

**Order No. 42/23**

**FOURTH PROCEDURAL ORDER  
IN RESPECT OF  
MANITOBA HYDRO'S 2023/24 AND 2024/25 GENERAL RATE APPLICATION  
(HEARING SCHEDULE AND SCOPE)**

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**April 11, 2023**

**BEFORE: Robert Gabor, K.C., Board Chair  
Marilyn Kapitany, B.Sc., M.Sc., Vice Chair  
Carol Bellringer, FCPA, FCA, Member  
George Bass, K.C., ICD. D., Member**

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## **1.0 OVERVIEW AND PROCEDURAL HISTORY**

This is the Fourth Procedural Order of the Public Utilities Board (“Board”) in the hearing of Manitoba Hydro’s 2023/24 and 2024/25 General Rate Application (the “Application”). In this order, the Board establishes the following:

- a list of issues in scope for oral evidence and out of scope for oral evidence (as set out in Appendix A);
- a joint witness panel process to receive evidence on depreciation policy issues;
- a deadline for submissions by the parties on the Manitoba Industrial Power Users Group’s (MIPUG) recommendation to offset 2022/23 net income against outstanding deferral account balances; and
- a schedule of oral hearing days in May and June 2023.

In the First Procedural Order released on December 8, 2022 (Order 130/22), the Board approved several Interveners and established a hearing process with two rounds of Information Requests.

In the Second Procedural Order released on January 23, 2023 (Order 9/23), the Board ruled several Information Requests out of scope and varied others.

In the Third Procedural Order (Order 25/23), the Board updated the hearing timetable for various interlocutory steps.

On March 9, 2022, the Board sent a letter to Manitoba Hydro and registered interveners, seeking submissions on the following:

1. What are the key issues in the Application?
2. Should the Board make a ruling as to in-scope and out-of-scope issues? If so:
  - a) What issues should be in scope?

- b) What issues should be out of scope?
3. Should any issues be restricted to written evidence?
4. Should any issues be restricted to written evidence and written submissions?
5. Who is on each party's witness list?
6. If a party plans to call witnesses as a panel:
  - a) What is the subject area of each panel?
  - b) Who are the witnesses planned to sit on each panel?
  - c) If a party plans more than one panel, what is the suggested sequence of the panels?

The Board held an oral pre-hearing conference on April 6, 2023 and received oral submissions from all parties. Manitoba Hydro and MIPUG also filed written process submissions. The Board has considered the process submissions and decided to adopt the procedures set out in this order.

## **2.0 PROCEDURAL DIRECTIONS TO THE PARTIES**

### **2.1 Scope of the Hearing**

The Board is not ruling any issue out of scope of the hearing, other than the issue of Manitoba Hydro's Integrated Resource Plan (IRP) previously ruled out of scope in the First Procedural Order (Order 130/22). As noted in that order, to the extent that assumptions made with respect to the IRP underpin Manitoba Hydro's Application, those assumptions remain in scope.

### **2.2 Scope of Oral Evidence**

The Board notes that the written record in this hearing is extensive, consisting of Manitoba Hydro's Application, Minimum Filing Requirements (MFRs), two rounds of Information Requests, a soon-to-be provided report by an Independent Expert Consultant, and additional written evidence from Interveners.

In the Board's view, it is necessary to streamline the oral hearing in a manner that permits the Board to focus on issues of fundamental importance in this General Rate Application, as well as issues of a policy nature that will remain relevant to future applications.

Based on the written and oral process submissions of the parties, the Board has determined that some issues are to be dealt with orally and some issues are to be dealt with exclusively in writing. The list of issues in scope for oral evidence is set out in Column 1 of Appendix A to this order. Issues set out in Column 2 of Appendix A are out of scope for oral evidence. If an issue that is otherwise in scope of the hearing is not expressly set out in Appendix A, the issue is in scope for oral evidence.

### 2.3 Depreciation – Policy Issues and Joint Witness Panel

With respect to the issue of depreciation, the Board's focus in this hearing will be on policy decisions related to the appropriate choice of a depreciation methodology. Of particular interest to the Board are the following six policy issues:

1. The use of an IFRS-compliant depreciation methodology for rate-setting purposes;
2. The use of the Average Service Life (ASL) procedure as opposed to the Equal Life Group (ELG) procedure;
3. The use of the remaining life technique as opposed to the whole life technique;
4. The required level of componentization;
5. The treatment of interim gains and losses; and
6. The establishment and disposition of deferral accounts.

As set out in Appendix A, these are the only depreciation-related issues on which the Board is inviting oral evidence. All other issues will be limited to written evidence.

Depreciation-related evidence is to be delivered by way of concurrent evidence, meaning a witness panel that includes the depreciation expert(s) of each party. The parties are requested to arrange for a discussion between their respective depreciation experts ahead of the hearing in an attempt to find common ground and narrow the areas of disagreement.

The Board has retained Elenchus Research Associates (Elenchus) as an advisor on depreciation matters and offers Elenchus as a facilitator for any pre-hearing discussions between depreciation experts. The discussions are to be arranged by Board Counsel.

## 2.4 Offsetting 2022/23 Net Income Against Deferral Account Balances

In the report of MIPUG's expert witness Patrick Bowman, Mr. Bowman makes the following recommendation:

*Recommendation 4: Balances in the Conawapa deferral account, the Loss on Disposal account related to discontinued operations, and the Asset Removal cost deferral account, totalling approximately \$382 million, should be written-off to income in 2022/23. The Board should ensure the necessary Orders are provided in time for this transaction to be recorded in the 2022/23 fiscal year.*

The essence of Mr. Bowman's recommendation is that a confluence of three factors has resulted in record net income to Manitoba Hydro – (1) high water flows, (2) a 3.6% rate increase in the recent interim rate order, and (3) a retroactive adjustment to payments to government. This provides an opportunity to offset and discontinue three deferral accounts totalling approximately \$382 million.

MIPUG has adopted Mr. Bowman's recommendation and recommends that the Board make an order in time for the closing of Manitoba Hydro's 2022/23 accounts. Manitoba Hydro has advised the Board that any order with respect to that issue would have to be issued by June 7, 2023.

The Board is prepared to consider MIPUG's recommendation before the oral hearing and invites each party to provide a written submission on that issue by Friday, April 21, 2023.

The submissions should address the following matters:

- Is it appropriate to write off Board-approved regulatory deferral accounts against 2022/23 net income?
- Are there adverse consequences (e.g., a perceived lack of regulatory certainty) to writing off a Board-approved regulatory deferral account? If so, what is the anticipated impact of those consequences?

- Should any other deferral accounts be written off completely or partially against 2022/23 net income?

## 2.5 Hearing Schedule

The Board reserves the oral hearing dates set out in Appendix B of this Order.

Based on the scope ruling set out in Appendix A, Manitoba Hydro is to advise Board Counsel of its proposed witness panel structure by Friday, April 21, 2023. Board Counsel will prepare a more detailed hearing schedule in discussion with the parties.

The Board notes that interveners expect all expert witnesses who filed evidence in this proceeding to provide oral testimony.



### 3.0 IT IS THEREFORE ORDERED THAT:

1. The list of topics in scope for oral evidence and out of scope for oral evidence set out in Appendix A **BE AND HEREBY IS ESTABLISHED.**
2. Evidence on depreciation policy issues will be dealt with by way of concurrent evidence, in accordance with section 2.3 of this order.
3. The hearing timetable set out in Appendix B **BE AND HEREBY IS ESTABLISHED** for the purpose of receiving oral evidence and submissions.

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](http://www.pubmanitoba.ca).

THE PUBLIC UTILITIES BOARD

"Robert Gabor, K.C."

Board Chair

"Rachel McMillin, B.Sc."

Associate Secretary

Certified a true copy of Order No. 42/23  
issued by The Public Utilities Board

R McMillin

Associate Secretary

## APPENDIX A – SCOPE OF ORAL EVIDENCE

A party may provide oral evidence on any issue listed in Column 1, as well as any issue otherwise in scope of the hearing that is not listed in Column 2, unless the table below indicates otherwise.

| Column 1<br>Oral Evidence   | Column 2<br>Out of Scope for Oral Evidence                                     |
|---|--|
| <b>Policy Matters</b>   |  |
| All matters to be addressed by Manitoba Hydro's policy panel (Strategy 2040, strategy in the absence of an energy policy, broad energy market changes, reasons for limiting rate increases instead of accelerating debt repayment)  |  |
| <b>Finalization of the 3.6% Interim Rate Increase</b>   |  |
| All matters not set out in Column 2   | MIPUG recommendation #4 (see section 2.3 of this order)                        |
| <b>Revenue Requirement</b>  |  |
| All matters   |  |
| <b>Drought Management &amp; Hydrology</b>   |  |
| All matters, but with a requested emphasis on the following issue:<br><br>How does Manitoba Hydro integrate hydrological data and projections into its management processes to arrive at strategic decisions such as increasing or decreasing exports and imports, restricting flow, or bringing an interim rate application? |  |
| <b>Export Revenue</b>   |  |
| All matters (subject to further direction following the release of the Independent Expert Consultant report)  |  |
| <b>Load Forecast</b>  |  |
|   | All matters  |
| <b>Capital Expenditures</b>   |  |
| Business operations capital (BOC) spending<br>Asset management<br>BOC funding without debt  | Major new generation & transmission (MNG&T) spending<br>Smart grid investments |

| <b>Column 1<br/>Oral Evidence</b>  | <b>Column 2<br/>Out of Scope for Oral Evidence</b>   |
|--|--|
| <b>Depreciation</b>  |  |
| <p>The following policy issues:</p> <ol style="list-style-type: none"> <li>1. Use of an IFRS-compliant depreciation methodology</li> <li>2. Use of the Average Service Life (ASL) procedure vs the Equal Life Group (ELG) procedure</li> <li>3. Use of the remaining life technique vs the whole life technique</li> <li>4. Required level of componentization</li> <li>5. Treatment of interim gains &amp; losses</li> <li>6. Establishment and disposition of deferral accounts</li> </ol> | <p>All issues not listed in the “Oral Evidence” column, including details such as specific asset lives and the appropriateness of chosen survivor curves</p>       |
| <b>O&amp;A Expenditures</b>  |  |
| All matters not set out in Column 2  | Integrated cost allocation methodology   |
| <b>Cost of Service and Rate Design</b>   |  |
| <p>Specific rates<br/>Timing of moving customer classes into the Zone of Reasonableness (ZOR)<br/>Range of the ZOR<br/>Rate Differentiation<br/>Treatment of Net Export Revenue</p>  | <p>Curtable Rate Program and Surplus Energy Program<br/>LED direct assignment<br/>Lighting Cost of Service Study<br/>All other matters not set out in Column 1</p> |
| <b>Outstanding Directives</b>  |  |
| <p>Order 9/22 Directive 6 (Business Operations Capital savings)<br/>Order 9/22 Directive 7 (O&amp;A savings)<br/>Order 59/18 Directive 7 (net metering rate)</p>   | <p>All other directives not set out in Column 1</p>  |

## **APPENDIX B – ORAL HEARING DAYS**

The following days are set aside for the oral hearing of this matter:

### **Evidence Days**

Monday, May 15, 2023  
Tuesday, May 16, 2023  
Wednesday, May 17, 2023  
Thursday, May 18, 2023  
Friday, May 19, 2023 (Overflow Day)

Tuesday, May 23, 2023  
Wednesday, May 24, 2023  
Thursday, May 25, 2023  
Friday, May 26, 2023 (Overflow Day)

Monday, May 29, 2023  
Tuesday, May 30, 2023  
Wednesday, May 31, 2023  
Thursday, June 1, 2023  
Friday, June 2, 2023 (Overflow Day)

Monday, June 5, 2023  
Tuesday, June 6, 2023  
Wednesday, June 7, 2023  
Thursday, June 8, 2023  
Friday, June 9, 2023 (Overflow Day)

Monday, June 12, 2023  
Tuesday, June 13, 2023

### **Submission Days**

Tuesday, June 20, 2023 (Manitoba Hydro Oral and Written Submissions)

Monday, June 26 and Tuesday, June 27, 2023 (Intervener Oral and Written Submissions)

Friday, June 30, 2023 (Manitoba Hydro Oral and Written Reply Submissions)