

Order No. 53/20

**AN APPLICATION BY CENTRA GAS MANITOBA INC.
TO REVIEW AND VARY THE CUSTOMER EQUIPMENT PROBLEM PROGRAM
COMPONENT LIST OF ORDER 49/95**

April 14, 2020

BEFORE: Larry Ring, Q.C., Panel Chair
Marilyn Kapitany, B.Sc.(Hon), M.Sc., Member
Carol Hainsworth, C.B.A., Member
Susan Nemec, FCPA, FCA, Member
Michael Watson, Member

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1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (“Board”) grants the Application of Centra Gas Manitoba Inc. (“Centra”) to review and vary the Customer Equipment Problem Program. Specifically, the Board sets aside the list of components on gas-fired furnaces, boilers, hot water heaters, stoves, and ranges that Centra may replace under the Customer Equipment Problem Program as set out on p. 120 of Order 49/95. In addition, the Board provides interim ex parte approval for changes to section IV.E.c) of Centra’s Terms and Conditions of Service in order to reflect necessary changes given the granting of Centra’s Order 49/95 Review and Vary Application.

On November 26, 2019, pursuant to Directive 27 of Order 152/19 and the applicable provisions of *The Public Utilities Board Act*, Centra applied to the Board to review and vary Order 49/95 as it relates to the Customer Equipment Problem Program. In its Review and Vary Application, Centra reiterates it is not seeking to alter the scope or nature of the Customer Equipment Problem Program as it will continue to focus on safety and advice to customers. Centra provides assurance that it always has and will continue to respond to all customer calls under this Program to ensure safety. Centra’s request of the Board is only to set aside the list of components shown on p. 120 of Order 49/95.

Centra’s reasons for its Review and Vary Application include that certain parts listed in Order 49/95 are redundant or proprietary on newer high-efficiency furnaces, making it impractical or in some cases impossible for Centra to stock the parts and configurations used by manufacturers. Additionally, Centra confirms it will continue to offer, 24 hours per day and 7 days per week, province-wide customer emergency support that maintains a focus on safety and advice to customers. Centra will also continue to stock and replace standard parts when parts are common to a large number of appliance brands and models.

In response to the Board’s request for party comments regarding Centra’s Review and Vary Application, Unifor Local 681 filed comments opposing Centra’s request to eliminate the Customer Equipment Problem Program component list in Order 49/95. Unifor Local

681 takes this position as it sees no reason why Centra cannot stock the common parts and allow its staff to purchase parts that are not as common from various heating parts dealers. Furthermore, Unifor Local 681 raises the concern that the added cost of requiring the customer to hire a heating dealer may lead to a safety risk for low-income ratepayers.

In response to Unifor Local 681's comments, Centra replies and reiterates that the relief sought in its Review and Vary Application will not alter the scope of the Customer Equipment Problem Program or increase safety risks for any customer as Centra's program offering will continue to focus on customer safety. Moreover, Centra states that the substantial growth in the variety of heating appliance types and models has resulted in many parts becoming proprietary and accessing these parts can be onerous, costly and inefficient unless one is an authorized dealer specializing in that brand of equipment.

The Board accepts that since the release of Order 49/95 on May 5, 1995, there have been continuous advancements in the technology of heating appliances, resulting in a wide range of types and models of appliances now installed in Manitoba homes and businesses. As a result, the Board finds that it is no longer reasonable for Centra to stock all variants of the components listed in Order 49/95 and to maintain internal expertise to install all of these components in all available makes and models of primary heating appliances. The Board also accepts that, in some cases, a customer's appliance warranty may be void if Centra performs the required repair or component replacement. For these reasons, the Board grants Centra's request to set aside the Customer Equipment Problem Program component list set out in Order 49/95.

However, the Board expects Centra to continue to offer province-wide 24/7 customer emergency support that maintains a focus on safety and advice to customers. The Board acknowledges Centra's assertion that the Customer Equipment Problem Program will continue and that, where possible, Centra will diagnose the problem, make immediate safety repairs, provide operating advice, and advise customers to contact their preferred heating dealer who carries the manufacturer's proprietary parts necessary to complete the repairs where repairs cannot be completed by Centra. Furthermore, the Board notes

Centra's assertion that it will continue to stock and replace parts common to a large number of brands and models of the appliances.

Consistent with a prior Board finding on June 28, 2017, the Board also accepts Centra's Natural Gas Procedure 4.003.02 as a confidential document not to be placed on the public record.

2.0 Background

Centra's Customer Equipment Problem Program

The Customer Equipment Problem Program (formally known as “burner tip” service) has been offered by Centra since the early 1990s. The service offering seeks to address heating appliance safety issues and provide operating advice to Centra's customers.

In Order 49/95, dated May 5, 1995, the Board reaffirmed its prior finding that Centra is responsible for customer emergency calls and specified a list of gas appliance components to which Centra should confine its Customer Equipment Problem Program activities. Specifically, p. 120 of Order 49/95 stated:

Centra should confine its service activities to ensure the safety objectives of the EPP are met and confine the list of components on gas furnaces and hot water heaters that it will replace under the EPP to the following:

- *High limits;*
- *Pressure temperature relief valves;*
- *Gas valves;*
- *Regulators manifold;*
- *Thermocouples;*
- *Ignitors;*
- *Flame Monitoring components;*
- *Unitrols;*
- *Single pole thermostats;*
- *Fan controls;*
- *Transformers; and*
- *Millivolt relays.*

Following the 2013/14 Centra General Rate Application, the Board limited the scope of the Customer Equipment Problem Program to primary space and water heating appliances, as well as stoves, and ranges.

Section IV.E.c) of Centra's approved Schedule of Sales and Transportation Services and Rates (“Terms and Conditions of Service”) outline Centra's service offering requirements with respect to its Customer Equipment Problem Program:

[The Company may provide the following services:] Provide safety inspections, safety related adjustments and/or repairs to the natural gas burning portion of stoves, ranges, and all primary space and water heating residential and commercial appliances under 400,000 Btu/h (422 MJ/h). This includes, but is not limited to, repair of minor gas leaks, and the adjustment and replacement of controls and control parts. The Small General Class Customer will be responsible for the cost of parts. All other Customers will be responsible for the cost of parts and labour.

As part of the 2019/20 Centra General Rate Application, the Board received evidence that suggested Centra has reduced the number of components that its staff will service and replace under the Customer Equipment Problem Program. At the time, Centra testified it was now impractical to maintain stock of all the components listed in Order 49/95 due to the evolution and proliferation of heating appliance technology since the mid-1990s. Furthermore, Centra maintained it remained compliant with Order 49/95 as Centra interpreted the component list specified by the Board as a limit or cap on the services offered by Centra and not an explicit minimum scope or requirement.

In Order 152/19, dated October 11, 2019, the Board expressly found that Centra has not been in compliance with Order 49/95 and that Centra should not have unilaterally changed the scope and nature of the Customer Equipment Problem Program without first seeking Board approval. As a result, Directive 27 of Order 152/19 states:

27. Centra shall amend its Customer Equipment Problem Program internal procedures to comply with the parts list in Order 49/95, unless Centra applies to the Board to vary Order 49/95, by November 30, 2019.

The Board's Authority to Review and Vary Board Orders and Decisions

The Public Utilities Board Act ("Act") provides that the Board may review, rescind, change, alter, or vary any decision or order made by it. The Act further provides that proceedings of the Board shall be governed by rules adopted by the Board.

Rule 36 of the Board's Rules of Practice and Procedure sets out the process for the Board's exercise of its authority to review, rescind, change, alter, or vary its own decisions and orders, also known as a "review and vary" power. A review and vary process may be undertaken on the Board's own initiative or on written application by any person.

Where a written application is filed, Rule 36 establishes a two-step process. At the first step, the Board must determine the preliminary question of whether the matter should be reviewed. This requires consideration of whether there is reason to believe that the order or decision should be rescinded, changed, altered, or varied. At the second step, the Board must decide whether the application should be dismissed, granted, or the subject of a further hearing process.

An application may be dismissed:

- Where the applicant has alleged an error of law or jurisdiction or an error of fact, and the Board is of the opinion that the applicant has not raised a substantial doubt as to the correctness of the Board's order or decision, or
- Where the applicant has alleged new facts not available at the time of the original hearing or a change of circumstances, and the Board is of the opinion that the applicant has not raised a reasonable possibility that the new facts or the change in circumstances could lead the Board to materially vary or rescind the Board's order or decision.

Procedural History

On November 26, 2019, pursuant to Directive 27 of Order 152/19 and the applicable provisions of the Act, Centra filed a Review and Vary Application requesting that only the Customer Equipment Problem Program list of components shown on p. 120 of Order 49/95 be entirely set aside and removed.

On December 18, 2019, the Board distributed Centra's Review and Vary Application to the Interveners of Record of the 2019/20 Centra General Rate Application and sought written submissions.

On December 26, 2019, Unifor Local 681 filed comments in regards to Centra's Review and Vary Application for Order 49/95. Unifor Local 681 was the only Intervener to file comments in response to the Board's request of December 18, 2019.

On January 3, 2020, Centra filed its Reply comments with respect to Unifor Local 681's submission of December 26, 2019.

3.0 Centra's Application to Review and Vary Order 49/95

On November 26, 2019, pursuant to Directive 27 of Order 152/19, Centra filed a Review and Vary Application requesting that only the list of components shown on p. 120 of Order 49/95 be entirely set aside and removed. Centra's Review and Vary Application was filed pursuant to sections 44 and 129 of *The Public Utilities Board Act*, as well as Rule 36 of the Board's Rules of Practice and Procedure.

As part of its Review and Vary Application, Centra submits that technological advancements over time have resulted in a wide variety and complexity of heating appliances, causing numerous parts specified in Order 49/95 to become obsolete or unique to each manufacturer and model of appliance. Centra maintains that varying Order 49/95 as requested will properly reflect the current reality that certain parts listed in the Order are redundant or proprietary on newer high-efficiency furnaces, making it impractical or in some cases impossible for Centra to stock the parts and configurations used by all manufacturers. Centra further confirms it is not seeking to alter the scope or nature of the Customer Equipment Problem Program as it will continue to respond to all customer calls under the program to ensure safety and provide advice to customers. Where possible, Centra will diagnose the problem, make immediate safety repairs, provide operating advice, and advise the customer to contact their preferred heating dealer who carries the manufacturer's proprietary parts where repairs cannot be completed by Centra. Centra also specifies it will continue to stock and replace standard parts when such parts are common to a large number of appliance brands and models.

4.0 Unifor Local 681's Comments Regarding Centra's Application to Review and Vary Order 49/95

On December 26, 2019, Unifor Local 681 filed comments in regards to Centra's Review and Vary Application. Unifor Local 681 indicates that it is opposed to the elimination of the Order 49/95 Customer Equipment Problem Program component list as it sees no reason why Centra cannot stock the common parts and allow its staff to purchase parts that are not as common from various third party dealers. While Unifor Local 681 acknowledges that this may add time to the Centra repair, Unifor Local 681 maintains it would be quicker than calling a dealer and the practice would honour the original commitment that Centra made to its customers. Unifor Local 681 also contends that by not stocking the appropriate parts as listed in Order 49/95, Centra is in fact altering the scope of the Customer Equipment Problem Program. Furthermore, Unifor Local 681 raises the concern that the added cost of requiring the customer to hire a heating dealer may lead to a safety risk for low-income ratepayers as they may decide not to incur the additional cost.

5.0 Centra's Reply to Unifor Local 681's Comments

On January 3, 2020, Centra filed its Reply comments with respect to Unifor Local 681's submission of December 26, 2019.

In its submission, Centra reiterates that the relief sought in the Review and Vary Application will not alter the scope of the Customer Equipment Problem Program or increase safety risks for any customer. Centra will continue to offer a province-wide 24/7 emergency support system for its customers. Further, Centra maintains that Order 49/95 did not require Centra to have the capability to repair every heating appliance model as evident by the fact that the parts list was "confined" to only certain parts. Additionally, many of the parts have become proprietary and accessing these parts can be onerous, costly and inefficient unless one is an authorized dealer specializing in that brand of equipment. Furthermore, the substantial growth in the variety of furnace types and models results in difficulties in having individuals with expertise to repair over 7,000 models of furnaces from over 200 different manufacturers.

Additionally, Centra states that there is no evidence to validate Unifor Local 681's assertion that Centra staff purchasing parts and returning to the customer's location to perform the repair will take less time and cost less than having the customer directly contact a heating dealer. Centra suggests Unifor Local 681's proposal appears to broaden the scope of the Customer Equipment Problem Program beyond the defined scope in Order 49/95.

Also on January 3, 2020, Centra requested that the Board confirm the confidential nature of Natural Gas Procedure number 4.003.02.

6.0 Board Findings

Given Centra's Review and Vary Application of November 26, 2019, the Board finds Centra's response to Directive 27 of Order 152/19 to be complete.

For the reasons identified further below, the Board grants Centra's Review and Vary Application regarding the Customer Equipment Problem Program component list of Order 49/95. Specifically, the Board sets aside the list of components on gas-fired furnaces, boilers, hot water heaters, stoves, and ranges that Centra may replace under the Customer Equipment Problem Program as set out on p. 120 of Order 49/95. In addition, the Board finds it necessary to revise section IV.E.c) of Centra's Terms and Conditions of Service. As a result, the Board provides interim ex parte approval to the following changes to section IV.E.c) of Centra's Terms and Conditions of Service:

*Provide safety inspections, safety related adjustments and/or repairs to the natural gas burning portion of stoves, ranges, and all primary space and water heating residential and commercial appliances under 400,000 Btu/h (422 MJ/h). This includes, but is not limited to, repair of minor gas leaks, and the adjustment and replacement of controls and control parts, **performed by the Company where reasonably possible**. The Small General Class Customer will be responsible for the cost of parts. All other Customers will be responsible for the cost of parts and labour.*

The Board accepts that since the release of Order 49/95 on May 5, 1995, there have been continuous advancements in the technology of heating appliances, resulting in a wide range of types and models of appliances now installed in Manitoba homes and businesses. As a result, the Board finds that it is no longer reasonable for Centra to stock all variants of the components listed in Order 49/95 and to maintain internal expertise to install all of these components in all available makes and models of stoves, ranges, and primary space and water heating appliances.

The Board further notes that as part of its submissions at the 2019/20 General Rate Application, Centra stated that in many cases, appliance warranties would become void if authorized dealers are not used to install replacement parts.

However, the Board expects Centra to continue to offer province-wide 24/7 customer emergency support that maintains a focus on safety and advice to customers. The Board acknowledges Centra's assertion that the Customer Equipment Problem Program will continue and that, where possible, Centra will diagnose the problem, make immediate safety repairs, provide operating advice, and advise customers to contact their preferred heating dealer who carries the manufacturer's proprietary parts necessary to complete the repairs where repairs cannot be completed by Centra. Furthermore, the Board notes Centra's assertion that it will continue to stock and replace parts common to a large number of brands and models of the appliances.

The Board directs Centra to file, within two weeks of the issuance of this Order, revised Terms and Conditions of Service reflecting the Board's decisions in this Order.

Consistent with a prior Board finding on June 28, 2017 regarding Centra's Natural Gas Standards and Operating Procedures, the Board also accepts Centra's Natural Gas Procedure 4.003.02 as a confidential document not to be placed on the public record.

7.0 IT IS THEREFORE ORDERED THAT:

1. Centra Gas Manitoba Inc.'s Review and Vary Application to only set aside the Order 49/95 Customer Equipment Problem Program component list BE AND IS HEREBY GRANTED.
2. The changes to Section IV.E.c) of Centra's Schedule of Sales and Transportation Services and Rates specified in this Order BE AND ARE HEREBY APPROVED on an interim ex parte basis until confirmed or otherwise dealt with by a further Order of the Board.
3. Centra shall file, within two weeks of the issuance of this Order, a revised Schedule of Sales and Transportation Services and Rates reflecting Directive 2 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

"Larry Ring, Q.C."
Panel Chair

"Rachel McMillin, B.Sc."
Assistant Associate Secretary

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Assistant Associate Secretary