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February 20, 2014

Manitoba Keewatinowi Okimakanak, Inc.
6th Floor - 338 Broadway
Winnipeg MB R3C 0T2

ATTN: Mr. Michael Anderson

Re: NFAT - MKO Budgets and Request for Pimicikamak Counsel

The Manitoba Public Utilities Board (“PUB”) is in receipt of the following correspondence with respect to Manitoba Keewatinowi Okimakanak, Inc.’s (“MKO”) Intervention in the Needs For and Alternatives To (“NFAT”) review of Manitoba Hydro’s Preferred Development Plan:

1. Letter from MKO dated February 17, 2014 proposing a revised budget for MKO consultants Desiderata Energy Consulting Inc. (“Desiderata”) and Chymko Consulting Ltd. (“Chymko”);
2. Letter from MKO dated February 19, 2014, seeking a budget for MKO Legal Counsel; and
3. Submissions with respect to a coalition budget for Pimicikamak consisting of:
 - (a) Letter from MKO dated February 12, 2014 seeking a legal budget for Pimicikamak counsel;
 - (b) Response by Manitoba Hydro dated February 18, 2014;
 - (c) Reply by MKO dated February 19, 2014; and
 - (d) Reply by Pimicikamak dated February 19, 2014.

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All three matters are addressed below.

MKO's Budget Request for Desiderata and Chymko

In Board Order 92/13 dated August 9, 2013, the PUB approved a budget of \$117,000.00 for Messrs. Hildebrandt (Desiderata) and Chymko and Turner (Chymko). On February 17, 2014, MKO wrote to the PUB to provide an updated budget for Desiderata and Chymko of \$53,189.00, or approximately half of the originally approved budget.

The Board accepts this revision and approves the February 17, 2014 budget.

MKO's Budget Request for MKO Legal Counsel

In Board Order 92/13 dated August 9, 2013, the PUB approved a budget for MKO legal fees "pending Board consideration and adjudication of the detailed scope of work and budget submission to be filed by MKO." On February 19, 2014, MKO wrote to the PUB requesting a legal budget of 512 hours at the PUB Tariff for a lawyer with more than 20 years of experience, amounting to a total cost of \$111,104.00. MKO also sought approval of reasonable disbursements. While the budget set out a work plan for legal counsel, the identity of legal counsel was identified as "TBC" (which the PUB interprets as "to be confirmed").

While the proposed legal budget and work plan appears reasonable, the PUB is not prepared to approve an actual legal budget until MKO confirms that a lawyer has been retained and is prepared to work within the maximum budget sought by MKO in its February 19 submission and MKO confirms the identity of its legal counsel. Accordingly, the PUB requests that MKO confirm a retainer at its earliest opportunity.

MKO's Budget Request for Pimicikamak Legal Counsel

Pimicikamak applied for but was denied Intervener status in the NFAT proceeding in Board Order 67/13. However, the PUB left it open for Pimicikamak to form a coalition with an approved Intervener.

On February 12, 2014, MKO wrote to the Board requesting a budget for Pimicikamak to form a coalition with MKO on the following five matters on which Pimicikamak had sought Intervener status and which the Board found to be in scope for the NFAT in Board Order 67/13:

- (a) Domestic electricity rates as a consequence of Manitoba Hydro's Preferred Development Plan (PDP);
- (b) Whether Manitoba Hydro's PDP is aligned with the Clean Energy Strategy, and Sustainable Development Principles;

- (c) Alternate energy sources and energy conservation;
- (d) The MISO energy market into which Manitoba Hydro exports electricity; and
- (e) Socio-economic benefits and impacts on Manitobans, aboriginal communities and Northern communities.

MKO itself was approved as an Intervener only with respect to the following two issues:

- (f) The socio-economic impacts and benefits of Manitoba Hydro's Preferred Development Plan (PDP) and alternatives in respect of the MKO First Nations; and
- (g) The impact of domestic electricity rates over time, with and without the PDP and with alternatives.

In its letter of February 12, 2014, MKO provided two alternate budgets for Pimicikamak's coalition - the first in case the PUB approved Pimicikamak to intervene on all five issues found to be in scope (\$103,765.20 plus tax); the second in the event that the PUB approved Pimicikamak to speak only to issues for which MKO was approved as an Intervener (\$96,765.20 plus tax). Both budgets consisted primarily of legal fees for Pimicikamak's legal counsel, with an additional budget to have a Pimicikamak representative in attendance for four weeks of the NFAT hearing.

On February 18, 2014, Manitoba Hydro wrote to the PUB to oppose the requested budget for Pimicikamak, stating that a coalition does not require each of the two coalition members to have its own lawyer for the hearing, and that it was too late in the hearing process for Pimicikamak to seek experts in time to file a report in evidence. Manitoba Hydro further submitted that the coalition should be limited to the issues found to be in scope for MKO.

On February 19, 2014, MKO submitted a letter to the Board replying to Manitoba Hydro's response and enclosing a letter from Pimicikamak to MKO. Both MKO and Pimicikamak submit that the two parties have different positions with respect to the Preferred Development Plan and that this would make it impossible for one lawyer to represent both parties without breaching the rules of professional conduct as they pertain to conflicts of interest.

The Board agrees with Manitoba Hydro's submission on this matter. While the PUB welcomes Pimicikamak's coalition with MKO, Pimicikamak is not an approved Intervener in the NFAT review. As such, it is not entitled to have its own legal counsel cross-examine parties in the hearing. In a coalition, Pimicikamak can cooperate with MKO on specific issues for which MKO is approved as an Intervener. However, it is MKO that will be participating in the hearing and bringing Pimicikamak's perspectives forward.

As such, a coalition partner without Intervener standing has no entitlement to funded legal counsel. However, as held in Board Order 67/13, each coalition partner will be entitled to make its own final submissions if they choose, so that the Board will hear their individual perspectives.

Yours truly,

"Original Signed By"

H.M. Singh
Secretary