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REFERENCE NO: 003991-0132

May 24, 2022

Via Email

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

Attention: Ms. Rachel McMillan, Associate Secretary

Dear Ms. McMillin,

Re: The Consumers Association of Canada (Manitoba) Inc. (CAC) – Assess to Cost of Service (COS) Model Information regarding Centra Gas Manitoba Inc. (Centra) Cost of Service Methodology Review Application (COSMR)

1.0 Introduction

We are in receipt of the PUB's letter with respect to a response to Centra's letter of May 20, 2022. Our initial letter motion was sent before receipt of Centra's Responses to IRs. As a result, we will be addressing our concerns relating to the Record as it currently stands. CAC requests that the PUB direct Centra to provide the existing and proposed COS model(s) (referred to as Required Information in this submission) on an expedited basis. CAC is also advising the PUB that the current record related to the Centra COSMR is inadequate to enable meaningful Intervenor Evidence. CAC submits that the Required Information is necessary to develop its Intervenor Evidence related to this Proceeding.

2.0 Background

Each of the approved Intervenors (CAC, IGU and Koch) have unsuccessfully attempted to obtain in various forms from Centra the Required Information through a number of means and procedural steps.

CAC wishes to address Centra's comment that CAC has waited to the last hour to submit a motion to the PUB regarding confidential information. In fact, CAC's record of its communications attempting to gain access to CSI began shortly after the issuance of Order 80/21 on July 26, 2021. The trail of communications can be summarized as follows:

- CAC inquired of Centra legal counsel regarding CAC's first request for access to CSI on August 3, 2021;

Calgary

Airdrie

Regina

Winnipeg

- CAC inquired a second time with Centra legal counsel September 14, 2021 as CAC received no response to original inquiry;
- The process was stayed and was recommenced by the PUB on February 18, 2022;
- Centra's February 28, 2022 letter reiterated its position that access to CSI was not required;
- CAC's March 14, 2022 procedural submission advised the PUB and Centra that it would seek access to CSI in the COSMR and noted that Centra was unwilling to provide access to CSI as part of the Rate Re-bundling Application and if that situation occurred again, it would request the PUB to adjudicate¹;
- PUB issued Order 36/22 on April 7, 2022 recommencing the COSMR and established the timetable for the process;
- CAC sent a third request to Centra legal counsel on April 8, 2022;
- CAC sent a fourth request to Centra legal counsel on April 11, 2022;
- On April 12th Centra responded that CAC would have to justify the need for CSI;
- At that point, information requests were due in four working days so CAC concentrated on drafting IRs as best it could in the absence of CSI. As part of its cover letter to IRs, CAC reserved the right to file further IRs once access to CSI was obtained; and
- On April 28th, CAC filed a formal motion with the PUB.

CAC notes that IGU and Koch have also attempted to find alternate ways to obtain access to the active COS models, working COS models, or complete COS working papers relative to the proposed methodologies either through meetings with Centra or through the information request process. Despite these Intervenor efforts, each of these attempts to find a workable solution for all parties have failed due to Centra's uncooperative and litigious approach.

It is inscrutable that the Intervenors collectively have to debate these issues. Centra is conflating its roles as Applicant and arbitrator. As it relates to COS, methodology changes shift cost responsibility between customer classes. On this basis, Centra as the neutral Applicant in that it is financially unimpacted by its proposed methodology changes, should be very open to full participation of these matters by customers represented by the intervenor groups in this proceeding. This conflicts with the gatekeeper role that Centra is propagating.

Centra's reasoning for declining to produce the Required Information has evolved as the proceeding has unfolded. The initial reason was related to the provision of confidential

¹ CAC procedural submission, March 14, 2022, pages 12-13

information². More recently, it is apparent that Centra's reasoning has now broadened to be three-fold³ as follows:

1. Centra asserts the information is not relevant or within the scope of the proceeding. Centra states "In Order 36/22 the PUB found that there is no need for Intervenors' additional comprehensive reviews of the existing COSS methodology and model";
2. Centra claims the information cannot be provided with reasonable effort as it would be required to repopulate the COS models with historic information or replace confidential information with artificial or "dummy" values; and
3. Centra notes that the information requested includes confidential information such as customer specific and upstream commodity cost.

CAC provides its reply to Centra's comments of May 20, 2022 with respect to scope, work effort and confidential information in the following sections.

3.0 The Required Information is in Scope per Order 36/22

In CAC's submission, the Required Information is well within the scope as outlined by the PUB in Order 36/22⁴. In Order 36/22, the PUB identified 10 issues deemed in-scope for the proceeding⁵ and that Intervenors could participate fully in the testing of all the in-scope issues. The PUB indicated that participation of Intervenors would assist it in a robust, transparent, and evidence-based decision-making process. The following excerpt from the PUB findings demonstrates this intent:

"The Board finds that Intervenors can participate in the **testing** of Centra's and Atrium's evidence and in **presenting evidence on the issues within the scope** of this proceeding.

Based on the Parties' submissions, the Board finds that there is no need for Intervenors' additional comprehensive reviews of the existing COSS methodology (or model) and for evaluating Atrium's report for completeness. Instead, Intervenors are to focus their submissions on the appropriateness of Atrium's and Centra's COSS recommendations or provide alternative methodologies appropriate for Centra's specific circumstances in Manitoba, without the need to duplicate the extensive review already conducted by Atrium....

² CGM Cover letter, COSMR dated June 15, 2021

³ IGU/Centra IR 1 a-b, Koch/Centra IR 1 a-c

⁴ Order 36/22, page 13

⁵ Order 36/22, page 13

The participation of Intervenors in evidentiary steps in the public hearing process will also assist the Board, as this participation contributes **to a robust, transparent, and evidence based decision-making process.**" (Order 36/22, pages 14-15, Emphasis Added).

In refusing to file the Required Information, Centra appears to be relying on the second sentence of the above noted excerpt from Order 36/22. In CAC's view, the second sentence in the excerpt must be read in conjunction with the first sentence. When read together, the second sentence is not limiting the testing of the 10 in-scope issues as claimed by Centra. Rather, the second sentence is simply emphasizing that it is only the 10 issues in-scope for this proceeding.

CAC understands that from the third sentence of the above noted excerpt, the PUB's direction is to focus on the review of the appropriateness of Centra's COS proposals and alternate methodologies that may be appropriate to Centra's circumstances. To accomplish these objectives, CAC submits that the most effective and efficient approach is for Intervenors to have access to and review the inputs, calculations, and output of Centra's existing and proposed COS models.

For each of the COS issues, there are a number of broad approaches acceptable in practice. The difficulty is there are also numerous variations of each of the approaches depending on the practitioner, the circumstances of the utility, and the availability of data. In order to review the appropriateness of the COS proposals and alternatives, it is necessary to gain a sufficient understanding of which variation of an approach is being applied and which costs that variation is being applied to. Contrary to Centra's assertion, obtaining access is not for the purposes of "auditing" it but rather for a transparent understanding of the proposals for the purposes of evaluation and developing alternatives. At the best of times, gaining this understanding is not easily discernible from short written descriptions. In the current proceeding, with Centra's thread-bare application, and minimalist responses to IR's by both Centra and Atrium, it is exceedingly difficult to get that level of understanding to produce effective Intervenor Evidence to assist the Board in its decision-making process.

It is for these reasons that CAC is seeking unredacted access to Centra's existing and proposed COS models. It is the only effective and efficient way to undertake a transparent review of Centra's COS proposals and for Intervenors to have meaningful input into the in-scope issues before the PUB.

In its reply, Centra argues that CAC's experts should be well versed in how the proposed methodology works and indicates CAC has not been specific on which portion of the CSI is required for evaluation. CAC submits that both of these comments are simply non-sensical. It is incomprehensible how CAC's experts are to be fully versed in a methodology

that is being proposed for the first time. How is CAC supposed to indicate which portions of the CSI it requires, when it does not have access to the CSI in the first place?

Centra further asserts in its reply, that the CSI is not required for Intervenor to assess the methodologies. However, it is perplexing for CAC to understand that if Centra views this information to not be required for intervenors, then why did it include the information at all? Clearly, it is trite to assume that, if the Application material is filed, Centra must believe it to be relevant information in order to meet its onus as an Applicant to convince the PUB the proposed changes are just and reasonable. If so, the Intervenor is entitled to all relevant information, unless there is some compelling reason to withhold it. If confidentiality is the reason, then the CSI agreement is the tool used by the PUB to protect confidentiality while at the same time recognizing the procedural fairness inherent in these proceedings.

4.0 The Production of the Required Information involves a Reasonable Work Effort

CAC submits that the production by Centra of the Required Information of the existing and proposed COS models is well within a reasonable work effort when considering the issues in-scope and that the Centra COS has not been reviewed in more than 25 years. It appears that the reason Centra views the production of the Required Information as an unreasonably extensive effort is based on the suggestion to populate the models with historic information or replace confidential information with artificial “dummy” values. It also appears to CAC that Centra is using IGU’s intended helpful work-arounds to avoid confidential information as an excuse to overcomplicate and exaggerate the work effort. The PUB has a routine procedure to address confidential information as discussed below. As such, there is no need provide alternative populated models with historic data sets or artificial values.

Moreover, CAC observes that Intervenor obtained access to the Manitoba Hydro electric COS model as part of the 2016 COSMR. In addition, Intervenor were given the ability to run their own scenarios and/or have Manitoba Hydro run scenarios to be placed on the record of that proceeding.

CAC is not requesting Centra run any scenarios or alter data or inputs in anyway, but is simply requesting access to the existing and proposed COS models that are readily available and in Centra’s possession. CAC is simply unable to understand why Manitoba Hydro was able to provide access to its COS model and Centra is unable and unwilling to allow access to its models. This is especially the case considering that Centra’s model is relatively self-contained and user friendly.

Providing Intervenor access to the existing and proposed Centra COS models does not require an extensive work effort on the part of Centra but, is simply a function of their willingness to do so.

5.0 The PUB has Established Procedures for Intervenor Access to Confidential Information

The PUB has established procedures for Intervenor access to confidential information. CAC is unclear why Centra is refusing to provide CSI.

CAC notes that Centra asserts the PUB ruled in Order 80/21 that all Intervenor can fully participate in the COSMR without the need to access confidential information. CAC disagrees with Centra's interpretation of this Order, which appears to be based on a misreading of the last sentence in the paragraph of the following excerpt of that Order:

"To the extent access to confidential information is sought by approved Intervenor, Intervenor need to first communicate with Centra to resolve the disclosure issues. If disclosure issues are unable to be resolved by communication with Centra, the Board will adjudicate any requests for access by Intervenor to confidential information. That said, the Board notes that the information redacted by Centra may not be required for Intervenor to participate fully in the proceeding, and as such, Intervenor access to this information may not be necessary" (PUB Order 80/21, page 8, Emphasis Added)

CAC observes that the PUB's use of the word "may" in the excerpt above is conditional. The PUB is simply noting that Intervenor may or may not require access to CSI. The PUB is clearly not prohibiting Intervenor access to CSI as Centra is claiming. As such, there was no need for CAC to request a variance of Order 80/21, as claimed by Centra in its reply on May 20, 2022.

The PUB has spent considerable time and effort over the years developing procedures that reconcile consumer rights to access the information with the potential negative impact associated with the release of commercially sensitive information in the public domain by allowing Intervenor legal counsel and expert access after signing confidentiality undertakings.

CSI procedures are not unique to Manitoba and are commonly used in other regulatory jurisdictions in Canada. For instance, CAC's Consultants work in other jurisdictions with confidential information (the British Columbia Utilities Commission and the Nova Scotia Utilities and Review Board) and notes that the signing of confidentiality undertakings and

access to CSI is handled as a routine matter of course which typically can occur within a very short period of time. This confidential information in other jurisdictions is consistent in the nature of the CSI claimed by Centra in this proceeding. For example, CAC's experts receive confidential information including, total, customer class, individual customers annual volumes, peak demands, load factors, energy costs (gas and electric) procured contractually with outside suppliers, models, and so on for both purposes of revenue requirement and cost of service.

CAC also notes that there were redactions to COS materials filed in the 2019/20 GRA and it was able to gain access to confidential materials after executing confidentiality undertakings. It is hypocritical that Centra uses the PUB's ruling on CSI from the 2019/20 GRA to justify its similar request in the COSMR proceeding as part its June 15, 2021 COSMR Application cover letter while at the same time arguing against CAC using that line of reasoning to access CSI in the COSMR. There is no reasonable justification to now withhold such information.

In the Centra reply, it suggests that the CAC assertion that access to confidential information as a matter of procedural fairness as being previously rejected by the PUB. It cites PUB findings from Orders 95/10 and 95/11 to support its contention. However, it is important to consider the context that gave rise to those orders; namely, the Risk Reports Redaction and the Subpoena of Manitoba Hydro's Export Agreements. The PUB findings in this circumstance demonstrates that it is rare that the PUB would have access to information not provided to intervenors. Those facts were an extraordinary set of circumstances far beyond the matters before the PUB today. The Application before the PUB today is directly impacting rates paid by the SGS class for which CAC is the customer representative. As CAC outlined in its March 14, 2022 procedural submission, the proposals in the COSMR would increase SGS customer rates in the order of \$1.7 million annually and \$34.0 million in perpetuity on a net present value basis⁶. In the circumstances of the COSMR where the SGS are most impacted by the outcome, it is clearly procedurally unfair that CAC would not obtain access to understand and test the proposed COS methodology changes.

Lastly, it is mischievous in the extreme for Centra to suggest (p.4 of 6) that because there was an inadvertent disclosure on one occasion, (where no harm was caused) that some how Intervenors should be denied materially important evidence. Bear in mind that

⁶ CAC March 14, 2022 Submission, page 10

Centra was also guilty of an inadvertent breach. Centra seems to want to “throw the baby out with the bath water”.

Quite frankly, Centra’s position is disturbing. As stated above, Centra is cost neutral in this exercise. It is the Intervenors who are allocated the costs. It is the Intervenors who bear the financial responsibility of any allocation and before the PUB determines the rates, the Intervenors are fully entitled to the models which drive those allocations.

6.0 Relief Sought

In summary, CAC submits that the production of the Required Information by Centra is within the scope of Order 36/22 and is the most effective and efficient approach to carry out the scope based on an objective review of the evidentiary record to date and can be accomplished with a reasonable work effort. The PUB has established, effective, and routine procedures to address any confidentially matters.

Given the inadequacy of the current record, CAC submits it is premature for the PUB to revise the timetable of the proceeding in advance of the receipt and assessment of the Required Information. CAC submits that in the current circumstances, it is appropriate for the PUB to assess the status of the record before establishing an updated timetable for further regulatory process steps and deadline dates. In the experience of CAC’s Consultants, this type of procedural approach is routinely used by the BCUC.

Accordingly, to the foregoing, CAC respectfully requests an Order of the PUB as follows:

1. A directive to Centra to provide unredacted copies of the existing and proposed Centra COS model expeditiously;
2. Intervenors be provided the opportunity to issue information requests on the Required Information;
3. That once Intervenors have assessed the Required Information, interested parties are provided the opportunity to make submissions with respect to the remaining steps and timelines in the regulatory process, including the timing for filing Intervenor Evidence;
4. Centra provides to CAC any additional information ordered by the PUB to be provided to IGU/Koch as a result of its motion for disclosure of additional information.
5. CAC asks for costs of this motion, for having to consume time and resources on this unnecessary contest.

If you have any questions, please feel free to contact me.

Yours truly,

DD WEST LLP

Per:



Brian J. Meronek, Q.C.

BJM /yw

c.c. PUB Counsel & Approved Intervenors (email)