

Sent electronically and by messenger

July 5, 2011

The Public Utilities Board
400 - 330 Portage Avenue
Winnipeg, Manitoba R3C 0C4

Attention: Mr. Hollis Singh
Secretary

Dear Sirs:

Re: Manitoba Hydro General Rate Application for 2010/2011 and 2011/2012 Rates

This morning, July 5, 2011, Manitoba Hydro received a Subpoena issued by the Public Utilities Board on July 4, 2011 (copy attached).

Manitoba Hydro asks that the Board reconsider its position in relation to the request for the referenced documents.

The proceeding referenced in the Subpoena is the 2010/11, 2011/12 General Rate Application which the Board ordered be supplemented with a special risk review.

Completely apart from jurisdictional issues,, Manitoba Hydro notes that it has already shared details of its export term sheets and contracts with KPMG, ICF International and with the two independent consultants retained by the Board to review risk, all of whom have entered into non-disclosure agreements with Manitoba Hydro. In this proceeding, KPMG, ICF and the two independent consultants have opined at length about their findings, and have been subject to cross-examination by the other parties. Substantial information about the export contracts at a more generic level has also been shared with all of the parties to the proceeding. We are currently engaged in final argument in this matter. At this point, it would not be possible for any of the parties to consider or respond to any new evidence coming forward, and for its part Manitoba Hydro would not be in any position to respond to any findings by the Board based on a new filing at this late stage of proceedings. In simple terms, there is an issue of administrative fairness to be considered.

Since the outset of the GRA, Manitoba Hydro has maintained that the full text of term sheets and contracts (which include sensitive export pricing information) are not available for Board review. As a compromise, in order to allow the GRA to proceed in a timely fashion, and to facilitate a

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fulsome review of risk as desired by the Board, Manitoba Hydro agreed to disclose the term sheets and agreements to the two independent consultants retained by the Board, under terms of confidentiality, with the express acknowledgement that the confidential information was not to be shared with the Board or its advisors. Board Counsel participated in the negotiation of the Non-Disclosure Agreement and the GRA proceeded in accordance with these terms. Similarly, Manitoba Hydro offered to share the documents with the Board on a non-disclosure basis, but we have not received a response.

In addition, we respectfully submit that, given the lack of consensus as to the Board's authority with respect to export contracts, it would be premature to order production of the export contracts in question until such time as that jurisdiction has been clarified.

We are accordingly requesting that the Board withdraw its Subpoena, failing which we will bring a formal motion to the Board.

Yours truly,



K.M. TENNENHOUSE