

**Order No. 57/23**

**FIFTH PROCEDURAL ORDER  
IN RESPECT OF  
MANITOBA HYDRO'S 2023/24 AND 2024/25 GENERAL RATE APPLICATION**

**(Hearing Schedule, Adjudication of Claims for Confidentiality, and  
Recommendation of the Manitoba Industrial Power Users Group Regarding the  
Write-off of Deferral Accounts)**

---

**May 2, 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**

## Table of Contents

<b>1.0</b>	<b>Overview and Procedural History .....</b>	<b>3</b>
<b>2.0</b>	<b>Oral Hearing Timetable .....</b>	<b>4</b>
<b>3.0</b>	<b>Commercially Sensitive Information.....</b>	<b>5</b>
<b>4.0</b>	<b>MIPUG’S Recommendation #4 .....</b>	<b>6</b>
4.1	Background .....	6
4.2	Submissions of the Parties .....	7
4.3	Board Findings .....	10
<b>5.0</b>	<b>IT IS THEREFORE ORDERED THAT: .....</b>	<b>11</b>
	<b>Appendix A – Oral Hearing timetable .....</b>	<b>12</b>
	<b>Appendix B – Redaction Codes .....</b>	<b>14</b>
	<b>Board disposition of claims for confidentiality .....</b>	<b>17</b>

## 1.0 OVERVIEW AND PROCEDURAL HISTORY

This is the Fifth 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 a revised timetable for the public oral evidentiary portion of the hearing;
- adjudicates several requests of Manitoba Hydro for the Board to receive commercially sensitive information (“CSI”) in confidence, as allowed under Rule 13 of the Board’s *Rules of Practice and Procedure*; and
- finds that it is premature to rule on the recommended proposal of the Manitoba Industrial Power Users Group (“MIPUG”) to offset several regulatory deferral account balances against a portion of Manitoba Hydro’s 2021/22 net income.

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 to be directed to Manitoba Hydro.

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.

In the Fourth Procedural Order ([Order 42/23](#)), the Board established issues in scope for oral evidence, gave procedural directions for the delivery of oral evidence, and established an initial public oral evidentiary hearing schedule.

## **2.0 ORAL HEARING TIMETABLE**

The Board establishes the revised oral hearing timetable set out in Appendix A to this order.

While the timetable was developed in consultation among legal counsel for the parties, the Board may deviate from the timetable if it considers it appropriate to do so and may limit the length of a party's evidence or cross-examination if necessary.

### **3.0 COMMERCIALLY SENSITIVE INFORMATION**

The Board has received several requests from Manitoba Hydro seeking permission to file certain information in confidence in accordance with Rule 13 of the Board's *Rules of Practice and Procedure*. Rule 13(2) allows the Board to receive information in confidence if, in the Board's view, the information could reasonably be expected to result in undue financial loss or gain to a person directly or indirectly affected by the proceeding, or to harm significantly that person's financial position. Alternatively, the Board may receive information in confidence if the information is personal, financial, commercial, scientific or technical in nature, or has been consistently treated as confidential by a person directly affected by the proceeding, and the Board considers the interest in confidentiality to outweigh the public interest in hearings being public.

Manitoba Hydro has developed a table of redaction codes that are used as a shorthand for its claims for confidentiality. A copy of Manitoba Hydro's redaction codes is set out in Appendix B of this order.

The Board's adjudication of Manitoba Hydro's requests is as set out in Appendix C of this order.

Appendix C also sets out two redactions on which the Board is deferring a ruling:

- PUB/MH II-11a-d (Attachment 1), which redacts the cost of Manitoba Hydro's contract with E&Y respecting Phase 0 of the cloud computing arrangement; and
- MIPUG/MH I-82d (Attachment 1), which redacts details regarding Manitoba Hydro's application for funding for the Pointe du Bois refurbishment.

The Board intends to explore these issues further in the hearing before making a ruling on those redactions.

## 4.0 MIPUG'S RECOMMENDATION #4

### 4.1 Background

In 2021, Manitoba experienced a significant drought that resulted in a net loss to Manitoba Hydro during the 2021/22 fiscal year. In part because of the drought, the Board awarded an interim 3.6% rate increase effective January 1, 2022. The 2022 calendar year proved to be one of the wettest years on record. The combination of an interim rate increase, high water flows, and the provincial government's retroactive reduction in transfer payments resulted in record net income to Manitoba Hydro during the 2022/23 fiscal year.

MIPUG's expert witness recommended that the Board write off the balances of certain deferral accounts to net income for the 2022/23 fiscal year. Doing so would reduce Manitoba Hydro's net income by approximately \$382 million.

MIPUG's expert witness' recommendation, adopted by MIPUG, is as follows:

*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 that the necessary Orders are provided in time for this transaction to be recorded in the 2022/23 fiscal year.*

Manitoba Hydro advised the Board that, for the transaction to be recorded in the 2022/23 fiscal year, the Board would have to issue an order by June 7, 2023. The Board accordingly invited written submissions from the parties on MIPUG's recommendation.

## 4.2 Submissions of the Parties

### 4.2.1 *Manitoba Hydro*

Manitoba Hydro disagrees with MIPUG's recommendation and submits that net income in a single year should not impact the original intent of a deferral account. In Manitoba Hydro's view, the accounts were set up to provide rate smoothing, and net income during a single year should not affect or change the Board's original decision that such costs should be deferred and recovered over time. Manitoba Hydro notes that writing off these amounts would not improve Manitoba Hydro's debt-to-equity ratio and as such creates no material benefit for customers.

Manitoba Hydro also submits that writing off deferral accounts creates an accounting challenge, as this would be considered either an adjusting or non-adjusting subsequent event for International Financial Reporting Standards (IFRS) purposes. Manitoba Hydro anticipates that, because the Board's order will be issued after the March 31, 2023 end of the utility's 2022/23 fiscal year, the write-off would be considered a non-adjusting subsequent event that would only be recorded in the current 2023/24 fiscal year.

Manitoba Hydro also suggests that a decision to write off the accounts would create uncertainty with respect to other regulatory assets and that uncertainty could affect the recognition of deferral accounts as regulatory assets for financial accounting purposes.

With respect to the 'Loss on Disposal' deferral account, Manitoba Hydro also submits that Centra has a similar account, and that a Manitoba Hydro-specific precedent could affect the treatment of the similar account of Manitoba Hydro's subsidiary.

#### **4.2.2 Assembly of Manitoba Chiefs**

The Assembly of Manitoba Chiefs (“AMC”) does not oppose the write-off of the deferral accounts if there are no immediate or long-term rate impacts, particularly to First Nations residential customers. In the AMC’s view, there is a lack of evidence on the impact on residential ratepayers and, if the Board approves the write-off, the AMC requests the Board to include language that does not hold future ratepayers accountable for the financial impact of the write-off. The AMC expresses concern about the impact of the write-off on Manitoba Hydro’s ability to pay down debt, and indicates that writing off an amount in a high-income year could lead to the deferral of certain costs in future low-income years.

#### **4.2.3 Consumers Coalition**

The Consumers Coalition opposes MIPUG’s proposal. In addition to submitting that the proposal would be a departure from past practice with respect to regulatory deferral accounts, the Consumers Coalition states that ratepayers require certainty, which is achieved only through consistent actions by regulators.

The Consumers Coalition further submits that MIPUG’s recommendation has only formally arisen through the recent filing of intervenor evidence and that no party has been able to test the potential effects on the utility through information requests asked of Manitoba Hydro or through cross-examination.

The Consumers Coalition also submits that there may be a differential rate impact to MIPUG’s proposal, as the costs associated with the Conawapa deferral account and the Loss on Disposal deferral account have been treated as generation costs, which are weighted more heavily to large industrial customers. This could result in the large industrial customers receiving a disproportionate benefit if MIPUG’s proposal is adopted.



#### **4.2.4 GSS/GSM Representative**

The GSS/GSM representative is taking a neutral position and submits that whether or not to write off the deferral accounts as proposed by MIPUG is in the discretion of the Board.

#### **4.2.5 MIPUG**

MIPUG adopts its expert's recommendation. In MIPUG's submission, the \$380 million initially added to the Conawapa deferral account were required to protect in-service dates, and one of the reasons for a 30-year amortization was that Conawapa might still form part of a future preferred development plan. In MIPUG's view, the current filing does not support such an assumption, and any rate shock as a result of accelerated amortization is offset by the government's retroactive reduction in transfer payments related to the debt guarantee fee and the water rental fee. MIPUG submits that the Board specifically recommended that the Government of Manitoba should provide rate relief, and the sunk costs in respect of Conawapa were a key reason for that recommendation. Now that the recommendation has been adopted by the Government of Manitoba, the sunk costs of Conawapa should be written off.

MIPUG clarifies that although the term "write-off" was used in its expert's report, the recommendation amounts to a shortening of the amortization period to one year, and that this is done in a year for which rates remain interim. MIPUG sees no adverse consequences if its expert's recommendation is adopted and in fact sees the outcome as positive.

In its reply submissions, MIPUG reiterates that the 3.6% January 1, 2023 rate increase remains interim and that MIPUG would not have made its recommendation had rates been finalized. MIPUG submits that Manitoba Hydro's conclusion that a write-off would be a "non-adjusting" subsequent event may be based on an incomplete analysis, as the interim rates and conditions giving rise to Manitoba Hydro's record net income in 2022/23, including the reduced transfer payments to the Government of Manitoba, all preceded the March 31, 2023 end of the fiscal year. MIPUG also clarifies that the loss on disposal

account relates only to the Selkirk Generating Station, which was decommissioned entirely, and that this would not set a precedent for Centra's accounts. MIPUG also rejects the Consumers Coalition's argument that a write-off would disproportionately benefit industrial ratepayers, stating that residential ratepayers are allocated a higher generation cost per kWh consumed than industrial ratepayers.

### **4.3 Board Findings**

The Board finds that it is premature to make a ruling on the disposition of Manitoba Hydro's deferral accounts. Making a ruling on the disposition of deferral accounts outside a full general rate application would be an unusual procedure. The Board invited submissions from the parties on the issue because Manitoba Hydro indicated that a ruling would be required before June 7, 2023 if an adjustment is needed to be made to Manitoba Hydro's 2022/23 financial statements. In light of Manitoba Hydro's advice that the matter would be a "non-adjusting" event, and given that accounting standards do not preclude Manitoba Hydro from adjusting its 2022/23 financial statements at a later date if necessary, there is no urgency that would justify a ruling without a full evidentiary record.

In the Board's view, it is necessary to draw a distinction between a regulatory deferral account for which a regulator has already approved an amortization period and an account for which a utility is still seeking such approval. An account with an approved amortization period is an asset to a regulated utility in the same manner as an account receivable. It forms part of a utility's revenue requirement and should not be interfered with lightly. An account for which no amortization period has yet been approved provides for greater flexibility. The Board notes that the Conawapa deferral account has already been approved by the Board in Order 59/18. The Loss on Retirement or Disposal of Assets account, on the other hand, is not yet subject to an approved amortization period.

The Board notes that the treatment of Manitoba Hydro's approved and prospective deferral accounts is in scope for oral evidence in the upcoming hearing as part of Manitoba Hydro's revenue requirement.

**5.0 IT IS THEREFORE ORDERED THAT:**

1. The revised hearing timetable set out in Appendix A for the oral portion of the hearing **BE AND HEREBY IS ESTABLISHED**.
2. Manitoba Hydro's claims for confidentiality are disposed of as set out in Appendix C.
3. MIPUG's recommendation #4, as set out in section 4.0 of this order, **BE AND HEREBY IS ADJOURNED** without prejudice for the parties to make submissions in the upcoming hearing of the Application as to the treatment of the affected deferral accounts.


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. 57/23  
issued by The Public Utilities Board

  
Associate Secretary

**APPENDIX A – ORAL HEARING TIMETABLE**

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

Hearing Day	Issue
<b>Week 1</b>	
Monday, May 15, 2023	Manitoba Hydro Policy Panel Opening Statements <sup>1</sup>
Tuesday, May 16, 2023	Morning: Presenters (MIPUG & others) Afternoon: Export, Drought & Hydrology Panel (Manitoba Hydro)
Wednesday, May 17, 2023	Export, Drought & Hydrology Panel (Manitoba Hydro)
Thursday, May 18, 2023	Daymark – Public Evidence (Independent Expert Consultant)
Friday, May 19, 2023	<i>In Camera</i> Evidence (morning only): Manitoba Hydro Daymark
<b>Week 2</b>	
Tuesday, May 23, 2023	Asset Management & Capital Panel (Manitoba Hydro)
Wednesday, May 24, 2023	Asset Management & Capital Panel (Manitoba Hydro)
Thursday, May 25, 2023	Midgard (Consumers Coalition)
<b>Week 3</b>	
Monday, May 29, 2023	Revenue Requirement Panel (Manitoba Hydro)
Tuesday, May 30, 2023	Revenue Requirement Panel (Manitoba Hydro)
Wednesday, May 31, 2023	Revenue Requirement Panel (Manitoba Hydro)
Thursday, June 1, 2023	Darren Rainkie (Consumers Coalition)
Friday, June 2, 2023	Emrydia – Non-Depreciation Issues (GSS/GSM Representative)
<b>Week 4</b>	
Monday, June 5, 2023	Depreciation Concurrent Evidence Panel
Tuesday, June 6, 2023	Pelino Colaiacovo (Consumers Coalition)
Wednesday, June 7, 2023	Rates and Cost of Service Panel (Manitoba Hydro)
Thursday, June 8, 2023	Rates and Cost of Service Panel (Manitoba Hydro) (if needed)
Friday, June 9, 2023	Kelly Derksen (Consumers Coalition) (Potential move to June 8)
<b>Week 5</b>	
Tuesday, June 13, 2023	Patrick Bowman (MIPUG) (Potential move to June 9)

<sup>1</sup> Opening comments will take place after the presentation by and cross-examination of the policy panel to accommodate the availability of Manitoba Hydro's CEO.

Hearing Day	Issue
<b>Week 6</b>	
Monday, June 19, 2023	Oral and Written Submissions – Manitoba Hydro
Thursday, June 22, 2023	Oral and Written Submissions – Interveners
<b>Week 7</b>	
June 26, 2023	Oral and Written Reply Submissions – Manitoba Hydro

## **APPENDIX B – REDACTION CODES**

1. Party/Contract Specific Detail (information provided to MH with an expectation that confidentiality will be maintained), for example:
  - a) Detailed business arrangements with third parties to construct/operate/own facilities;
  - b) Specific pricing, terms, conditions in contracts or third-party responses to request for proposals related to the construction procurement of a generation, transmission or distribution resource on the MH system;
  - c) Specific domestic customer load information, current or forecast;
  - d) Specific affected parties including mitigation or compensation not already available in public forum;
  - e) Information subject to statutory or contractual confidentiality provisions.
2. Technical Information or Intellectual Property
  - a) Owned by Manitoba Hydro e.g. Consensus Export Price Forecast;
  - b) Owned by a third party
3. Power Contracts, Revenue & Price Forecast Information for example:
  - a) Specific data, forecast, terms, conditions, prices, revenue projections contained in reports, agreements, contracts, proposals, term sheets together with information which facilitates back calculation of the foregoing information;
  - b) Manitoba Hydro commodity price forecasts for electricity, natural gas and carbon including annual pricing escalators including third party proprietary input forecasts;
4. Documents Related to Risk/Benefit Identification, Quantification and Strategic Actions for example:
  - a) Sales and marketing strategies/initiatives;

- b) Identification of risks and benefits with details on relative significance, quantification, strategic actions and timeframes. Identification of specific parties who have an interest in or ability to influence the risk/benefit outcomes.
5. Sensitive Analysis and Operational Data Facilitating Back Calculation for example:
- a) Resource planning assumptions and analysis including the generation component of marginal cost;
  - b) Committed and uncommitted capacity and energy surplus quantities for export;
  - c) Breakdown of export sales quantity or revenue by product type, customer or province.
6. Utility Practice Techniques for example:
- a) Detailed solution techniques utilized in MH's short- and long-term planning of capacity, energy and water management with specific reference to the mathematical representation of the hydraulic or transmission system and the electricity market.
7. Resource, Project or Sale Cost and Benefit Analysis where such information could negatively impact Manitoba Hydro's negotiating power for example:
- a) Detailed cost estimates of new resources planned or in development on MH system, budget and contingency information related to projects and/or specific project components;
  - b) Estimate of economic or financial benefits (i.e., Net Present Value, revenue projections, Internal Rate of Return) of development plans or sales evaluations.
8. Sensitive Relationship Management Information for example:
- a) Employment, labour relations, counterparty or stakeholder information, which if disclosed could result in labour issues, work stoppages, contract breach or demands for renegotiation
9. Centra Gas Sensitive Information for example:

- a) Natural gas load forecast information and impact of weather on Manitoba market demand and gas supply operations (i.e., Effective Heating Degree-Day (EHDD) balance point, actual and forecast EHDD).



**BOARD DISPOSITION OF CLAIMS FOR CONFIDENTIALITY**

The Board's disposition of Manitoba Hydro's claims for confidentiality under Rule 13 of the Board's *Rules of Practice and Procedure* is as follows.

Document	Redaction Code	Board Disposition of Claim for Confidentiality
Tab 3 – Figures 3.25 & 3.26	3a, 5c	Redactions approved
Tab 4 – Figure 4.12	3a, 5c	Redactions approved
Appendix 5.3	3a, 4a, 4b	Redactions approved
Tab 10 – MFR 28	3b	Redactions approved
Tab 10 – MFR 42	3a, 3b	Redactions approved
Tab 10 – MFR 83	9a, 9b	Redactions approved
Tab 10 – MFR 84	3a, 3b	Redactions approved
Tab 10 – MFR 85	3a, 3b	Redactions approved
Tab 10 – MFR 86	3a, 3b	Redactions approved
PUB/MH I-15a	3a, 3b	Redactions approved
PUB/MH I-18a (Attachment 1)	not indicated	Redactions approved (falls under 3a, 3b)
PUB/MH I-18b-e	3a, 4b, 9a	Redactions approved
PUB/MH I-52a, d-g	3a, 3b	Redactions approved
PUB/MH I-53b	3b	Redactions approved
PUB/MH I-91 (Attachment 1)	2b	Redactions approved
PUB/MH II-4	5c	Redactions approved
PUB/MH II-11a-d (Attachment 1)	1d	Deferred to the oral hearing – to be deliberated following further questions
PUB/MH II-19c	3a, 3b	Redactions approved
PUB/MH II-20a-d	3b	Redactions withdrawn by Manitoba Hydro – document fully public
PUB/MH II-23a-c	1a, 1b, 8a	Redactions approved
PUB/MH II-55c-e (Attachment 1)	3a, 3b, 5a, 7a, 7b	Redactions approved
PUB/MH CSI-1a-c	3a, 3b	Redactions approved
PUB/MH CSI-2a-b	N/A	No redactions – document fully public
PUB/MH CSI-3a-b	3b	Redactions approved

Document	Redaction Code	Board Disposition of Claim for Confidentiality
AMC/MH I-19a	3a, 5c	Redactions approved
AMC/MH I-21b	3b	Redactions approved
AMC/MH I-25b	3b	Redactions approved
AMC/MH II-4	3a, 3b	Redactions approved
AMC/MH II-4	5b, 5c	Redactions approved
Coalition/MH I-29a-b	3a, 3b	Redactions approved
Coalition/MH I-30a-b	3a, 5c	Redactions approved
Coalition/MH I-31	3a	Redactions approved
Coalition/MH I-74	8a	Redactions approved
Coalition/MH I-116c (Attachment 1)	1b	Redactions approved
Coalition/MH I-122b-m (Attachment 2)	n/a	Redactions withdrawn by Manitoba Hydro – document fully public
Coalition/MH II-100d (Attachment)	5b	Redactions approved
MIPUG/MH I-10 (Attachments)	n/a	Redactions withdrawn by Manitoba Hydro – document fully public
MIPUG/MH I-48b, d	5a	Redactions approved
MIPUG/MH I-82d (Attachment 1)	1e	Deferred to the oral hearing – to be deliberated following further questions
MIPUG/MH II-14a-d	3a	Redactions approved
Daymark Report Pages 39, 40, 41, 42, 43, 45, 46, 49, 51, 53, 54, 57, 58, 60, 61, 66, 68, 69, 80, 81, 88, 89, 90, 92	3a, 3b, 4a, 4b, 5c	Redactions approved