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September 18, 2013

Mr. H. Singh  
The Public Utilities Board  
400 - 330 Portage Avenue  
WINNIPEG, Manitoba R3C 0C4

Dear Mr. Singh:

**RE: MANITOBA HYDRO NFAT  
MANITOBA MÉTIS FEDERATION ("MMF") SUBMISSIONS TO THE PUB  
REGARDING MATTERS ARISING FROM THE NFAT PRE-HEARING CONFERENCE OF  
SEPTEMBER 4, 2013**

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Manitoba Hydro is in receipt of MMF's letter filed with the Public Utilities Board ("PUB") on the evening of September 13, 2013. In its letter, MMF has provided an update of its proposed intervention, revised scope of work and budgets for proposed consultants and witnesses, an updated budget for legal counsel and a scope of work and budget for evidence and a witness. MMF is proposing to call in the area of community power opportunities.

Manitoba Hydro offers the following comments for consideration by the PUB in making a determination of the intervention by MMF.

**Socio-Economic and Macro Environmental Impacts/Benefits**

In PUB Order 92/13, the PUB approved draft budgets for the approved consultants and expert witnesses on the specific issues identified in the proposals. The approvals were as follows:

- a) Mr. Hendriks - \$32,500 – only as to the approved in scope issues for MMF and as those issues are further defined by the PUB in this Order;
- b) Ms Stewart - \$20,520 - only as to the approved in scope issues for MMF and as those issues are further defined by the PUB in this Order;
- c) Ms. Birnie - \$48,840 - only as to the approved in scope issues for MMF and as those issues are further defined by the PUB in this Order;

- d) Ms. Larcombe – pending Board consideration and adjudication of the detailed scope of work and budget submission to be filed by MMF;
- e) Legal Counsel - only as to the approved in scope issues for MMF and as those issues are further defined by the PUB in this Order

Mr. Rick Hendriks

Mr. Hendriks' budget has increased from the original budget of \$42,500 to \$49,000. This is above the approved budget of \$32,500 set by the PUB in Order 92/13. Manitoba Hydro notes that the original approvals only contemplated participation in one technical conference. Mr. Hendriks has increased his budget by \$5000 for costs associated with the two Technical Conferences (including review of Technical Conference Materials, Participation in the Technical Conferences and Travel Expenses for the Technical Conference). It does not appear that Mr. Hendriks revised budget takes into consideration the budget approved by the PUB in Order 92/13. Including the additional \$5000 associated with the Technical Conferences, Manitoba Hydro is of the view that Mr. Hendriks revised budget should be in the range of \$37,500 (the approved budget set by the PUB plus additional costs associated with the Technical Conferences).

Ms. Abbie Stewart and Ms. Meghan Birnie

In their original budget of July 2, 2013, Ms. Stewart proposed a budget of \$28,080 and Ms. Birnie proposed a budget of \$34,740. There was a further amount budgeted for project management, administration, travel and work to be performed by an assistant for a total of \$89,310. Order 92/13 approved a budget for Ms. Stewart of \$20,520 and a budget for Ms. Birnie of \$48,840. In the new proposed budget filed by MMF on September 13, 2013, Ms. Stewart has budgeted approximately \$26,460 and Ms. Birnie \$63,360 for document review, development of IR's, preparation of evidence and hearing preparation for a total amount (including travel expenses) of \$92,820. It is not readily apparent what additional work is being done to account for this increase. Manitoba Hydro is concerned that the revised proposal does not appear to take into consideration the reduced budget approved in Order 92/13 and suggests it be adjusted to reflect same.

**Background Evidence on the Manitoba Métis Community**

In its letter, MMF is now proposing to call MMF President, Mr. David Chartrand for the purpose of providing a better understanding of the Manitoba Metis Community. Manitoba Hydro notes that in Order 67/13, the PUB directed that

“The Board finds the following issues and topics proposed in MMF's Intervener Application are not within the scope of the NFAT Terms of Reference:

- (a) Evidence on the Métis way of life and the MMF's efforts in advocating for the protection of the rights of the Manitoba Métis Community; ...
- (d) The Métis Traditional Knowledge Way of Life; ...
- (f) The evidence prepared by MMF for its involvement in the Clean Environment Commission hearings, in which MMF has been accepted as a participant."

Manitoba Hydro cannot reconcile this finding with the submission by MMF of the evidence of David Chartrand regarding the Manitoba Métis Community. In fact, MMF admits in its submission that this evidence has been considered and rejected by the PUB in Order 67/13. Such evidence cannot be offered and then "not brought into argument" as suggested by MMF in its submission. We suggest that the PUB has ruled on this issue and that there is no basis to re-consider this ruling.

### **Community Power Opportunities**

The MMF seeks to introduce evidence with respect to community power opportunities as part of an alternative coupled with wind and aggressive conservation. This evidence would be provided by Ms. Deborah Doncaster, Ms. Judith Lipp and Mr. Kristophers Stevens for a total cost of \$26,500. Manitoba Hydro recognizes that such evidence is peripherally related to the Terms of Reference however it is clear from the analysis contained in Manitoba Hydro's filing that wind as a major generation supply is not economic in Manitoba (see Chapter 9 – Economic Evaluations and Chapter 10 – Probabilistic Analysis and Sensitivities) and that community power opportunities such as biomass and solar were screened out as not sufficiently attractive to be considered primary supply contenders in the development plans (Chapter 7 – Screening of Manitoba Resource Options and Chapter 8 – Determination and Description of Development Plans). Further, Manitoba Hydro has made clear that various supply options will be evaluated by Manitoba Hydro on an ongoing basis as to the possibility of their being added to the development plan. These supply options could include community power opportunities and would not affect the NFAT conclusions. As such, Manitoba Hydro is concerned with the amount of valuable hearing time the evidence with respect to community power opportunities will consume. Manitoba Hydro respectfully requests the PUB be mindful of this consideration when determining the resources, if any, it allocates to this type of evidence.

### **Legal Counsel**

MMF provided its original scope of work and budgets for legal counsel on July 10, 2013. At that time, MMF proposed legal fees totaling \$239,000, with \$143,000 allocated for Senior Legal Counsel and \$92,500 for Junior Legal Counsel. On August 30, 2013, MMF provided a revised budget for legal counsel which reduced the amount of legal fees to \$184,375. At that time, MMF advised that it would be represented by Mr. Tony Marques as Senior Legal

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Counsel with a budget of \$88,000 and Ms. Jessica Saunders as Junior Legal Counsel with a budget of \$94,375.

The proposed budget for legal counsel has been updated in MMF's September 13, 2013 letter. Manitoba Hydro notes that the update to the budget is with respect to additional time for preparation for the hearing by Mr. Marques (an increase of 50 hours from the original estimate of 200 to the new estimate of 250) as well as by Ms. Saunders (an increase of 150 hours from the original estimate of 250 to the new estimate of 400).

The updated budget estimates an amount of \$98,000 for Mr. Marques and a budget of \$113,125 for Ms. Saunders. The new total estimated legal fees and disbursements is \$214,625. Manitoba Hydro has not had experience in dealing with Mr. Marques on this matter to date and is not in a position to comment on his level of involvement. The budget for Ms. Saunders appears reasonable in light of her involvement in the process.

Yours truly,

**MANITOBA HYDRO LAW DIVISION**

Per:



**PATRICIA J. RAMAGE**  
Barrister and Solicitor

cc: R.F. Peters, Fillmore Riley LLP  
J. Saunders, Counsel, Manitoba Metis Federation