

MANITOBA) Order No. 23/03
)
THE PUBLIC UTILITIES BOARD ACT) February 21, 2003

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

**MANITOBA HYDRO - APPLICATION FOR RATES FOR
DIESEL SERVICE - APPLICATIONS FOR INTERVENOR
STATUS**

On December 2, 2002, Manitoba Hydro applied to The Public Utilities Board (the Board) to increase certain rates applying in communities served by diesel generation effective April 1, 2003. Manitoba Hydro applied to increase the rates applying to the consumption in the tail block for General Service and Residential customers (full cost rate) and to all consumption by Government customers. Rates for service below 2000 kW.h per month for General Service and Residential customers are not affected by this Application.

Notice of Application and Hearing dated December 4, 2002 was published and served on certain parties by Manitoba Hydro pursuant to Board requirements.

In response to such Notice the following parties made application to the Board for intervenor status:

1. Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS)
2. Indian and Northern Affairs Canada (INAC)
3. Manitoba Keewatinowi Okimakanak Inc. (MKO)

Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors

On January 10, 2003, Mr. B. Williams, Attorney, Public Interest Law Centre made application for intervenor status and attached a completed Intervenor Request Form. The reasons stated for the intervention included the following:

- i. To ensure the rates charged for diesel electric service are just and reasonable.
- ii. To ensure an appropriate balance between the interests of diesel service customers and other customers of Manitoba Hydro.

CAC/MSOS intends to appear throughout the hearing, to participate in the testing of evidence, to present final

argument and to call witnesses yet to be determined. CAC/MSOS advised that an application for costs will be made and attached a draft budget not including any costs that might be incurred relating to witnesses. The draft budget amounted to \$10,750.00.

In a letter dated January 22, 2003, Manitoba Hydro advised that they had no objection to CAC/MSOS participating as an intervenor. However, Manitoba Hydro was concerned that there may be a duplication of the effort of other intervenors and further, advised that if CAC/MSOS conducts a watching brief then the budget amount may prove to be excessive.

After considering the submissions, the Board will grant intervenor status to CAC/MSOS. CAC/MSOS is well known to the Board and with respect to costs noted the draft budget and the comments of Manitoba Hydro. The full matter of costs will be dealt with following the close of the hearing pursuant to the awarding of costs procedures adopted by the Board. The Board will require CAC/MSOS to file an updated budget should they determine witnesses are required to be called.

Indian and Northern Affairs Canada

By facsimile dated January 21, 2003, Indian and Northern Affairs Canada filed for intervenor status and attached a completed Intervenor Request Form. INAC indicated that they disagree with the proposition implicit in the application that it is legally obligated to fund the "government" portion of the billings to First Nations.

INAC intends to appear throughout the hearing, to participate in the production of evidence, to participate in the testing of evidence and to present final argument. Witnesses will be called, although the names were unknown at the time of the filing. In a subsequent letter from INAC dated January 24, 2003, INAC indicated that the witnesses will cover their historical relationship with Manitoba Hydro and possibly cost of service issues. INAC will not be applying for costs.

Manitoba Hydro, in a letter dated January 22, 2003, advised that they had no objection to this intervention.

The Board will grant INAC intervenor status for this proceeding and in so doing caution INAC that the intervention must remain within the jurisdiction of the Board.

Manitoba Keewatinowi Okimakanak Inc.

On January 10, 2003, Mr. Michael Anderson, Research Director with Manitoba Keewatinowi Okimakanak Inc. filed an application for intervenor status and attached a completed Intervenor Request Form. MKO advised that the communities named in the Manitoba Hydro Application are affiliated with MKO. MKO noted that it was recently granted intervenor status in the Manitoba Hydro Status Update proceedings particularly in respect to diesel electric service rates in these communities.

MKO indicated that they intend to appear throughout the hearing, to participate in the production of evidence, to participate in the testing of evidence and to present final

argument. MKO intends to call a witness and will be applying for costs. On January 28, 2003, MKO filed a prospective budget and cost summary totalling \$71,552.25 noting its preliminary nature and requested that the Board accept the budget and costs accordingly.

Manitoba Hydro, in a letter dated February 4, 2003 responded to MKO's application for costs indicating MH has no objection to MKO being awarded intervenor status. With respect to the budget presented by MKO, MH noted it was difficult to assess whether MKO's projected costs are reasonable at this stage and noted that some of the items contained in MKO's budget are not normally subject to an award of costs pursuant to Section 42(1)(a) of the Board's Draft Rules of Practice and Procedure such as costs related to the intervenor's own time.

In response to MH, MKO, in a letter dated February 6, 2003, advised each of the costs identified in the MKO Budget and Cost Summary Information table are estimated costs of the direct participation of MKO and reflect only those costs that fall within the fee of "consultants, expert witnesses and counsel". MKO also noted that any costs awarded are "at the sole discretion of the Board" and further, noted that any application for an award of costs will be addressed following the close of the hearing.

After considering the submissions, the Board will grant intervenor status to MKO. In so doing the Board noted the comments of Manitoba Hydro and specifically its concern as to whether the costs will be out of pocket costs or costs of the

intervenor's own time. The Board has reviewed MKO's Budget and Cost Summary Information. While it would appear that certain of the costs related to General Office Expenses and Administration totalling approximately \$9,600 are not out of pocket expenses and therefore, not eligible for an award of costs, the Board accepts the assurance of MKO that any application for an award of costs will be consistent with the Board's Draft Rules and if not, a case will be made as to whether the Board will be asked to exercise its discretion in this regard.

IT IS THEREFORE ORDERED THAT:

1. Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors be granted intervenor status subject to the filing a revised budget if witnesses are to be called.
2. Indian and Northern Affairs Canada be granted intervenor status.
3. Manitoba Keewatinowi Okimakanak Inc. be granted intervenor status.

THE PUBLIC UTILITIES BOARD

Chairman

Acting Secretary