if Hydro's response to d(i) and/or d(ii) is yes, identify what revenues were foregone by Hydro and why Hydro says that it was not kept whole.
2. The rate for Diesel Zone Residential customers under tariff 2019-03 approved by the Board in Order 75/19 is 8.196 cents/kWh with a Basic Charge of \$8.08.
 - a. Please provide Hydro's rationale and basis for applying the current Residential rate to the Diesel Zone Residential Class;
 - b. Advise whether MH intends to change this rate without seeking approval from the Board.
3. Explain the basis for Hydro's statement that the revised rate schedules submitted by Hydro are not new or changed rates. In particular, why are these rates not new or changed for FNORR customers and Diesel Zone Residential customers?
4. Hydro states in its letter that the former FNORR customer class and Diesel Zone Residential customers will be subject to a 6.6% rate increase.
 - a. Will Hydro receive increased revenue from customers as a result of those rate increases?
 - b. If so, provide the additional revenues (for both 2020/21 and on an annualized basis) from migrating FNORR customers to the current Residential rate and amending the Diesel Zone Residential rates that will flow to i) general revenues and ii) the Major Capital Deferral Account.
5. Calculate rates for all customer classes as of June 1, 2018 based on the Order 59/18 decision to approve a 3.6% general revenue increase, assuming no FNORR class, no 0% increase to Diesel Zone Residential rates, and implementation of the differentiated rate increases that address revenue to cost coverage ratios that are outside the zone of reasonableness as directed in Order 59/18.
6. Using the recalculated rates from the prior request as the starting point, calculate rates for all customer classes as of June 1, 2019 based on the Order 69/19 decision to approve a 2.5% rate increase, assuming no FNORR class, no 0% increase to Diesel Zone Residential rates, and implementation of the differentiated rate increases that address revenue to cost coverage ratios that are outside the zone of reasonableness as directed in Order 69/19.
7. Based on the June 1, 2019 recalculated rates in the prior request, calculate the bill impacts for Residential customers including former FNORR and Diesel Zone Residential customers if those rates were implemented August 1, 2020.

Comments from Interveners

The Board seeks comments from Interveners regarding Hydro's revised rate schedules and whether they are consistent with the Court of Appeal's decision to set aside Directive 6. The Board asks Interveners to submit any comments by **July 27, 2020**.

Please address any questions of clarification you may have at this time to the attention of the writer.

Yours truly,

A handwritten signature in black ink that reads "Darren Christle". The signature is written in a cursive, flowing style.

Darren Christle, PhD, CCLP, P.Log., MCIT
Secretary/ Executive Director

Att.

cc: Bob Peters / Dayna Steinfeld / Kate Hart, Board Counsel
Brady Ryall, Board Advisor
Rachel McMillin, Assistant Associate Secretary
Odette Fernandes, Manitoba Hydro Counsel
Shannon Gregorashuk / Darryl Martin, Manitoba Hydro