

MANITOBA) Order No. 33/15
)
THE PUBLIC UTILITIES BOARD ACT) March 16, 2015

BEFORE: Régis Gosselin, B ès Arts, MBA, CGA, Chair
Richard Bel, B.A.,M.A.,M.Sc., Member
Marilyn Kapitany, B.Sc. (Hon), M.Sc., Member

**PROCEDURAL ORDER IN RESPECT OF
CHALLENGED ROUND 1 INFORMATION REQUESTS
IN MANITOBA HYDRO'S
2014/15 AND 2015/16 GENERAL RATE APPLICATION HEARING**

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1.0 Executive Summary

By this Order, the Board adjudicates impugned Round 1 Information Requests issued by the Public Utilities Board and approved Interveners in Manitoba Hydro's 2014/15 and 2015/16 General Rate Application. By this Order, the Board further adjusts the hearing timetable with respect to the timeline for responding to Information Requests ordered to be answered and submitting resulting Round II Information Requests.

2.0 Procedural History

In Board Order 18/15, the Public Utilities Board ("Board") granted Intervener status to six Interveners in Manitoba Hydro's 2014/15 and 2016/17 General Rate Application (GRA) and established a written process by which impugned Round 1 Information Requests (IRs) to Manitoba Hydro could be adjudicated by the Board.

Following the issuance of Round 1 Information Requests to Manitoba Hydro, the Board received written submissions from Manitoba Hydro on February 23 and 25, 2015 in which Manitoba Hydro challenged a number of IRs issued by the Board, the Consumer Coalition (Coalition), Manitoba Keewatinowi Okimakanak (MKO), MKO jointly with the Coalition, the Manitoba Métis Federation (MMF) and the Manitoba Industrial Power Users Group (MIPUG).

Manitoba Hydro's position in respect of Board Advisor IRs is set out in **APPENDIX A** to this Order.

By letter dated March 2, 2015, the Board requested Interveners to correspond directly with Manitoba Hydro with respect to the resolution of any impugned IRs, and further requested Interveners to set out a written reply to Manitoba Hydro's refusals for any IRs requiring adjudication by the Board. In response to this request, the Board received four requests for adjudication from Interveners:

1. Coalition (March 9, 2015) – **APPENDIX B** to this Order

2. MKO/Coalition (March 10, 2015) – **APPENDIX C** to this Order
3. MMF (March 10, 2015) – **APPENDIX D** to this Order
4. MIPUG (March 5, 2015) – **APPENDIX E** to this Order

MKO did not file a request to adjudicate any of the three MKO IRs challenged by Manitoba Hydro. Accordingly, the Board assumes that pursuant to its March 2, 2015 direction, MKO was able to reach a satisfactory resolution with Manitoba Hydro and does not make a ruling with respect to these IRs at this time.

3.0 Information Requests by Board Advisors

The Board Advisors' IRs and Manitoba Hydro's position with respect to refused IRs is set out in **APPENDIX A** to this Order. The Board's ruling with respect to impugned Board Advisor IRs is as follows:

PUB/MH I-1(c): No answer required. The Board accepts Manitoba Hydro's submission that this question may require the disclosure of cabinet confidences.

PUB/MH I-11(a) and (d) and I-36(b): Modified answer required. Manitoba Hydro is to file a "track changes" version of the renegotiated Wuskwatim Power Limited Partnership (WPLP) agreement once it has been finalized. In the interim, Manitoba Hydro is to provide a detailed description of any underlying changes in assumptions from the existing agreement that have been incorporated into the General Rate Application (GRA).

PUB/MH I-14(b), I-16(a), I-64(c), I-81(c), and I-83(c). To be answered in confidence under Rule 13 of the Board's Rules of Practice and Procedure. The questions are relevant and confidentiality issues can be accommodated by utilizing the ability to file documents in confidence. The Board notes that PUB/MH I-16(a) seeks the quantity of energy and capacity sold in GWh and MW, not the revenue realized from such sales.

PUB/MH I-18(h) and 19(b): Answer required. In light of Manitoba Hydro predicating required rate increases to a large extent on capital spending, the questions are relevant and the Board will require an answer.

PUB/MH I-24(a): Redacted and unredacted filing required. Similar to what was done in the NFAT Review, Manitoba Hydro is to file a redacted listing on the public record and is to file an unredacted version in confidence using Rule 13 of the Board's Rules of Practice and Procedure.

PUB/MH I-41(a) and (b): Answer required. The questions are relevant and the Board notes that Gannett Fleming's cover letter in Appendix 5.6 to the GRA authorizes the release of the requested information.

PUB/MH I-42(b): Answer required. The question is relevant to the examination of depreciation expense in the test years and beyond.

PUB/MH I-56(d): Answer required. The question is relevant and seeks aggregate information, namely a comparison of average annual export prices, imports and DSM revenues. As such, the Board does not accept that an answer requires the disclosure of sensitive third-party information subject to consent.

PUB/MH I-62(a): Answer required. The question is relevant and seeks volumes, not prices. It is the Board's understanding that such data can be gleaned from redacted contracts previously filed by Manitoba Hydro and does not require the disclosure of commercially sensitive information.

PUB/MH I-62(b): Answer required. The question seeks a seasonal analysis of the type of export sales achievable from hydraulic generation resources and to indicate energy and capacity purchases (volumes, not revenue) required to achieve the sales listed in the question.

PUB/MH I-66(b): Answer required. The question is relevant and seeks clarification regarding an assumption made by Manitoba Hydro.

PUB/MH I-78(a) and (b) and I-79(a) and (b): No answer required. The questions are relevant but the Board is prepared to defer them until the next GRA, at which point the Board anticipates the Clean Environment Commission process to have concluded.

PUB/MH I-80(a)-(d): Answer required. The questions are relevant and will assist the Board in understanding the range for financial implications from changes to Manitoba Hydro's Lake Winnipeg Regulation licence.

PUB/MH I-84(d): Answer required. Access to the KPMG Terms of Reference will assist the Board in understanding the scope of the proposed risk review.

4.0 Information Requests by the Consumer Coalition

Submissions with respect to the impugned Coalition IRs are set out in **APPENDIX B** to this Order. The Board's ruling in respect of the impugned Coalition IRs is as follows:

COALITION/MH I-6(g): Modified answer required. The Board accepts the Coalition's suggested modified response as meeting the spirit of the otherwise relevant IR while sufficiently addressing Manitoba Hydro's confidentiality concerns.

COALITION/MH I-9(a) and (b): Answer required. The Board accepts the Coalition's submission that Manitoba Hydro misinterpreted the question. With the benefit of the Coalition's clarification, Manitoba Hydro is to provide a response.

COALITION/MH I-13(a)-(c), I-14(a)-(c), I-15(c), I-18(a)-(b), I-19(a)-(c) and (e)-(g), I-26(a)-(b), 28(a), I-39(a)-(b), I-61(a), and I-63(a): Modified answer required. The Board accepts the Coalition's argument that the last GRA was based on IFF 11-2, while the current GRA is based on IFF-14. Where the Coalition is seeking comparisons between IFFs, Manitoba Hydro is to provide a comparison between IFF-14 and IFF 11-2. Similarly, where the Coalition is seeking a comparison between actual and projected data for any years prior to the test years, Manitoba Hydro is to compare the actual data to the projections made in IFF-11-2 and not IFF-12.

COALITION/MH I-19(d): Answer required. The Coalition has advised that Manitoba Hydro has withdrawn its objection to this request.

COALITION/MH I-23(a)-(c): Modified answer required. The Board did not rule in Order 18/15 that the topic of Demand Side Management (DSM) is not relevant to the GRA. Rather, the Board stated that since an extensive DSM review took place during the NFAT, the Board intends to limit its review of DSM in this GRA to the reasonableness of the proposed DSM expenditures during the test years. The Board

considers these IRs to be in scope. However, as indicated above, the Board accepts the Coalition's argument that the last GRA was based on IFF 11-2, while the current GRA is based on IFF-14. Where the Coalition is seeking comparisons between IFFs, Manitoba Hydro is to provide a comparison between IFF-14 and IFF 11-2. Similarly, where the Coalition is seeking a comparison between actuals and projections for past years, they are to be referenced in the projections set out in IFF-11-2.

COALITION/MH I-24(a) and (c)-(e): Answer required. The Board accepts the Coalition's submission that this IR is intended to trace the accuracy of Manitoba Hydro's forecasting methodology, and that an incremental comparison between IFF 11-2, IFF-12, IFF-13 and IFF-14 is required.

COALITION/MH I-32ci-vi, I-35, I-37(a), I-45(b), I-62(a)-(b), and I-64(a): Answer required. These information requests seeks relevant information and must be answered as posed.

COALITION/MH I-67(a)-(b), and I-68(a)-(b): Answer required. The Board did not rule in Order 18/15 that the topic of Demand Side Management (DSM) is not relevant to the GRA. Rather, the Board stated that since an extensive DSM review took place during the NFAT, the Board intends to limit its review of DSM in this GRA to the reasonableness of the proposed DSM expenditures during the test years. The Board considers these IRs to be in scope.

COALITION/MH I-75(a)-(b), 76(a)-(c), 77(a)-(c), 78(a)-(c), 79(a)-(c), and 80(a)-(b): No answer required. These IRs deal with the status of various matters relating to rates in the remaining four Manitoba diesel communities. In the current GRA, Manitoba Hydro is seeking an across-the-board rate increase for all rate classes, including the existing rates in the diesel communities. As noted in Order 18/15, MKO has still not filed the executed Settlement Agreement with respect to the diesel communities. The Board is of the view that the issues raised in these IRs should be

examined after the Settlement Agreement has been filed. Accordingly, it will not require Manitoba Hydro to answer the IRs at this time.

COALITION/MH I-82, I-83(a)-(b), I-84(a)-(c), I-85(b)-(g), I-86(a), I-87(a), I-88(a), I-89(b), I-90, I-91, 93(b)-(e), 97(a)-(d), and I-100(a)-(e): Modified answer to be provided. At this time, the Board will not require Manitoba Hydro to file electronic models or spreadsheets with formulae intact. However, the Board recognizes that there may be valid reasons for Interveners to request electronic models and spreadsheets for purposes of testing the evidence of a regulated utility in a hearing before the Board. The Board notes the Coalition's submission that in the Lake Winnipeg Regulation hearing before the Clean Environment Commission, an electronic model is currently being shared by Manitoba Hydro and made available to Interveners. The Coalition further submitted that other jurisdictions currently require regulated utilities to share models.

In the Board's opinion, this issue cannot be adequately canvassed in the Information Request process. It is the Board's intention to hold a separate hearing in due course to develop principles and guidelines for the filing of electronic documentation, which would apply to all utilities regulated by the Board. Until that time, the Board will follow its past practice not to require electronic models.

The Board finds that to the extent specific information or data is requested by these IRs, such information and data is relevant. Accordingly, the Board directs Manitoba Hydro to respond to the IRs. However, the Board recognizes that there are compelling reasons to share data in a manner that can be manipulated by Interveners and their consultants as required and will not place unnecessary strain on parties' resources as a result of manual data entry being required. Accordingly, where the IRs request data, the Board directs Manitoba Hydro to:

- Provide any requested data in native spreadsheet format wherever possible; and

- Where this is not possible, provide the data
 - in PDF format created by converting the native data format to PDF in such a manner as to allow recipients to re-convert the data into native spreadsheet format; or
 - another data-only format acceptable to the relevant Intervener.

The Board encourages the Interveners and Manitoba Hydro to agree on acceptable data formats that will accomplish the Board's Directive.

COALITION/MH I-104(b): No answer required. The Board notes that the Coalition has withdrawn this question.

COALITION/MH I-105(a)-(l): No answer required. The Board considers the information sought by this IR to be best suited to a more comprehensive risk review of Manitoba Hydro. In light of Manitoba Hydro having commissioned KPMG to provide a report regarding Manitoba Hydro's risks, the Board considers the information sought to be more appropriately addressed at the next GRA, once the KPMG report has been received. While to date, the Board has not been presented with KPMG's Terms of Reference, the Board notes that it expects KPMG to address the issues raised by this IR, as they address relevant matters regarding risk.

Coalition/MH I-107(a), (c) and (g) and I-108(a) and (c): Answer Required. The Board considers these IRs relevant to Manitoba Hydro's financial forecasting and projected interest expense. As such, Manitoba Hydro is to respond.

5.0 Information Requests by MKO in Conjunction with the Consumer Coalition

Submissions with respect to the impugned MKO-Coalition IRs are set out in **APPENDIX C** to this Order. The Board's ruling in respect of the impugned MKO/COALITION IRs is as follows:

MKO-COALITION/MH I-4: Modified answer required. The Board accepts the proposed revised IR. Manitoba Hydro is to file the 2013-2014 Power Smart Annual Review once it has been finalized.

MKO-COALITION/MH I-6(a)-(k), I-7(a)-(d), I-8(a)-(f), and I-10(a)-(c): No answer required. The Board did not rule in Order 18/15 that the topic of Demand Side Management (DSM) is not relevant to the GRA. Rather, the Board stated that since an extensive DSM review took place during the NFAT, the Board intends to limit its review of DSM in this GRA to the reasonableness of the proposed DSM expenditures during the test years. In light of the extensive examination of DSM issues that took place in the NFAT Review and the current state of flux with respect to the Board's DSM-related recommendations flowing from the NFAT, the Board considers the requested detailed information to be unnecessary for this GRA and will not require Manitoba Hydro to provide the requested information in this hearing. However, the Board is not making a ruling as to the relevance of the requested information for future GRAs at which DSM may be examined in greater detail. The Board encourages the Coalition and MKO to turn their mind to what DSM-related information should form part of future Minimum Filing Requirements (MFRs) for Manitoba Hydro.

MKO-COALITION/MH I-11(a)-(d): Answer required. The Board did not rule in Order 18/15 that the topic of Demand Side Management (DSM) is not relevant to the GRA. Rather, the Board stated that since an extensive DSM review took place during the NFAT, the Board intends to limit its review of DSM in this GRA to the reasonableness of the proposed DSM expenditures during the test years. This IR is relevant to the issues and must be answered.

MKO-COALITION/MH I-12: No answer required. The Board notes that MKO and the Coalition have withdrawn this IR.

6.0 Information Requests by the Manitoba Métis Federation

Submissions with respect to the impugned MMF IRs are set out in **APPENDIX D** to this Order. The Board's ruling in respect of the impugned Coalition IRs is as follows:

MMF/MH I-16(a)-(d), I-17(a)-(i), I-19(a)-(h), I-20(a)-(n), I-21, I-23(a)-(b), I-27, I-32, : **No answer required.** The Board did not rule in Order 18/15 that the topic of Demand Side Management (DSM) is not relevant to the GRA. Rather, the Board stated that since an extensive DSM review took place during the NFAT, the Board intends to limit its review of DSM in this GRA to the reasonableness of the proposed DSM expenditures during the test years. The Board further accepts that these IRs are not outside the scope of the issues on which the MMF was approved to intervene, as there is a causal connection to rate impacts. However, in light of the extensive examination of DSM issues that took place in the NFAT Review and the current state of flux with respect to the Board's DSM-related recommendations flowing from the NFAT, the Board considers the requested detailed information to be unnecessary for this GRA and will not require Manitoba Hydro to provide the requested information in this hearing. However, the Board is not making a ruling as to the relevance of the requested information for future GRAs at which DSM may be examined in greater detail. The Board encourages the MMF to turn its mind as to what DSM-related information should form part of future Minimum Filing Requirements (MFRs) for Manitoba Hydro.

MMF/MH I-18(a)-(b), I-22(a)-(b), I-35(a)-(d): **No answer required.** The MMF was approved to intervene on rate impacts to rural, low-income, all-electric and small-to-medium business customers. These IRs relate to overall DSM measures and not rate impacts. As such, they are outside the scope of the MMF's approved intervention.

MMF/MH I-39(a)-(c): **Answer required.** The Board notes that this IR is a general DSM-related question that falls outside the scope of the MMF's approved

intervention. However, the Board is of the view that this IR will be of assistance to the Board in determining the appropriateness of DSM expenditures during the test years and, as such, requests Manitoba Hydro to answer this IR.

MMF/MH I-40(a)-(j): Modified answer required. Manitoba Hydro is to answer sub-parts (a), (c), (d), (e), (f) and (h), as they relate to the MMF's approved scope of intervention. In that respect, the Board accepts that sub-part (h) may be required for comparison purposes. Manitoba Hydro is not required to provide an answer to sub-parts (b), as this does not relate to the MMF's approved scope of intervention.

MMF/MH I-45(a), I-50(a)-(m), I-51(a)-(b), I-52, I-55, and I-56(a)-(c), : Modified answer required. The Board notes that Manitoba Hydro and the MMF have negotiated a mutually agreeable response.

MMF/MH I-49: No answer required. Neither the Board nor Manitoba Hydro have jurisdiction over provincial poverty funding. As such, the Board does not consider the IR relevant.

MMF/MH I-54: No answer required. The Board accepts Manitoba Hydro's submission that internal presentations to the Manitoba Hydro-Electric Board on the enumerated issues are not required in this proceeding.

7.0 Information Requests by MIPUG

Submissions with respect to the impugned MIPUG IRs are set out in **APPENDIX E** to this Order. The Board's ruling in respect of the impugned MIPUG IRs is as follows:

MIPUG/MH I-1(a)-(b), I-2, I-3(a)-(c), I-39(a)-(c): Answer required. The Board did not rule in Order 18/15 that the topic of Demand Side Management (DSM) is not relevant to the GRA. Rather, the Board stated that since an extensive DSM review took place during the NFAT, the Board intends to limit its review of DSM in this GRA to the reasonableness of the proposed DSM expenditures during the test years.

Furthermore, in Order 18/15, the Board specifically approved MIPUG to intervene with respect to the impact of DSM on large ratepayers. The Board considers these IRs to be in scope.

MIPUG/MH I-5: Modified answer required. The Board considers this IR to be relevant and will require Manitoba Hydro to answer the revised IR as proposed by MIPUG.

MIPUG/MH I-13(a): Modified answer required. The Board accepts that the first part of this IR would require the disclosure of cabinet confidences. However, the second part of the IR, namely “What is the implication of the removal of sinking fund requirements on revenue requirement?” is a relevant question that Manitoba Hydro is directed to answer.

MIPUG/MH I-14(d): Answer required. This IR is relevant to an examination of whether or not Internal Financial Reporting Standards should be implemented for purposes of rate regulation. The Board notes that the requested information was provided in the last GRA and MIPUG is simply seeking an update.

MIPUG/MH I-16(a)-(b): Answer required. This IR is relevant to an examination of projected depreciation expense.

MIPUG/MH I-19(c): Modified answer required. This IR is relevant to an examination of depreciation expense. The Board notes that the revised proposed IR set out by MIPUG seeks schedules to the disclosure of which Gannett Fleming consents in its cover letter to Appendix 5.6 of the GRA.

MIPUG/MH I-29(b): Modified answer required. The Board will not require the disclosure of cabinet confidences. However, Manitoba Hydro is to file any documentation and provide details with respect to any discussions that are on the public record.

MIPUG/MH I-33: No answer required. The Board considers the information sought by this IR to be best suited to a more comprehensive risk review of Manitoba Hydro. In light of Manitoba Hydro having commissioned KPMG to provide a report regarding Manitoba Hydro's risks, the Board considers the information sought to be more appropriately addressed at the next GRA, once the KPMG report has been received.

8.0 Procedural Matters

Order 18/15 set a deadline of March 12, 2015 to provide answers to Round I IRs. On March 12, 2015, Manitoba Hydro filed its responses to a substantial number of Round 1 Information Requests. In Manitoba Hydro's March 12, 2015 correspondence Manitoba Hydro sought an amendment to the PUB Schedule provided in Board Order 18/15. The Board will accept Manitoba Hydro's proposed schedule with the additional requirement that Manitoba Hydro is to respond to Round 1 Information Requests adjudicated by this Order by March 20, 2015. All parties are encouraged to make best efforts to file their Information Requests in advance of the due date to allow for as much time as possible for parties to respond.

Appendix F attached to this Order contains a revised hearing timetable.

As previously stated, in this hearing, the Board will not limit Round II IRs to information arising from specific Round I IRs.

The Board recognizes that Interveners spent a significant amount of time to respond to impugned IRs. It is not the Board's intention at this time to count the time spent by Interveners and their counsel to respond to IR refusals towards their previously approved budgets. However, as all parties are aware, the Board retains its discretion with respect to any cost awards to be made after the hearing of the GRA.

9.0 IT IS ORDERED THAT:

1. Manitoba Hydro provide responses to impugned Round 1 Information Requests as per the individual rulings in the body of this Order by no later than March 20, 2015; and
2. The Hearing timetable provided in Board Order 18/15 is revised with the Hearing Timetable provided in Appendix F.

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

"Régis Gosselin, B ès Arts, MBA, CGA"
Chairman

"Kurt Simonsen"
Acting Secretary

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Acting Secretary