

**MANITOBA** ) **Order No. 126/13**  
)  
**THE PUBLIC UTILITIES BOARD ACT** ) **October 21, 2013**

**BEFORE:** Régis Gosselin, B ès Arts, MBA, CGA, Chair  
Larry Soldier, Member  
Marilyn Kapitany, B.Sc. (Hon), M.Sc., Member

**ERRATUM REGARDING BOARD ORDER 119/13  
AND  
ORDER CLASSIFYING ADDITIONAL PUB INFORMATION REQUESTS  
TO MANITOBA HYDRO**

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

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## **1.0 Executive Summary**

This Order provides an erratum in respect of Board Order 119/13 regarding two Information Requests spoken to at a motion on September 30, 2013.

This Order further provides a disposition with respect to several of the Public Utilities Board's Round 1 Information Requests that did not form part of Manitoba Hydro's original motion.

## **2.0 Erratum Regarding Board Order 119/03**

On October 4, 2013, the Public Utilities Board (Board or PUB) issued Order 119/03. The order, among other things, dealt with a motion by Manitoba Hydro objecting to various Information Requests posed by the PUB and registered Interveners.

Subsequent to the issuance of Order 119/03, counsel for Manitoba Hydro, the Green Action Centre (GAC) and the Manitoba Industrial Power Users Group (MIPUG) advised the Board of three required corrections, as detailed below.

### **2.1 Information Requests GAC-15 and GAC-16**

At page 17 of Order 119/13, the Board states that Manitoba Hydro withdrew its objection to Information Requests GAC-15 and GAC-16. Counsel for Manitoba Hydro and GAC both confirmed that GAC had in fact withdrawn these information requests. The Board therefore corrects its ruling with respect to GAC-15 and GAC-16 so that Manitoba Hydro will not have to answer these Information Requests.

### **2.2 Information Request MIPUG-34(d)**

At page 14 of Order 119/13, the Board states that Manitoba Hydro withdrew its objection to Information Request MIPUG-34(d). Counsel for Manitoba Hydro advised that Manitoba Hydro did not simply withdraw its objection but that the Utility and MIPUG

expected to be able to come to terms with providing some alternate information and, as such, the Information Request would not be responded to as contemplated by the Order. Counsel for MIPUG advised that this was MIPUG's understanding as well. The Board therefore corrects its ruling with respect to MIPUG-34(d) so that Manitoba Hydro will not have to answer the Information Request as posed.

### **3.0 Further Manitoba Hydro Challenge of PUB Information Requests**

#### **3.1 Overview**

In Order 119/13, the Board established three categories of PUB Information Requests:

- 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.

A tentative classification had previously been provided to Manitoba Hydro without a Board ruling on whether the process was acceptable, and Manitoba Hydro had limited its motion on September 30, 2013 to those Information Requests that, on a preliminary basis, had been categorized as Category "C".

On October 8, 2013, the Board received correspondence from Manitoba Hydro's legal counsel setting out objections to additional information requests that had not been categorized prior to the September 30, 2013 motion. On October 9, 2013, Manitoba Hydro objected to a further Information Request not included in its October 8, 2013 correspondence. Manitoba Hydro's objection to each of these requests, and the Board's disposition, is set out below.

### **3.2 Board Findings**

#### ***PUB-22(b)***

MH Objection: PUB-22(a) and (c) have been classified as “B” in Order 119/13. This Information Request is out of scope and should be classified in the same manner.

Disposition: The Board disagrees with Manitoba Hydro’s assessment that the Information Request is out of scope but agrees that it should be classified as Category “B”. As such, the Information Request need not be answered at this time, subject to the protocol for Category “B” Information Requests set out above.

#### ***PUB-57(c)***

MH Objection: This Information Request requests an update to the extraprovincial rate/volume variance analysis filed in PUB/MH I-31 from the 2012 General Rate Application. Part (b) to this question was previously categorized as Category “A”, meaning Manitoba Hydro will file existing information on the record without updating it. Part (c) should be treated the same.

Disposition: The Board accepts Manitoba Hydro’s submission. Information Request 57(c) shall be added to the list of Category “A” Information Requests, for which Manitoba Hydro is to file existing information on the record without updating it.

#### ***PUB-101***

MH Objection: Similar to the other questions seeking to have Manitoba Hydro put Mr. Dunsky’s evidence on the record, this question asks Manitoba Hydro to file Mr. Dunsky’s response to an Information Request in a prior proceeding.

Disposition: As with other Information Requests involving evidence of Mr. Dunsky or ICF, this Information Request need not be answered. To the extent existing information has already been filed with the Board in previous proceedings, it can be referred to in the NFAT Review.

***PUB-118(c); PUB-171; PUB-239***

MH Objection: These Information Requests require substantial new work to be undertaken and is based on a variation of the combined-cycle combustion turbine (CCCT) usage. It should be treated in the same manner as other questions incorporating CCCT's, as outlined in Order 119/13 relating to the disposition of PUB-111.

Disposition: The Board agrees with Manitoba Hydro's submission. These Information Requests need not be answered at this time.

***PUB-241(a)-(d); PUB 242(a)-(d); PUB 243(a)(c)***

MH Objection: These Information Requests require substantial new work to be undertaken and are based on an optimized CCCT plan. In some cases, they also contemplate changing variables in isolation of other related impacts. In Manitoba Hydro's view, they should be treated in the same manner as PUB-111 et al. and PUB-167 et al., which were addressed in the motion.

Disposition: The Board agrees with Manitoba Hydro's submission. These Information Requests need not be answered at this time.

***PUB-281***

MH Objection: The evaluations of the preferred development plan and one alternative using IFF09-1 and IFF11 assumptions would require a significant amount of time to undertake, and are not relevant to the NFAT proceeding.

Disposition: The Board disagrees with Manitoba Hydro's assessment that this Information Request is not relevant, as Manitoba Hydro has asserted that there exists a "window of opportunity" with respect to its Preferred Development Plan premised in part on export pricing assumptions, which have evolved over the course of several years. However, the Board recognizes that past trends are not necessarily determinative of future trends, and that the NFAT Filing was based on IFF12 data which supersedes

IFF09 and IFF11 data. As such, given the short timeframe provided to Manitoba Hydro for answering Information Requests, the Board does not require Manitoba Hydro to answer PUB-281 at this time. The Board notes that La Capra Associates, which was appointed as an Independent Expert Consultant, has the ability to inquire into the history of Manitoba Hydro's Preferred Development Plan and seek historical information for its economic analysis if it considers the information to be necessary.

***PUB-283(a)-(b)***

MH Objection: These Information Requests require a significant amount of new work and should be treated in the same manner as the Board's disposition with respect to PUB-167 et al.

Disposition: In the Board's view, these Information Requests do not fall into the same category as PUB-167, which requested Manitoba Hydro to change individual financial variables, such as the discount rate, in its economic analysis. Rather, it seeks to test Manitoba Hydro's assumptions surrounding the proposed new transmission interconnection and import/export capabilities. As such, Manitoba Hydro is to answer this Information Request.

***PUB-60***

MH Objection: Manitoba Hydro advised the Board that although this Information Request was not included in Manitoba Hydro's written notice of motion provided in advance of the September 30, 2013 motion, Manitoba Hydro objected to the Information Request in oral argument on the ground that the KPMG report should not be filed by Manitoba Hydro as KPMG is not a witness for Manitoba Hydro in the NFAT Review.

Disposition: This Information Requests need not be answered. The Board notes that it is in possession of the KPMG report and accepts Manitoba Hydro's advice that KPMG 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 on if necessary.

### **3.3 Categorization of Additional PUB Information Requests**

#### ***Additional Category “A” Information Request of the Public Utilities Board***

In accordance with section 3.2 above, the following additional PUB Information Request is added to the list of Category “A” Information Requests set out in section 4.2.1 of Board Order 119/13, for which Manitoba Hydro shall file existing information with the Board without providing the requested updates:

- PUB-57(c)

#### ***Additional Category “B” Information Request of the Public Utilities Board***

In accordance with section 3.2 above, the following additional PUB Information Request is added to the list of Category “B” Information Requests set out in section 4.2.2 of Board Order 119/13, which 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-22(b)

### **3.4 Reliance upon PUB Information Requests by Independent Expert Consultants**

As per Order 119/13, the Board requests that any Independent Expert Consultant who for purposes of formulating his or her own Information requests relied on any of the Information Requests to which the Board, by this Order, no longer requires a formal response, advise the Board accordingly.

**4.0 IT IS ORDERED THAT:**

With respect to Manitoba Hydro's October 8, 2013 letter and October 9, 2013 email correspondence objecting to several PUB Round 1 Information Requests, that the direction set out in the section labelled "Disposition" underneath each specific Information Request is binding on Manitoba Hydro.

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, B ès Arts, MBA, CGA"  
Chairman

"HOLLIS SINGH"  
Secretary