

MANITOBA) Order No. 9/02
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THE PUBLIC UTILITIES BOARD ACT) January 17, 2002

BEFORE: G. D. Forrest, Chairman
R. A. Mayer, Q.C., Vice-Chairman
Dr. K. Avery Kinew, Member

**ORDER FOR A PUBLIC HEARING PROCESS REGARDING THE
APPLICATION BY MANITOBA HYDRO IN RESPECT OF:**

- I. A STATUS UPDATE ON MATTERS RELATING TO THE
ACQUISITION OF THE SHARES OF CENTRA GAS
MANITOBA INC.;**
 - II. AN UPDATE AND REVIEW OF MANITOBA HYDRO
FINANCIAL MATTERS AND RATES;**
 - III. A NEW CURTAILABLE RATE PROGRAM; AND**
 - IV. CONFIRMATION OF INTERIM EX-PARTE ORDERS.**
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Background

The Public Utilities Board of Manitoba (the “Board”) held a Pre-Hearing Conference (“PHC”) at its offices in Winnipeg, Manitoba on Monday, January 14, 2002. The PHC was to consider applications for intervenor status, the timetable for the orderly exchange of information and other issues related to the public hearing of Manitoba Hydro’s application in respect of:

- I. A status update on matters relating to the acquisition of the shares of Centra Gas Manitoba Inc (“Centra”).;
- II. An update and review of Manitoba Hydro financial matters and rates;
- III. A new curtailable rate program; and
- IV. Confirmation of interim ex-parte orders.

A Notice of Public Hearing and the PHC, dated December 6, 2001, was filed as Exhibit #PUB-2 at the PHC. The Notice described the various matters Manitoba Hydro filed with the Board including:

- (i) an update on matters related to the acquisition of the shares of Centra and the status of action taken by Manitoba Hydro in response to Board recommendations and directives from previous Orders related to the acquisition of Centra’s shares from Westcoast Energy Inc. by Manitoba Hydro;
- (ii) information, including financial results, forecasts, processes, cost of service methodology revisions and events which have impacted the electrical industry since the Board’s General Rate Order No. 51/96 dated April 15, 1996, to enable the Board to review existing Manitoba Hydro rates, as Manitoba Hydro is not seeking any general rate changes for its electrical customers;

- (iii) application for a new Curtailable Rate Program to replace the current Curtailable Service Program (“CSP”) which is to expire May 1, 2002; and
- (iv) confirmation of various interim ex-parte orders:
- setting monthly reference discount prices for CSP customers;
 - establishing weekly spot market replacement energy rates under the former Dual Fuel Heating, Surplus Energy to Self-Generators and Industrial Surplus Energy Programs;
 - establishing weekly spot market replacement energy rates for Surplus Energy Program customers.

Examination of Existing Sales Rates

Consumers’ Association of Canada (Manitoba) Inc. and the Manitoba Society of Seniors (“CAC/MSOS”), supported by other parties seeking intervenor status, argued that Manitoba Hydro’s rates were last reviewed in 1996, and since that time, there has been a substantial change in circumstance. All parties seeking intervenor status sought confirmation from the Board that the scope of the public hearing would include an examination of Manitoba Hydro’s existing sales rates to ensure that they were still just and reasonable. It was the position of the parties seeking intervenor status that if, as a result of a review during the public hearing, these existing rates were not found by the Board to be just and reasonable, then such existing rates would be subject to change, by Order of the Board, following the public hearing.

Manitoba Hydro has indicated that in their view, the existing sales rates are reasonable, and therefore, Manitoba Hydro is not seeking any general rate changes for its electrical customers through this public hearing. Manitoba Hydro, however, acknowledges that the Board has jurisdiction over the review and setting of Manitoba Hydro's rates, and as a matter of process, either by the Board on its own initiative, or in response to a third party request, Manitoba Hydro's rates may be subject to change.

Board Findings

The issue of review of rates has been addressed by the Board through previous correspondence, including the Board's letter to Manitoba Hydro dated October 26, 2001 wherein the Board indicated that at this proceeding:

"Manitoba Hydro has the onus to demonstrate that the rates currently charged and proposed for 2002/03 are just and reasonable.

This will require the filing of Phase 1 – revenue requirement information and Phase 2 – cost of service rate design information."

In light of the long passage of time since Manitoba Hydro's sales rates were last reviewed in a public forum, the Board will order that one of the purposes of this hearing is to determine whether Manitoba Hydro's existing sales rates are just and reasonable.

Manitoba Hydro has acknowledged the Board's jurisdiction to review and change sales rates. According to Manitoba Hydro, no changes to its filing are required for the Board to conduct a review of its rates and therefore no delay in process is required.

As well, the Board's previous correspondence on this topic indicated that Manitoba Hydro's existing sales rates, as approved in Order 51/96, will be reviewed during this public hearing process. As a result of this review, the Board may confirm the existing sales rates as continuing to be just and reasonable, or order such changes to rates as may ultimately be determined to be appropriate.

Application for Intervenor Status

The following parties made application for intervenor status:

- (a) **Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors ("CAC/MSOS")** applied through counsel to intervene in all aspects of this hearing including a status update on matters related to the acquisition of Centra's shares, and matters related to whether the sales rates at Manitoba Hydro are just and reasonable. At least two witnesses are expected and possibly others from this intervenor at the upcoming hearing. This intervenor will have counsel from one law office representing them during the portion of the hearing that addresses issues related to the acquisition of Centra's shares, and a second Counsel from another law office representing them on all other issues in this hearing.

Manitoba Hydro has no objection to this intervenor, although they reserve the right to monitor CAC/MSOS's conduct through the hearing to ensure there is limited overlap between the two portions of the hearing, and to address that matter when the issue of costs arises.

(b) **The City of Winnipeg** applied to intervene as their counsel maintains that all matters that are before the Board in Manitoba Hydro's filing directly affect and have an impact on the operations of Winnipeg Hydro. The City of Winnipeg intends to fully participate throughout all aspects of the hearing. The City of Winnipeg expects to call two witnesses if the scope of the hearing includes a review of Manitoba Hydro's existing sales rates. The City of Winnipeg will not be seeking costs. Manitoba Hydro had no objection to the City of Winnipeg's application.

(c) **Manitoba Industrial Power Users' Group ("MIPUG")** applied to intervene in this matter to review the revenue requirement, financial target changes and implications to sales rates. MIPUG will also review the cost of service methodology changes and their implications to sales rates. MIPUG also seeks to intervene to review the proposed curtailable rates program and the outstanding issues related to Centra's integration and implications to the Manitoba Hydro ratepayers. MIPUG has not determined whether they will file evidence and call witnesses as that is a matter they will determine once the rate matter is clarified. MIPUG intends to file for costs as they will be looking at issues in this hearing that focus on broader ratepayer issues, not only those of their industry clients.

Manitoba Hydro does not object to MIPUG's participation, but raised a concern that there are a number of intervenors representing similar groups of customers. To that end, Manitoba Hydro is concerned that duplication might occur, and suggests that combining the intervention of a number of parties may alleviate that concern.

(d) **Municipal Gas (“Municipal”)** also applied for intervenor status to enable them to conduct a watching brief and monitor the proceedings. There was no objection from Manitoba Hydro with respect to this application for intervenor status.

(e) **Time to Respect Earth’s Ecosystems Inc. and Resource Conservation Manitoba (“TREE”)** requested intervenor status in the upcoming hearing to examine the impact that Manitoba Hydro’s rates have on energy conservation and climate change. TREE wants to consider whether a revised rate structure might better achieve the goals of international, national and provincial policies. A list of membership of these organizations was requested and is forthcoming.

Manitoba Hydro had no objections to their participation as intervenors.

(f) **Canadian Centre for Energy Policy (“CCEP”)** applied to intervene. The stated purpose for intervention was to ensure that Manitoba Hydro’s rates:

(a) are generally consistent with the mandate and objectives of a public utility owned, operated or under the direct or indirect control of the Government of Manitoba;

(b) are justifiable and appropriate from a Crown Corporation’s perspective in relation to reasonably anticipated projections and expectations regarding costs of delivery of electricity to users;

(c) are justifiable and appropriate from a Crown Corporation’s perspective in relation to past developments and reasonable anticipated trends in the electricity industry; and

(d) appropriately balance the short and long term needs of Manitoba Hydro with those of government, business and citizens of Manitoba.

A list of membership of their organization was subsequently requested.

CCEP contemplates calling two witnesses to provide evidence and has provided the Board with assurance that it will seek to cooperate with other groups where interests can be shared.

Manitoba Hydro reiterated its concern about the overlapping of interventions but had no further objections with respect to this request for intervenor status.

(g) **Provincial Council of Women of Manitoba** attended the hearing but was not certain as to whether it would apply for intervenor status. That matter was going to be reviewed by the Provincial Council of Women of Manitoba on or about January 17, 2002 with a decision and advice to the Board to follow shortly thereafter.

Board Findings

The Board will grant intervenor status to Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors, the City of Winnipeg and Manitoba Industrial Power Users' Group.

Should the Provincial Council of Women of Manitoba decide to intervene, they have been requested to file an intervenor request form by January 18, 2002.

The Board will further consider TREE's application for intervenor status after receipt of their membership list.

The Board will also further consider CCEP's application for intervenor status after receipt of its membership list.

The Board expects and requires intervenors to cooperate and consult with one another to avoid duplication of interventions. Joint participation is encouraged where parties' positions are not adverse to each other.

Those intervenors considering whether to call evidence are requested to advise the Board of their intentions at the very earliest opportunity such intentions are finalized as such notice will assist the Board in scheduling the hearing dates.

Timetable

By way of Board counsel's letter of December 14, 2001 (marked as Exhibit #PUB-6 at the PHC), the draft timetables prepared by Manitoba Hydro were circulated for consideration. During the PHC, various parties expressed their views and preferences in respect of an appropriate timetable for the exchange of information leading up to the date for the commencement of the public hearing.

Board Findings

Having considered all submissions in respect of the timetable, the Board has prepared a revised timetable which is attached as Schedule A to this Order.

The Board intends to conduct the public hearing in two distinct segments. The first segment of the public hearing will hear evidence that addresses matters related to Manitoba Hydro's acquisition of the shares of Centra and the status of actions taken by Manitoba Hydro in response to Board recommendations and directives from Board Order 146/99.

The second segment of the public hearing will follow to hear evidence that addresses a review and update of Manitoba Hydro's financial matters and a review of the reasonableness of Manitoba Hydro's sales rates, the proposed CRP and confirmation of various interim ex-parte orders. Closing submissions on both segments will be heard together and will follow the evidentiary portions of the hearing.

Centra GRA

To better plan the timetable, the Board was interested in knowing the filing date of Centra's GRA for 2002/03.

The issue of Centra's next GRA has previously been addressed by the Board through various correspondence and in Order 106/01 dated July 9, 2001.

In Order 106/01 the Board repeated its findings from Order 14/01 dated January 24, 2001. The GRA filing by Centra on January 4, 2001 was inadequate to allow the Board to fully discharge its regulatory responsibilities and that additional information was required.

As indicated in Order 106/01,

“In the Board’s view, a GRA in the near term is required to deal with a multitude of issues related to Centra’s revenue requirement and rate design. These issues include, but are not limited to, matters related to income tax, rate of return issues, rate base and cost allocation matters and rate design considerations. The importance of some of these issues are further complicated by the long passage of time since the last GRA.”

In Order 106/01, the Board amended Order 14/01 by revising the timetable for the public hearing process for Centra’s GRA with an October 15, 2001 filing date for Centra’s filing of its application with the Board.

In correspondence subsequent to Order 106/01 Centra requested and was permitted an extension of time to file its GRA and Cost of Gas application. According to the timetable drafted by Centra on October 19, 2001, February 2002 was identified as the month for Centra’s filing of its 2002/03 General Rate Application and Cost of Gas application.

At the PHC on January 14, 2002, counsel for Manitoba Hydro, on behalf of Centra, indicated that a GRA filing for February, 2002 was not being planned. Instead

Centra's filing at the end of February, 2002 will only address gas cost issues and some other directives of the Board.

Should Centra be seeking to further review, vary or amend Board Order 106/01 as to the content of the GRA or its timing, Centra is required to make a formal request detailing its proposal and timelines for the filing of a comprehensive GRA and an annual cost of gas application.

IT IS THEREFORE ORDERED THAT:

- (1) One of the purposes of this hearing is to determine whether the existing sales rates of Manitoba Hydro are just and reasonable, and to confirm the existing sales rate, or order such changes to existing sales rates as may be appropriate.
- (2) Intervenor status shall be awarded to the following applicants:
 - (a) Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS)
 - (b) City of Winnipeg
 - (c) Manitoba Industrial Power Users' Group (MIPUG).
- (3) The timetable, attached hereto as Schedule A shall be the timetable for the orderly exchange of information by the participating parties;

THE PUBLIC UTILITIES BOARD

Chairman

Secretary