

**Order No. 80/17**

**AN APPLICATION BY MANITOBA HYDRO  
FOR A 7.9% INTERIM RATE INCREASE EFFECTIVE AUGUST 1, 2017**

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**July 31, 2017**

BEFORE: Robert Gabor, Q.C., Chair  
Hugh Grant, Ph.D., Member  
Marilyn Kapitany, B.Sc. (Hon), M.Sc., Member  
Shawn McCutcheon, Member  
Sharon McKay, BGS, Member  
Larry Ring, Q.C., Member

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## 1.0 Executive Summary

The Manitoba Public Utilities Board (“Board”) has two concerns when dealing with a rate application: the interests of the utility’s ratepayers, and the financial health of the utility. Together, and in the broadest interpretation, these interests represent the general public interest.

By this Order, the Board denies the Application of Manitoba Hydro (the “Utility” or the “Corporation”) for a 7.9% the interim rate increase to be effective August 1, 2017.

The Board finds that Manitoba Hydro has not established a *prima facie* (“on its face”) case for any revenues from any interim rate increase to flow into the Utility’s general revenues.

The Board approves a 3.36% interim rate increase in Manitoba Hydro’s consumers’ billed rates effective August 1, 2017, with all additional revenue generated from this interim rate increase to flow into the previously established Bipole III Deferral Account to be used to fund some of the additional costs that will be incurred when Bipole III comes into service, now projected by Manitoba Hydro to be in July of 2018. This decision of the Board is not unanimous.

An interim rate increase of 3.36%, with all revenues generated flowing into the Bipole III Deferral Account continues Manitoba Hydro on a rate trajectory similar to that in Order 59/16, issued by the Board on April 28, 2016. Order 59/16 granted an interim rate increase of 3.36%, with all of the revenues generated from that interim rate increase flowing into the Bipole III Deferral Account. That hearing process was the last time there was an examination by the Board and Interveners of Manitoba Hydro’s financial need for rate increases. In this current Order, the Board bases its findings as to the amount of this interim rate increase on the evidence that was analyzed during the process leading to Order 59/16.

A further 3.36% interim rate increase, to be effective August 1, 2017, is consistent with the considerations of rate stability and predictability, while also contributing to mitigate

against the rate shock concern resulting from Bipole III's anticipated in-service date in July of 2018.

An important consideration in the present interim rate Application is the fact that Manitoba Hydro is in the midst of significant capital investment. Since the time of the Board's last interim rate Order in 2016, the capital budget for the Bipole III Transmission Project ("Bipole III") has escalated by the amount of \$389 million, bringing the total capital budget to \$5 billion. This capital project is largely being debt financed. There will be significant annual financing costs in addition to annual depreciation expense after Bipole III comes into service in July of 2018.

As stated above, the Board remains concerned that the costs associated with Bipole III coming into service will give rise to rate shock. The Bipole III Deferral Account was established by the Board in 2013 to mitigate significant rate increases that will be required when the Bipole III comes into service. A percentage of revenue from existing rates is currently being directed to the Bipole III Deferral Account. The balance in the Bipole III Deferral Account, however, will not be sufficient to pay the annual estimated additional costs of approximately \$337 million associated with Bipole III in each of the years immediately after Bipole III comes into service. These annual additional carrying costs will be paid through rates. The additional amount generated by this 3.36% interim rate increase will provide a degree of further mitigation by reducing the extent of future rate increases.

All Board Members adjudicating the evidence in Manitoba Hydro's interim rate Application have concluded that Manitoba Hydro's financial situation for the current fiscal year and the next fiscal year has improved relative to its 2015 forecast and by approximately \$119 million from what the Utility forecast in its 2016 Integrated Financial Forecast filed with the Board in May of 2017. However, as this forecast increase in Net Income is a one-time increase, it is not available annually to mitigate the annual costs of Bipole III. As such, the majority of the Board considers the public interest to be best served if the entirety of the revenues from the 3.36% interim rate increase flow into the

Bipole III Deferral Account to reduce the annual operating costs when Bipole III comes into service.

A notable difference in Manitoba Hydro's financial forecasts is that, rather than seeking to achieve a capital structure with 25% equity over 20 years (which Manitoba Hydro has followed since before the 2014 Needs For and Alternatives To Review of Manitoba Hydro's capital expenditure plans), the Utility's 2016 financial forecasts now seek to achieve that 25% equity level over a period of 10 years, with the first five of those 10 years embedding consecutive annual rate increases of 7.9% followed by five consecutive years of 2.0% rate increases. This contentious issue will be examined during the General Rate Application.

Additionally, pursuant to *The Crown Corporations Governance and Accountability Act* enacted June 2, 2017, the audited financial statements for Manitoba Hydro's fiscal year that ended March 31, 2017 are to be filed with its Minister by August 1, 2017 and then also made public. As those audited financial statements were not filed in Manitoba Hydro's evidence related to the August 1, 2017 interim rate requested and because those financial statements refer to a prior fiscal year before the current fiscal year in which the interim rate is to be effective, the Board will not consider such financial statements in this decision. The audited financial statements for the fiscal year that ended March 31, 2017 will be considered in the General Rate Application when reviewing the August 1, 2016 interim rate previously approved by the Board in Order 59/16.

As the approved 3.36% August 1, 2017 interim rate increase is lower than the 7.90% requested by Manitoba Hydro, the Board will require Manitoba Hydro to file revised Rate Schedules, a Proof of Revenue, and Customer Bill Impact Schedules.

As this is an interim rate increase, the final amount of this increase may be varied up or down. This interim rate increase is subject to the Board's determinations in the General Rate Application that is presently before the Board and will proceed to an oral public hearing in late 2017.

The Board expects that, along with the existing interim rate increase that was effective August 1, 2016, this additional interim rate increase will be fully reviewed and tested in the current General Rate Application. The granting of interim rate increases does not reduce the onus on Manitoba Hydro to demonstrate that any such rate increases are just and reasonable before they are finalized.

As mentioned above, there is a minority or dissenting decision by a Board Member who was not satisfied that any interim rate adjustment should be made prior to the conclusion of the complete public hearing process that is well underway.

While there is not unanimity among the Board Members as to a final decision on Manitoba Hydro's interim rate Application, all Members fully respect the ability of Board Members to disagree with the majority decision and to provide a dissenting minority opinion. The public interest is best served by having all Board Members contribute their independent deliberations, even if a unanimous position is not achieved.

## 2.0 Procedural History

On May 5, 2017, Manitoba Hydro filed a Letter of Application, setting out the specific requests that the Utility is making in its 2017/18 and 2018/19 General Rate Application, including a request that the Board approve, on an interim basis, a 7.9% rate increase for all customer classes to be effective August 1, 2017. If granted, Manitoba Hydro will then seek to finalize such a rate increase in the General Rate Application proceedings. According to the Utility, if granted, this 7.9% rate increase will result in a residential customer without electric space heat and with an average usage of 1,000 kWh per month experiencing an increase in their monthly bill of \$6.88, effective August 1, 2017. A residential customer with electric space heat and an average usage of 2,000 kWh per month will experience a monthly bill increase of \$13.14.

On May 12, 2017 and May 26, 2017, respectively, Manitoba Hydro filed copies of the Revenue Requirement information and the Rate Design and Cost of Service Study information on which it is relying in support of its General Rate Application. In addition to the interim rate requested for August 1, 2017, Manitoba Hydro's General Rate Application seeks to finalize the existing 3.36% interim rate that was effective August 1, 2016, and also seeks an additional across-the-board 7.9% rate increase, effective April 1, 2018.

By letter dated May 17, 2017 to Manitoba Hydro and Past Interveners of Record, the Board directed that the request for an interim rate increase process by Manitoba Hydro should commence before the date of the Pre-Hearing Conference for the General Rate Application. The Board sought written submissions from past Interveners of Record on whether the Board should consider a request for an interim rate process and, if so, what that process should be. After considering the process submissions and Manitoba Hydro's Reply, the Board directed that it would conduct a process to consider the merits of Manitoba Hydro's interim rate request, as follows:

- Written submission by Manitoba Hydro on the merits of its interim rate request, focused on what has changed in its Integrated Financial Forecast since the

Board last granted a rate application in Order 59/16 issued on April 28, 2016, and including specific identification of documents in its General Rate Application filing on which it is relying to support its requested interim rate increase. The Board directed that this written submission also include further Integrated Financial Forecast scenarios, utilizing different assumed rate increases for 2018, as set out below:

- Manitoba Hydro's twenty year Integrated Financial Forecast IFF16, complete with all financial ratios, where the only change is in the 2018 fiscal year where the scenarios to be run reflect rate increases in that year of 0%; 1.6% (the prevailing annual increase in the Manitoba consumer price index at the time); 3.36%; 3.95% and any other amount chosen by Manitoba Hydro, recognizing the 7.9% scenario for the interim rate has already been filed in Appendix 3.1 ("PUB Scenario I"); and
- Manitoba Hydro's twenty year Integrated Financial Forecast IFF16, complete with all financial ratios, where the scenarios to be run reflect rate increases in the 2018 fiscal year of 0%; 1.6%; 3.36%; 3.95% and any other amount chosen by Manitoba Hydro, and Manitoba Hydro is to also insert the indicative rate increases in subsequent years to achieve Manitoba Hydro's desired debt-to-equity target by the end of fiscal year 2027 ("PUB Scenario II");
- Filing by approved Interveners of written outlines of their oral submissions; and
- An oral hearing to hear submissions from Interveners and Reply submissions by Manitoba Hydro.

These process steps were confirmed by the Board, including dates for filing and for the oral hearing, by letter dated June 15, 2017, and in the Board's Pre-Hearing Conference Order, Order 70/17. That Order also identified the schedule for the General Rate Application, with the oral hearing commencing on December 4, 2017.



Manitoba Hydro filed its written submissions, including PUB Scenario I and PUB Scenario II, on June 20, 2017.

On July 11, 2017, Manitoba Hydro filed an update of the financial forecast for electric operations as part of the GRA (“MH16 Update”). This filing also included an update to PUB Scenario I and PUB Scenario II.

On July 14, 2017, the Board received written outlines of oral submissions from the following approved Interveners:

- The Consumers Coalition, a coalition of the Consumers’ Association of Canada (Manitoba) and Winnipeg Harvest, that seeks to represent the interests of all Manitoba residential consumers, including low-income consumers, the working poor and those living on reserve and in remote and rural communities;
- Green Action Centre, a non-profit, non-governmental organization that has a mandate of promoting greener living and the creation of a more sustainable society;
- Manitoba Industrial Power Users Group, an association of companies who are substantial users of power in the Service Large rate classes, including all three subclasses; and
- Manitoba Keewatinowi Okimakanak, a non-profit advocacy organization that represents more than 65,000 treaty First Nations citizens in 30 First Nations communities in northern Manitoba.

The Board also received written comments on the interim rate from the following approved Interveners:

- Assembly of Manitoba Chiefs, which is the political, advocacy and technical body that represents 62 of 63 First Nations communities in Manitoba and approximately 130,000 people;
- Business Council of Manitoba, a not-for-profit organization consisting of 84 Chief Executive Officers from a cross-section of businesses;
- Representatives of the General Service Small and General Service Medium Customer Classes – respectively, small commercial customers with loads of less than ~200 kW and large commercial customers that use Manitoba Hydro-owned transformation equipment exceeding ~200kW - including the members of the Building Owners and Managers Association of Manitoba, the Canadian

Manufacturers & Exporters Association – Manitoba Division, and the Manitoba Hotel Association; and

- Keystone Agricultural Producers, Manitoba’s general farm policy organization that represents the interests of over 7,000 farm families and 23 commodity associations.

An oral hearing was held on July 18 and 19, 2017, at which the Board heard oral submissions from the Consumers Coalition, Green Action Centre, Manitoba Industrial Power Users Group, and Manitoba Keewatinowi Okimakanak, and oral Reply submissions from Manitoba Hydro.

The Board notes that Manitoba Hydro’s General Rate Application, including the interim rate increase request, has garnered a significant level of public interest. The Board has received a record number of Applications for Intervener Status, and of those Applicants has approved eight Interveners. The Board has also received on its website more than 2,300 comments from members of the public. This was the first time that the Board livestreamed a hearing and there were more than 900 hits on the Board’s livestream of the interim rate oral hearing. The hearing for the General Rate Application will also be livestreamed.

### 3.0 Background

The Board is an independent quasi-judicial administrative tribunal that sets just and reasonable rates that are determined by the Board to be in the public interest. As held by the Manitoba Court of Appeal:

*The role of the PUB [pursuant to its legislation] is not only to protect consumers from unreasonable charges, but also to ensure the fiscal health of Hydro....*

*The PUB has two concerns when dealing with a rate application; the interests of the utility's ratepayers, and the financial health of the utility. Together, and in the broadest interpretation, these interests represent the general public interest.*

*Consumers' Association of Canada (Man.) Inc. et al. v. Manitoba Hydro Electric Board, 2005 MBCA 55.*

#### **The Rate-Setting Framework for Interim Rates**

In the ordinary course, the Board sets rates for Manitoba Hydro through the regulatory process of a General Rate Application. In a General Rate Application filed with the Board, the Utility may submit proposals regarding final rates for services relating to a period of not more than three years. A General Rate Application process involves a fulsome public review, including notice of the process to interested parties; the testing of Manitoba Hydro's case through an evidentiary written information request process and a public oral hearing involving direct evidence and cross-examination; and the filing of expert evidence by approved Interveners and/or Board-retained Independent Expert Consultants and the testimony and cross-examination of experts in the oral hearing. Through this process, which takes place over a number of months, the Board scrutinizes the evidence before it on the range of issues that are relevant and in scope and arrives at a final decision with respect to the rates that the Utility can charge for its electricity services.

In contrast, interim rates are ordered on a provisional or temporary basis, pending full and final adjudication in a General Rate Application process. As the Supreme Court of

Canada held in the case of *Bell Canada v Canada (Canadian Radio-Television and Telecommunications Commission)*, [1989] 1 SCR 1722:

*Traditionally, such interim rate orders dealing in an interlocutory manner with issues which remain to be decided in a final decision are granted for the purpose of relieving the applicant from the deleterious effects caused by the length of the proceedings. Such decisions are made in an expeditious manner on the basis of evidence which would often be insufficient for the purposes of the final decision.*

The Board noted in Order 59/16 that interim rate applications ought not to be the ‘norm’ for Manitoba Hydro as such applications do not offer the same level of public review and testing as do General Rate Applications.

### **The Board’s Jurisdiction to Award Interim Rates**

The Board’s authority to set Manitoba Hydro’s rates for services is derived from *The Crown Corporations Governance and Accountability Act*, CCSM c C336 (the “Crown Act”). Pursuant to subsection 25(1), no change in rates for Manitoba Hydro’s provision of power can be made and no new rates can be introduced without the approval of the Board. Subsection 25(3) of the Crown Act provides that *The Public Utilities Board Act*, CCSM c P280 (the “PUB Act”) applies to a review of Manitoba Hydro’s rates with any necessary changes.

The Board has confirmed on a number of occasions that it has the jurisdiction to approve interim rate adjustments for Manitoba Hydro, including in Orders 18/10, 40/11, and 116/12. The source of this jurisdiction is both the Crown Act and the PUB Act. Section 27 of the Crown Act contemplates that the Board may approve a rate increase on an interim basis. This section provides that, where the Board has approved a new or increased rate pursuant to an interim order but the final order does not allow changes in rates or allows changes other than those permitted in the interim order, the Board has the discretion to make an order to compensate for or refund any excess amounts collected.

Section 27 of the Crown Act is facilitated by the provisions of the PUB Act that allow for the making of interim orders. Specifically, subsection 47(2) of the PUB Act grants the Board the authority to make an interim order. This authority is broad and permissive, and is not subject to pre-conditions.

The Board is also empowered to grant an application for rates in whole or in part, such that an increase in rates may be granted in an amount different from than that sought by the Utility.

In exercising the jurisdiction to make an interim order, the Board is guided by the considerations set out in subsection 25(4) of the Crown Act, which provides that, in reaching a decision on a review of rates, the Board may take into account a number of factors. The enumerated list of factors includes “*any compelling policy considerations that the board considers relevant to the matter*” and “*any other factors that the Board considers relevant to the matter.*” Combined with subsection 25(3), the Board has broad authority to take into account any factors it considers relevant, including the specific factors listed in subsection 25(4), as well as the mandate under subsection 77(1) of the PUB Act to fix just and reasonable rates, and other relevant statutory, common law and regulatory principles, such as the promotion of rate stability and easing of rate shock. While the Board has previously confirmed that urgency is not a necessary pre-condition to the exercise of its authority under subsection 47(2), factors such as the existence of unforeseen or emergency situations, as identified in Order 59/16, may be relevant depending on the circumstances of the given application before the Board.

## 4.0 Manitoba Hydro's Application for an Interim Rate

### Previous Rate Increases

In June of 2012, Manitoba Hydro filed a General Rate Application seeking a 3.5% increase in consumer rates effective April 1, 2013. In Board Order 43/13, the Board approved an overall increase of 3.5% to all customer classes, but ordered the revenues from 1.5% of the overall increase to be placed in the Bipole III Deferral Account. In Order 49/14, the Board, on an interim basis, further approved a 2.75% overall average rate increase, but the revenues from 0.75% of the overall increase were to be placed into the Bipole III Deferral Account.

Following Manitoba Hydro's filing of a General Rate Application in 2015 for revised electricity rates, the Board in Order 73/15 finalized the 2014/15 interim rate increase and awarded a further 3.95% increase to billed rates for the 2015/16 fiscal year, effective August 1, 2015. Of this 3.95% increase, the revenues from a 2.15% increase were to be placed in the Bipole III Deferral Account.

In November 2015, Manitoba Hydro filed an interim rate application seeking an interim rate increase of 3.95% for all customer classes, effective April 1, 2016. In Order 59/16, the Board granted a 3.36% increase, with all revenues from the increase directed to the Bipole III Deferral Account. Order 59/16 also directed Manitoba Hydro to file a General Rate Application by no later than December 1, 2016 to allow for the adjustment of consumer rates for August, 2017.

As noted above, and despite the directive in Order 59/16, Manitoba Hydro filed in May 2017 the General Rate Application currently before the Board, including the request for an interim rate increase.

## 5.0 Summary of Submissions of the Parties

### Manitoba Hydro

Manitoba Hydro's request is for a 7.9% interim rate increase to all customer classes, effective August 1, 2017. The Utility cites as the key reasons for the interim rate increase:

- Current rates are inadequate and must rise significantly in the face of known pending increases in Manitoba Hydro's carrying costs [i.e. Bipole III] coupled with reduced revenue growth expectations;
- Deferring a substantial increase in the 2017/18 fiscal year will only serve to exacerbate the impact on ratepayers of subsequently higher rate increases that a deferral would necessitate;
- A modest net income in 2016/17 roughly in-line with prior forecasts provides false security as to the material financial challenges Manitoba Hydro faces. The actual results of 2016/17 were largely influenced by near-record water flows and the PUB-ordered methodology for depreciation and certain overhead expenditures. Continued reliance on factors entirely outside of Manitoba Hydro's control, such as high water flows and continually lower interest rates, is ill-advised; and
- The interim rate increase, coupled with the further 7.9% increase proposed for April 1, 2018, is urgently required to remediate the ongoing deficit funding of Manitoba Hydro's core operations.

Manitoba Hydro specifically identifies a need to increase the level of the Utility's cash flow as reflected in the Utility's new capital expenditure metric (referred to as "CFO to CAPEX"), and the expected in-service date for Bipole III of July 2018, with associated annual carrying costs, as factors supporting its request for an interim rate increase. The Utility submits that, without the proposed rate increases in Integrated Financial Forecast 2016 ("MH16") and the MH16 Update, Manitoba Hydro's debt-to-equity ratio will further deteriorate below the Corporation's target of a 25% equity capitalization in a 10-year timeframe. Manitoba Hydro argues that a low-equity component in its capital structure exposes it and its ratepayers to risks, including higher interest rates at the time debt is refinanced when debt maturities are reached as well as low water flows/drought, or material negative deviations from the financial forecasts, such as in export price and



domestic load forecasts. The Utility has changed its previous position such that it is no longer willing to relax the equity ratio for an extended duration before returning to its minimum equity target. In addition, the Utility now maintains that its previous plans were not sufficiently robust to address current circumstances.

### **Consumers Coalition**

The Consumers Coalition argues that Manitoba Hydro's Application for a 7.9% interim rate increase should be denied. The Consumers Coalition recommends that no interim rate increase be awarded for the following reasons:

- A full rate hearing process is well underway and any delays in initiating process are the sole responsibility of Manitoba Hydro;
- No urgency or emergency has been demonstrated;
- Manitoba Hydro's capital coverage target for 2017/18 would be met under the capital cost coverage ratio metric even if there was no interim rate increase;
- \$92 million in net income is forecast for 2017/18 even without a rate increase, as based on the MH16 Update;
- Manitoba Hydro did not comply with past PUB directives to avoid interim rate increases and get its regulatory house in order;
- Manitoba Hydro has credibility challenges that are exacerbated by material changes in its forecasting methodology and malleable approach to metrics, including the new CFO to CAPEX metric;
- Manitoba Hydro's interim submissions and forecasts for 2017/18 are not in compliance with the Board's directive to focus on what has changed in its Integrated Financial Forecast since the Board issued Order 59/16 based on the Board-mandated methodology for Integrated Financial Forecast 2015;
- The long-term interests of consumers are best served by testing Hydro's application in a full process before granting any demonstrably necessary rate increase.

The Coalition also submits that the Board should direct Manitoba Hydro to present a proposal to the Board to "bring its regulatory house into order and end its unhealthy addiction to interim rate increases."



Notwithstanding these arguments, the Coalition recommended in its written submission that, if based on the evidence presented by Manitoba Hydro, the Board determines that it has no choice but to grant some level of interim relief to Manitoba Hydro, then the increase should be no higher than the rate of inflation, in the range of 1.6%.

### **Manitoba Industrial Power Users Group**

The Manitoba Industrial Power Users Group submits that no new interim increase in Manitoba Hydro's operating revenue is merited for 2017/18, but that an interim rate increase at an inflationary rate of 1.6% is justified in the interests of ratepayers and predictable rate transitions, with all the revenues from the increase being targeted to the Bipole III Deferral Account. MIPUG's position is premised on the following arguments:

- MH16 shows lower net costs in 2017/18 to be paid by ratepayers than the projections in IFF15;
- MH16 shows a positive net income in 2017/18 even without an interim revenue increase;
- MH16 shows significant positive cash flow from Operating Activities with a 1.6% rate increase, sufficient to fund all capital expenditures for "normal" capital and a portion of Major capital spending tied to existing assets, and still yield over \$63 million for 2017/18;
- MH16's long-term forecast of net costs that must be recovered from domestic ratepayers is almost precisely equal to IFF15;
- MH16 incorporates significant pessimistic assumptions, including with respect to domestic load and export prices, that have not yet been tested;
- MH16 has less exposure to risk than IFF15;
- MH16 Update shows material improvements in 2017/18 and 2018/19 compared to MH16, particularly for cash flows and the positive impacts from sustained high water reservoir levels into 2018/19;
- Awarding a 1.6% interim increase today would not prejudice or fetter the Board's ability to award more aggressive rate increases at a later date if deemed necessary; and

- Manitoba Hydro has not met its burden of proof to establish unforeseen or emergency circumstances and has failed to apply with the Board's directives in Order 59/16.

### **Green Action Centre**

The Green Action Centre submits that there is a *prima facie* case for an interim rate increase effective August 1, 2017; however, there has not been sufficient time to test the requested increase of 7.9%. The Green Action Centre recommends a 3.36% interim increase, based on the Board's decision in Order 59/16, but argues that any interim rate increase awarded should be accompanied with a strategy for addressing customer impacts. The Green Action Centre submits that an interim rate increase of 3.36% is justified due to the importance of Manitoba Hydro's financial health in the context of capital projects that are increasing debt at a rate exceeding inflation. In addition, rate stability and predictability requires setting rates over a trajectory, with sufficient reserves. Pauses in rate increases will have to be made up in future years.

The Green Action Centre requests that the Board direct Manitoba Hydro to undertake further efforts based on current Demand-Side Management initiatives to target high-energy users and assist in lowering bills and energy consumption, as well as to focus efforts on energy consumption on First Nations communities to reduce the energy burden of ratepayers in those communities. The Green Action Centre also recommends that Manitoba Hydro be directed to file, in the course of the General Rate Application, a strategic plan to cap and reduce energy burdens of 'low-income cut-off 125' customers that exceed a 6% energy poverty threshold for household income.

### **Manitoba Keewatinowi Okimakanak**

Manitoba Keewatinowi Okimakanak submits that no interim rate increase should be granted due to an absence of compelling evidence that an interim rate increase is necessary. Manitoba Keewatinowi Okimakanak accepts the analysis of the Consumers Coalition and Manitoba Industrial Power Users Group regarding the lack of justification for the requested interim rate increase and evidence underpinning the request. It argues the balancing of the interests of ratepayers with the financial health of the utility requires

a consideration of prejudice. It states that the prejudice to Manitoba Hydro in not granting an interim rate increase is minimal while the increase would raise rates for consumers to a level that is even more unaffordable, without any bill amelioration being available to northern First Nations families.

### **Assembly of Manitoba Chiefs**

The Assembly of Manitoba Chiefs supports the positions of the Consumers Coalition and Manitoba Industrial Power Users Group. It submits that the issues raised on the interim rate request are important questions for the General Rate Application and that the interim increase should not be granted as it will create rate shock without full examination of the evidence.

### **Business Council of Manitoba**

Business Council of Manitoba is supportive of Manitoba Hydro's proposed rate increases if the increases will address Manitoba Hydro's management of its debt and protection of the credit ratings of the Utility and the Province.

### **Representatives of the General Service Small and General Service Medium Customer Classes**

The Representatives of the General Service Small and General Service Medium Customer Classes argue that the 7.9% interim rate increase sought should not be granted prior to full testing of the evidence in the General Rate Application. They also state that the level of the increase is inconsistent with the Utility's past and present evidence regarding regular and predictable rate increases, and that the interim rate increase should only be considered within the framework of Manitoba Hydro's current financial expectations as established in recent General Rate Applications and the Needs For and Alternatives To Review.

### **Keystone Agricultural Producers**

Keystone Agricultural Producers argues that all of Manitoba Hydro's proposed rate increases should be adjudicated in the course of the General Rate Application, not in an interim proceeding. It submits that the requested 7.9% interim rate is premised on Manitoba Hydro's rate plan that has not yet been tested or approved. It also notes that the rate increases sought by Manitoba Hydro risk economic losses in the agricultural sector over several decades.

## 6.0 Board Findings by Majority of Board Members

### The Requested 7.9% Interim Rate Increase

The Board finds that Manitoba Hydro has not established a *prima facie* case for the requested 7.9% interim rate increase. Manitoba Hydro's case for a 7.9% interim rate increase is premised on a number of changed assumptions that cannot be sufficiently reviewed and tested in the course of an interim process. The Board accepts that contentious issues should be excluded from the consideration of an interim rate increase and should only be considered after receiving evidence in the General Rate Application hearing.

First, MH16 and MH16 Update incorporate for the first time a 10-year timeframe for the achievement of Manitoba Hydro's debt-to-equity target of 75/25, with the first five of those 10 years seeking annual 7.9% rate increases followed by five years with 2% annual rate increases. In the 2014 Needs For and Alternatives To Review, a 20-year timeframe, or the fiscal year of 2031/32, was identified by Manitoba Hydro as the target for reaching its 75/25 debt-to-equity ratio through equal annual 3.95% rate increases for its Preferred Development Plan. Manitoba Hydro has used a 20-year timeframe since before the 2014 Needs For and Alternatives To Review of Manitoba Hydro's capital expenditure plans.

Manitoba Hydro's Integrated Financial Forecast 14 maintained a 20-year timeframe, with 2033/34 being the targeted year for reaching 75/25. Order 59/16 continued to reflect Manitoba Hydro's target year for 75/25 debt-to-equity of 2033/34. At the same time, the Board has supported a relaxation of the 75/25 debt-to-equity ratio to minimize and smooth out consumer rate increases while still maintaining sufficient retained earnings. The change in pacing to a 10-year timeframe for the achievement of a 75/25 target appears to be fundamental change in approach by Manitoba Hydro that must be examined in the General Rate Application. Similarly, Manitoba Hydro's target level of 75/25 for the debt-to-equity ratio is likely to be a significant and contentious issue in the General Rate Application and cannot be sufficiently reviewed in an interim process.

Second, MH16 and MH16 Update financial forecasts introduce a new cash flow metric, “CFO to CAPEX”. This is supplemental to the capital cost ratio that was previously incorporated into Manitoba Hydro’s financial forecasts. The Board notes that, if cash flow is measured through the capital cost ratio metric, the ratio exceeds the target of 1.20 and results in a higher ratio than forecast in Integrated Financial Forecast 15, even in the absence of a rate increase. In the absence of thorough review, testing and Intervener evidence, Manitoba Hydro has not established the need for the use of this metric to measure cash flow.

Third, MH16 and MH16 Update financial forecasts depart from Manitoba Hydro’s prior business and rate plan, considered in Order 73/15, of equal annual rate increases of 3.95% and from the rate trajectory set out in Order 59/16 of equal annual rate increases of 3.36%. As above mentioned, the new rate plan presented by Manitoba Hydro in MH16 and MH16 Update consists of 7.9% annual rate increases for five consecutive years, followed by inflationary-level increases of 2% for five consecutive years. This shift in approach to the planned rate trajectory requires full consideration in the course of a General Rate Application and cannot be assumed to be valid on an interim review alone.

Additionally, Manitoba Hydro has changed its debt management strategy through issuing new debt with shorter terms to maturity. The Board is concerned that Manitoba Hydro is shortening the terms of debt on the assumption of receiving the Utility’s requested rate increases that have not yet been examined or approved by the Board.

The Board also notes its concern that with this interim rate application Manitoba Hydro has proceeded with another interim rate application, despite the fact that the 3.36% interim rate increase granted in Order 59/16 remains to be finalized, and despite the Board’s directive in Order 59/16 that Manitoba Hydro file a General Rate Application by no later than December 1, 2016 to allow for a full General Rate Application to adjudicate any adjustment of consumer rates for August 1, 2017 in a final order. The Board remains concerned that interim rate applications ought not to be the ‘norm’ for Manitoba Hydro as they do not offer the same level of public review as General Rate Applications.

## **The Case for an Interim Rate Increase with Revenues to Flow to Manitoba Hydro's General Revenues**

The Board finds that Manitoba Hydro has not established a *prima facie* case for an interim rate increase with revenues flowing to Manitoba Hydro's general revenues. Manitoba Hydro's financial situation for the 2017/18 fiscal year has improved over what was filed with the Board in May 2017. As shown in MH16 Update, filed July 11, 2017, Manitoba Hydro is now forecasting a net income for 2017/18 of \$92 million even in the absence of a rate increase in this fiscal year. The Updated forecast of \$92 million in net income for the current fiscal year in the absence of a rate increase is materially higher than the \$20 million that was forecast for the 2016/17 fiscal year at the time of Order 59/16. In that Order, the Board found that Manitoba Hydro did not require an interim rate increase that would flow to its general revenues.

The Board remains concerned with Manitoba Hydro's forecasting projections, including load growth, interest rates and export revenues, beyond the test year. However, Manitoba Hydro continues to experience above average water flows, and currently has energy in reservoir storage that is well above average. MH16 Update shows that above average water significantly contributes to Manitoba Hydro's improved short term financial position. These above average water flows and resulting improvements to revenues ensure that Manitoba Hydro will have sufficient positive net income on an interim basis while the Board completes its review of the General Rate Application.

### **An Interim Rate Increase Directed to the Bipole III Deferral Account**

The Board finds that there is a *prima facie* case for a 3.36% interim rate increase effective August 1, 2017, with all revenues flowing from the increase directed to the Bipole III Deferral Account.

An important consideration in the present interim rate Application is the fact that Manitoba Hydro is in the midst of significant capital investment, including the Bipole III project. Since the time of the Board's last interim rate order in 2016, the capital budget for Bipole III has escalated by the amount of \$389 million, bringing the total capital



budget to approximately \$5 billion. This capital project is largely being debt financed. There will be significant annual financing costs in addition to annual depreciation expense after Bipole III comes into service, anticipated to be in July of 2018.

As expressed previously by the Board in Orders 43/13, 73/15 and 59/16, the Board considers it to be in the public interest to look beyond the test years for this largely non-revenue generating Bipole III project. The Board remains concerned that the costs associated with Bipole III coming into service, including in the context of the escalation in the capital budget since the time of Order 59/16, will give rise to rate shock without the Board implementing further rate smoothing.

The Bipole III Deferral Account was established by the Board in 2013 to mitigate significant rate increases that will be required when the Bipole III comes into service. A percentage of revenue from existing rates is currently being directed to the Bipole III Deferral Account. The balance in the Bipole III Deferral Account, however, will not be sufficient to pay the annual estimated additional costs of approximately \$337 million associated with Bipole III in each of the years immediately after Bipole III comes into service. These annual additional carrying costs will be recovered through rates. The additional amount generated by this 3.36% interim rate increase will provide a degree of further mitigation by reducing the extent of future rate increases.

An interim rate increase of 3.36%, with all revenues generated flowing into the Deferral Account continues Manitoba Hydro on a rate trajectory similar to that in Order 59/16. The rates set in Order 59/16 followed the comprehensive 2015/16 General Rate Application that resulted in Board Order 73/15 as well as the additional Supplementary Filing by Manitoba Hydro for consideration of an August 1, 2016 rate increase. That Supplementary Filing was tested through additional written Minimum Filing Requirements from the Board as well as written Information Requests from the Board, the Consumers Coalition and the Manitoba Industrial Power Users Group.



A further 3.36% interim rate increase, to be effective August 1, 2017, is consistent with the considerations of rate stability and predictability indicated by Interveners, while also contributing to mitigate against the rate shock concern discussed above.

The Board expects that this August 1, 2017 interim rate, along with the August 1, 2016 3.36% interim rate increase granted in Order 59/16, will be thoroughly reviewed and examined by all Parties in the current General Rate Application that is well underway. These interim rate increases may be varied up or down or finalized at the conclusion of the General Rate Application. If Manitoba Hydro's financial situation improves further, these interim increases may reduce required rate increases in the future. If, on the other hand, Manitoba Hydro's financial situation deteriorates from the MH16 Update, these interim rate increases provide a financial cushion for consumers not otherwise available if interim rate increases were refused. As the Board has previously stated, the granting of interim rate increases does not reduce the onus on Manitoba Hydro to demonstrate that any such rate increases are just and reasonable and should be finalized.

### **Other Matters**

The Board has considered the requests of the Consumers Coalition and the Green Action Centre regarding further directives to Manitoba Hydro with respect to its regulatory planning cycle, bill mitigation measures and targeted efforts to reduce energy consumption. The Board finds that these matters are premature as additional relevant information may be adduced in the course of the General Rate Application.

The Board directs Manitoba Hydro to file, with the Board and all Parties, revised Rate Schedules, Proof of Revenue, and Customer Bill Impact Schedules that reflect the decisions of the Board as contained in this Order.

## 7.0 Dissenting Decision and Findings

Having read the majority decision and findings by my Board colleagues, and with respect to their decision on an 3.36% interim rate increase for August 1, 2017 with revenues to flow into the Bipole III Deferral Account, I cannot support an interim rate increase for Manitoba Hydro in any amount and for any purpose at this time.

I agree with the majority's decision, as well as the reasons they cite, that Manitoba Hydro has not established a *prima facie* case for the requested 7.9% August 1, 2017 interim rate increase. There is also no compelling evidence in its interim rate Application that Manitoba Hydro has sought to balance its fiscal interests with the rate increase impacts on electricity consumers. I go further and decide that there should be no interim increase whatsoever, including any amounts that would flow to the Bipole III Deferral Account.

Manitoba Hydro has not demonstrated urgency, emergency or financial detriment due to its delay in initiating the rate review procedure. The updated financial information filed by Manitoba Hydro on July 11, 2017 forecasts approximately \$119 million of additional net income for the Utility over this current fiscal year and the next, compared to MH16 filed in May of 2017. Even with no rate increase this year, Manitoba Hydro forecasts \$92 million in net income by March 31, 2018. That material improvement in financial position could be used by Manitoba Hydro to supplement the Bipole III Deferral Account. In the context of the Utility's current financial position, I am not satisfied that the increased control budget for Bipole III would justify any need for interim increases for any in-service revenue requirements.

I agree with the submissions of the Consumers Coalition that the General Rate Application is well underway such that the Utility should await the conclusion for any rate determinations by the Board. Any delays in initiating a rate review process, as directed by the Board in Order 59/16, are the sole responsibility of Manitoba Hydro.

Manitoba Hydro's longer range negative financial forecasts appear to be premised on changed or new assumptions, some of which may be inconsistent with methodologies used in prior Board decisions and many of which appear contentious between Interveners and the Utility. I agree with the majority that interim rate increases ought not be based on contentious aspects of the Utility's General Rate Application filing. Those contentious matters need adjudication after the full evidentiary record is before the Board.

It is not apparent from Manitoba Hydro's July 11, 2017 Update what additional operating and other internal savings (additional to the announced reduction in labour force that was already embedded in the financial forecast filed in May 2017) the Utility is contributing to the strengthening of its own financial position. These issues also need to be addressed in the full General Rate Application proceedings. Until a final General Rate Application Order is issued, it is incumbent on Manitoba Hydro to find, through internal savings, the revenue that it would forgo as a result of not receiving a 7.9% interim rate increase on August 1, 2017.

Additionally, and as recommended by Green Action Centre, Manitoba Hydro's requested 7.9% interim rate increase for August 1, 2017 should have been accompanied by a new or revised strategy for addressing customer impacts. This appears especially relevant in light of Manitoba Hydro's new plan to seek 7.9% annual rate increases for the next 5 years.

Recognizing future energy conservation and efficiency initiatives will be conducted by Efficiency Manitoba, separate from Manitoba Hydro, the Utility's current Demand-Side Management expenditures need to be targeted at high-energy users and assist in lowering bills and energy consumption. As noted by Green Action Centre Manitoba Hydro needs to demonstrate its focused efforts on energy consumption on First Nations communities to reduce the energy burden of ratepayers in those communities. No such customer impact strategy is apparent in Manitoba Hydro's interim rate Application. Such information needs to be reviewed in the context of the full General Rate Application.

**8.0 IT IS THEREFORE ORDERED THAT:**

1. Manitoba Hydro's request for an interim rate increase of 7.9% to all rate classes effective August 1, 2017 **BE AND HEREBY IS DENIED.**
2. A 3.36% interim increase to existing rates for all customer classes, effective August 1, 2017, with all revenues generated being placed into the Bipole III Deferral Account established in Order 43/13, **BE AND HEREBY IS APPROVED.**
3. The rate increase approved by this Order will remain interim until confirmed, varied or otherwise dealt with by further Order of the Board.
4. Manitoba Hydro shall immediately file, with the Board and all Parties, revised Rate Schedules, Proof of Revenue, and Customer Bill Impact Schedules that reflect the decisions of the Board as contained in this Order.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca).

THE PUBLIC UTILITIES BOARD

FOR THE MAJORITY:



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Member

"Marilyn Kapitany, B.Sc. (Hon), M.Sc."

Member

"Shawn McCutcheon"  
Member

"Larry Ring, Q.C."  
Member

FOR THE MINORITY:

"Sharon McKay, BGS"  
Member

*Naam Christie*

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Secretary