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June 19, 2019

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

Dear Mr. Christle:

**RE: CENTRA GAS MANITOBA INC. ("CENTRA") 2019/20 GENERAL RATE APPLICATION –
RESPONSE TO KOCH RULE 13 MOTION**

Centra is in receipt of Koch Fertilizer Canada, ULC ("Koch")'s motion for access to confidential information relating to Tabs 10 and 11 of the Application filed June 14, 2019. This letter provides Centra's comments and reasons as to why this motion should be dismissed.

Timing of the Motion Results in Prejudice to all Participants and Undermines the Integrity of the Board's Hearing Process

On November 30, 2018, Centra filed its 2019/20 GRA with the Public Utilities Board ("Board" or "PUB") and a declaration of completion was issued on December 14, 2018. Koch applied to intervene in this proceeding both individually and as a member of the Industrial Gas Users ("IGU"). According to its Intervener Application, IGU's intervention on behalf of its four members sought to ensure Centra's rates are cost-based and fairly reflect the cost to serve each customer class. Similarly, Koch identified cost allocation methodology as an issue within its Intervener Application.

In its submission of January 23, 2019, Centra advised of its position that commercially sensitive information should not be provided to parties with competing business interests.

On January 24, 2019, the Board conducted a Pre-Hearing Conference with Centra and prospective interveners at which time Koch fully participated both individually and as a member of IGU and identified cost allocation issues as a particular concern to it. At the Pre-Hearing Conference, Centra advised that it considered Koch to be a commercial counter-party. The Board issued Hearing Order No. 24/19 on February 20, 2019 which included an approved

timetable as Appendix B. Among other things, the timetable established that all First and Second Round Intervener Requests (“IRs”) were due to be filed on April 12, and May 21, 2019 respectively. Additionally, all Interveners are to provide Pre-filed Written Evidence on June 21, 2019. Order No. 24/19 also included an Issues List which includes cost of service study results and methodology (allocation of costs to customer classes). The Board clearly contemplated that all cost allocation issues would be addressed within the established timetable.

Within Order No. 24/19, the Board specifically addressed the issue of confidential information by reiterating Centra’s position that it would not disclose commercially sensitive information to its commercial counter-parties, such as Koch, to prevent irreparable harm to Centra and its customers.

The cost allocation methodology and resulting rates that Koch now appears to be taking issue with have been known to it since the receipt of the Application. Similarly, and like any other Centra customer, Koch’s “unique customer characteristics and load profile” have been known to it from the outset of this proceeding. At any point after February 20, 2019, Koch could have sought clarification or advanced a motion with respect to the confidential filings made by Centra as part of the Application, as IGU did when it filed a motion on April 1, 2019 (on behalf of Koch as one of its members). Instead, Koch waited 114 days from Hearing Order No. 24/19, and seven days prior to the deadline for all interveners to provide pre-filed Written Evidence, to advance its motion. No explanation has been provided for the delay which is unreasonable in all of the circumstances and which Centra respectfully submits should not be permitted by this Board.

Centra, and other parties to the proceeding, have worked diligently to adhere to the Board’s timetable as established in Order No. 24/19. Koch’s motion effectively attempts to obtain a significant extension to the deadline for it to submit written evidence and to disrupt the entire Board timetable for the proceeding by requesting the suspension of the current process until a ruling is provided by the Board. Centra submits that granting any of the relief requested by Koch in its motion undermines the integrity of the Board’s hearing process to the detriment of Centra and all other parties to the proceeding who have relied upon, planned and prepared for the hearing in accordance with the timetable.

The Scope of this Hearing does not include a generic review of Centra’s Cost Allocation Methodology

Koch appears to now be advocating for a full and complete review of Centra’s cost allocation methodology. It has specifically requested the Board to establish a process to address all cost of service issues and possible alternative methodologies. This 2019/2020 GRA proceeding was never intended to be a full cost of service review.

Attempts now to convert this GRA proceeding into a full Cost of Service Study Methodology proceeding is inappropriate, unfair and would prejudice the vast majority of Centra’s customers

who stand to receive a rate reduction on November 1, 2019 (as opposed to August 1, 2019 as originally applied for by Centra).

Koch asserts that Centra's long-standing cost allocation methodology must be "wrong" based solely on the rate outcomes following from the model. Koch erroneously assumes that there is "cross-subsidization" inherent in Centra's model and suggests that Centra has arbitrarily allocated its revenue requirement without regard to fairness or equity. Centra submits there is nothing "wrong" with its cost allocation methodology or its use. As described within Tab 10 of the Application and PUB – Centra I-134, the cost allocation model is substantially the same as the methodology previously approved by the Board in its 2013/14 General Rate Application.

Centra submits that the magnitude of the proposed rate impact is not an indicator that its model is flawed. As explained in Centra's response to IGU-CENTRA II-3b-c-CONFIDENTIAL, [REDACTED]

[REDACTED] At that time Koch did not similarly suggest that something "must be wrong with the model" or that its approved model failed to provide predictable and stable rates.

Order 77/19 clearly established that only IGU's lawyer and consultants should be granted access to certain limited and specific confidential information

At page 7 of Order 77/19 the Board found:

"The Board finds that to assist the Board in Centra's 2019/20 GRA, IGU's lawyer and consultants should be granted access to the confidential information in Tabs 7, 10 and 11, provided they execute appropriate non-disclosure agreements and solicitor's undertakings"

....

"Under no circumstances are the individual members of IGU to be granted access to any confidential information."

Specific and select disclosure to IGU's lawyer (Mr. Hacault) and consultants (InterGroup – Mr. McLaren and Ms. Davies) was clearly permitted by the Board, on behalf of all four members of IGU as large volume consumers of natural gas in Manitoba. The Order did not provide that Gerdau, Koch, Maple Leaf Foods and Simplot's lawyers and consultants should be granted similar access to confidential information. In fact, Order 77/19 expressly prohibited any disclosure to individual members of IGU (i.e. Gerdau, Koch, Maple Leaf Foods or Simplot).

Centra acknowledges that the Koch motion only seeks to provide access to Koch's lawyer and consultant (Mr. Manning and Mr. Collins). Unlike the intervention of IGU, Mr. Manning and Mr.

Collins's proposed access is for the sole purpose of advocating on behalf of and for Koch, which purpose is inconsistent with the premise and intention of Order 77/19 of providing limited access to IGU to fulfil its independent role in the proceeding such to avoid and limit the potential harm to Centra and its ratepayers in the event of disclosure to a commercial counterparty such as Koch.

Duplication

After citing Koch as a member of IGU, the Board cited at page 3 of Order 77/19:

“The stated purpose of IGU's intervention is to ensure Centra's rates are cost-based and fairly reflect the cost to serve each customer class.”

Centra submits that Koch's proposed cost allocation expert evidence is the exact type of duplication the Board ordered the Interveners to avoid in Order 24/19. Centra has provided extensive information relating to its cost allocation methodology in its Application and in responses to information requests from the PUB, CAC and IGU (again on behalf of and with specific regard to Koch's circumstances). The Board is also being assisted in this proceeding by the consultants of CAC, IGU and the Board Advisors who are independently examining whether Centra's proposed rates are cost based and fairly reflect the cost to serve each customer class.

Protection of Commercially Sensitive Information

Centra reiterates its concerns expressed in response to the IGU Motion, namely its refusal to provide any confidential information to its commercial counterparties such as Koch who engages directly in the same natural gas supply and transportation markets as Centra (inclusive of Koch's legal counsel and professional consultants who provide a wide range of strategic advice to Koch, Koch's affiliates and other entities active in the upstream natural gas market). This concern is significantly heightened with respect to Koch (as compared to the legal counsel and consultants to the informal association IGU) as it and Centra have an existing North American Energy Standards Board (“NAESB”) base contract enabling the parties to transact directly and daily with each other in the natural gas market which they actively do. Similarly, Centra and Koch's U.S. affiliate, Koch Energy Services, LLC, are parties to a NAESB base contract and regularly transact with each other in the natural gas market.

Centra also reiterates its position that non-disclosure agreements and solicitor's undertakings by consultants and lawyers provide minimal protection in the event of any purposeful or inadvertent disclosure and that any enforceability of same would be virtually impossible. Increasing the number of individuals that receive confidential information, be it to lawyers, international consultants or employees significantly exacerbates these concerns and the probability of irreparable harm to Centra and its customers.

For all of the above noted reasons and as a matter of fairness, Centra respectfully requests that

the Board dismiss Koch's Motion. Suspending the timetable and schedule that was carefully established by the Board in Order 24/19 because of the last minute request of Koch, would be prejudicial and unfair to all parties to the proceeding.

If you have any questions or require clarification with respect to this submission, please contact the writer at 204-360-3257 or Paul Chard at 204-360-5146.

Yours truly,

MANITOBA HYDRO LEGAL SERVICES DIVISION

Per

A handwritten signature in cursive script, appearing to read "Brent A. Czarnecki". The signature is written in black ink and is positioned to the right of the word "Per".

BRENT A. CZARNECKI
Barrister & Solicitor

cc: Rachel McMillin, Assistant Associate Secretary
Bob Peters, Board Counsel
Dayna Steinfeld, Board Counsel
Intervenors of Record