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

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VIA E-MAIL:
Darren.Christle@gov.mb.ca
publicutilities@gov.mb.ca

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

Attention: Dr. Darren Christle

Re: Application of the Consumers Coalition for an Order
Requiring a Status Update from Manitoba Hydro
Our Matter No. 0151269 AFH

The Manitoba Industrial Power Users Group ("MIPUG") is in receipt of the Manitoba Public Utilities Board ("PUB") letter of April 1, 2021 requesting comment on the Consumers' Coalition ("Coalition") March 26, 2021 application for a review of Manitoba Hydro ("MB Hydro") pursuant to Section 26(3) of *The Crown Corporations Governance and Accountability Act*, Section 44 of *The Public Utilities Board Act* and Rule 23 of *The Public Utilities Board Rules of Practice and Procedure*.

The Coalition's application to the PUB focuses on three priority concerns:

- 1) Fundamental changes in MB Hydro's status, and whether current rates are just and reasonable given these substantial changes in circumstance.
- 2) Urgent unfinished business arising from Directives contained within Orders 69/19 and 59/18.
- 3) Opportunity to "provide fundamentally important rate setting information for the public record".

MIPUG has consistently held the position that a transparent and independent regulatory process is the best approach to establishing appropriate oversight for Manitoba Hydro. A routine and regular regulatory process supports the setting of fair and reasonable



power rates for all Manitobans. The Coalition application is consistent with this MIPUG perspective. Absent action on the Coalition application, it is not readily apparent that any transparent review of MB Hydro will occur for a number of years. Given that MB Hydro has not had a true comprehensive rate review for 4 - 6 years (as outlined below), MIPUG sees the Coalition application as appropriate and recommends the PUB proceed as proposed by the Coalition.

MIPUG recognizes that an intervenor-initiated review of MB Hydro is a relatively unusual event in recent history. However, it is not unprecedented and indeed one of the first modern reviews of electric rates in Manitoba (occurring in 1986/87) started with a filing from the Consumers' Association addressing the question of whether rates were just and reasonable. More recently, a MB Hydro "Status Update" in 2002 (culminating in Order 7/03) occurred in very similar circumstances to the present situation, as outlined below.

With respect to the assertions set out by the Coalition regarding the change of circumstances and outstanding directives, MIPUG is of the view that the Coalition has indeed understated the facts in its presentation of evidence supporting these claims, as follows:

1. Change of Circumstances

The Coalition sets out various facts that have changed for MB Hydro during the last three years (e.g. doubling of assets through completion of Bi-Pole III, Manitoba Minnesota Transmission Line - MMTP and Keeyask, with Unit #1 coming into service in early 2021, along with a new export power sale to SaskPower). However, it is not clear why the Coalition used three years as a timeline for this assessment. In fact, the last full rate filing and review, including a full consideration of operating and maintenance ("O&M") budgets, was undertaken in January 2015, over six years ago (the 2015-2017 GRA).

MIPUG acknowledges that an extensive GRA process was undertaken in late 2017/early 2018 (the 2017-2019 GRA) to deal with MB Hydro's ill-founded attempt to alter its fundamental rate trajectory, but the reviews of this filing became mired in MB Hydro's attempts to change the direction of rates and implement a series of 7.9% annual rate increases (which were ultimately rejected after PUB review). Little time was made available during this proceeding for many normal and traditional rate review topics (such as a review of a properly filed and fully detailed O&M forecast, and/or a review of expected export prices) as it was assumed by MB Hydro in the proceeding that all future exports not then under-contract would only be sold as low value "opportunity" sales. Other priorities, such as optional time-of-use



(TOU) rate designs or consideration of appropriate financial targets¹ were not considered. Indeed, the proceeding remained incomplete in that a properly revised and updated Integrated Financial Forecast (“IFF”) reflecting the Board’s ultimate determinations was never filed, even as part of a compliance package. As a result, the hearing produced only a general baseline financial forecast to represent directionally the intended outcomes of the Board’s Order (known as Exhibit MH-93, a variation of IFF16).

The Coalition accurately represents the process used to set MB Hydro rates in 2019/20 as extremely limited, in part due to MB Hydro’s failure to provide any long-term financial forecast. It goes without saying that the last MB Hydro rate increase from 2020, imposed by legislation without PUB review, also fails to meet any evidentiary standard for regulated rates.

As a result, MIPUG submits that the time since a proper and normal review of MB Hydro’s full financial picture pre-dates 2017, and more accurately extends beyond six years. Even if one accepts the 2017-2019 GRA process as a comprehensive review, the last long-term financial forecast available as a baseline is at best an incomplete modified IFF16 scenario (a 2016 projection). A proper update would now be working with at least IFF20 (the financial forecast starting with the 2020/2021 year) if not IFF21 (the forecast starting with the 2021/2022 year). During this five-year delay, there have been multiple rounds of operating cost cuts imposed by Government directives, changes to MB Hydro subsidiaries, and actual experience gained through operation of MMTP in concert with an evolution of export market pricing. Multiple other factual changes also exist that are incompletely noted in, or go beyond, the summary provided by the Coalition.

Another changed circumstance highlighted by the Coalition, the report of the Keyask and Bi-Pole III Commission (the “Wall Report”) is noted, but the Coalition fails to note some critical findings of the Commission. For example, the Wall Report found in Recommendation 2.6 that:

“Manitoba Hydro’s ratepayers should not bear the risk associated with new generation projects that will, for an extended period of time, be commercial in nature, used for exports, and not needed to serve domestic demand. In other words, they should not be used as involuntary equity investors

¹ Because the proceeding was focused mainly on a binary consideration of whether the traditional financial targets remained valid, versus more radical new aggressive targets proposed by MB Hydro’s then Board of Directors, there was little time spent on important outstanding issues regarding the traditional financial targets, and important variations and tweaking that merited serious attention.



for projects to serve export demand in a risky market. Since it is the Government that approves export contracts and new generation projects like Keeyask, not ratepayers, and the Government that benefits (through water rentals, capital taxes and debt guarantee fees from Manitoba Hydro) even if such projects do not turn out well financially (as discussed in Chapter 4), it is the Government that should bear this risk (Volume 1, page 151)."

This finding is consistent with the MIPUG recommendation from the 2017-2019 GRA, as highlighted in Board Order 59/18 page 179, and consistent with the general principles adopted by the PUB's finding at page 181 of that Order. In MIPUG's view, this additional finding by the Wall Commission represents a change of circumstances that combined with the lack of a Manitoba Hydro load forecast reflective of current and projected market conditions (inclusive of actions taken by Efficiency Manitoba) requires PUB consideration.

2. Outstanding Directives

The Coalition highlights a set of PUB Directives that are outstanding from Orders 69/19 (the limited-scope 2019/20 rate proceeding), which is accurate. These Directives were included in Order 69/19 with the explicit recognition that they would be part of a GRA to be filed in late 2019 for rates starting in 2020/2021.

The Coalition's submission however fails to note that the entire proceeding leading to Order 69/19 had already accepted a failure on MB Hydro's part to respond to Directives from Order 59/18. MB Hydro's Application of November 30, 2018 for 2019/20 rates specifically acknowledged these directives (page 1):

"Order 59/18 also contained a number of directives and recommendations requiring work to be undertaken and completed by Manitoba Hydro prior to filing its next GRA.

With the appointment of a new Manitoba Hydro-Electric Board ("MHEB"), a comprehensive review of Manitoba Hydro's operations, forecasts and financial plans is currently being undertaken to allow the MHEB to establish a long-term financial plan for the Corporation. As a result of the foregoing, and further to Manitoba Hydro's correspondence of November 12, 2018 and the PUB's correspondence of November 21, 2018, Manitoba Hydro is submitting to the PUB a one-year rate increase application for the 2019/20 fiscal year which is based on financial



information currently approved by the MHEB for the 2018/19 and 2019/20 fiscal years as set forth in its letter of November 12, 2018. Upon the MHEB's development and approval of a long-term financial plan, Manitoba Hydro will submit a full GRA to the PUB, anticipated to be filed in late 2019. A fulsome review of Manitoba Hydro's responses to those directives contained in Order 59/18 which the PUB indicated in its November 21, 2018 correspondence would be deferred, will also be addressed as part of the next GRA."

We therefore submit that the full scope of delays faced by the independent regulatory process is more extensive than suggested by the Coalition's Application.

3. Review Essential for Decisions by MIPUG Members and Long-Term Planning by Industrials

Finally, MIPUG notes that the Coalition predicates its Application in part on the need to "provide fundamentally important rate setting information for the public record". MIPUG cannot over-emphasize the importance of this perspective.

It is critically important for industrial enterprises to have forward-looking information about the level of rates and related risks that they will face today and into the future. Industrials use this information to make reasonable inferences about Manitoba's competitive position in respect to energy rates when planning for future long-term production output and investment in Manitoba. The failure of MB Hydro to produce an appropriate IFF since 2016, combined with presentations of limited short-term forecasts (e.g., the proceeding leading to Order 69/19) and a lack of transparency regarding the most recent rate and regulatory changes imposed by the legislature, means that industry in Manitoba is presently operating with an unprecedented lack of confidence. Conditions related to rate competitiveness in Manitoba are opaque and important decisions regarding capital investment by industry and post-pandemic production scheduling are already beginning to direct critical resources elsewhere. If allowed to continue, opportunities for Manitoba-based operations will inevitably be lost.

While MB Hydro does not appear to share a mutual understanding of the importance that this information holds for MIPUG members and industry generally (failing to treat sharing of its long-term forecast information with ratepayers as a high priority), it is of utmost importance to the public interest. This information is particularly relevant to businesses as it seeks to rebound from the difficult economic conditions of a pandemic. Routine and transparent regulation, overseen by an independent regulator, is the only way to achieve ratepayer confidence.



Prior Precedent

The noted pattern of MB Hydro delays and lack of response to outstanding issues is similar to that faced by the PUB around 1999-2001. At that time, MB Hydro had recently been before the Board on many matters (including the purchase of Centra Gas from Westcoast Energy, Curtailable Service Program approval, Surplus Energy Program update and Limited Use Billing Demand program initiation, etc.) but had not participated in a full General Rate Application since 1996 (leading to Order 51/96). The Board wrote to MB Hydro on November 23, 1999 expressing concerns over repeated delays in addressing the Directives from Order 51/96, asking for MB Hydro's "comments as to how these matters can be brought forward in the near-future".

Exchanges of information related to the Directives, and two concurrent outstanding issues (related to the integration of Centra Gas and Government throne speech commitments to implement Uniform Rates) ultimately led to the Consumers Association of Canada and the Manitoba Society of Seniors ("CACMSOS") to request that the Board initiate a review of Order 51/96 "on the grounds that there has been a substantial change in Manitoba Hydro's circumstances since the last general rate review in 1996" (CACMSOS letter dated April 12, 2001). The current Application by the Coalition accurately notes that the "2002 Status Update Proceeding" was completed, resulting in Order 7/03, but fails to note that this update was only initiated under direction from the PUB, pursuant to requests from an intervenor group. Further, despite MB Hydro indicating (at that time) that it saw no need for rate changes (see Order 9/02, pages 3 - 4), the Board did consider whether rates were just and reasonable, and ultimately disagreed with MB Hydro, finding that rates required change as part of Order 7/03.

Conclusion and Process

For the above noted reasons, as well as those summarized in the Coalition's submission, MIPUG views the current situation as one where MB Hydro faces materially changed circumstances; where an independent, open, and transparent review of the Crown Corporation, including long-term forecasts, is well overdue; and, where action by the PUB is likely the only opportunity to secure the needed process.

In short, MIPUG supports the Coalition submission based on the principles outlined in this letter as demonstrated in past interventions.

For clarity, MIPUG also notes that the Coalition proposes that MB Hydro file its materials by June 1, 2021 and a pre-hearing conference be held June 15, 2021 to address



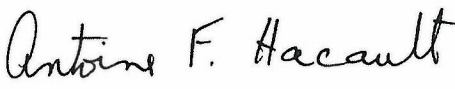
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procedural matters. MIPUG is in support of these dates and is willing to work with the PUB and MB Hydro to achieve these outcomes.

With respect to materials, the Coalition recommends a list of items to be filed by MB Hydro (Page 6) in its Application. From this list, MIPUG considers the Corporate Strategic Plan, the long-term Capital Expenditure Forecast and the long-term (20 year) IFF to be of critical importance for the public record, and emphasizes to the PUB that such materials are required for a proper review. Each of these items are also of important internal value to MB Hydro for ensuring prudent and prioritized investments and appropriate management of Corporate borrowing (e.g. terms and maturity), so it should be understood that such forecasts currently exist. It is necessary for a transparent and comprehensive process to ensure that MB Hydro makes these materials available.

Yours truly,

THOMPSON DORFMAN SWEATMAN LLP

Per: 
Antoine F. Hacault*

AFH/av

cc:

Rachel McMillin (Rachel.McMillin@gov.mb.ca)

Kristen Schubert (Kristen.Schubert@gov.mb.ca)

Dayna Steinfeld (dsteinfeld@fillmoreriley.com)

Kate Hart (khart@FillmoreRiley.com)

Bob Peters (bobbeters@fillmoreriley.com)

Brent Czarnecki (BACzarnecki@hydro.mb.ca)

Carly Fox (cfox@foxfraserlaw.com)

William Gange (wsg@gchl.ca)

Brennan Manoakesick (brennan.manoakesick@mkonorth.com)

Markus Buchart (mbuchart@jerchl.ca)

Dale Friesen (dfriesen@intergroup.ca)

Patrick Bowman (pbowman@intergroup.ca)

Jeff Crozier (jcrozier@intergroup.ca)

John Osler (john@intergroup.ca)

*Services provided through A. F. Hacault Law Corporation