

Order No. 40/19

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

April 8, 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

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1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (Board) directs an oral evidentiary hearing and oral closing submissions, both of which will be held in the Board's review of the Manitoba Hydro's 2019/20 General Rate Application (GRA). The timetable for the oral hearing will be in accordance with the revised timetable set out in Board Order 30/19. All issues listed in Appendix A to Order 1/19 are in scope for the oral evidentiary hearing.

As set out in the Revised Appendix "B" to Order 30/19, the oral evidentiary hearing will be held on April 23, 24, 25, 26, and April 29, 2019 at the Board's office located at 400-330 Portage Avenue, Winnipeg, Manitoba.

2.0 Procedural History

On November 30, 2018, Manitoba Hydro filed its 2019/20 GRA, seeking a rate increase of 3.5% for all components of the rates for all customer classes, to be effective April 1, 2019.

Following a Pre-Hearing Conference held by the Board on December 19, 2018, the Board issued procedural Orders 1/19 and 9/19 approving 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.

On February 14, 2019, Manitoba Hydro filed a Supplement to its 2019/20 GRA, which included updated financial statements and revenue information for 2017/18 and 2019/20. In Order 30/19, the Board established a revised timetable for the orderly exchange of evidence. The revised timetable included requirements for Manitoba Hydro to revise previously filed responses to the Board's Information Request to address changes based on the supplemental information. Also, Manitoba Hydro was to respond to Intervener Information requests based on the supplemental information.

By Order 30/19, the Board also ordered that a second oral Pre-Hearing Conference be held on April 3, 2019. The objective of the April 3, 2019 Pre-Hearing Conference was to allow parties to identify relevant issues and discuss process considerations for the oral evidentiary hearing scheduled the weeks of April 23 and 29, 2019.

3.0 Submissions Regarding Hearing Process

Manitoba Hydro

Manitoba Hydro advanced the position that, subject to the responses to its Information Requests of Intervener experts, no oral evidentiary hearing is required for the Board to adjudicate this GRA. In Manitoba Hydro's view, an oral evidentiary hearing would not result in additional information that is not already on the written evidentiary record in the proceeding. While Manitoba Hydro reserves the right to file rebuttal evidence in response to the written evidence of the Intervener experts, Manitoba Hydro does not expect such evidence to be of significant volume.

Should the Board decide to hold an oral hearing, Manitoba Hydro argued that the hearing should be guided to hear only those issues on which the Board requires further information. Manitoba Hydro submitted it would participate in an oral hearing through direct evidence and cross-examination of Intervener expert witnesses. Manitoba Hydro stated it would follow the Board's direction as to the format of closing submissions, but reserves the right to reply to any new submissions raised by Interveners in their closing submissions.

Consumers Coalition

In oral submissions and in the written position filed as Exhibit CC-8, the Consumers Coalition identified seven issues that, in this Intervener's view, are priority issues that should be heard at an oral evidentiary hearing. The Consumers Coalition argued that an oral evidentiary hearing on these issues is necessary due to the following:

- The magnitude of the rate increase sought by Manitoba Hydro;

- The swing in circumstances between Manitoba Hydro's November 2018 filing and its February 2019 Supplemental filing;
- The absence of an Integrated Financial Forecast (IFF);
- The differences between the parties on the appropriate rate setting framework;
- The differences in the recommended rate increase requested by Manitoba Hydro versus intervening parties.
- Issues related to Manitoba Hydro's projected Operating and Maintenance costs;
- The need to test rebuttal evidence filed by Manitoba Hydro
- The importance of a transparent rate setting process.

Regarding the hearing process, the Consumers Coalition intends to participate in an oral evidentiary hearing through cross-examination of Manitoba Hydro and the witness for the Manitoba Industrial Power Users Group, as well as presenting an expert witness panel in direct evidence. The Consumers Coalition submitted that closing submissions should be in oral format. Should the Board require written closing submissions, such submissions should be filed on May 3, 2019.

Assembly of Manitoba Chiefs

Assembly of Manitoba Chiefs agreed with the Consumers Coalition that an oral evidentiary hearing should be held in order to test Manitoba Hydro's evidence, including any rebuttal evidence. While Assembly of Manitoba Chiefs accepted that the issues identified by the Consumers Coalition are appropriate for an oral evidentiary hearing, this Intervener would likely only participate on issues related to Manitoba Hydro's financial position, the absence of an Integrated Financial Forecast, the appropriate rate-setting framework, and the approach to addressing risks in rate setting.

Assembly of Manitoba Chiefs submitted that the issue of the implementation of the First Nations on Reserve Residential customer class rate does not require an oral hearing and could be addressed in a written process. This Intervener would participate at an oral evidentiary hearing on this issue should the Board find this issue is within the scope of the hearing.

Assembly of Manitoba Chiefs would participate in an oral evidentiary hearing through cross-examination of Manitoba Hydro and the witnesses for the Consumers Coalition and the Manitoba Industrial Power Users Group. It is the view of Assembly of Manitoba Chiefs that oral evidence is not required from its expert witness.

This Intervener's preference is for oral closing submissions.

Manitoba Keewatinowi Okimakanak

Manitoba Keewatinowi Okimakanak submitted that an oral evidentiary hearing is not required, but that it would participate should the Board determine an oral hearing is warranted. In addition to the seven issues identified by the Consumers Coalition, Manitoba Keewatinowi Okimakanak argued that any oral evidentiary hearing should include the issue of Manitoba Hydro's request that the rate increase apply to all components of all customer rates.

Should an oral evidentiary hearing be held, Manitoba Keewatinowi Okimakanak would participate through cross-examination of Manitoba Hydro and the witnesses for the Consumers Coalition and the Manitoba Industrial Power Users Group. This Intervener's preference is for oral closing submissions. Should written submissions be required, the deadline should be on the same timeline as that set for oral argument.

Manitoba Industrial Power Users Group

The Manitoba Industrial Power Users Group submitted that an oral evidentiary hearing is not required. They stated there are flaws in Manitoba Hydro's case that will not be remedied by an oral hearing. This Intervener did not, however, object to an oral hearing and wished to reserve its right to cross-examine Manitoba Hydro on any rebuttal evidence.

Should an oral hearing be held, this Intervener would participate through cross-examination of Manitoba Hydro and the witnesses for the Consumers Coalition, and would present direct evidence from its expert witness. The Manitoba Industrial Power

Users Group requested the opportunity to file written closing submissions, but submitted that it would provide an oral submission if directed by the Board.

4.0 Board Findings

The Board will hold an oral evidentiary hearing on April 23, 24, 25, 26 and 29, 2019. The Board accepts the submissions of the Consumers Coalition and Assembly of Manitoba Chiefs that, in the circumstances of this GRA, an oral evidentiary hearing is in the public interest, as it will enhance the transparency of the rate-setting process. The oral evidentiary hearing will also assist in contributing to a better understanding, by all parties, of the issues before the Board.

The Board directs that all issues identified as being within the scope for this proceeding as highlighted in Appendix A of Order 1/19 are in scope for the oral evidentiary portion of this proceeding. The Board has identified the issues in the list below as being of particular interest for an oral evidentiary hearing. The following list identifies issues by reference to the numbered list set out in Appendix A of Order 1/19:

Issue
1. Rate Increase Requested
Final Approval of 3.5% Increase
Implementation Date (Requested = April 1, 2019)
2. Consultations with Ratepayers and Rate Impacts
Impact of increase on consumers
Rate impacts - Bill affordability mechanism for First Nations On Reserve Residential customer class

3. Cash Flow	
Adequacy of cash flow from operations	
Presentation methodology	
Accounting of capitalized interest on cash flow statement	
4. Interest Rate Forecast	
5. Finance Expense	
7. OM&A Update Since Order 59/18	
Budget and actual O&A results	
Implementation of VDP, including pension liability, staffing complement, VDP expenditures and savings achieved	
8. Regulatory Deferral Accounts	
Disposition of DSM Deferral Account	
10. Export Revenue Forecast	
Energy Price Forecast in test year	
Actual export revenues	

11. Load Forecast and Hydrology	
12. Major New Capital	
Revenue Requirement update since Order 59/18	
13. Business Operations Capital	
Update since Order 59/18	
Order 59/18 Recommendation to Manitoba Hydro	
15. Cost of Service, Differentiated Rates and Order 59/18 Directive 5	
Movement of classes into zone of reasonableness, including impact of Bipole III in service	
17. Implementation of First Nations Residential On-Reserve Customer Class	
Order 59/18 Directive 6	
2019/20 Rate Increase for this Customer Class	

Process for Oral Evidentiary Hearing

While the Board directs that all issues enumerated in Appendix A of Order 1/19 are in scope for the oral evidentiary hearing in this proceeding, the Board will establish a detailed schedule for the hearing. Parties will have strict time limits for direct evidence and for cross-examination of witnesses. The Board encourages parties to organize and focus their participation accordingly, including through collaboration between Interveners. The

Board also requires that, should any portion of the hearing conclude ahead of schedule, counsel must be prepared to proceed to the next item on the hearing schedule, regardless of the date originally scheduled for that portion.

The Board further directs that closing argument will be by way of oral submissions on May 1, 2 and 3, 2019; however, any party wishing to provide a written submission may do so. Any such written closing submission must be filed with the Board and other parties by no later than the time of the party's oral submission.

5.0 IT IS THEREFORE ORDERED THAT:

1. An oral evidentiary hearing and oral closing submissions will be held in accordance with the timetable set in Appendix B to Order 1/19 and as revised by Order 30/19; and
2. All issues listed as in scope in Appendix A to Order 1/19 are in scope for the oral evidentiary hearing.

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, Q.C."
Chair

"Darren Christle"
Secretary

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issued by The Public Utilities Board



Secretary