

October 1, 2013

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VIA E-MAIL

Public Utilities Board
400 - 330 Portage Avenue
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Attention: Mr. Hollis Singh

Dear Sir:

Re: Suggested Direction by Manitoba Hydro to the PUB
Motions Day: September 30, 2013
Our File: 13235

The following is in reply to the suggestion given by MH at the conclusion of the Motions Day on September 30, 2013. For ease of reference I have attached a one page print-out of the relevant portion of the transcript. I have also dropped the relevant sections of the transcript into the body of this letter.

1. [...] that a direction be given to the independent expert consultants, first, that their role is not to create a public record.

Reply:

The IECs have no position. However, given that the IEC reports are subject to IRs and to cross-examination, the IECs would welcome further guidance and direction from the PUB on the framework which their reports are to be provided, particularly if the MH information upon which they rely will not be on the public record.

2. Second -- well, I guess this direction is to Manitoba Hydro and the independent expert consultants, that they can meet with Manitoba Hydro throughout this process to respond to questions that they may have. That they are not limited to the timing of the Information Request process.

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Reply:

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The IECs see the benefit of ensuring that they can meet with MH throughout this process to respond to questions and to receive satisfactory information regardless of the timing of the IR process. However, should it be directed that there will no longer be an IRs process for the IECs, there is a concern that this may be more time consuming as it may require more on site time for the IEC.

Regarding the public record issue, informal meetings do not afford the assurance of accuracy of information that on the record or formal responses would provide. Indeed, information provided by MH in these informal meetings and relied upon by the IECs will be referenced in the IEC reports. However, under the proposed scenario this information will not be accessible to the other parties or to the public. Generally speaking, the informal meetings provide a manner to winnow the need for IRs, but there is a concern about the quality of the information if this is the only source for that information.

3. Third, that the independent expert consultants have the authority to first withdraw any IRs that they've -- that they've posed. Or, second, to identify the IR as satisfied. But in Manitoba Hydro's view that is something that would have to be done by the independent expert consultant who posed them. Manitoba Hydro can't presume to just file those as -- as satisfied. We think that -- that should be their responsibility.

But the ultimate goal is to reduce it to no IRs over that -- the time period up until when they need to produce their report. If, however, we reach a -- a point at which there is disagreement on an IR, like any IR or any portion of this process, we'd have to be back in front of this Board. And we'd have to be back either to deal with scope, or schedule.

Reply:

The IECs recognize the benefit of working in conjunction with MH to narrow the IRs. However, as noted earlier informal meetings do not afford an assurance of the accuracy of the information provided, which could create grounds for objections raised by other parties and compromise the process being undertaken by the IECs. Ultimately, the IRs process provides an inventory of the information sought and assists in bringing focus to the process. This includes not only the preparation of their

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reports, but the IRs which the IECs will be required to answer and the cross-examinations that may have to undergo. In summary, the reports are based on certain facts and the IECs will have to provide the source for those facts. To the extent that the sources for the facts are not publicly accessible, they would be required to justify them. Citing "conversations" is seldom considered reliable and would put them in a very difficult position. To date, the purpose of the meetings with MH has been to clarify or obtain background context on the facts presented by MH in their applications or presentations. To the extent that they receive new facts from MH, it is critical that these be documented and publicly accessible.

With respect to the suggestion that it ought to be the IECs responsibility to withdraw or to file IRs as satisfied, this runs contrary to MH's first point that it is not the IECs role to create the public record. In fact, this suggestion is leaving it to the IECs to determine what does and does not form part of the public record.

The further concern is that MH's suggestion has the end result of shifting this burden back onto the IECs. Finally, guidance or clarification is requested regarding the process envisioned for resolving the disagreements in light of MH's suggestions.

Yours truly,

HILL SOKALSKI WALSH TRIPPIER LLP

Per:



Christian Monnin*

CM/sch

** services provided by Christian Monnin Law Corporation*

MS. PATTI RAMAGE: Yeah. Having consulted with my client, I -- I think we would put forth for the Board a recommendation that out of this process, and with a view to achieving the desired result of the NFAT process, that a direction be given to the independent expert consultants, **first**, that their role is not to create a public record.

Second -- well, I guess this direction is to Manitoba Hydro and the independent expert consultants, that they can meet with Manitoba Hydro throughout this process to respond to questions that they may have. That they are not limited to the timing of the Information Request process.

Third, that the independent expert consultants have the authority to first withdraw any IRs that they've -- that they've posed. Or, second, to identify the IR as satisfied. But in Manitoba Hydro's view that is something that would have to be done by the independent expert consultant who posed them. Manitoba Hydro can't presume to just file those as -- as satisfied. We think that -- that should be their responsibility.

But the ultimate goal is to reduce it to no IRs over that -- the time period up until when they need to produce their report. If, however, we reach a -- a point at which there is disagreement on an IR, like any IR or any portion of this process, we'd have to be back in front of this Board. And we'd have to be back either to deal with scope, or schedule. And -- and that's what it would come down to. Or both, I should say. Because I think it would be scope and schedule.

But that is how I think we could resolve that -- that issue. I -- I think it would respect the authority of the independent expert consultants. It would allow them to exercise their judgment. Manitoba Hydro, based on what we have seen, has confidence in that judgment and we think we can make this work if they have that authority.

(BRIEF PAUSE)

MR. SVEN HOMBACH: Mr. Monnin, do you have any comments in respect of what Manitoba Hydro just indicated?

MR. CHRISTIAN MONNIN: Other than it's -- it's helpful but I -- you know, I would need, quite frankly, to get some direction from my IECs in order to provide a response to what's being suggested right now for this panel to -- to direct. I'm certainly not in a position to -- to say this is perfectly acceptable to the IECs.

It might very well be but I -- I'm just -- given that it's quarter past 3:00 and this is being suggested now in real time, I really can't speak with the authority of the instructions from the client.