

Order No. 30/19

**PROCEDURAL ORDER IN RESPECT OF INTERVENER MOTIONS IN MANITOBA
HYDRO'S 2019/20 GENERAL RATE APPLICATION**

March 11, 2019

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

Table of Contents

1.0 Executive Summary 3

2.0 Procedural History 4

3.0 Submissions Regarding Hearing Process 6

 Consumers Coalition 6

 Manitoba Industrial Power Users Group 7

 Manitoba Keewatinowi Okimakanak 8

 Manitoba Hydro 9

4.0 Board Findings 10

5.0 IT IS THEREFORE ORDERED THAT: 13

1.0 Executive Summary

By this Order the Public Utilities Board addresses the requests by the Parties for procedural relief in the Manitoba Hydro 2019/20 fiscal year General Rate Application.

The Board approves the Motions by Consumer Coalition and Manitoba Keewatinowi Okimakanak and grants certain procedural relief. The Motion by Manitoba Industrial Power Users Group is dismissed.

In terms of procedural matters, the Board will require:

- Manitoba Hydro to revise all PUB Information Request responses where the existing responses change based on the supplemental information filed by Manitoba Hydro on February 14, 2019;
- Manitoba Hydro to respond to all Intervener Information Requests based on the supplemental information filed by Manitoba Hydro on February 14, 2019.
- Manitoba Hydro to file its responses to these Information Requests as soon as possible, but no later than March 7, 2019, for those responses that have been prepared as indicated in Manitoba Hydro's February 14 and 22, 2019 letters. [Note: The Board advised all parties of the Board's decision by email on March 6, 2019. Since the release of this Order, Manitoba Hydro filed responses to Information Requests on March 7, 2019.]
- Any remaining responses to Information Requests, including the Revised Information Requests filed by Consumers Coalition on February 22, 2019, are to be filed by March 14, 2019.
- All Parties to proceed in accordance with the Revised Appendix "B" Timetable attached to this Order.

2.0 Procedural History

On November 12, 2018, Manitoba Hydro (or the “Utility” or “Corporation”) filed with the Public Utilities Board (“Board” or “PUB”) a letter advising of the Utility’s intentions with respect to the filing of a 2019/20 General Rate Application (“GRA”). Manitoba Hydro informed the Board that the Utility was not presently in a position to submit a long-term financial forecast (“Integrated Financial Forecast” or “IFF”) for review by the Board, but that ... *“absent rate relief, the Corporation will experience a projected net loss in the 2019/20 fiscal year.”*

Upon completion of IFF19 incorporating the Utility’s financial plan and the direction of the Manitoba Hydro Electric Board of Directors, Manitoba Hydro indicated in its November 12, 2018 letter it would file a full General Rate Application in late 2019. Manitoba Hydro’s rate increase request to be effective April 1, 2019 will seek ... *“to generate a minimum level of net income to avoid financial losses in the 2019/20 fiscal year”.*

Following consideration of Manitoba Hydro’s letter and the comments from Past Interveners of Record, the Board in its November 21, 2018 letter decision advised that it would be willing to consider a one-year rate increase application without a long-term financial forecast from Manitoba Hydro.

On November 30, 2018, Manitoba Hydro filed its 2019/20 GRA, seeking a rate increase of 3.5% for all components of the rates of all customer classes, to be effective April 1, 2019. This rate increase was projected to generate additional revenues in the 2019/20 fiscal year of \$59 million. If this rate increase request was approved, Manitoba Hydro projected \$31 million of Net Income in 2019/20. Without the proposed rate increase for 2019/20, Manitoba Hydro projected a net loss of \$28 million.

On December 14, 2018, the Board circulated its Information Requests of Manitoba Hydro based on the evidence in the Utility’s November 30, 2019 GRA filing.

On December 19, 2018, the Board conducted a Pre-Hearing Conference with Manitoba Hydro and prospective Interveners. In procedural Orders 1/19 and 9/19 the Board approved Intervener Status for Assembly of Manitoba Chiefs, Consumers Coalition, Manitoba Industrial Power Users Group and Manitoba Keewatinowi Okimakanak. Order 1/19 also contained the list of issues that are in-scope in this GRA as well as the timetable for the orderly exchange of evidence.

When filing their Information Requests of the Utility in letters dated February 8, 2019, both the Consumers Coalition and Manitoba Industrial Power Users Group raised concerns with respect to Manitoba Hydro's evidentiary base for this GRA being incomplete and outdated. Each of these Interveners reserved their right to seek further procedural relief from the Board.

On February 14, 2019 Manitoba Hydro filed a Supplement to Manitoba Hydro's 2019/20 GRA which included:

- Appendix 1 Updated – Financial Statements for 2017/18 to 2019/20;
- Appendix 10 Updated – Proof of Revenue for the Year Ended March 31, 2020;
- Appendix 14 – Update to Figures 2.4 and 2.5;
- Revised limited number of Public Utilities Board of Manitoba Information Requests;
- Appendix 15 – 2018 Electric Load Forecast.

The Supplement showed an improved financial position from that reflected in Manitoba Hydro's November 30, 2018 Application. The February 14, 2019 Supplemental Filing projected a net income of \$95 million for 2018/19 and \$115 million for 2019/20 for Electric Operations rather than the projected net income in the November 30, 2018 Application of \$51 million for 2018/19 and \$31 million for 2019/20. The projected annual net income of \$115 million for the 2019/20 fiscal year includes the proposed 3.5% rate increase, effective June 1, 2019. Manitoba Hydro states that "the improvement in financial results is due to higher net export revenues resulting from improved water flow conditions as well

as lower level of capital spending than planned in 2018/19 and the associated lower borrowing requirements and finance expenses.”

3.0 Submissions Regarding Hearing Process

Consumers Coalition

The Consumers Coalition is formed by Winnipeg Harvest and the Manitoba Branch of the Consumers’ Coalition of Canada and represents the interests of Manitoba residential electricity consumers.

In its correspondence of February 21, 2019 the Consumers Coalition noted the increase in Manitoba Hydro’s forecast Net Income for the fiscal year 2019/20. That increase now shows \$115 million of Net Income compared to the prior forecast of \$31 million, both assuming a 3.5% rate increase is approved by the Board.

The Consumers Coalition is concerned that there is not an appropriate evidentiary base for Interveners to prepare their evidence or for the Board to make an informed rate increase determination in the public interest. This Intervener therefore requests:

- that Manitoba Hydro be ordered to update all responses to the PUB Information Requests;
- that the Consumers Coalition be allowed to file revisions to a modest number of its Information Requests, which were either rendered moot, inaccurate or incomplete based on the new information filed. The Board notes that these proposed revised Information Requests were filed with the Board and Utility on February 22, 2019; and
- that the timetable be amended to allow for: one additional week for Manitoba Hydro to file revised responses to PUB Information Requests and responses to Intervener Information Requests, one additional week for Intervener evidence and the elimination of the Second Pre-Hearing Conference.

Manitoba Industrial Power Users Group

Manitoba Industrial Power Users Group is an association of companies who are substantial users of power in the General Service Large rate classes, including all three subclasses. Collectively, these customer classes purchase approximately 8,000 GWh of power annually, totalling approximately 35% of Manitoba Hydro's domestic energy sales.

In its correspondence of February 22, 2019 Manitoba Industrial Power Users Group submits that the factual basis for establishing the current review of Manitoba Hydro's 2019/20 General Rate Application is no longer accurate as the Utility now forecasts a profit even without a rate increase. According to this Intervener and based on Manitoba Hydro's February 14, 2019 Update for 2019/20, the \$28 million projected loss has now become a projected profit of \$64 million without the need for any rate increases. This Intervener further notes that the new projected \$64 million Net Income for 2019/20 favourably compares to the \$61 million of Net Income forecast in the IFF that was Exhibit MH 93 from last year's GRA.

Consequently, Manitoba Industrial Power Users Group submits that the premise for granting Manitoba Hydro the current expedited and limited rate review is now moot. This Intervener maintains there are sound regulatory reasons and principles, which have led the Board to require an Integrated Financial Forecast and related evidence in making its decisions on what is a just and reasonable rate. The information about the long-term trajectory of Manitoba Hydro's costs and revenues is missing and is now required to further consider the requested 3.5% rate increase. This Intervener further submits that, had the present facts been available at the time of the Board determination on November 21, 2018, it would have been patently unreasonable to entertain the current procedurally deficient process.

Manitoba Industrial Power Users Group submits that the appropriate course of action by the Board is:

1. A termination of the current process, without a rate increase, pending the filing of a full General Rate Application by Manitoba Hydro with the usual long-term financial forecast and evidence related thereto;

2. In the alternative, changing the current schedule so as to allow time for Manitoba Hydro to file an Integrated Financial Forecast with a corresponding discovery process similar to the one contemplated in Order 1/19.

Manitoba Keewatinowi Okimakanak

Manitoba Keewatinowi Okimakanak is a non-profit advocacy organization that has been in existence for more than 35 years and provides a collective voice for more than 65,000 treaty First Nation citizens in northern Manitoba.

In its written submission of February 22, 2019 Manitoba Keewatinowi Okimakanak notes that the requested 3.5% rate increase by Manitoba Hydro has remained static while the Utility's projected financial results that form the justification for the requested rate increase have significantly improved. As such, this Intervener shares the concerns of the Consumers Coalition that the fundamental revisions in Manitoba Hydro's forecasts raise the issue of whether there is an appropriate evidentiary basis for the Board to make an informed determination in the public interest on Manitoba Hydro's requested rate increase.

In addition, this Intervener also shares the concerns of the Consumers Coalition that Manitoba Hydro's responses to the Information Requests of the Board have not been updated to account for the supplemental information filed by Manitoba Hydro on February 14, 2019.

Manitoba Keewatinowi Okimakanak supports, in part, the proposed relief sought by Consumers Coalition related to the Utility updating all the relevant Information Requests as well as revisions to the timetable to allow for the updating of evidence and subsequent procedural steps. This Intervener also maintains that the Board should conduct a second Pre-Hearing Conference to determine whether an oral evidentiary portion of the hearing will be necessary, and if so, which issues will be in scope for the oral hearing.

Manitoba Hydro

Manitoba Hydro made a supplemental filing on February 14, 2019, which provided an update to financial information following the Manitoba Hydro Electric Board of Directors' February 12, 2019 approval of the 2019/20 fiscal year budget. The updated financial information reflects actual financial results and water flow conditions to December 31, 2018 as well as updated planning assumptions.

In Manitoba Hydro's February 22, 2019 correspondence, Manitoba Hydro acknowledges, as noted by the Interveners, it is no longer projecting a loss in the updated financial projections, but also notes that if the requested 3.5% rate increase is approved, the projected net income on a cumulative basis over the period 2017/18 through 2019/20 will still be lower than what was projected in Exhibit 93 filed in the 2017/18 & 2018/19 General Rate Application. The Utility submits that the requested rate increase is in the public interest due to the volatility of its earnings.

Manitoba Hydro also points to increases in costs attributable to the in-service of Bipole III as well as the additional net costs associated with the in-service of Keeyask, which will lead to greater future financial losses, as set out in Exhibit 93. The proposed rate increase would reduce the likelihood of future rate shock for ratepayers.

Manitoba Hydro indicates it will provide responses to Information Requests from Interveners based on the information and assumptions underlying the 2018/19 Current Outlook and the 2019/20 Approved Budget contained in the Supplement and appendices.

Additionally, the Utility expects to update selected Information Requests from the Board to ensure the hearing record will be accurate and up-to-date and sufficient for the Board to determine just and reasonable rates that are in the public interest.

In separate correspondence with the Board and Parties dated February 26, 2019, Manitoba Hydro objected to the revised Information Requests filed by the Consumer Coalition on February 22, 2019 and the Utility further indicated that it would require additional time in the Timetable to respond to all of the Information Requests.

Manitoba Hydro further submits that some process, either in the form of an oral Pre-Hearing Conference or a paper process to be necessary.

4.0 Board Findings

The Board approves most of the procedural relief sought in the Motion by Consumers Coalition and supported by Manitoba Keewatinowi Okimakinak. The requests by Manitoba Industrial Power Users Group are denied.

Manitoba Hydro requested the Board conduct a one-year General Rate Application, without an Integrated Financial Forecast, to consider a 3.5% rate increase for the Utility's 2019/20 fiscal year (commencing April 1, 2019). The stated purpose for Manitoba Hydro's requested rate increase was to generate \$59 million of additional income such that the projected \$28 million net loss for 2019/20 would be transformed into a \$31 million positive Net Income.

The lack of a new Integrated Financial Forecast is attributed by Manitoba Hydro to the comprehensive review of the Utility's operations, forecasts and financial plans being undertaken by the Manitoba Hydro Electric Board of Directors to allow for the establishment of a long term financial plan for the Corporation.

The February 14, 2019 updated financial information from Manitoba Hydro now indicates that without any rate increase for 2019/20, the Utility will earn \$64 million of Net Income.

Manitoba Hydro is maintaining its request for a 3.5% rate increase for 2019/20 such that the Utility receives an additional \$59 million on an annual basis. Should the requested 3.5% rate increase be approved effective June 1, 2019 (rather than April 1, 2019) Manitoba Hydro now projects \$115 million of net income for the 2019/20 fiscal year.

The Board determined in Order 1/19 that the hearing process, including Intervener participation, would be established recognizing the Utility has not provided an Integrated Financial Forecast. The Board recognizes the financial improvement now forecast by Manitoba Hydro and as indicated in the Board's November 21, 2018 letter decision:

Through the Board's consideration of Hydro's one-year rate increase Application, the Board will determine whether to approve a rate increase and the amount of any rate increase for any and all existing customer classes, including the First Nations On Reserve Residential customer class.

The Board recognizes that the one-year rate Application will be based on financial information for the 2018/19 and 2019/20 years, including the information listed in Hydro's letter.

The Board notes that, as Hydro intends to seek a final rate increase, Hydro must file financial and economic information sufficient to satisfy its onus to demonstrate that the rate increase sought for the test year is just and reasonable. This information should be the most current information available for the 2018/19 outlook and 2019/20 budget, and should be filed with an explanation as to why it is the most current information available.

Although the Utility did not file an Integrated Financial Forecast the Board finds the relationship between possible rate increases for the 2019/20 fiscal year may have public interest considerations in light of expected significant revenue requirements to accommodate the in-service dates of Bipole III and Keeyask.

Given the effort by the parties to date and the issues which the Board believes should be considered further in this proceeding, the Board finds it is in the public interest to continue with the Application.

The Board still expects Interveners to participate in the testing of Manitoba Hydro's evidence and to present evidence on the issues within the scope of the General Rate Application to assist the Board in considering whether Manitoba Hydro's requested rate increases are in the public interest.

The Board accepts the submissions by Consumers Coalition and Manitoba Keewatinowi Okimakanak and their concerns as to whether there will be an appropriate evidentiary basis for Interveners to prepare their evidence and for the Board to determine just and reasonable rates that are in the public interest.

To address the concerns, the Board will require:

- Manitoba Hydro to revise all PUB Information Request responses where the existing responses change based on the supplemental information filed by Manitoba Hydro on February 14, 2019;
- Manitoba Hydro is to respond to all Intervener Information Requests based on the supplemental information filed by Manitoba Hydro on February 14, 2019.
- Manitoba Hydro is to file its responses to these Information Requests as soon as possible, but no later than March 7, 2019, for those responses that have been prepared as indicated in Manitoba Hydro's February 14 and 22, 2019 letters.
- Any remaining responses to Information Requests, including the Revised Information Requests filed by Consumers Coalition on February 22, 2019, are to be filed by March 14, 2019.
- All Parties are to proceed in accordance with the Revised Appendix "B" Timetable attached to this Order.

As noted in the attached Revised Appendix "B", there will be an oral Pre-Hearing Conference on April 3, 2019 at which all Parties will be required to narrow the issues that will be heard at the oral evidentiary hearing now scheduled for five days during the weeks of April 23 and 29, 2019.

5.0 IT IS THEREFORE ORDERED THAT:

1. All Parties are to proceed in Manitoba Hydro's 2019/20 General Rate Application as indicated in this Order and according to the attached Revised Appendix "B" Timetable.

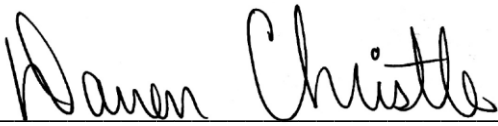
Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca.

THE PUBLIC UTILITIES BOARD

"Robert Gabor"
Chair

"Darren Christle"
Secretary

Certified a true copy of Order No. 30/19
issued by The Public Utilities Board


Secretary

Revised Appendix “B” Timetable for the Manitoba Hydro 2019/20 GRA

This Revised Appendix “B” replaces Appendix “B” in Order 1/19

Item	MH Order 1/19 Dates	Revised MH GRA Dates
Public Utilities Board IR Questions	December 14, 2018	
Deadline for Intervener Applications	January 7, 2019	
Manitoba Hydro Responses to Board IRs	January 28, 2019	
Manitoba Hydro Responses to Board IRs	January 31, 2019	
Intervener IR Questions	February 8, 2019	
Manitoba Hydro Responses to Intervener IRs	February 28, 2019	March 14, 2019
Intervener Evidence	March 13, 2019	March 29, 2019
Second Pre-Hearing Conference	March 20, 2019	April 3, 2019
IRs on Intervener Evidence	March 26, 2019	April 5, 2019
Deadline to Register for Oral Public Presentations	March 29, 2019	March 29, 2019
Intervener Responses to IRs	April 3, 2019	April 12, 2019
Manitoba Hydro Rebuttal Evidence	April 11, 2019	April 18, 2019
Oral Evidentiary Hearing	April 23, 2019 – April 26, 2019 and April 29 and if required April 30, 2019	April 23, 2019 – April 26, 2019 and April 29 and if required April 30, 2019
Oral Public Presentations	TBD	TBD
Oral Final Submissions	May 1, 2019 – May 3, 2019	May 1, 2019 – May 3, 2019