

MANITOBA) **Order No. 119/13**
)
THE PUBLIC UTILITIES BOARD ACT) **October 4, 2013**

Before: Régis Gosselin, B.A., M.B.A., C.G.A., Chair
Larry Soldier, Member
Marilyn Kapitany, B.Sc. Hon., M.Sc., Member

**ORDER WITH RESPECT TO NFAT MOTIONS DAY NO. 1
ON SEPTEMBER 30, 2013**

**THE PUBLIC UTILITIES BOARD'S "NEEDS FOR AND ALTERNATIVES TO" (NFAT)
REVIEW OF MANITOBA HYDRO'S PREFERRED DEVELOPMENT PLAN
TO CONSTRUCT THE KEEYASK AND CONAWAPA GENERATING STATIONS
AND ASSOCIATED TRANSMISSION FACILITIES**

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1.0.0 Executive Summary

This Order is a procedural interlocutory Order with respect to the Needs For and Alternatives To (NFAT) Review into Manitoba Hydro's Preferred Development Plan. By this Order, the Public Utilities Board (Board or PUB) rules on and establishes a process with respect to three matters:

- Firstly, a motion by Manitoba Hydro with respect to Round 1 Information Requests directed to the Utility. For each impugned Information Requests, the Board has set out its disposition in the body of this Order, and answers are to be filed in accordance with the Board's disposition.
- Secondly, a letter by Independent Legal Counsel raising three issues:
 - The filing of Information Requests with respect to Commercially Sensitive Information. The Board, by this Order, extends the deadline for such Information Requests to be filed to October 7, 2013.
 - The necessity, or lack thereof, of Independent Expert Consultants (IECs) creating a public record through Information Requests. By this Order, the Board establishes a process that allows IECs to withdraw Information Requests they no longer consider necessary and satisfy other Information Requests through direct discussion with the Utility, provided that documentation of the issues discussed satisfactory to the IECs is provided by Manitoba Hydro and the sources of an IEC's information are properly referenced and footnoted in their report.
 - Access by IECs to electronic computer models. By this Order, the Board accepts a proposal by Manitoba Hydro to provide certain models through a SharePoint site while other, more complex models, are to be examined through meetings with the Utility.
- Thirdly, a process by which PUB Information Requests are categorized into three categories – Category "A", for which Manitoba Hydro can file existing information without updating it; Category "B", which does not have to be answered subject to meetings between Board Advisors and the Utility to determine if matters can be resolved through informal discussions; and Category "C", which has to be answered subject to the Board's ruling on Manitoba Hydro's motion with respect to specific Information Requests.

2.0.0 Manitoba Hydro's Motion Regarding Round 1 Information Requests

2.1.0 Overview

Manitoba Hydro's motion separated Information Requests into the following four categories, and was addressed by Manitoba Hydro on a category-by-category basis:

- Information Requests which cannot be completed within the allotted time
- Information Requests which seek information beyond the scope of the NFAT
- Information Requests to be addressed in environmental hearings
- Other

This Order will address the individual Information Requests in the same order as they were addressed in oral argument. The Board's disposition will be noted underneath each Information Request.

2.2.0 Information Requests Manitoba Hydro Alleges Cannot be Completed within the Allotted Time.

2.2.1. PUB Information Requests

PUB-3:

MH Objection: In oral argument, Manitoba Hydro withdrew its objection.

Disposition: Having withdrawn its objection, Manitoba Hydro is to provide an answer.

PUB-4(a):

MH Objection: In oral argument, Manitoba Hydro withdrew its objection.

Disposition: Having withdrawn its objection, Manitoba Hydro is to provide an answer.

PUB-30:

MH Objection: This would require new analysis that cannot be completed within the timeframe provided. Sections 10.2.1 and 11.4 provide the economic and financial impacts of an extended five-year drought with Keeyask in place, Keeyask and Conawapa in place, and with a gas-fired alternative.

Disposition: It would be helpful to the Board to be provided with an analysis that considers drought impacts with respect to a combined-cycle combustion turbine (CCCT) scenario in its review of Manitoba Hydro's Preferred Development Plan. However, the Board recognizes that the limited timeframe for the NFAT Review requires scenarios to be carefully selected and unnecessary duplication to be avoided. The Board further has appointed La Capra Associates as an Independent Expert Consultant to examine the Preferred Development Plan from an economic and power resource perspective. Accordingly, the Board is prepared to withdraw these Information Requests, based on the expectation that La Capra Associates will request a CCCT+drought scenario to be analysed, and that Manitoba Hydro will comply with that request. Any such analysis should consider whether it would be possible to analyze the same CCCT scenario in respect of PUB-30 and PUB-111; PUB-118(c); PUB-122(a)-(b) to minimize the number of additional scenarios to be modelled by Manitoba Hydro.

If a CCCT+drought scenario is not requested by La Capra, the Board should be informed as to the rationale for that decision by Independent Legal Counsel and will decide whether to order that such an analysis be performed by Manitoba Hydro.

PUB-35:

MH Objection: In oral argument, Manitoba Hydro withdrew its objection.

Disposition: Having withdrawn its objection, Manitoba Hydro is to provide an answer.

PUB62(a)-(d):

MH Objection: The requested information requires new work to be undertaken based on a methodology Manitoba Hydro has identified as inappropriate. This requires substantial time. PUB-62(a) requests an update to a PUB-created exhibit. Manitoba Hydro also made substantive arguments about the appropriateness of the incremental revenue requirement method.

Disposition: The Board does not require these Information Requests to be answered at this time. The Board makes no finding in respect of Manitoba Hydro's procedural arguments. Such arguments, if Manitoba Hydro wishes to make them, should be made in the actual hearing, not a procedural motion.

PUB-75(a):

MH Objection: Manitoba Hydro raised the same arguments as with respect to PUB-62(a)-(d).

Disposition: Manitoba Hydro is to file the existing information request without providing an update. The Board makes no finding in respect of Manitoba Hydro's procedural arguments. Such arguments, if Manitoba Hydro wishes to make them, should be made in the actual hearing, not a procedural motion.

PUB-75(b):

MH Objection: Manitoba Hydro raised the same arguments as with respect to PUB-62(a)-(d).

Disposition: The Board does not require this Information Request to be answered at this time. The Board makes no finding in respect of Manitoba Hydro's procedural arguments. Such arguments, if Manitoba Hydro wishes to make them, should be made in the actual hearing, not a procedural motion.

PUB-98(a) and (c); PUB-99(c), PUB-100(a):

MH Objection: Updating information that is relatively current is not warranted and takes time. Manitoba Hydro is prepared to file the existing information.

Disposition: The Board accepts Manitoba Hydro's proposal to file the existing information without providing an update.

PUB-107:

MH Objection: This IR is a duplication of PUB-62. The same comments apply.

Disposition: See disposition with respect to PUB-62.

PUB-111; PUB-118(c); PUB-122(a)-(b):

MH Objection: This requires a variation of the all-gas scenario. Each of the alternatives requires between 100-200 hours of work. The all-gas plan provided in the NFAT filing is an optimized plan representing the best combination of single-cycle and combined cycle turbines.

Disposition: It would be helpful to the Board to be provided with a combined-cycle combustion turbine (CCCT) scenario in its review of Manitoba Hydro's Preferred Development Plan. However, the Board recognizes that the limited timing for the NFAT Review requires scenarios to be carefully selected and unnecessary duplication to be avoided. The Board further has appointed La Capra Associates as an Independent Expert Consultant to examine the Preferred Development Plan from an economic and power resource perspective. Accordingly, the Board is prepared to withdraw these Information Requests, based on the expectation that La Capra Associates will request a CCCT scenario to be analysed, and that Manitoba Hydro will comply with that request.

If a CCCT scenario is not requested by La Capra, the Board should be informed as to the rationale for that decision by Independent Legal Counsel and will decide whether to order that such an analysis be performed by Manitoba Hydro.

PUB-122(a)-(b):

MH Objection: Manitoba Hydro included these Information Requests with its arguments in respect of PUB-111, PUB-118(c), and PUB-122(a)-(b).

Disposition: These Information Requests do not require an analysis of a new all-gas plan. The Board requires them to be answered.

PUB-167; PUB-172(a); PUB-173; PUB-175; PUB-194(a)-(d); PUB-195(a)-(d); PUB-199; PUB-206(d); PUB-207:

MH Objection: Each of these Information Requests requires Manitoba Hydro to re-run its analysis by changing one of more variables, including the discount rate. It is not appropriate to change only one of the variables and not possible to provide meaningful results on that basis.

Disposition: The Board does not accept Manitoba Hydro's assertion that it would be inappropriate to change individual variables to test the evidence and determine the impact on such variables. However, the Board recognizes that in light of the timing concerns raised by Manitoba Hydro, unnecessary duplication should be avoided. The Board further has retained La Capra Associates and Morrison Park Advisors as Independent Expert Consultants to examine the Preferred Development Plan from an economic and power resource plan perspective in the case of La Capra Associates, and a public sector finance perspective in the case of Morrison Park Advisors. The Board will accordingly withdraw these information requests but expects that if either of these Independent Expert Consultants request any specific variables to be changed, Manitoba Hydro will comply with such requests.

2.2.2. CAC Information Requests

CAC-120(b) and CAC-121(a):

MH Objection: Manitoba Hydro indicated that the probabilistic analysis chart provided in the NFAT Review provides a range of variables, including discount rates, and there is no merit in providing mild variations.

CAC Response: CAC argued that the timeframe of 60-80 hours estimated for these IRs was not of a magnitude to pose concerns. CAC further argued that the discount rate chosen is critical for the Board's determination of the issues and that CAC was concerned about the discount rate being too low.

Disposition: As with the Board's disposition in respect of PUB-167, PUB-172(a), PUB-173, PUB-175, PUB-199, PUB-206(d), and PUB-207(b), Manitoba Hydro will not have to answer these Information Requests but the Board expects that if either La Capra Associates or Morrison Park Advisors request any specific variables to be changed, Manitoba Hydro will comply with such requests, including any request to analyze a higher-discount-rate scenario.

2.2.3. CAC/GAC Information Requests

CAC/GAC-7(a) and CAC/GAC 11(b)&(c):

MH Objection: These questions relate to Manitoba Hydro's DSM Potential Study. The requested alternative scenarios are outside the scope of the external consultant's work.

CAC/GAC Response: CAC/GAC accepted Manitoba Hydro's representation that the requested work was outside the scope of the external consultant's retainer.

Disposition: In light of CAC/GAC's response, these Information Requests need not be answered by Manitoba Hydro.

2.2.4. MMF Information Requests

MMF-47:

MH Objection: As with other requests to re-analyze scenarios with new discount rates, MH argued that the probabilistic analysis chart provided sufficient information and that small variations in the discount rate would not provide useful information. Manitoba Hydro further argued that this Information Request attempted to identify hurdle rates for the development plans, and that Manitoba Hydro was using probabilistic analysis rather than risk-adjusted hurdle rates.

MMF Response: MMF argued that an analysis of discount rates is necessary for completing a comparison of alternatives.

Disposition: As with the Board's disposition in respect of PUB-167, PUB-172(a), PUB-173, PUB-175, PUB-199, PUB-206(d), and PUB-207(b), as well as its disposition with respect to CAC-120(b) and CAC-121(a), Manitoba Hydro will not have to answer these Information Requests but the Board expects that if either La Capra Associates or Morrison Park Advisors request any specific variables to be changed, Manitoba Hydro will comply with such requests.

2.3.0 Information Requests Alleged by Manitoba Hydro to be Out of Scope

2.3.1. PUB Information Request

PUB-32(a)-(b) and PUB-33:

MH Objection: These Information Requests seek updated historical water flow operation which is not relevant to the consideration of future generation requirements.

Disposition: PUB-32(a)-(b) need not be answered at this time. With respect to PUB-33, Manitoba Hydro is to file existing information on the record but is not required to update the data points.

PUB-34:

MH Objection: The referenced Information Request is a question from the 2010 General Rate Application. Updated information was required in the 2012 General Rate Application and Manitoba Hydro proposes simply to re-file that information.

Disposition: Manitoba Hydro's proposal is accepted, and Manitoba Hydro is to re-file the information provided in the 2012 General Rate Application.

PUB-41(a)-(b):

MH Objection: The Information Requests seek information on the top 50 summer and winter peak demands, which information is not useful in the proceeding. Future generation requirements are based on load forecasts, not current peak loads.

Disposition: The Board is of the view that an understanding of peak demands in the Province is relevant and that the Information Request is within scope. However, Manitoba Hydro can re-file the previously provided information without updating it.

PUB-105(a)-(c):

MH Objection: These questions seek to obtain confirmation regarding the existing system to examine the merits of Bipole III, which is specifically excluded from the Terms of Reference.

Disposition: Manitoba Hydro is to answer this Information Request. The information sought is relevant with respect to Manitoba Hydro's ability to deliver on its export commitments. The information sought is not intended to examine the merits of Bipole III, an issue the Board agrees is out of scope.

2.3.2. CAC Information Requests

CAC-37(a):

MH Objection: This Information Request seeks confirmation that data regarding unit export revenues is similar to data provided in the Clean Environment Commission hearing into Wuskwatim. Previous NFAT proceedings are out of scope.

CAC Response: The information sought is not intended to re-examine Wuskwatim but to examine the credibility of Manitoba Hydro in terms of export forecasting. The most detailed export forecasts for Manitoba Hydro go back to the Wuskwatim proceeding.

Disposition: Manitoba Hydro is to answer this Information Request. The information sought is relevant to the lessons learned in terms of export forecasting and how such lessons were applied to the current analysis. The Board agrees with Manitoba Hydro's submission that a re-examination of Wuskwatim is out of scope.

CAC-185 to CAC-193:

MH Objection: These Information Requests seek detailed information in order to determine the rate impacts of the Preferred Development Plan on low-income consumers. This is beyond the scope of the NFAT.

CAC Response: CAC acknowledged that the information was sought to determine the impact on low-income electricity customers but indicated that it was important to obtain insight on the impact of low-income consumers.

Disposition: These Information Requests are to be answered. The Board considers the impact on low-income consumers to be relevant to the NFAT Review and notes that the Terms of Reference do not exclude it from the scope of the NFAT Review.

CAC-195:

MH Objection: This Information Request requests information as to the level of cost contingency and the capital cost estimate for Bipole III. Bipole III is excluded from scope and will be built regardless of the development plan ultimately chosen. Since the differences, or "deltas", between the various alternatives govern the NFAT analysis and Bipole III is included in all of them, Bipole III does not affect the relative merits of the plans.

CAC Response: The purpose of this Information Request is to determine the exposure of cost overruns. Manitoba Hydro has not undertaken an analysis in which capital costs are high for all projects. Bipole III is a large capital project currently being undertaken.

Disposition: The Board accepts Manitoba Hydro's argument on this issue. This Information Request need not be answered.

CAC-220:

MH Objection: This Information Request requests an analysis of the desirability of forecasted end uses of electricity, which is not an issue contemplated by the Terms of Reference.

CAC Response: While CAC does not concede that this Information Request is not relevant, CAC would accept if Manitoba Hydro chose not to answer it, although such choice would be "unfortunate".

Disposition: In light of CAC's response, this Information Request need not be answered.

CAC-224(a)-(b):

MH Objection: It is not necessary to evaluate specific DSM programs in the context of the NFAT. What is relevant is the overall level of DSM attainable. It is not necessary to engage in a debate as to which specific DSM programs can be included.

CAC Response: It is arguable that DSM and conservation could be significantly increased while still keeping the average cost of DSM below the Utility's marginal cost of generation. What is completely missing is a preliminary analysis how such an approach could promote technical and social innovation in Manitoba. CAC will not insist on a response but believes it would be quite helpful.

Disposition: In light of CAC's response, this Information Request need not be answered.

CAC-237(b):

MH Objection: This question is properly within the scope of the Clean Environment Commission hearing.

CAC Response: CAC has withdrawn the Information Request.

Disposition: In light of the withdrawal, the Information Request need not be answered.

2.3.3. GAC Information Requests

GAC-23 and GAC-24:

MH Objection: These Information Requests seek historical hourly demand data and hourly load shapes in order to design new models that Manitoba Hydro would then be expected to decipher and rationalize. Order 92/13 does not encourage or support the creation of separate models by Interveners.

GAC Response: The information is within scope and would permit GAC's experts to perform calculations to verify Manitoba Hydro's modeling results. Without a thorough vetting, it is not possible to comment on the forecasts and modeling used by Manitoba Hydro.

Disposition: These Information Requests need not be answered. The Board accepts Manitoba Hydro's argument that the data is requested to create new models, which exceeds the scope of the intervention.

GAC-30 to GAC-66:

MH Objection: Manitoba Hydro withdrew its objection to GAC Information Requests 30-33, 36-40, 43-51, 54-59 and 62-66 at the oral hearing. With respect to GAC-34, GAC-41, GAC-52, and GAC-60, Manitoba Hydro proposed to respond narratively. With respect to GAC-35, GAC-42, GAC-53, and GAC-61, Manitoba Hydro argued that the Information Requests could not be provided within the allotted timeframe.

GAC Response: GAC indicated that in light of Manitoba Hydro withdrawing its objections to a number of the Information Requests, GAC was prepared to "wait and see" what is provided. However, GAC reiterated its request for live spreadsheets.

Disposition: In light of GAC's response, Manitoba Hydro is to answer the Information Requests as proposed. The Board encourages Manitoba Hydro to provide live spreadsheets to the extent possible, but will not make a ruling on the issue at this time since the parties did not address specific remaining requests for spreadsheet in argument. If upon receipt of responses GAC is still unsatisfied, it may raise any concerns by way of a written motion to the Board.

2.3.4. MMF Information Requests

MMF-27:

MH Objection: The response would include hundreds of documents and would not relate to the issues at hand. There is no available market price benchmark pricing for long-term contracts. The process by which prices are established was the subject of the 2010/11 risk review.

MMF Response: Based on Manitoba Hydro's explanation, MMF withdrew this Information Requests.

Disposition: In light of the withdrawal, this Information Request need not be answered.

MMF-62:

MH Objection: Historical environmental effects of existing hydroelectric projects are not within the scope of this proceeding. Historical environmental costs are specifically excluded and not useful for comparative purposes, since changes in standards, methods, and environmental management make such comparisons inappropriate.

MMF Response: While the decision to develop these projects was historical, the effects are ongoing. A description of the nature and scope of those ongoing effects is required for a comparative assessment of impacts.

Disposition: Manitoba Hydro need not answer this Information Request as phrased, but shall provide a high-level description of the ongoing environmental effects of upstream projects for purposes of establishing a baseline in respect of the Board's assessment of macro environmental impacts.

2.3.5. MIPUG Information Requests

MIPUG-34(d):

MH Objection: Manitoba Hydro withdrew its objection.

Disposition: In light of Manitoba Hydro withdrawing its objection, this Information Request must be answered.

2.4.0 Information Requests Manitoba Hydro Alleges Are to be Addressed in Environmental Hearings

2.4.1. CAC Information Requests

CAC-231(a), CAC-234, CAC-237(a), CAC-238(a)-(d), CAC-239(a)-(b) and CAC-251(a)-(b):

Disposition: Following oral argument, Manitoba Hydro and CAC advised that they had reached a settlement with respect to these Information Requests and requested the Board not to issue a ruling. The Board accepts that request and renders no ruling with respect to CAC-231(a), CAC-234, CAC-237(a), CAC-238(a)-(d), CAC-239(a)-(b) and CAC-251(a)-(b).

Manitoba Hydro offered, in oral argument, to file a high-level matrix with the Board that would list the environmental issues with respect to Keeyask, Conawapa, wind and gas and would be mindful of the Board's definition of macro environmental impact. The Utility confirmed that it was still prepared to file such a matrix despite the dispute over the above-noted Information Requests having been settled.

The Board accordingly expects Manitoba Hydro to file a high-level matrix setting out the environmental issues with respect to Keeyask, Conawapa, wind and gas. The matrix should also consider DSM / energy efficiency, as requested by CAC counsel in oral argument, and Métis issues as per the Board's disposition with respect to MMF-3 below.

2.4.2. MMF Information Requests

MMF-3 and MMF-62:

MH Objection: Both of these Information Requests are properly matters to be dealt with in other environmental reviews.

MMF Response: The Board is required to consider the cost impact of environmental effects. Impacts potentially experienced by the Métis are not factored into the cost of the projects, and Manitoba Hydro has not suggested that it can provide a summary of impacts on the Métis in the same manner as, for example, lake sturgeon. To the extent there will be a discussion between counsel and Manitoba Hydro as to the macro-environmental review, MMF intends to be involved.

Disposition: MMF conceded that it is an intervener in the current Keeyask environmental review before the Clean Environment Commission. As such, it will be able to address some of its concerns in that forum. However, the Board notes that an environmental assessment hearing into Conawapa may not take place for several years. To that extent, the Board expects Manitoba Hydro to address the issues raised by these Information Requests in its high-level matrix and does not require MMF-3 to be answered at this time.

With respect to MMF-62, the Board's disposition is as set out in section 2.3.4 above.

2.5.0 Information Requests Manitoba Hydro Alleges Are Not Relevant to the NFAT Review

2.5.1. GAC Information Requests

GAC-68:

MH Objection: This Information Request asks for justification documentation on gas expansions, which are subject to review by the Board and not relevant to the NFAT.

GAC Response: The purpose of this Information Request is to compare Centra's gas heat penetration projections with those of Manitoba Hydro. Based on Manitoba Hydro stating that they are the same, GAC is prepared to speak to Manitoba Hydro counsel to determine if a further answer is required.

Disposition: In light of GAC's response, this Information Request need not be answered at this time. If GAC and Manitoba Hydro cannot resolve the issue, they can seek a ruling from the Board.

2.5.2. MMF Information Requests

MMF-44

Disposition: Since MMF withdrew this Information Request at the motion, it will not have to be answered.

2.5.3. PUB Information Requests

PUB-44:

MH Objection: Manitoba Hydro argued that this Information Request was not relevant as historical loads and water conditions do not affect the projections for future loads and water conditions. However, Manitoba Hydro is prepared to file the existing Information Request without updating it.

Disposition: The Board considers this Information Request relevant with respect to Manitoba Hydro's ability to sell peak and off-peak power into the MISO market and requires it to be answered in its entirety, including the requested update.

PUB-52 and PUB-53(a)-(b):

MH Objection: This Information Request seeks historical information that is not relevant to the consideration of future generation alternatives and will require substantial time to complete.

Disposition: Manitoba Hydro need not answer this Information Request at this time, subject to discussions between Board Advisors and Manitoba Hydro to determine if the information can be obtained through discussions, without the need for a formal written Information Request.

PUB-59(a)-(b):

MH Objection: The requested information is not relevant. Manitoba Hydro further has not obtained the consents of its forecasters to place such information on the record, even if filed in confidence.

Disposition: Manitoba Hydro need not answer this Information Request. However, Manitoba Hydro shall advise the Board as to what, if anything, has changed with respect to its forecasting methodology since the 2010 General Rate Application. Manitoba Hydro is further to provide the range of forecast numbers used in its analyses. If permission from the forecasters is required to disclose this information, Manitoba Hydro shall advise the Board accordingly.

PUB-103(a):

MH Objection: The requested information will not assist the Board as historical data provides no indication of future exports and congestion.

Disposition: Manitoba Hydro need not answer this Information Request at this time, subject to discussions between Board Advisors and Manitoba Hydro to determine if the information can be obtained through discussions, without the need for a formal written Information Request..

PUB-280:

MH Objection: Information and assumptions included in IFF09 are outside the scope of this proceeding. Contracts have been finalized, and what was discussed during negotiations is not relevant.

Disposition: Manitoba Hydro need not answer this Information Request at this time, subject to discussions between Board Advisors and Manitoba Hydro to determine if the information can be obtained through discussions, without the need for a formal written Information Request.

2.6.0 “Other” Categories

2.6.1. CAC Information Requests

CAC-171 and CAC-222:

Disposition: Manitoba Hydro withdrew its objection to these Information Requests. Accordingly, they are to be answered.

2.6.2. GAC Information Request

GAC-15 and GAC-16:

Disposition: Manitoba Hydro withdrew its objection to these Information Requests. Accordingly, they are to be answered.

2.6.3. PUB Information Requests

PUB-69, PUB-70, and PUB-71

MH Objection: The Information Requests relate to the ICF Report. ICF has not been retained by Manitoba Hydro with respect to the NFAT and will not give evidence.

Disposition: These Information Requests need not be answered. The Board notes that it is in possession of an unredacted copy of the ICF Report, which was filed in confidence, and accepts Manitoba Hydro's advice that ICF will not provide evidence. To the extent existing information has already been filed with the Board in previous proceedings, it can be referred to in the NFAT Review and examined in the *in camera* portion of the hearing, if necessary.

PUB-76:

MH Objection: This material relates to a methodology Manitoba Hydro has previously identified as inappropriate.

Disposition: This Information Request need not be answered on the basis that it relates to information previously filed with the Board, which can be referenced in the NFAT Review. The Board makes no ruling at this time with respect to Manitoba Hydro's argument that the referenced methodology is inappropriate.

PUB-79(a)-(c) and PUB-151(a)-(b):

MH Objection: This Information Request relates to internal rate of return information used at the Wuskwatim NFAT. Information related to the Wuskwatim NFAT is out of scope and Manitoba Hydro does not use internal rates of return for purposes of its Preferred Development Plan.

Disposition: The information sought, while provided at the Wuskwatim NFAT, does not relate to Wuskwatim but rather relates to Keeyask and Conawapa. As such, it is within scope and the Board considers it relevant. The Board rules as follows:

- PUB-79(a) need not be answered since the information has previously been filed with the Board and can be referred to in the NFAT Review.
- PUB-79(b) and PUB-151(a)-(b) need not be answered.
- PUB-79(c) must be answered.

3.0.0 Independent Expert Consultant's Motion

3.1.0 Round 1 Information Requests on Commercially Sensitive Information (CSI)

3.1.1. Submissions of the Parties

Independent Legal Counsel argued that since the Independent Expert Consultants (IECs) only received Commercially Sensitive Information (CSI) on or after the filing deadline for Round 1 Information Requests, IECs should be provided with an extension of the deadline to file Round 1 Information Requests with respect to CSI. Manitoba Hydro acknowledged that CSI was couriered to the IECs starting September 12, 2013, although it stated that this delay was not caused by Manitoba Hydro but rather by the finalization of the IEC retainers. Manitoba Hydro did not take issue with the deadline for Information Request on CSI to be extended, but did argue that the Information Request process was not necessary at all, as further set out in section 3.2.1 below.

3.1.2. Board Findings

The Board accepts that IECs were not able to file Round 1 Information Requests due to the timeline by which CSI documentation was received.

The deadline for IECs to file Round 1 Information Requests on CSI is hereby extended to Monday, October 7, 2013. The deadline for Manitoba Hydro to answer such Information Requests is the same as the deadline for Manitoba Hydro to answer the other Round 1 Information Request.

3.2.0 Completeness of the Public Record

3.2.1. Submissions of the Parties

The Independent Expert Consultants (IECs) requested clarification as to their role in creating a public record, in particular whether they are required to ensure that information obtained through meetings and discussions with Manitoba Hydro is the subject of formal Information Requests.

Manitoba Hydro argued that it was not the role of the IECs to ensure the creation of a public record. The Utility indicated that it had received extensive Information Requests from IECs, and that if such Information Requests had to be answered in addition to Information requests from the Board and Interveners, Manitoba Hydro would require six to eight months to provide all responses. The Utility indicated that 20-25 employees are tasked with the core work of assembling answers to Information Requests, but that topics were not distributed evenly, making it impossible to answer over 2,000 Information Requests within the timeframe provided.

Manitoba Hydro argued that the NFAT Terms of Reference do not mandate an Information Request process for interveners, and that because the Utility is meeting with them on a regular basis and making information available, IECs would be able to obtain sufficient information to fulfill their mandate without the use of Information Requests. While Manitoba Hydro indicated that it would like to see all IEC Information Requests to be withdrawn, the Utility ultimate made the following recommendation to the Board:

1. That a direction be given to the IECs that their role is not to create a public record;
2. That the IECs can meet with Manitoba Hydro throughout the process to obtain answers to any questions they may have, and that they are not limited to the timing of the Information Request process; and
3. That IECs have the authority to withdraw any Information Requests they have posed or identify the Information Request as satisfied, with the ultimate goal being that no Information Requests must be formally answered by the time the IECs produce their report.

While Independent Legal Counsel advised that the meetings between IECs and Manitoba Hydro had been very helpful to date and recognized the benefit of meetings to narrow the Information Requests, he expressed concern that informal meetings do not afford an assurance of the accuracy of information provided, which could create grounds for objections raised by other parties and compromise the process undertaken by the IECs. In a further written submission, Manitoba Hydro disagreed with that concern and argued that Information Requests are a weak method of communicating complex concepts and is subject to misunderstandings without the benefit of immediate discussion and clarification. Manitoba Hydro further suggested that the Utility would review the IEC reports and bring an factual inaccuracies to the IEC's attention.

3.2.2. Board Findings

The Terms of Reference for the NFAT Review, as issued by the Province, mandate that a report be issued by June 20, 2014. This deadline informs the timing of the pre-hearing steps as well as the schedule of the oral hearing, with the result that the timeframe provided for the assembly of answers to Information Requests is short. While there is a benefit to a comprehensive formal process of Information Request, the public interest requires a balancing of the need for a thorough record with the need to complete the hearing within the timeframe stipulated in such a manner that the process remains transparent and does not unduly prejudice any participants in the NFAT Review. IEC reports will be on the public record and IECs will be

subject to cross-examination. It is possible to streamline the fact-finding process as long as the source of IEC information is apparent. To that extent, the Board hereby establishes the following process:

1. IECs may, at any time, withdraw Information Requests they no longer believe are necessary or relevant after meetings with Manitoba Hydro personnel. Any withdrawn IEC Information Requests are to be noted, by Manitoba Hydro, as “withdrawn by the IEC as no longer required.” .
2. IECs are encouraged to obtain answers to Information Requests through direct discussions with Manitoba Hydro. Any IEC Information Requests for which the IECs are satisfied that they have obtained a responsive answer through discussions with Manitoba Hydro and documentation of the issues discussed satisfactory to the IECs is provided by Manitoba Hydro are to be noted, by Manitoba Hydro, as “satisfied through discussion with Manitoba Hydro”.
3. IECs are expected to footnote and reference their reports in sufficient detail for the source of their information to be readily apparent, and should be able to speak to the source of their information if necessary.
4. IEC Information Requests which, in the opinion of the IECs, cannot be retracted or satisfied through discussions with Manitoba Hydro are to be answered within the timeframe for responses to Round 1 Information Requests stipulated by this Order, subject to any challenge to specific Information Request by Manitoba Hydro, on motion to the Board.

3.3.0 Provision of Spreadsheets in Native Format

3.3.1. Submissions of the Parties

Independent Legal Counsel, in his written materials, requested that Manitoba Hydro file all economic analyses in native spreadsheet format, with formulae intact. In its written responding submission, Manitoba Hydro drew a distinction between three levels of electronic models in its possession:

1. Level I models, which are complex custom programs coded in computer language and can only be run by persons with specific expertise in the topic area and training with respect to the model. As examples, Manitoba Hydro cited SPLASH and FINFOR.

2. Level II models involve complex spreadsheets linked to other complex spreadsheets and require personnel with specific topic expertise and training in the models' structures to operate them. As an example Manitoba Hydro cited the Engineering Economic Evaluations.
3. Level III models consist of data in standard Excel spreadsheets and do not require specialized training other than an advanced knowledge of Excel.

The Utility advised that it was in the process of setting up a secure SharePoint site by which IECs would be able to obtain access to Level III models. In addition, Manitoba Hydro expected to post additional information on the site to allow IECs to manipulate the Engineering Economic Evaluations.

3.3.2. Board Findings

The Board is satisfied with Manitoba Hydro's proposed approach, but expects that to the extent IECs require any information or data manipulation with respect to Level I and Level II models, the Utility will cooperate with the IECs. In arriving at this conclusion, the Board is mindful of the comment by Independent Legal Counsel that the process of IECs meeting directly with Manitoba Hydro have been very helpful to date.

4.0.0 Categorization of PUB Information Requests

4.1.0 Overview

In direct discussions with Board Counsel, Manitoba Hydro expressed significant concern regarding the volume of Information Request from the Board, in a similar manner as it expressed concern about Information Requests from the IECs. In discussions with Board Counsel and Board Advisors, Manitoba Hydro flagged Information Requests of concern for reconsideration by the Board.

On a preliminary basis, Board Counsel and Board Advisors categorized the flagged Information Requests of Concern into three categories:

- Category “A” - Manitoba Hydro is to file existing information on the record without being required to update it.
- Category “B” - These Information Requests need not be answered at this time, subject to discussions between Manitoba Hydro and Board Advisors to determine whether the matters can be resolved through informal discussions.
- Category “C” - These Information Requests must be answered as posed.

The Board notes that Manitoba Hydro’s motion dealt only with Information Request that, on a preliminary basis, had been identified as Category “C”.

4.2.0 Board Findings

The Board is prepared, and is hereby formalizing, the categorization of the Board’s Information Requests as described above.

The Board notes that some Information Request posed by the Board may have been relied on by the Independent Expert Consultants (IECs) in formulating their own Information Requests. To the extent that any Information Requests coded as Category “A” or Category “B” have been relied on by the IECs and, following their preliminary discussions with the Utility, the IEC’s believe it is necessary for the Information Request to be answered, the Board expects Independent Legal Counsel to provide the Board and Manitoba Hydro with a list of such Information Requests, at which time the Board will make a ruling as to whether those Information Requests will be re-classified as category “C”.

4.2.1. Category “A” Information Requests

The following Information Requests may be answered by Manitoba Hydro by filing existing information with the Board without providing the requested updates:

- PUB-18(a)
- PUB-36(a)-(b)
- PUB-39(a)-(b)
- PUB-43(a)
- PUB-54(a)-(b)
- PUB-55(a)-(b)
- PUB-57(b)
- PUB-58(a)&(d)
- PUB-65
- PUB-66
- PUB-72
- PUB-74(a)-(b)
- PUB-77(a)-(b)
- PUB-78(a)
- PUB-85(b)
- PUB-86(b)
- PUB-87(a)-(b)
- PUB-94(a)
- PUB-96(a)-(d)
- PUB-97(a)-(c)
- PUB-178(b)
- PUB-179(b)
- PUB-208(a)
- PUB-216(a)-(b)

4.2.2. Category “B” Information Requests

The following Information Request need not be answered at this time, subject to direct discussions between Board Advisors and Manitoba Hydro to determine whether the matters can be resolved through informal discussions:

- PUB-5(a)-(c)
- PUB-6(a)
- PUB-7(a)
- PUB-8
- PUB-9
- PUB-10
- PUB-11(a)
- PUB-12(a)-(b)
- PUB-13(a)
- PUB-15(a)-(b)
- PUB-17
- PUB-18(b)
- PUB-19(b)
- PUB-20(a)-(b)
- PUB-21
- PUB-22(a)
- PUB-22(c)
- PUB-23(a)-(d)
- PUB-25(b)
- PUB-35(c)
- PUB-42(a)-(e)
- PUB-67(b)
- PUB-102(a)-(b)
- PUB-139(b)-(c)
- PUB-174

- PUB-180(a)-(b)
- PUB-181(a)-(c)
- PUB-182
- PUB-185(c)
- PUB-194(a)-(d)
- PUB-195(a)-(d)
- PUB-197(a)
- PUB-205
- PUB-209(b)-(d)
- PUB-218
- PUB-226(a), (b) & (d)
- PUB-234
- PUB-237(a)

4.2.3. Category “C” Information Requests

All remaining PUB Information Requests flagged by Manitoba Hydro must be answered, subject only to the Board’s ruling with respect to Manitoba Hydro’s motion set out in section 2 of this Order.

5.0.0 IT IS ORDERED THAT

1. With respect to Manitoba Hydro's motion in respect of Round 1 Information Requests, that the direction set out in the section labelled "Disposition" underneath each specific Information Request is binding on Manitoba Hydro;
 2. With respect to the IEC motion:
 - (a) That any Information Requests on Commercially Sensitive Information be filed by October 7, 2013;
 - (b) That the following process be and hereby is established:
 - (i) IECs may, at any time, withdraw Information Requests they no longer believe are necessary or relevant after meetings with Manitoba Hydro personnel. Any withdrawn IEC Information Requests are to be noted, by Manitoba Hydro, as "withdrawn by the IEC as no longer required."
 - (ii) IECs are encouraged to obtain answers to Information Requests through direct discussions with Manitoba Hydro. Any IEC Information Requests for which the IECs are satisfied that they have obtained a responsive answer through discussions with Manitoba Hydro and documentation of the issues discussed satisfactory to the IECs is provided by Manitoba Hydro are to be noted, by Manitoba Hydro, as "satisfied through discussion with Manitoba Hydro".
 - (iii) IECs are expected to footnote and reference their reports in sufficient detail for the source of their information to be readily apparent, and should be able to speak to the source of their information if necessary.
 - (iv) IEC Information Requests which, in the opinion of the IECs, cannot be retracted or satisfied through discussions with Manitoba Hydro are to be answered within the timeframe for responses to Round 1 Information Requests stipulated by this Order, subject to any challenge to specific Information Request by Manitoba Hydro, on motion to the Board.
- That with respect to Manitoba Hydro's models, IEC's be provided with access as per the September 26, 2013 written submission of Manitoba Hydro;
3. With respect to PUB Information Requests:
 - (a) That Manitoba Hydro provide answers in accordance with the categorization approach set out in section 4.2.0 of this Order.

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 PUBLIC UTILITIES BOARD

"Régis Gosselin, BA, MBA, CGA"
Chair

"Kurt Simonsen, P.Eng."
Acting Secretary

Certified a true copy of Order No.
119/13 issued by The Public Utilities
Board

Acting Secretary

Appendix “A” - List of Abbreviations

CAC	Consumers’ Association of Canada (Manitoba) Inc.
CSI	Commercially Sensitive Information
GAC	Green Action Centre
IEC	Independent Expert Consultant
IR	Information Request
MIPUG	Manitoba Industrial Power Users Group
MMF	Manitoba Métis Federation
NFAT	Needs For and Alternatives To