

Order No. 9/19

**PROCEDURAL ORDER IN RESPECT OF MANITOBA KEEWATINOWI
OKIMAKANAK INC.'S INTERVENTION IN MANITOBA HYDRO'S
2019/20 GENERAL RATE APPLICATION**

January 17, 2019

BEFORE: Robert Gabor, Q.C., Chair
Marilyn Kapitany, B.Sc., (Hon), M.Sc., Vice-Chair
Hugh Grant, Ph.D., Member
Shawn McCutcheon, Member
Larry Ring, Q.C., Member

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1.0 Executive Summary

On November 30, 2018, Manitoba Hydro (or the “Utility”) filed its 2019/20 General Rate Application (“GRA”) with the Public Utilities Board (“Board”), seeking a rate increase of 3.5% for all components of the rates of all customer classes, to be effective April 1, 2019. This rate increase, if approved, is projected to generate additional revenues in Manitoba Hydro’s 2019/20 fiscal year of \$59 million.

As indicated in Order 1/19, the mandate of the Board is to set just and reasonable rates for Manitoba Hydro that are in the public interest, through balancing the impacts of rate increases on ratepayers with the financial health of the Utility.

The Board expects the Utility and approved Interveners will assist the Board in its understanding of the issues that arise in the GRA through their active participation in the public hearing process.

Following a Pre-Hearing Conference held December 19, 2018 the Board approved intervention applications by Assembly of Manitoba Chiefs, Consumers Coalition, and Manitoba Industrial Power Users Group, subject to the conditions as set out in Order 1/19, including that they work within the scope of issues.

At the December 19, 2018 Pre-Hearing Conference before the Board, counsel for Manitoba Keewatinowi Okimakanak Inc. (“MKO”) attended on a watching brief but expressed the intention of MKO to file a written application for intervener status. On January 4, 2019, and prior to the January 7, 2019 deadline set by the Board, MKO submitted its written application to intervene in Manitoba Hydro’s 2019/20 GRA.

By this Order, the Board approves the intervention application by Manitoba Keewatinowi Okimakanak Inc. subject to the conditions as set out herein, including that it work within the scope of Appendix “A” to this Order.

2.0 Procedural History Manitoba Keewatinowi Okimakanak Inc.'s Submissions Regarding Intervener Participation, Hearing Process, and Scope of Review

MKO's January 4, 2019 written application for intervener status includes the following submissions:

"MKO is a non-profit advocacy organization that has been in existence for more than 35 years and provides a collective voice for more than 65,000 treaty First Nation citizens in northern Manitoba.

MKO is governed by the elected Chiefs of 26 First Nations and receives its mandate by resolution of the MKO Chiefs in General Assembly. The Grand Chief, elected for a three-year term, serves as the principal spokesperson of MKO, and a regionally representative Executive Council of Chiefs provides ongoing direction between General Assemblies.

The Mission Statement of MKO is: to maintain, strengthen, enhance, lobby for and defend the interests and rights of First Nation people within its jurisdiction and to promote, develop and secure a standard quality of life deemed desirable and acceptable by its First Nations without limiting the generality of the foregoing and the objectives of MKO.

MKO explores ways to strengthen and promote the interests of First Nations in northern Manitoba with respect to all areas that affect the lives of northern First Nations' citizens.

All citizens of the MKO First Nations, the MKO First Nation government facilities, and all entities operated by MKO First Nations receive electrical service solely from Manitoba Hydro. These consumers are all situated in northern Manitoba. MKO is seeking to intervene in this GRA hearing process to ensure that the distinct interests

of the MKO First Nations, entities and citizens, all in northern Manitoba, are properly considered.

If approved, the proposed rate increase sought by Manitoba Hydro will directly and disproportionately affect MKO First Nations, all of which are in northern Manitoba, as the majority of MKO citizens are in the low-income category and the general service customers represented by MKO have limited, if any, ability to absorb any additional costs.

The proposed rate increase, if approved, will directly and disproportionately affect MKO in a second fashion in that many of the benefits to be generated by the increases will flow to the provincial government to be used for general purposes and MKO First Nations receive little or no direct benefit from provincial disbursements.

As stated above, MKO represents a substantial number of ratepayers: over 65,000 citizens of 26 sovereign First Nations, all in Northern Manitoba.

The citizens of MKO First Nations are residential ratepayers, the majority of which are in the low-income category. The First Nation governments are general service ratepayers. The three diesel First Nations which pay electricity bills for the schools are also First Nation education rate customers.

There are no other approved interveners in this proceeding that represent residential and general service customers all of whom are in northern Manitoba.

The distinct perspective of First Nation consumers in northern Manitoba is not otherwise represented within this proceeding.

MKO has regularly intervened in regulatory matters before the Public Utilities Board and many other decision-makers, bringing forward a distinct perspective of First Nations in northern Manitoba, and as such has experience relevant to this matter that would contribute to the Board's decision making.

In this proceeding, MKO intends to address the following issues:

1. Rate increase requested

- Final Approval of 3.5% Increase*

2. Consultations with ratepayers and rate impacts

- MH Ratepayer Consultation Processes*
- Impact of increase on consumers*
- Rate impacts*
- Bill affordability mechanism for First Nations On Reserve Residential customer class*

9. Payments to government in the test year

- Payments to government amounts in test year for major capital projects*

11. Load forecast and hydrology

14. DSM Spending

- Order 59/18 Recommendations to Manitoba Hydro*

17. Implementation of First Nations Residential On-Reserve Customer Class

MKO intends to participate fully and actively in this hearing but does not anticipate submitting evidence or calling expert witnesses. In addition, MKO anticipates coordinating with other Interveners, especially but not limited to the Assembly of Manitoba Chiefs, to avoid duplication.

MKO intends to submit a request for a cost award pursuant to the Board's Intervener Costs Policy for this proceeding. As indicated above and in its January 4, 2019 application, MKO maintains it has a substantial interest in the outcome of the proceeding, intends to make a significant contribution to the proceeding, and intends to participate in a responsible manner, including cooperating with other interveners with common objectives."

Manitoba Hydro

At the December 19, 2018 Pre-Hearing Conference before the Board where MKO made its intentions to apply to intervene known, Manitoba Hydro did not oppose an intervention by MKO, but the Utility did encourage MKO to consider a joint intervention with Assembly of Manitoba Chiefs. Consistent with that recommendation, Manitoba Hydro requested the Board direct all Interveners to avoid duplication in their respective interventions.

3.0 Board Findings

Intervener Status and Intervener Costs

As set out in order 1/19, the Board approves the participation of Interveners in order to assist the Board in its understanding of the issues that are determined to be within the scope of the GRA. Approved Interveners are required to actively participate in the hearing process. Interveners are also required to avoid duplication, and are to collaborate among themselves in the development of their scope of work for the issues on which they are approved. Failure to avoid duplication or to participate actively will have cost consequences.

The Board has considered the January 4, 2019 Intervener Application by Manitoba Keewatinowi Okimakanak Inc. and will approve separate intervention status for MKO. Consistent with the Board's directions for all Interveners in Order 1/19, the approval of MKO as an Intervener is also subject to the conditions that Interveners are to actively participate, avoid duplication, and work within the scope of issues approved by the Board, as enumerated in Appendix "A" of this Order. Recognizing that other approved Interveners have identified participating with expert consultants and witnesses on some of the same issues, MKO should coordinate with other Interveners, especially, but not limited to, Assembly of Manitoba Chiefs.

Accepting that MKO will not be submitting evidence or calling expert witnesses, the level of its participation the Board will consider for the purposes of determining an award of costs will be based on Information Requests, cross examinations if the Board decides there is a need for an oral hearing, and on final submissions.

Within seven days of the issuance of this Order, MKO is to submit its detailed cost estimates for its intervention, using the cost estimate spreadsheet available on the Board's website. Cost estimates that are incomplete or prepared improperly will be returned to the Intervener.

Subject to the Board's full discretion over cost awards and the eligibility requirements relating to assisting the Board through active hearing participation, avoiding duplication and participating on approved issues, the Board finds that MKO meets the eligibility criteria for cost awards.

For the benefit of MKO it bears repeating that cost estimates and applications for cost awards must be prepared in accordance with the Board's Intervener Costs Policy for Manitoba Hydro's 2019/20 GRA. As indicated during the Pre-Hearing Conference, Interveners, now including MKO, are to use the fillable Excel spreadsheet available on the Board's website for preparing and filing cost estimates and applications for cost awards. The filing of Intervener cost estimates does not guarantee or disqualify an Intervener from eligibility for a cost award. Any comments provided by Board staff on Intervener cost estimates are not binding on the Intervener or the Board. All cost awards, whether an Advance of Funds or a final costs award, are in the sole discretion of the Board and all applications for cost awards will be considered by the Board in accordance with the criteria set out in Section 3.0 of the Intervener Costs Policy. Should any approved Intervener seeking an award of costs determine that its scope of participation in the proceeding or its final cost application will deviate or differ materially from its cost estimate, the Intervener is to notify the Board forthwith. Unless there are exceptional circumstances, Interveners will not be considered for such deviations or differences without the required prior written notification of the Board.

Scope of the Hearing

The Issues List chart enumerating the specific issues that are in scope for this GRA is attached to this Order as Appendix "A" and has been revised from Order 1/19 only to include MKO as an Intervener on specific issues.

The Board has concluded that, except as identified below, and subject to the Board's directions as to collaboration, active participation, and non-duplication, MKO is approved to participate on the issues it has identified as relevant and within scope as indicated in the Appendix "A" Issues List.

Consistent with Order 1/19 and for greater clarity and specificity, the following issues are not in scope for review in this GRA:

- New or different bill affordability mechanisms or programs;
- Review of 10 years of historical Operating and Administrative expense data;
- The results of an independent assessment of Manitoba Hydro's asset management program;
- Manitoba Hydro's study of the Service Drop allocator and Common Costs;
- The development of a time-of-use rate design proposal;
- The finalization of interim diesel zone rates;
- The Solar Energy Program and other net metering installations; and
- Manitoba Hydro's long-term financial forecast and financial plan.

Hearing Process and Timetable

The Board established timetable for the orderly exchange of evidence and the conduct to this GRA remains the same as set out in Appendix "B" of Order 1/19.

For the benefit of MKO, Intervener Information Requests shall be limited to issues not raised in Information Requests asked December 14, 2018 by the Board or to follow up on Manitoba Hydro's responses to the Board's Information Requests. Manitoba Hydro retains the ability to challenge Intervener Information Requests as being irrelevant or out of scope. Similarly, where an Intervener takes the position that Manitoba Hydro has not properly responded to an Information Request, the Intervener can raise this as an issue before the Board. The Board shall determine the process to address any challenges.

However, the Board encourages all parties to work together informally to resolve issues arising from Information Requests and Responses to Information Requests, before bringing matters formally before the Board for resolution.

4.0 IT IS THEREFORE ORDERED THAT:

1. Intervener status for Manitoba Hydro's 2019/20 General Rate Application BE AND HEREBY IS APPROVED FOR Manitoba Keewatinowi Okimakanak Inc.
2. The issues for Manitoba Keewatinowi Okimakanak Inc. as contained in Appendix "A" to this Order are considered within the scope of this General Rate Application, except as directed by the Board in this Order.
3. The Timetable for the orderly review of the General Rate Application remains as set out in Appendix "B" to Order 1/19.

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.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."
Chair

"Darren Christle"
Secretary

Certified a true copy of Order No. 9/19
issued by The Public Utilities Board


Secretary

Appendix A: In-Scope Issues

Issue	Consumers Coalition	AMC	MIPUG	MKO
1. Rate Increase Requested				
Final Approval of 3.5% Increase	Yes	Yes	Yes	Yes
Implementation Date (Requested = April 1, 2019)	Yes	Yes	Yes	No
2. Consultations with Ratepayers and Rate Impacts				
MH Ratepayer Consultation Processes	Yes	Yes	Yes	Yes
Impact of increase on consumers	Yes	Yes	Yes	Yes
Rate impacts - Bill affordability mechanism for First Nations On Reserve Residential customer class	No	Yes	No	Yes
3. Cash Flow				
Adequacy of cash flow from operations	Yes	No	Yes	No
Presentation methodology	Yes	No	Yes	No
Accounting of capitalized interest on cash flow statement	Yes	No	Yes	No
4. Interest Rate Forecast				
	Yes	No	Yes	No

Issue	Consumers Coalition	AMC	MIPUG	MKO
5. Finance Expense and Debt Management Strategy Changes Since Order 59/18				
	Yes	No	Yes	No
6. Depreciation Expense (Revenue Requirement) Changes Since Order 59/18				
	Yes	No	Yes	No
7. OM&A Update Since Order 59/18				
Budget and actual O&A results	Yes	No	Yes	No
Implementation of VDP, including pension liability, staffing complement, VDP expenditures and savings achieved	Yes	Yes	Yes	No
Supply Chain Management	Yes	Yes	No	No
Position reductions through attrition	Yes	Yes	Yes	No
8. Regulatory Deferral Accounts				
Disposition of DSM Deferral Account	Yes	No	Yes	No
Bipole III – Contributions and Drawdowns	Yes	No	No	No
Order 59/18 Directives 17, 19, 21, 22 and 23	Yes	No	Yes	No

Issue	Consumers Coalition	AMC	MIPUG	MKO
9. Payments to Government				
Test year payments to government	Yes	No	Yes	No
Payments to government amounts in test year for major capital projects	Yes	No	Yes	Yes
10. Export Revenue Forecast				
Energy Price Forecast in test year	Yes	Yes	Yes	No
Actual export revenues	Yes	Yes	Yes	No
11. Load Forecast and Hydrology				
	Yes	No	Yes	Yes
12. Major New Capital				
Revenue Requirement update since Order 59/18	Yes	No	Yes	No
Order 59/18 Recommendations to Manitoba Hydro	Yes	No	No	No
13. Business Operations Capital				
Update since Order 59/18	Yes	No	Yes	No
Order 59/18 Recommendation to Manitoba Hydro	Yes	No	Yes	No

Issue	Consumers Coalition	AMC	MIPUG	MKO
14. DSM Spending				
Spending and savings in the test year	Yes	Yes	Yes	Yes
Assumptions in the forecast for the test year	Yes	Yes	Yes	No
Order 59/18 Recommendations to Manitoba Hydro	Yes	Yes	Yes	Yes
15. Cost of Service, Differentiated Rates and Order 59/18 Directive 5				
Movement of classes into zone of reasonableness, including impact of Bipole III in service	Yes	No	Yes	No
Implementation of Order 59/18 Directive 5	Yes	No	Yes	No
Output of the Cost of Service Study (PCOSS18)	Yes	No	Yes	No
Implementation of Order 59/18 Directives 24 and 25	Yes	No	Yes	No
16. Declining Block General Service Rates				
Order 59/18 Directive 28	No	No	No	No
17. Implementation of First Nations Residential On-Reserve Customer Class				
Order 59/18 Directive 6	No	Yes	No	Yes

Issue	Consumers Coalition	AMC	MIPUG	MKO
2019/20 Rate Increase for this Customer Class	No	Yes	No	Yes