

Order No. 191/19

**SECOND PROCEDURAL ORDER IN RESPECT OF EFFICIENCY MANITOBA'S
2020/21 to 2022/23 EFFICIENCY PLAN SUBMISSION**

December 17, 2019

BEFORE: Robert Gabor, Q.C., Board Chair
Marilyn Kapitany, B.Sc., (Hon), M.Sc., Board Vice-Chair,
Hugh Grant, PhD, Member
Irene Hamilton, Q.C., Member

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1.0 Executive Summary

This is the second Procedural Order in respect of the Public Utilities Board (“Board”) review of Efficiency Manitoba’s 2020/21 to 2022/23 Efficiency Plan submission (the “Plan”). By this Order, the Board establishes a process for the remainder of the hearing, including oral direct evidence and cross-examination, and closing submissions.

The Board also establishes the issues for oral direct evidence and cross examinations to be heard on the oral hearing days set in Order 162/19 Appendix B timetable. All in-scope issues on the Order 162/19 Appendix A Issues List (also attached as Appendix A to this Order) may be the subject of oral evidence, except for Issue 11 – “Manitoba Hydro distributed generation (solar or other) net metering policies or prices relating to marketing of, and intake of participating customers for, distributed generation (solar or other) net metering policies or prices – limited to their impact on the take-up of distributed generation by customers.” Issue 11 will be determined on the basis of the written evidentiary record only.

Finally, the Board sets the process for oral and written submissions and provides direction as to process matters for the oral evidentiary hearing.

2.0 Procedural History

On October 25, 2019, Efficiency Manitoba filed its Plan submission with the Board. Following a Pre-Hearing Conference conducted in writing, the Board issued Procedural Order 162/19. By that Order, the Board approved Interveners, established the issues included in the scope of the hearing, and established a process and timetable for the orderly exchange of evidence and the conduct of the hearing. Order 162/19 set December 16, 2019 as the date for a second Pre-Hearing Conference to identify issues for oral evidence.

Pursuant to the schedule established in Order 162/19, Intervener evidence has now been filed and parties have filed Information Requests on Intervener evidence, with most responses due to be filed on December 20, 2019 and Information Requests on the expert evidence filed by the Manitoba Industrial Power Users Group and on portions of the expert evidence filed by the Consumers Coalition due to be filed on or by December 23, 2019. Efficiency Manitoba's written reply evidence, if any, is due to be filed on January 2, 2020 and the oral public hearing is scheduled to commence on January 6, 2020.

At the second Pre-Hearing Conference held on December 16, 2019, the Board heard submissions from all parties on the matter of identifying issues for oral evidence, as well as the process for the oral evidentiary hearing and closing submissions, including preliminary estimates for the parties' requests for time allotted for oral direct evidence and cross examination of witnesses.

3.0 Submissions Regarding Issues for Oral Evidence and Hearing Process

Efficiency Manitoba

Efficiency Manitoba's position is that, to the extent possible, matters should be dealt with on the basis of the written evidence. Efficiency Manitoba submits that the following issues from the Order 162/19 Issues List can be heard through written evidence alone:

Issue 2b) - Comparison of levelized cost to Efficiency Manitoba of electricity energy net savings to levelized marginal value to Manitoba Hydro – limited to the marginal value as determined by Manitoba Hydro in its resource planning process;

Issue 2c) - Comparison of levelized cost to Efficiency Manitoba of natural gas net savings to levelized marginal value to Centra Gas – limited to the marginal value as determined by Centra Gas;

Issue 6 – Compliance of Efficiency Manitoba with directions from government through mandate and framework letters;

Issue 8 - The mandate for Efficiency Manitoba's activities and recommendations to government regarding net savings targets;

Issue 9 – Marketing of, and intake of participating customers for, loans or financing programs related to energy efficiency and energy conservation; and

Issue 11 - Manitoba Hydro distributed generation (solar or other) net metering policies or prices relating to marketing of, and intake of participating customers for, distributed generation (solar or other) net metering policies or prices – limited to their impact on the take-up of distributed generation by customers.

Efficiency Manitoba advised that it intends to call direct evidence from a panel of witnesses, consisting of representatives of Efficiency Manitoba, and stated that this direct evidence is estimated to require between a half day and a day of hearing time, depending

on the extent of the issues in scope for the oral hearing. Efficiency Manitoba provided preliminary estimates on the time Efficiency Manitoba expects to require for cross examination of Intervener expert witnesses and the Independent Expert Consultant. With respect to whether the parties should be permitted to make oral submissions on all issues, or only on the issues identified for oral evidence, Efficiency Manitoba submitted that the parties should be allowed to make oral submissions on issues limited to written evidence, but only to the extent those submissions overlap with the issues identified for oral evidence. As well, Efficiency Manitoba suggested that written closing submissions be optional, but that any such written submissions be filed at the time the party commences its oral submissions.

Assembly of Manitoba Chiefs

Assembly of Manitoba Chiefs submitted that an oral evidentiary hearing is required because this is Efficiency Manitoba's first submission of an efficiency plan. This Intervener identified the following issues from the Issues List as being of particular focus for an oral evidentiary hearing:

Issue 1c), particularly for First Nations program offerings;

Issue 2d), particularly as it relates to the impact on First Nations and whether reasonable given program offerings;

Issues 3a), b) and c), particularly as these issues relate to First Nations program offerings and accessibility;

Issue 5, particularly as it relates to non-energy benefits for First Nations customers, such as energy security and economic benefits;

Issue 6, although this issue will also likely be addressed through evidence on Issues 1c) and 2d); and

Issue 10, specifically as this issue relates to First Nations programs.

The Assembly of Manitoba Chiefs provided a preliminary estimate of time it says it may require in cross examination of witnesses, and stated that it does not propose to call any direct oral evidence. This Intervener agreed with Efficiency Manitoba's proposed process for closing submissions.

Consumers Coalition

The Consumers Coalition submitted that this is an important hearing as it is the first oral hearing relating to Efficiency Manitoba, which will have an impact on all Manitoba consumers for the next three years. The Consumers Coalition stated that an oral hearing is also necessary due to the evidentiary issues in the proceeding to date, including in the initial submission by Efficiency Manitoba and in responses to Information Requests, arising from the compressed timelines in the process. It is the position of this Intervener that the oral evidentiary hearing will enhance the understanding of all parties, as well as the Board, will allow expert witnesses to explain technical issues, and will enable testing of the evidence of all parties and the Independent Expert Consultant.

The Consumers Coalition provided a list of issues that, in its view, should be canvassed. In compiling this list, the Consumers Coalition considered whether the issue is relevant and material, whether the issue is contested, and whether the Board and the public would benefit from an oral testing of the issue. The Consumers Coalition and Efficiency Manitoba agreed that Issues 2b), 2c), 6, 8, 9 and 11 from the Order 162/19 Issues List do not require oral evidence.

In addition to identifying preliminary estimates of the time the Consumers Coalition expects to request for cross examination of the witnesses of the other parties, this Intervener proposes to present direct evidence from its expert witnesses as well as a ratepayers panel to be presented jointly with Manitoba Keewatinowi Okimakanak.

The Consumers Coalition stated that submissions on all issues on the Issues List, whether the subject of oral evidence or determined on the basis of the written record alone, should be by way of oral submissions. This Intervener proposed that written closing

submissions be optional only, with parties who chose to file written submissions being required to do so on the day of their oral submissions.

Manitoba Industrial Power Users Group

Manitoba Industrial Power Users Group submitted that an oral hearing is required due to the compressed nature of the proceeding, which the Board recognized in its findings in Order 162/19 in stating that the limitation on the number of rounds of Information Requests would be addressed through parties being available to be cross-examined. This Intervener also emphasized the fact that this is the Board's first review of an efficiency plan submission, and suggested that streamlining of the oral hearing can occur through time restrictions on direct evidence and cross examination, rather than limits on the issues for oral evidence.

The Manitoba Industrial Power Users Group argued that, contrary to the submissions of Efficiency Manitoba and the Consumers Coalition, Issues 2b), 2c), 6, and 8 require oral evidence. However, this Intervener agreed that Issue 11 can be determined on the basis of the written record alone.

The Manitoba Industrial Power Users Group provided estimates of the time it expects to request it be provided for cross examination of the witnesses of other parties, as well as the direct evidence of its expert witnesses. Manitoba Industrial Power Users Group member organizations have also registered with the Board to provide oral public presentations during the hearing. In addition, this Intervener requested the opportunity to provide oral submissions on all issues, including those issues not identified for oral evidence. It is the intention of the Manitoba Industrial Power Users Group to provide comprehensive written submissions on all issues, to be filed on the day of its oral submission presentation.

Manitoba Keewatinowi Okimakanak

Manitoba Keewatinowi Okimakanak submitted that an oral hearing should be held to enhance the understanding of all parties and the Board of the evidence, and to test the evidence, noting that there was only one round of Information Requests of Efficiency Manitoba.

This Intervener agreed that certain issues can be dealt with by written evidence only, but argued that, contrary to the positions of Efficiency Manitoba and the Consumers Coalition, Issues 6 and 9 should be the subject of oral evidence.

Manitoba Keewatinowi Okimakanak provided estimates of the time it expects to request it be provided for cross examination of the witnesses of other parties. This Intervener stated that its preference is to provide oral closing submissions on all issues, but reserved the right to file written submissions at the time oral submissions are presented.

4.0 Board Findings

Issues for Oral Evidence

The Board has considered the submissions of the parties and has determined that the Board will hold an oral evidentiary proceeding on all issues, except for Issue 11 from the Order 162/19 Appendix A Issues List. All parties agreed that Issue 11, which focuses on customer take-up of distributed generation, can be addressed on the basis of the written record alone.

The Board finds that, other than Issue 11, an oral evidentiary hearing on the issues will enhance the understanding of all parties and the Board, particularly as this is the first hearing into an efficiency plan submission by Efficiency Manitoba. As well, many of the issues on the Issues List are the subject of material disagreement among the parties, the underlying facts are in dispute on the written record, or further testing of the evidence is required through cross examination, including due to the compressed process for Information Requests.

Hearing Process

The oral evidentiary hearing will be held on the dates of January 6 through 10, January 13 through 17, January 20 and 24, 2020. The Board sets January 24, 2020 as the day for the hearing of oral public presentations by members of the public who have registered with the Board.

The Board approves the ratepayer panel proposed jointly by the Consumers Coalition and Manitoba Keewatinowi Okimakanak. This panel is to be presented on January 24, 2020. The Consumers Coalition and Manitoba Keewatinowi Okimakanak are to coordinate with Board staff with respect to scheduling matters for the ratepayers panel. The Board further directs the Consumers Coalition and Manitoba Keewatinowi Okimakanak to, within three business days of the issuance of this Order, file information regarding the costs of the ratepayer panel for review and comment by Board staff. Any

comments provided by Board staff on the costs of the ratepayer panel are not binding on the Interveners or the Board. All cost awards, including with respect to the costs of the ratepayer panel, are in the sole discretion of the Board and will be considered by the Board in accordance with the criteria set out in Section 3.0 of the Intervener Costs Policy for this hearing.

Each hearing day will commence at 9:00 am. Parties should be prepared to sit into the late afternoon or early evening as required to complete the oral evidentiary portion of the hearing. Should portions of the hearing conclude ahead of schedule, parties should also be prepared to proceed to the next item on the hearing schedule without delay.

Parties will be given the opportunity to provide brief oral opening comments on the issues identified for oral evidence on January 6, 2020.

The Board will require oral submissions from all parties on all issues, including Issue 11. Oral submissions will be heard on January 27 and 28, 2020. Parties may also choose to file written submissions. Any such written submissions are required to be filed with the Board and circulated to all parties on or by **12:00 pm on Thursday, January 23, 2020**. If necessary, supplemental written submissions may be filed on the evidence presented at the public presentation day scheduled to be held on Friday, January 24, 2020.

Any references to matters determined by the Board to be confidential should be redacted on the public version of any written submissions, with the confidential version circulated only to the Board and any party or individual granted access to that information by the Board.

Time limits for opening comments, direct evidence, cross examinations, and oral submissions will be set in a detailed hearing schedule to be circulated by Board staff or Board counsel. The hearing schedule will include an *in camera* hearing to address evidence that was filed in confidence with the Board pursuant to Order 166/19, with attendance at the *in camera* hearing limited to those who have been granted access to the confidential information.

The Board encourages witnesses to be focused in their direct evidence, with the aim of these presentations to be enhancing the understanding of the Board and the parties and, where required, addressing issues raised in the written evidentiary filings. In addition, the Board expects that, when answering questions posed in cross examination or by the Board, witnesses will be responsive in their answers and will make every effort to be succinct.

5.0 IT IS THEREFORE ORDERED THAT:

1. The process as set out in section 4.0 of this Order be, and hereby is, established for the oral hearing for the review of Efficiency Manitoba's 2020/21 to 2022/23 Efficiency Plan submission,
2. All issues enumerated on the Issues List attached as Appendix A to Order 162/19, as well as to this Order, are identified as issues for oral evidence at the oral evidentiary portion of the review of Efficiency Manitoba's, excluding the following issue, which will be determined on the basis of the written evidentiary record only:
 - a. Issue 11 - Manitoba Hydro distributed generation (solar or other) net metering policies or prices relating to marketing of, and intake of participating customers for, distributed generation (solar or other) net metering policies or prices – limited to their impact on the take-up of distributed generation by customers.
3. The ratepayer panel to be presented jointly by the Consumers Coalition and Manitoba Keewatinowi Okimakanak be, and hereby is, approved. Information regarding the costs associated with the ratepayer panel is to be filed with Board staff within three business days of the issuance of 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.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

"Robert Gabor, Q.C."
Chair

"Darren Christle, PhD, CCLP, P. Log., MCIT"
Secretary

Certified a true copy of Order No. 191/19
issued by The Public Utilities Board


Secretary

Appendix A: Issues List

The following issues are considered to be within the scope of the Board's review of the Efficiency Manitoba 2020/23 Efficiency Plan:

1. Reasonableness of projected electric and natural gas net savings to meet prescribed saving targets:
 - a. Reasonableness of methodology to project net savings including participant and Manitoba Hydro benefits
 - b. Electric and natural gas net savings compared to savings targets (both near-term and cumulative)
 - c. Appropriateness of the methods to select or reject demand-side management initiatives
 - d. Consideration of new and emerging technologies that may be included in a future Efficiency Plan
2. Cost-effectiveness of electric and natural gas demand-side management program bundles and portfolio:
 - a. Reasonableness of methodology to evaluate cost-effectiveness
 - b. Comparison of levelized cost to Efficiency Manitoba of electricity energy net savings to levelized marginal value to Manitoba Hydro – limited to the marginal value as determined by Manitoba Hydro in its resource planning process
 - c. Comparison of levelized cost to Efficiency Manitoba of natural gas net savings to levelized marginal value to Centra Gas – limited to the marginal value as determined by Centra Gas
 - d. Rate impact and customer bill impacts for both participants and non participants and whether the bill impacts are reasonable - limited to lifecycle revenue impact analysis (one-time equivalent change in rates)
 - e. Reasonableness of Efficiency Manitoba's overhead budget, including the apportionment of Efficiency Manitoba's overhead costs not specifically

related to gas initiatives and electric initiatives – limited to 2020/21 to 2022/23 planning horizon

- f. Consideration of the total resource costs of the initiatives proposed in the Efficiency Plan
3. Accessibility of Efficiency Plan to Manitobans, including consideration of:
 - a. the interests of residential, commercial and industrial customers, as well as hard-to-reach customers who may have disabilities or be Indigenous, rural, newcomers, renters, customers living in multi-unit residences, or older customers, including consideration of customer investments,
 - b. barriers to demand-side management uptake for Indigenous customers, including First Nations customers, and
 - c. the engagement strategy for low income and hard-to-reach customers, including First Nations customers
 4. Consideration of the appropriate percentage of the demand-side management budget for income qualified and hard-to-reach customers, including specifically for Indigenous and First Nations customers, and whether, if practical, at least 5% of the demand-side management budget is set aside for these customers
 5. Consideration of non-energy benefits of electric and natural gas demand-side management portfolios including environmental, economic development (including use of private sector and non-government organizations to deliver demand-side management initiatives)
 6. Compliance of Efficiency Manitoba with directions from government through mandate and framework letters
 7. Consideration of the demand-side management evaluation framework and plan proposed by Efficiency Manitoba
 8. The mandate for Efficiency Manitoba's activities and recommendations to government regarding net savings targets
 9. Marketing of, and intake of participating customers for, loans or financing programs related to energy efficiency and energy conservation

10. Comparison of the costs and savings forecasts and achievements of past Manitoba Hydro or Centra Gas programs and budgets to Efficiency Manitoba's plan
11. Manitoba Hydro distributed generation (solar or other) net metering policies or prices relating to marketing of, and intake of participating customers for, distributed generation (solar or other) net metering policies or prices – limited to their impact on the take-up of distributed generation by customers