

Comments Regarding Scope and Hearing Schedule

INTRODUCTION

MIPUG is providing these comments in response to the PUB legal counsel request for comments regarding draft scope, timeline and schedule for the Three-Year Plan (“Plan”) filed by Efficiency Manitoba (“EM”). EM’s Three-Year Plan represents the first plan presented for adoption by a new Crown entity at the start of its legislated 15-year mandate. As such, review of this Plan will be foundational to all future actions undertaken by EM as it works to fulfill its mandate and will have long-term impacts.

Beyond the well-recognized priorities raised within MIPUG’s Intervener Application, this review should also consider whether the Application adequately recognizes that the review of the plan:

- is the first implementation of new legislation and regulations, and the first opportunity for the PUB to weigh in not only on the contents plan, but on the information and appropriate process to be expected in future reviews, and possible recommendations to Government on changes to the regulations and targets;
- contains the most aggressive savings targets (1.5% electric, 0.75% natural gas) proposed for an efficiency plan in Manitoba’s 30-year history of demand-side management (DSM) programming;
- includes significant variations from prior plans in its expectations for the magnitude of savings targeted, anticipated costs for acquiring these savings and methods for determination of cost-effectiveness;
- requires the significant external financial capital investments and resources required of energy consumers beyond those reimbursed through participation in EM programs (i.e. through incentives and other support) for acquisition of the targeted savings, and
- includes a hearing process for which the detailed scope and availability of information deemed confidential and sensitive regarding valuation of savings and rate impacts remains unclear.

The scope of the review should also consider the uncertainties raised by Boston Consulting Group in its 2016 review for the Manitoba Hydro Electric Board (PUB-MFR-72 in the 2017/18 and 2018/19 GRA) and others in prior efficiency proceedings regarding the reasonableness, achievability, cost-effectiveness and rate impacts for achieving this mandate. There is concern that this uncertainty may not be addressed adequately within the scope proposed for the PUB review.

To consider these matters the scope of this review should include a confidential portion for participants to be able to participate to review the marginal cost values and assessment methodology that underpin the savings, cost calculations and overall plan development. MIPUG intends to file a formal motion for expedited resolution of this matter as efforts to date by MIPUG legal counsel have not provided a clear understanding of procedure for this.

COMMENTS ON PROPOSED SCHEDULE

MIPUG is in receipt of two draft schedules: one provided by PUB legal counsel on October 25 and another by Efficiency Manitoba legal counsel provided on October 30.

MIPUG has retained TDS Law (i.e. counsel) and InterGroup Consultants (i.e. expert witnesses) to support its intervention in this proceeding. MIPUG members support a comprehensive independent review of the Plan by the Public Utilities Board (“PUB”) and share the concern raised by their counsel and expert witnesses that the proposed timing and compressed schedule for this review compromise the ability of both the PUB and Interveners to conduct a thorough and meaningful review of this initial Application by a new Crown Corporation.

To that end, MIPUG filed a letter with the PUB on October 15, 2019 outlining these concerns in detail. MIPUG’s preferred outcome to ensure that the integrity of this review is maintained is to delay the implementation date set by the province of April 1, 2020 by at least a month, consistent with the one month delay Efficiency Manitoba made in its filing of its Application, originally scheduled for October 1, 2019.

The primary solution to the current timing issues is a delay throughout the schedule, and a later reporting to the Province.

In the event the PUB is put in the position where the Province is unable to amend the deadline, an unfortunate and compressed review schedule is proposed below as an alternative. MIPUG, its counsel and expert witnesses share concerns regarding the proposed schedule and compressed timeframe and lack of available time for due process:

- MIPUG has finished an initial review of the Application and the information provided is very general and lacks the detail to meaningfully review the Plan. This puts a great importance on the discovery phase of this review, which at present is very tightly scheduled.
- The lack of timely and agreed upon process for access to relevant information that may be deemed as confidential and sensitive information (“CSI”) by EM or protected through the applicant’s agreements with Manitoba Hydro, challenges the adequacy of the proposed review and the ability for Interveners to prepare evidence. The compressed schedule restricts time required for implementation of a CSI process that gives Interveners immediate access to confidential information required to test key components of the Application, including determination of sector specific targets, measure cost-effectiveness and rate impacts.
- The current schedule does not include a Second Round of Information Requests (“IR”), which is typical for hearings facilitated by the Public Utilities Board on matters of this type. The lack of a second-round process or technical conference (i.e. as an alternate to a second round of information requests) compromises the ability of Interveners to gather and analyze facts related to details of the Plan and prepare relevant Intervener Evidence, especially if responses to First Round IRs are incomplete or unresponsive.
 - o A single round of IRs may be especially problematic if processes for obtaining access to sensitive and confidential information related to load forecasts and marginal values are not established and the resulting responses are inadequate.
- There is an entirely insufficient amount of time between receipt of Efficiency Manitoba’s (“EM”) responses to Initial Information Requests due November 29th and the filing of Intervener Evidence on December 4th for preparation of evidence.

- The EM schedule provides three (3) working days for Interveners to review EM responses and prepare Intervener Evidence for filing. This time period is wholly inadequate given uncertainty over the adequacy of EM’s responses and access to information (i.e. forecasts, marginal values) critical to review of reasonableness, cost-effectiveness and rate impacts of the Plan, as well as the general nature of the materials available prior to the receipt of responses to Information Requests. It is also notable that the draft schedules provide more time for parties to review the Intervenor Evidence and ask questions than to actually write the documents themselves, which is a poor allocation of hearing schedule time. MIPUG’s proposed schedule below attempts to address this balance without altering the ultimate hearing schedule in January.
- Two of the key MIPUG consultants have a competing deadline of December 3, 2019 in a hearing in another Province which was set months ago and cannot be changed.
- Lack of detail within the EM Application regarding specific measures, the anticipated persistence of savings achieved over the 30-year time horizon, load profiles, measure specific marginal values, and other factors used as the basis for evaluating cost-effectiveness and rate impacts of the Plan.

Given the significant concerns expressed regarding discovery and timing for Intervener Evidence, if the PUB report must be completed on the expedited deadline, MIPUG proposes the below schedule:

	PUB Proposed	EM Proposed	MIPUG Proposed
EM Filing	October 25	October 25	October 25
Intervener Applications Due	October 31 noon	October 31 noon	October 31 noon
EM Comments on Intervener Submissions	November 4	November 4	November 4
Procedural Order Issued	November 5	November 6	November 6
Information Requests to EM	November 11	November 11	November 11
EM to File Information Request Responses	November 26	November 29	November 29

Intervener Evidence Filed	December 3	December 4	December 10
Information Requests on Intervener Evidence	December 10	December 11	December 13
Tentative Pre-Hearing Conference	December 11	December 16	December 16
Intervener Information Request Responses	December 17	December 18	December 19
EM Rebuttal Evidence	December 23	January 3	January 3
Public Hearing	January 2 – 28 (no sitting Jan 20 – 23)	January 6 - 28	January 6 - 28
PUB Issues Recommendations to Government	March 1	No later than March 2	

Specifically, for the oral hearing, questions and concerns were raised regarding the schedule subsequent to delay in filing announced by the Province on October 2nd. The earlier schedule shared with Counsel for MIPUG by Efficiency Manitoba and PUB Counsel at the September 19th conference, while compressed, allowed for conclusion of the oral hearing by December 20th prior to the typical winter holiday season.

- Confirmed plans by MIPUG counsel are being cancelled at a cost to accommodate the January 2020 hearing dates. The two key MIPUG experts which are expected to testify have availability limitations that collectively cover December 16, 2019 to January 20, 2020.
- MIPUG requests that oral examination of its experts be scheduled from January 20, 2020 onwards.

COMMENTS ON PROPOSED SCOPE FOR REVIEW

Important aspects of this review include priorities that are of critical importance to MIPUG members and industrial sector participants generally;

- **Development and Implementation of a Framework for Review of EM’s Plans** in this proceeding and as a template for future reviews
- **Determination of the Reasonableness of the EM Regulations, including Targets**, and the need for any recommendations and improvements, as may be expected during the first review of an entirely new regulated entity under new legislation and regulations.

- **Reasonableness and Achievability** of the Plan, which includes considerable financial investment and contribution from MIPUG members, and the industrial sector generally, that extend well beyond costs for programming illustrated in the Plan.

The impact that 30 years of DSM programming in Manitoba may have on the remaining opportunity for efficiency gains in the Province and achievement of aggressive targets included in the Plan is an important consideration.

- **Cost-Effectiveness** of the Plan and potential **Rate Impacts** that may arise as a result of expenditures required to fulfill the mandate of the Plan cannot be adequately addressed at a level appropriate to the measures and programming intended for each sector with the available information provided in the Plan.
- **Appropriate Testing of the Information Provided by Manitoba Hydro** under the Efficiency Manitoba Regulation section 12(1)(b), including testing whether the value of energy saved by EM has appropriately been determined by Manitoba Hydro based on a methodology consistent with its resource planning process, taking into account the timing and duration of the savings.
- **Access to relevant and meaningful information** deemed confidential or sensitive is challenged by the proposed scope, which may limit discussion and possible access to this information. MIPUG has attempted, without success, since September 2019, to discuss and resolve this access to information issue. Some CSI is likely specific to MIPUG and its members related to programs to be provided to industrials. Some information has historically been dealt with as CSI for Manitoba Hydro to protect its competitive position in the export market. Both categories of CSI have traditionally been dealt with by standard undertakings signed by Counsel and standard Non-Disclosure Agreements signed by consultants and experts.

The proposed scope divides critical elements of this hearing into two separate proceedings, considering reviews of Efficiency Manitoba efficiency plans to be separate from reviews of Manitoba Hydro rate applications, when important elements of these reviews are directly linked and interdependent on each other and therefore relevant to both hearings.

- Methodology for determination of marginal values play a key role in the how programs are considered in resource plans, and directly impact the selection of measures and programming for inclusion in the Plan.
- Tests for cost-effectiveness form important inputs into the determination of rate impacts that will arise from implementation of the Plan, which relies on Manitoba Hydro as its primary source for funding.

There is basis for concerns over any exclusions in scope, include;

- Past Manitoba Hydro energy efficiency plans, which set an important baseline for achieved savings and identification of potential future savings. Excluding the impacts of those plans from the review, challenges Interveners ability to consider the reasonableness and achievability of the Plan and mandated savings targets.
- Economic adoption of distributed energy resources such as Solar PV is heavily dependent on net metering or net billing policies adopted by Manitoba Hydro. Excluding these

considerations from the hearing negatively impacts Interveners ability to gauge potential market response to such programs.

- Effectiveness of financing programs designed to support adoption of energy efficiency measures will remain with Manitoba Hydro. These plans may be crucial for the widespread adoption of energy efficiency measures proposed in the EM Plan.

Details Absent from the filed Application

- **Load Forecast Information by Sector** identifying current and historic consumption within sectors and forecast for anticipated consumption. The Plan includes participant share and consumption share on a percentage basis but does not provide information related to actual consumption by each sector.
- **Projected Annual Savings, Costs and Representative Load Profiles** for determining the assumptions made regarding projected savings over the 30-year period used to evaluate life-cycle costs and benefits. Importantly, the cost effectiveness is to be judged based on the “timing and duration of savings” (Efficiency Manitoba Regulation section 12(1)(b) yet there is basically no information on these topics to even begin to test the program-specific assumptions.
- **Expectations for Additional Participant Investment** (i.e. direct investment) driven by the total resource costs, which extends beyond that portion of the investment supported the EM Plan. This external investment is a necessity for implementing the measures prescribed in the Plan and achieving the targeted savings.
- **Marginal Value Information for Sector Programs** needed to evaluate the cost effectiveness of sector specific measures with savings durations and load profiles that vary from the aggregated portfolio.
- **Time-of-Use and Seasonal Value of Capacity and Energy** needed to evaluate the benefits of and cost effectiveness of programs as they relate to dealing with peaks, capacity and Manitoba Hydro system constraints.