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Via email and original to follow

Public Utilities Board of Manitoba  
400 - 330 Portage Avenue  
Winnipeg MB R3C 0C4

Attention: Mr. Darren Christle, Secretary and Executive Director

Dear Sirs/Mesdames:

Re: Request for reconsideration  
Our Matter No. 0163002 AFH

The Manitoba Industrial Power Users Group ("MIPUG") is in receipt of the Consumers Coalition letter of February 21 and the Public Utilities Board's ("Board") email of the same date asking for comment by February 22.

MIPUG has reviewed Hydro's filings of February 14, 2019 ("Partial Evidentiary Update") with similar concerns to the Consumers Coalition. In MIPUG's view the Partial Evidentiary Update filed by Manitoba Hydro ("Hydro") sets out new relevant material facts not available to Interveners at the December 19, 2018 pre-hearing conference which led to PUB Order 1/19.

In PUB Order 1/19, the PUB noted that this one-year application was "...unique given the absence of long-term financial forecast..." (see page 13 of Order 1/19). Also, in its letter of November 21, 2018, which is part of the procedural history leading to an abbreviated hearing, the Board also noted:

Hydro's letter states that it intends to seek the Board's approval of a one-year rate increase, effective April 1, 2019, sufficient to generate a minimum level of net income such that Hydro would avoid a projected net loss in the 2019/20 fiscal year.

MIPUG notes that based on the current financial information in the Partial Evidentiary Update, Hydro is projecting a positive net income even without any rate increase. The premise underlying the Hydro request for an abbreviated hearing no longer exists. MIPUG



submits that there is no longer a compelling reason to continue with this unique GRA which has no IFF to inform the Board as to what might be a just and reasonable rate increase, if any.

### **Relief sought**

MIPUG submits that the appropriate course of action is:

1. A termination of the current process, without a rate increase, pending the filing of a full General Rate Application ("GRA") by Hydro with the usual long-term financial forecast and evidence related thereto;
2. In the alternative, changing the current schedule so as to allow time for Hydro to file an IFF with a corresponding discovery process similar to the one contemplated in Order 1/19.

### **Request for Reconsideration**

When Hydro first filed their application for 2019/20 rates on November 30, 2018, it was expressly acknowledged that the filing was premised on the Board's finding, in their November 21, 2018 letter, that the Board was willing to consider Hydro's application notwithstanding that it failed to address the typical and required Minimum Filing Requirements for a proper GRA and did not include all normal regulatory stages in order to achieve an expedited rate increase determination.

The Board letter of November 21, 2018 was in response to a Hydro request, dated November 12, 2018. In that Hydro request, Hydro notes:

Manitoba Hydro intends to seek PUB approval of a one-year rate increase sufficient to generate a minimum level of net income such that the Corporation would avoid a projected net loss in the 2019/20 fiscal year. Manitoba Hydro is not presently in a position to submit a long-term financial forecast (IFF) (i.e., 2020/21 and thereafter) for review by the PUB. However, Manitoba Hydro's current financial projections indicate that, absent rate relief, the Corporation will experience a projected net loss in the 2019/20 fiscal year. Manitoba Hydro therefore proposes a limited review of the electric operations based upon information that is currently available to the Corporation as set out further below.



Hydro went on to indicate:

Subject to the PUB's concurrence with the process outlined herein, Manitoba Hydro will file an application on the basis of its 2018/19 outlook and 2019/20 budget approved by the Manitoba Hydro-Electric Board on October 26, 2018 ...

Finally, Hydro noted the process should be focused given that it would only:

... review an application limited to the financial information noted above and seeking only to generate a minimum level of net income to avoid financial losses in the 2019/20 fiscal year.

In closing Hydro noted:

The Corporation's current financial projections require that rates be adjusted for the 2019/20 fiscal year in order to avoid the Corporation incurring losses in 2019/2020.

In its letter of November 21, 2018 (after canvassing views of past intervenors), the Board noted that Hydro had relied upon the fact that it was projecting a net loss in making its unusual request, as follows:

Hydro's letter states that it intends to seek the Board's approval of a one-year rate increase, effective April 1, 2019, sufficient to generate a minimum level of net income such that Hydro would avoid a projected net loss in the 2019/20 fiscal year.

The Board then concluded that the process should be established to review Hydro's request, given the information that it had been provided:

Based on the Board's review of the comments received from Hydro and the Intervenors, the Board has determined that it is willing to consider a one-year rate increase Application.

At this time, the factual basis for establishing the current review is no longer accurate. Due to favourable developments starting in fall of 2018, Hydro no longer forecasts





any net loss for 2019/20, and in fact expects a net income of \$60 million without any rate increase (per Updated Figure 7). This is an improvement from the net loss of \$26 million in the original application (Figure 2.9).

This \$60 million net income also compares favourably with the net income targeted in the document known as “Exhibit 93” from the previous GRA, which the Board had noted was “reflective of many of the Board’s decisions in this Order” (Order 59/18 page 173) and Hydro had used as the *de facto* baseline in portraying the significance of its earlier projected \$26 million net loss. The current net income forecast for 2019/20 with no increase is \$60 million while Exhibit 93 indicated a 2019/20 net income of \$64 million.

Consequently, MIPUG submits that the premise for granting Hydro the current expedited and limited rate review is now moot. The current review is indisputably seeking to curtail the normal review process before giving Hydro a rate increase, allowing significantly incomplete information about the long-term trajectory of Hydro’s costs and revenues to be relied upon, and limiting the opportunity to test Hydro’s full response to directives arising from the previous GRA. This process, which imparts a significant procedural constraint on ratepayers and the Board in favour of Hydro, was only adopted on the basis of projections of net losses and claims regarding the inability of Hydro produce full information, matched with the inability to delay rate increases until full and proper information was available given impending net losses. MIPUG submits that had the present facts been available at the time of the Board determination on November 21, 2018, it would have been patently unreasonable to entertain the current procedurally deficient process.

There are sound regulatory reasons and principles which have led the PUB to require an IFF and related evidence in making its decisions on what is a just and reasonable rate.

For these reasons, MIPUG requests the relief set out on the first page of this letter. MIPUG acknowledges that there has been progress in the current schedule. However, given the fact that Hydro is projecting net income with only a month left in its fiscal year, MIPUG submits that Hydro’s request for a rate increase on the basis of incomplete GRA information is no longer appropriate. We also submit that halting this abbreviated incomplete review process will have the benefits of saving all parties significant time and costs. We submit that, in the face of the current positive financial information, Hydro fails to meet any reasonable threshold for rate increases on the basis of incomplete information and a complete absence of long-term forecasts. MIPUG also expects that the time saved can be best invested in Hydro preparing a full and proper GRA filing for the fall period, with a procedurally fair opportunity for all parties to review Hydro’s materials at that time.




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Should the Board decide under its rules to hold a hearing with respect to this request, MIPUG reserves the right to file further and better evidence and further supporting submissions.

Yours truly,

THOMPSON DORFMAN SWEATMAN LLP

Per:   
Antoine F. Hacault\*

AFH/ld

Cc: Board Counsel  
Manitoba Hydro  
Intervenors

\*Services provided through A. F. Hacault Law Corporation