

MANITOBA) Order No. 71/03
)
THE PUBLIC UTILITIES BOARD ACT)
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THE MANITOBA HYDRO ACT)
)
THE CROWN CORPORATIONS PUBLIC) April 29, 2003
REVIEW AND ACCOUNTABILITY ACT)

BEFORE: G.D. Forrest, Chair
R.A. Mayer, Q.C., Vice-Chair

PROCEDURAL ORDER
FOR THE HEARING OF THE APPLICATION BY
MANITOBA HYDRO
TO VARY ORDER 7/03

Background

On February 3, 2003, The Public Utilities Board (the "Board") issued Order 7/03 with respect to a filing by Manitoba Hydro which provided an information update on financial results, forecasts, methodologies, processes and other matters relating to sales rates charged by Manitoba Hydro. On March 19, 2003 Manitoba Hydro filed an application with the Board pursuant to subsection 44(3) of *The Public Utilities Board Act*, to review and vary certain directives contained in Order 7/03. On March 31, 2003 the Board issued Order 51/03 staying the operation and implementation of the Board's directives in Order 7/03.

A meeting was convened on April 11, 2003 of all parties to discuss issues of process and a timetable for the hearing of this application. Parties were then asked to provide written submissions to the Board as to their preferred procedure and timetable for the Board to follow in adjudicating the application of Manitoba Hydro to review and vary Order 7/03. Parties were also asked to comment on the appropriate process generally for review and vary applications. The Board received comments from Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors, Canadian Centre for Energy Policy, Manitoba Industrial Power Users' Group, Time to Respect Earth's Ecosystems Inc./Resource Conservation Manitoba and Provincial Council of Women of Manitoba Inc., in addition to Manitoba Hydro.

Board Findings

The Board wishes to thank all parties for their thoughtful submissions. Although the recommended processes varied substantially, all were in agreement that a review of the financial position of Manitoba Hydro such as the comprehensive review process just undertaken

by all parties, leading up to Order 7/03, should be avoided. The Board agrees. To undertake such a review would be tantamount to a review of the evidence of the same magnitude of a General Rate Application. That is not, in the Board's view, the intention of applications filed under ss. 44(3).

Some parties are suggesting the Board utilize a two step process for adjudicating "Review and Vary" requests. The first step is to satisfy the Board that certain criteria are met, before proceeding to a second step which is a review of the merits of the request.

Out of procedural fairness to Manitoba Hydro, this panel of the Board will not utilize a two step process for consideration of the Review and Vary of Order 7/03. Rather, the procedure to be adopted is to be summary in nature, yet provide all parties with the opportunity for submissions. As the applicant, Manitoba Hydro has already filed its case, and will be permitted to review and reply to the submissions of interested parties. All submissions are to be written.

Specific Process

Each intervenor is asked to address specifically the following requests of Manitoba Hydro:

1. With respect to the Board directives pertaining to reductions to General Service Small land General Service Large rates, the reduction and subsequent elimination of the winter ratchet, and the elimination of the Limited Use Billing Demand (LUBD) program, Manitoba Hydro requests that Order 7/03 be varied by delaying implementation until

such time as Manitoba Hydro and the Board have considered the results of the fall 2003 Integrated Financial Forecast together with the results of the report on the impact of decreasing the demand and increasing the runoff block of energy charge.

2. Manitoba Hydro therefore requests that the Board vary Order 7/03 by allowing until December 31, 2004 to file studies on Inverted Rates and Time of Use Rates.
3. Manitoba Hydro therefore requests that the Board vary Order 7/03 by deferring the request to file a report on the potential use of wind power in remote diesel electric communities until December 31, 2004.
4. Manitoba Hydro is requesting that the Board vary Order 7/03 to permit Manitoba Hydro to further explore options for the allocation of net export revenues and to present these options to the Board for consideration.
5. Manitoba Hydro requests that the deadline for filing Cost of Service Studies be varied from September 30, 2003 to December 31, 2003.
6. Manitoba Hydro is requesting that the Board defer implementing the directives relating to the creation of an export class or classes until Manitoba Hydro can further review this issue and file the results of such review with the Board for further direction. This review should be completed by December 31, 2003.

7. Manitoba Hydro wants to consider further its position on jurisdictional issues related to the Transmission Tariff and requests that Order 7/03 be varied to defer the requirement to file an application seeking approval of its Open Access Transmission Tariff.

All parties are requested to address their submissions to the points contained in Manitoba Hydro's application.

Each intervenor is asked to provide their written submissions to the Board and all other parties by May 15, 2003. Manitoba Hydro will then have an opportunity to respond by written submission on or before June 12, 2003, recognizing the regulatory schedule. As always, the onus is upon the applicant.

General Review and Vary Process

The Board will not establish specific grounds, criteria and rules for review and vary applications at this time. However, the Board intends, at some time in the future, to establish such rules and will, at that time, rely upon the submissions of all parties. At that time, the Board will refer to and consider the submissions of the parties suggesting a two step review process.

IT IS THEREFORE ORDERED THAT:

1. Intervenors are entitled to provide written submissions to the Board on Manitoba Hydro's application to Review and Vary Order 7/03, on or before May 15, 2003.

2. Manitoba Hydro is entitled to provide a written submission to the Board, responding to the intervenors' positions, on or before June 12, 2003.

THE PUBLIC UTILITIES BOARD

"G.D. FORREST"

Chairman

"G.O. BARRON"

Secretary

Certified a true copy of Order No. 71/03 issued by
The Public Utilities Board

Secretary