



**THOMPSON
DORFMAN
SWEATMAN**

Writer's Name Antoine F. Hacault
Direct Telephone 204-934-2513
E-mail Address afh@tdslaw.com
Direct Fax 204-934-0530

October 15, 2019

**BY E-MAIL
/ ORIGINAL BY REGULAR MAIL**

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: Timeline and Scope for Review in Initial Efficiency
 Manitoba Review of 3 Year Plan
 Our Matter No. 0169403 AFH

The Manitoba Industrial Power Users Group ("MIPUG") is aware of the upcoming review before the Public Utilities Board of the Three-Year Plan ("Plan") for Efficiency Manitoba ("EM"). Per the Efficiency Manitoba Regulations ("Regulations") approved this past August, the Plan was to be filed on October 1, 2019 and a schedule for review was discussed prior to this date at a counsel meeting for interested stakeholders held on September 19th. MIPUG is also aware that since those initial discussions, the Government of Manitoba, in a press release dated October 2, 2019, announced a delay to the filing of the EM Plan, which is now expected to occur on November 1, 2019. In this announcement, the Crown Services Minister Jeff Wharton, noted that the delay would not negatively affect the April 1, 2020 implementation date, also specified in the Regulation.

Concurrently, the writer, acting for MIPUG as legal counsel, Antoine Hacault, has raised issues with EM's legal counsel and at the initial counsel meeting about the scope of review and ability to review the economics of the EM Plan if marginal value forecasts (of which program economics are based on) are not provided, at least on a confidential basis. Given the tight timeframe for the review, it was hoped the issue of access to relevant Commercially Sensitive Information in EM's possession could be resolved prior to the filing such that the review process would not be undermined. To date, EM's legal counsel has not been able to provide a definitive answer to the access to information issue. To our knowledge, EM is not voluntarily making the relevant Commercially Sensitive Information available to any participants in the review. EM does not seem to be willing to do so under the normal process of signing either Undertakings or Non Disclosure Agreements.



With the delay in filing to November 1, 2019, and expressed desire by the Province to maintain an April 1, 2020 implementation date, it is understood that a preliminary schedule for the review process would likely cover the period from November 1, 2019 to end of January 2020, with minimal, if any, pause for the holidays.

MIPUG has serious concerns if a compressed review schedule, especially over the winter holidays, is maintained for internal logistic purposes. The main priority in this concern rests with the strongly held view that this schedule does not allow for a thorough review of this initial filing by a new Crown Corporation.

This initial Three-Year Plan, as prescribed by the Regulations, represents the first Plan presented for implementation by a new Crown entity at the start of its 15-year mandate. As such, this Plan will be foundational to all future plans and actions undertaken by EM as it works to fulfill its mandate. That mandate also includes the most aggressive savings targets (1.5% electric, 0.75% natural gas) ever proposed for an efficiency plan in Manitoba. As such, MIPUG members are concerned about the potential long-term rate implications for adoption of the Plan and the impact that the Plan's aggressive targets and expenditures for achieving those targets may have on rates for energy consumed by members.

The initial schedule proposed on September 19th was already very compressed and did not provide for an in-depth discovery process, offering only one round of information requests in the process. Traditional practise for a review of this nature is for two rounds of discovery. Given this is the first review of the Plan and the long-term impacts it will have on efficiency programming and Manitoba Hydro rates, MIPUG recommends that two rounds of discovery are necessary and should be incorporated into the revised schedule. The schedule also provided for only a few days between receipt of information responses by EM and the filing of expert evidence by intervenors. If this tight turnaround is maintained it will result in rushed inclusion of EM's responses as the timeline does not allow for meaningful consideration of the information produced by the EM.

MIPUG believes a comprehensive review of the Plan is imperative to the successful launch and stakeholder support of EM. In MIPUG's respectful opinion, the currently anticipated schedule to meet an April 1, 2020 implementation date coupled with concerns about the level of information that will be made available to thoroughly test the Plan will impose serious risks to this objective.

In addition, MIPUG's key experts and legal counsel booked winter holidays around the initial review schedule outlined in the counsel meeting prior to the delay announced on October 2, 2019. Participation in a January oral hearing and the lead up to oral testimony and examination to the level that MIPUG believes is required given the importance of this review will be very difficult under the currently understood schedule.



THOMPSON
DORFMAN
SWEATMAN

MIPUG is sharing these concerns prior to the filing of an official schedule in the hopes that meaningful steps can be taken while there is still time before the Plan is filed. A rushed review of the new Crown Corporation's Plan does not serve the stakeholders who will be served by EM but it also does not serve EM, which is looking for meaningful input to successfully implement its mandate. MIPUG believes the most effective way to resolve this is to correspondingly delay the implementation date of EM by a month (to May 1, 2020) to match the Government's delay of the Plan filing from October 1 to November 1. MIPUG is open to further discussions on alternative solutions that provide additional time within the review process to incorporate necessary steps to allow for a comprehensive review.

Yours truly,

THOMPSON DORFMAN SWEATMAN LLP

Per:

Antoine F. Hacault*

AFH/av

cc: Board Counsel (by e-mail)
Efficiency Manitoba (by e-mail)
Potential Interveners (by e-mail)

*Services provided through A. F. Hacault Law Corporation