



November 24, 2022

**Our file** 10146-09 & 10146-10  
**Reply to** Markus Buchart  
**Direct** 204-774-8300 (*menus: 1, 3*)  
**E-mail** MBuchart@jerchlaw.com

RACHEL McMILLIN  
Associate Secretary  
Public Utilities Board of Manitoba (PUB)  
400-330 Portage Avenue  
Winnipeg, MB R3C 0C4

Dear Ms McMillin:

**Re: Manitoba Hydro 2023/24 and 2024/25 General Rate Application  
MKO application for intervenor status**

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We are the lawyers for Manitoba Keewatinowi Okimakanak Inc. (MKO). We are writing further to your letter to interested parties dated November 16, 2022, inviting applications from potential intervenors. We are hereby filing our client's 6-page completed Intervenor Application Form (attached) and serving a copy on Manitoba Hydro's counsel Brent Czarnecki in accordance with Rule 27(1).

We thank the Board for the affording us this opportunity to bring our client's application for intervenor status.

Yours truly,

JERCH LAW

Per: 

Markus Buchart

MB/mb

Attachment (6 pp.)

By e-mail to: Rachel McMillin ([Rachel.McMillin@gov.mb.ca](mailto:Rachel.McMillin@gov.mb.ca))

cc: Brent Czarnecki ([BACzarnecki@hydro.mb.ca](mailto:BACzarnecki@hydro.mb.ca))

## INTERVENER APPLICATION FORM

|   |                                    |             |  |
|---|------------------------------------|-------------|--|
| Application re Hearing:   |                                    |             |  |
| Manitoba Hydro 2023/24 and 2024/25 General Rate Application (electricity) |                                    |             |  |
| Name of Prospective Intervener (Organization Name or Individual):         |                                    |             |  |
| Manitoba Keewatinowi Okimakanak Inc. (MKO)                                |                                    |             |  |
| <b>Prospective Intervener Contact Information</b>                         |                                    |             |  |
| Organization or Individual Address:                                       |                                    |             |  |
| 1601-275 Portage Avenue, Winnipeg, Manitoba, R3B 2B3                      |                                    |             |  |
| Organization Contact Person(s) (if applicable):                           |                                    |             |  |
| (Ms) Kelvin Lynxleg, Executive Director                                   |                                    |             |  |
| Contact Information:  | Business:                          |             | Other Phone:                                 |
|   | 204-677-1600                       |             |  |
|   | Fax Number:                        |             | Email:                                       |
|   | 204-778-7655                       |             | kelvin.lynxleg@mkonorth.com                  |
| <b>Representative Contact Information:</b>                                |                                    |             |  |
| Counsel or Representative Name(s):  |                                    |             |  |
| Markus Buchart & Michael Jerch  |                                    |             |  |
| Organization (if different from above):                                   |                                    |             |  |
| P. Michael Jerch Law Corporation (Jerch Law)                              |                                    |             |  |
| Address (if different from above):  |                                    |             |  |
| 22 Edmonton Street, Winnipeg, Manitoba, R3C 1P7                           |                                    |             |  |
| Contact Information (if different from above):                            | Business:                          |             | Other Phone:                                 |
|   | 204-774-8300                       |             |  |
|   | Fax Number:                        |             | Email:                                       |
|   | 204-774-8349                       |             | mbuchart@jerchlaw.com<br>mjerch@jerchlaw.com |
| Counsel Seniority:  |                                    |             |  |
| Years of Experience   | 26 years & 25 years, respectively. | Tariff Rate | \$314.00                                     |
| Also representing (if applicable):  |                                    |             |  |
| Not applicable.   |                                    |             |  |

**Additional Information**

(For organizations only) Please describe the mandate of your organization and provide a description of the membership, including the number of members. Please also confirm whether the organization's intervention in this proceeding is supported by a resolution of the governing body, if any. Please enclose the resolution, if any, with your Application, along with supporting documentation of your mandate and membership

MKO is a non-profit advocacy organization that has been in existence for more than 40 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 who are signatories to Treaties 4, 5, 6, and 10. MKO 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.

**Please state your reasons for intervening in this proceeding:**

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 process to ensure that the distinct interests of the MKO First Nations, entities and citizens, all in northern Manitoba, are properly considered.

**Please state how you are directly affected by the Board's decision in this matter:**

The Board created a *First Nation on Reserve Residential Rate* (FNORR) class by Order 59/18. In June 2020 the Manitoba Court of Appeal in *Manitoba (Hydro-Electric Board) v Manitoba (Public Utilities Board) et al*, 2020 MBCA 60, held that the Board exceeded its jurisdiction when it created the FNORR class. As a result, the rate freeze for FNORR ratepayers that began on August 1, 2017, ended and former FNORR ratepayers have become subject again to the same rates as other residential ratepayers.

The FNORR rate class may have been abolished, but the former FNORR customers have not been. Order 59/18 (at pp. 27-28) records the Board's agreement with Manitoba Hydro that "electricity rates and the resulting bills place a particularly heavy burden on First Nations communities ..."

This will be the first general rate application since the FNORR class was abolished. MKO wishes to represent the interests of the First Nation ratepayers who reside in its territory in northern Manitoba. Whatever effect the Board's orders may have on electricity ratepayers in general, they will inevitably have a disproportionately larger effect on First Nation residents of northern Manitoba.

Please explain whether and how you represent a substantial number of ratepayers that are otherwise not represented on issues that are within the scope of this proceeding:

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. MKO's member First Nation governments are general service ratepayers. The four First Nations in Manitoba currently serviced by diesel power are also MKO-member First Nations.

There are no other approved interveners in this proceeding that represent First Nation On-Reserve residential, general service, and diesel serviced customers, all of whom are located in northern Manitoba.

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

Please describe your experience, information, or expertise relevant to this matter that would contribute to the Board's decision making, including any other prior interventions in regulatory matters before this Board or other decision-makers:

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

Please list the key issues you intend to address in the proceeding. Please be specific.

1. *The Manitoba Hydro Act*, section 39(11), permits the Board to make recommendations to the minister responsible for the Act. MKO intends to make the case for the Board to recommend that the minister pursue amendment of the Act to create, or permit the creation of, a new FNORR class similar to that which had been created by Order 59/18.
2. MKO intends to explore possible measures for remedial rate relief for First Nation residential customers, both on- and off-reserve, that are within the Board's jurisdiction under *The Manitoba Hydro Act*.
3. MKO intends to relate provisions of Treaty Nos. 4, 5, 6, and 10 and the official government policy of Reconciliation with aboriginal peoples as these are relevant to the applicant Manitoba Hydro's present application and MKO's intervention.

Do you intend to participate fully and actively, including attendance at hearings, submission of evidence, and testing of evidence and cross examination of witnesses? If yes, please describe your intended participation.

MKO intends to participate fully and actively in this hearing but does not anticipate calling any expert witness(es).

Do you intend to request an award of costs for your participation? Please explain how you meet the criteria for an award of costs.

Yes, MKO intends to submit a request for a cost award pursuant to the Board's Intervener Costs Policy for this proceeding. MKO has a substantial interest in the outcome of the proceeding, intends to make a significant contribution, and intends to participate in a responsible manner, including cooperating with other interveners with common objectives.

Do you intend to retain experts or consultants? **No.** If yes, please attach copies of the *curriculum vitae* for any expert and/or consultant, as well as the following:

**Expert Consultant #1:**

|                    |                       |  |
|--------------------|-----------------------|--|
| Name:              | Experience            | Evidence to be provided on issues in scope:                          |
|                    | _____ Years           |  |
| Telephone #:       | Tariff Rate:          |  |
|                    | \$ _____              |  |
| Address and Email: | Firm or Organization: | Brief explanation of experience relevant to evidence to be provided: |
|                    |                       |  |

| <b>Expert Consultant #2:</b> |                       |  |
|------------------------------|-----------------------|--|
| Name:                        | Experience:           | Evidence to be provided on issues in scope:                          |
|                              | _____ Years           |  |
| Telephone #:                 | Tariff Rate:          |  |
|                              | \$ _____              |  |
| Address and Email:           | Firm or organization: | Brief explanation of experience relevant to evidence to be provided: |
|                              |                       |  |
| <b>Expert Consultant #3:</b> |                       |  |
| Name:                        | Years of Experience:  | Evidence to be provided on issues in scope:                          |
|                              | _____ Years           |  |
| Telephone #:                 | Tariff Rate:          |  |
|                              | \$ _____              |  |
| Address and Email:           | Firm or organization: | Brief explanation of experience relevant to evidence to be provided: |
|                              |                       |  |

|  |   |
|--|---|
| Do you intend to provide evidence from witnesses other than experts and/or consultants? <b>No.</b> If yes, please provide:   |   |
| <b>Witness #1:</b>   |   |
| Name:  | Evidence to be provided on issues in scope:                                   |
|  |   |
| Email:   | Brief explanation of relevant experience and/or knowledge to issues in scope: |
|  |   |
| Address and Phone number:  |   |
|  |   |
| Do you intend to seek approval for any other form of participation or provision of evidence, including for which you intend to seek an award of costs? If yes, please provide details and an explanation of the relation to issues in scope in the proceeding.   |   |
| MKO would like to get the text of Treaty Nos. 4, 5, 6, and 10, and a map showing the boundaries of the territories covered by these specific treaties into evidence by judicial notice under <i>The Manitoba Evidence Act</i> or by agreement with Manitoba Hydro. If that is not possible, then a witness or some other means of proving these documents may be required. |   |