MANITOBA	**Order No. 154/03**
THE PUBLIC UTILITIES BOARD ACT	
THE MANITOBA HYDRO ACT	
THE CROWN CORPORATIONS PUBLIC REVIEW AND ACCOUNTABILITY ACT	**October 31, 2003**

Before: G. D. Forrest, Chair
R. Mayer Q.C., Vice-Chair
Dr. K. Avery Kinew, Member

AN APPLICATION BY MANITOBA HYDRO TO VARY BOARD ORDER 7/03

Table of Contents

Executive Summary

Background

On February 3, 2003, The Public Utilities Board ("the Board") issued Order 7/03 with respect to a filing by Manitoba Hydro ("Hydro") which provided an information update on financial results, forecasts, methodologies, processes and other matters relating to sales rates charged by Hydro. Order 7/03 included a requirement for Hydro to file a revised Schedule of Rates to be effective April 1, 2003, as well as other directives.

On March 19, 2003, Hydro filed an application ("the 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 which deferred the operation and implementation of the Board's directives in Order 7/03 until a further order of the Board.

Subsection 44(3) of *The Public Utilities Board Act* does not set out specific circumstances when actions to rescind, change, alter or vary a Board Order may be taken. The Board, in considering any review and vary application, must apply some standard of review to determine whether a directive is to be varied and whether the onus of proof has been met. In this application, the Board has applied the following standards in considering whether a specific directive should be varied:

(a) Is there an error of law?
(b) Is there an error of fact?
(c) Is there a material change in circumstances? and
(d) Has further evidence been adduced?

In addition to these standards, the Board must balance the interests of the utility with the interests of all ratepayers. As with any application, the onus of proof remains with the Applicant.

This Order contains the Board's decisions with respect to Hydro's request to review and vary certain directives in Order 7/03.

General Small and General Service Large Rates

Directives 3(a) and 3(b) of Order 7/03 directed Hydro to file, for Board approval, a revised schedule of rates to be effective April 1, 2003 including revenue impacts that reflect:

(a) A 1% rate decrease for General Service Small ("GSS") customers; and

(b) A 2% rate decrease for General Service Large ("GSL") customers in subclasses greater than 30 kV.

Hydro's Application requested that the implementation of Directives 3(a) and 3(b) be delayed until such time as Hydro and the Board have considered the results of the 2003 Integrated Financial Forecast ("IFF") to be finalized in late 2003, together with the results of the report on the impact of decreasing the demand and increasing the run-off block of energy charge (tail block rate).

Hydro has filed no new evidence that would suggest that the inequities related to the zone of reasonableness have been addressed for the GSS and GSL customer classes. The Board remains of the view that directional rate adjustments are required and appropriate to address these inequities. This was the primary reason for the decision in Order 7/03 and Hydro has provided no evidence to alter that rationale. Even with these adjustments, the GSL sub-classes greater than 30 kV are still significantly outside the zone of reasonableness using the Board's approved methodology.

Accordingly, the Board did not vary its directive for a 1% decrease in rates for GSS customers and a 2% decrease in rates for GSL customers in sub-classes greater than 30 kV. These rate changes are to be effective April 1, 2003. In making this decision the Board wants to ensure all customers receive the full benefits Order 7/03 was to confer on them.

Elimination of the Winter Ratchet

Directive 3(c) of Order 7/03 directed Hydro to file for Board approval a revised schedule of rates to be effective April 1, 2003 including revenue impacts that reflect a decrease in the winter ratchet to 70% and the subsequent elimination of the winter ratchet effective April 1, 2004.

Hydro requested that the implementation of Directive 3(c) be delayed until such time as Hydro and the Board have considered the results of the 2003 Integrated Financial Forecast together with the results of the report on the impact of decreasing the demand rate and increasing the run-off block of energy charge.

The Board continues to believe that the winter ratchet is problematic, and did not vary the directive in Order 7/03 to reduce the winter ratchet to 70% effective April 1, 2003. However, the Board agrees that there is merit in more fully understanding the impacts of eliminating the winter ratchet completely. The Board therefore approved Hydro's request to delay the elimination of the winter ratchet until the impacts of the elimination can be studied further. The Board directed Hydro to complete a study by no later than February 28, 2004.

Elimination of the Limited Use Billing Demand ("LUBD") Program

Directive 4 of Order 7/03 directed Hydro to eliminate the Limited Use Billing Demand Rate option on April 1, 2004 and inform all affected customers of the changes to the winter ratchet and the Limited Use Billing Demand Rate option.

Hydro requested that the implementation of Directive 4 be delayed until such time as Hydro and the Board have considered the results of the 2003 Integrated Financial Forecast together with the results of the report on the impact of decreasing the demand and increasing the run-off block of energy charge.

The Board approved Hydro's request to vary Directive 4 in Order 7/03 to permit further consideration of the LUBD program in greater depth. The Board directed Hydro to submit, for Board review by no later than February 28, 2004, a study including an analysis of the LUBD program. The LUBD will remain a regular rate offering until the Board has considered this study.

Transmission Tariff

Directive 5 of Order 7/03 directed Hydro to file an application by no later than June 30, 2003, for approval of Hydro's Open Access Transmission Tariff ("the Tariff").

Hydro requested time to consider further its position on jurisdictional issues related to the Tariff and requested that Directive 5 of Order 7/03 and be varied to defer the requirement to file an application seeking approval of the Tariff.

The Board remains of the view that its jurisdiction and obligations for Hydro rates arise from *The Crown Corporation Public Review and Accountability Act*. As a rate for service for the provision of electrical power, Hydro is obligated to have such a tariff approved by the Board. Therefore, the Board denied the request to vary Directive 5 in Order 7/03, subject to amending the filing date from June 30, 2003 to December 31, 2003.

Filing Time for Reports on Inverted Rates, Time of Use and Wind Power

Directives 6(d), 6(f), and 6(i) of Order 7/03 directed Hydro to file the following information with the Board by no later than December 31, 2003:

- 6(d) A study on the merits of implementing an inverted rate structure for all customer classes;
- 6(f) A study which considers time of use rates for general service classes based on a season, weekly, daily, and hourly basis; and
- 6(i) Consider the use of wind power in remote diesel electric communities and file a report with the Board.

Hydro requested that Directives 6(d), 6(f), and 6(i) be varied to allow an extension of the submission date for the studies on Inverted Rates, Time of Use Rates, and Wind Power from December 31, 2003 to December 31, 2004. Hydro has provided new evidence suggesting the quality of the studies will be improved by the Board extending the filing dates to December 31, 2004, due to Hydro's ability to gather more extensive data.

The Board approved Hydro's request to vary Directives 6(d), 6(f) and 6(i) of Order 7/03 by amending the filing date for the Inverted Rate Study, the Time of Use Rate Study and the Wind Power Study from December 31, 2003 to December 31, 2004.

Cost of Service Studies

Directive 8 of Order 7/03 directed Hydro to file actual and prospective cost of service studies by September 30, 2003.

Hydro requested that Directive 8 be varied by extending the deadline for filing the cost of service studies from September 30, 2003 to December 31, 2003.

The Board approved Hydro's request to vary Order 7/03 by amending the filing date for the actual and prospective cost of service studies from September 30, 2003 to December 31, 2003. This additional time will permit Hydro to utilize actual data for 2002/03. The additional time will also permit Hydro to utilize its most current IFF and data from the former Winnipeg Hydro service territory.

Allocation Methodology for Net Export Revenues

Directive 7 of Order 7/03 denied Hydro's proposed cost of service study methodology, which included allocating net export revenues to customer classes on the basis of total allocated costs including distribution costs, and continued to support the allocation methodology set out in Order 51/96, which allocated net export revenues on the basis of only generation and transmission costs.

Hydro requested that the Board vary Directive 7 in Order 7/03 to permit Hydro to further explore options for the allocation of net export revenues and to present these options to the Board for consideration.

The Board approved Hydro's request, and directed Hydro to file a study that examines options and impacts to customer classes for the allocation of net export revenue. The study is to be filed for Board review by December 31, 2003 in conjunction with the filing of the requested cost of service studies.

Determination of Net Export Revenue

Directives 8(c) and 8(d) of Order 7/03 directed Hydro file cost of service studies which reflected the creation of a Firm Export Class and the creation of an Opportunity Export Class.

Hydro requested that the Board vary Directives 8(c) and (d) and defer implementing the directive relating to the creation of an export class or classes until Hydro can further review this issue and file the results of such review with the Board for further direction. Hydro stated that the expected completion date for this review was December 31, 2003.

The Board is of the view that there is insufficient information on the public record regarding the impact of export revenues and costs to customer classes. Given the magnitude of the export revenues and costs, the Board continues to be concerned there may be direct and indirect costs related to export power inappropriately being allocated to other customers. The Board has seen no new evidence to alleviate these concerns.

The Board notes CAC/MSOS' comments that "in theory, the creation of an export class would help to answer the question of whether the investments Hydro has made to support exports truly benefit customers." As identified by MIPUG, the Board also is interested in continuing the examination of, "… whether there is merit in implementing an export class of customer". The Board also heard evidence in the hearing from Hydro that the creation of an export class is practical and possible. The Board recognizes, of course, this is not the preferred option of these parties.

The Board understands the concerns of Hydro that allocating export benefits to customer classes can result in rates falling below short-run marginal costs. The Board is confident Hydro can devise a methodology to adequately identify and assign costs related to the export revenues earned.

The Board wishes to clarify that the purpose of the request in Order 7/03 for the cost of service studies to include firm and opportunity export classes was not to establish a new rate class, but rather to examine alternate approaches by which export power costs and revenues may be determined, and ultimately, to assist in ratemaking that is fair and equitable for domestic customers.

The Board approved Hydro's request such that Hydro can further review the issue of the creation of an export customer class or classes, and file the results of such review with the Board, including recommendations, financial impacts, and supporting cost of service information, by no later than December 31, 2003.

Filing Dates

Throughout this Order, the Board has directed various filing dates for studies and other matters. Many of these dates were requested by Hydro. The Board recognizes that as a result of the passage of time dealing with the Application, some of these filing dates may no longer be achievable. The Board also recognizes that Hydro has a number of other matters on its regulatory agenda. The Board will expect Hydro to advise the Board if the filing dates set out in this Order are achievable and, if not, to recommend achievable filing dates.

1.0 Background

On February 3, 2003, the Board issued Order 7/03 with respect to a filing by Hydro which provided an information update on financial results, forecasts, methodologies, processes and other matters relating to sales rates charged by Hydro. Order 7/03 included a requirement for Hydro to file a revised Schedule of Rates to be effective April 1, 2003, as well as other directives.

On March 19, 2003, Hydro filed an application ("the 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 which deferred the operation and implementation of the Board's directives in Order 7/03 until a further order of the Board.

A meeting was convened on April 11, 2003 of all interested parties to discuss issues of process and a timetable for the hearing of the Application. Parties were then asked to provide written submissions to the Board as to the preferred procedure and timetable for the Board to follow in adjudicating the Application. Parties were also asked to comment on the appropriate process for review and vary applications.

The Board received comments from Hydro, the Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors ("CAC/MSOS"), Canadian Centre for Energy Policy ("CCEP"), Manitoba Industrial Power Users' Group ("MIPUG"), Time to Respect Earth's Ecosystems Inc./Resource Conservation Manitoba ("TREE/RCM"), and Provincial Council of Women of Manitoba Inc. ("PCWM"). Subsequently, the Board issued Order 71/03 dealing with the procedures and timetable for hearing the Application.

Hydro's Application requested the following variances of certain directives contained in Order 7/03:

	Board Directive in Order 7/03	Hydro's Request to Vary
Directive 3	Hydro file for Board approval a revised schedule of rates to be effective April 1, 2003 including revenue impacts that reflect: (a) A 1% rate decrease for General Service Small customers; (b) A 2% rate decrease for General Service Large customers in subclasses greater than 30 kV; and (c) A decrease in the winter ratchet to 70% and the subsequent elimination of the winter ratchet effective April 1, 2004.	Delay implementation until results of IFF 03 can be considered as well as the impact of changing demand and run off block of energy charge (tail block rate).
Directive 4	Hydro eliminate the Limited Use Billing Demand Rate option on April 1, 2004 and inform all affected customers of the changes to the winter ratchet and the Limited Use Billing Demand Rate option.	Delay implementation until results of IFF03 can be considered as well as the impact of changing demand and tail block rate.
Directive 5	Hydro file an application with the Board by no later than June 30, 2003, for approval of Hydro's Open Access Transmission Tariff.	Defer requirement to file application until Hydro can further consider its position on jurisdictional issues.
Directive 6	Hydro file the following information with the Board by no later than December 31, 2003:	

		Board Directive in Order 7/03	Hydro's Request to Vary
	(d)	A study on the merits of implementing an inverted rate structure for all customer classes;	Defer filing date until December 31, 2004.
	(f)	A study which considers time of use rates for GS classes based on a seasonable, weekly, daily, and hourly basis;	Defer filing date until December 31, 2004.
	(i)	Consider the use of wind power in remote diesel electric communities and file a report with the Board.	Defer filing until December 31, 2004.
Directive 7		Hydro's proposed cost of service study dated March 2002, which includes a number of methodology changes including allocating net export revenues to customer classes on the basis of total allocated costs BE AND IS HEREBY DENIED.	Permit Hydro to further explore options for allocation of net export revenue and present to the Board for consideration.

	Board Directive in Order 7/03		Hydro's Request to Vary
Directive 8	Hydro file an actual cost of service study for the year ended March 31, 2003 by no later than September 30, 2003 and a prospective cost of service study for the year ended March 31, 2004 by no later than September 30, 2003 which reflects the following:		Deadline for filing cost of service studies be varied from September 30, 2003 to December 31, 2003.
	(c)	The creation of a Firm Export Class. This class should include long-term firm export sales and one-year firm export sales, with costs allocated on a fully embedded basis using a 2 CP allocation as is proposed for general service customers; and	Defer until Hydro can further study the issue and file results with PUB. The study should be completed by December 31, 2003.
	(d)	The creation of an Opportunity Export Class. This class should allocate costs using a similar basis to the domestic interruptible GSL customer class.	Defer until Hydro can further study the issue and file results with PUB. The study should be completed by December 31, 2003.

This Order contains the Board's decisions with respect to Hydro's request to vary Order 7/03.

2.0 Standard of Review

Subsection 44(3) of *The Public Utilities Board Act* states:

> *"The board may review, rescind, change, alter, or vary any decision or order made by it."*

However, subsection 44(3) does not set out specific circumstances when these actions may be taken. The Board, in considering any review and vary application, must apply some standard of review to determine whether a directive is to be varied and whether the onus of proof has been met. In this application, the Board has applied the following standards in considering whether a specific directive should be varied:

(a) Is there an error of law?
(b) Is there an error of fact?
(c) Is there a material change in circumstances? and
(d) Has further evidence been adduced?

In addition to these standards, the Board must balance the interests of the utility with the interests of all ratepayers. As with any application, the onus of proof remains with the Applicant.

3.0 General Small and General Service Large Rates

Order 7/03 directed Hydro to file, for Board approval, a revised schedule of rates to be effective April 1, 2003 including revenue impacts that reflect:

(a) A 1% rate decrease for General Service Small ("GSS") customers; and

(b) A 2% rate decrease for General Service Large ("GSL") customers in subclasses greater than 30 kV.

3.1 Hydro's Application to Review and Vary

Hydro's Application requested that the implementation of Directive 3(a) and (b) be delayed until such time as Hydro and the Board have considered the results of the fall 2003 Integrated

Financial Forecast ("IFF") to be finalized in late 2003, together with the results of the report on the impact of decreasing the demand and increasing the run-off block of energy charge.

3.2 Hydro's Position

Hydro's status update Application was based on IFF01-1, its most current IFF at the time. After the conclusion of the hearing, Hydro prepared IFF02-1, its fiscal 2002 financial forecast dated November 2002. IFF02-1 reflected the then current estimates of costs and revenues but did not include the impacts of Order 7/03, which was not yet issued. Hydro submitted that the net income from electric operations projected in IFF02-1 for 2002-03 of $71 million was $40 million less than that projected for the same period in IFF01-1. Hydro also stated that IFF02-1 projected net income for 2003-04 of $26 million less than was forecast in IFF01-1.

According to Hydro, the largest net contributors to the change in circumstance between IFF01-1 and IFF02-1are projected decreases in export revenues of $88 million less in 2002/03 and $11 million less in 2003/04. These decreases result from decreased export prices and projected diminished water flow conditions. Hydro added that the lack of snow this past winter across Western Canada is expected to further reduce hydraulic generation and increase thermal and import costs in the upcoming year.

Hydro submitted that the implementation of Order 7/03 would result in further revenue reductions of $7 million in 2003/04 and $10 million in future years including reductions of the winter ratchet of $1.8 million in 2003/04 and $2.5 million in 2004/05 and an annual positive revenue impact of approximately $400,000 related to the Limited Use Billing Demand.

Hydro's rebuttal evidence stated the impacts of the ordered rate reductions are not minimal. Hydro argued that rate reductions, followed by subsequent rate increases, would be confusing to customers and inefficient. Hydro believed at the time that there was a strong likelihood of a need to apply for a rate increase in 2003/04. Hydro argued that, in the interest of ratepayers, there should be a pause for reconsideration and assembly of current financial forecasts prior to any rate decrease being implemented.

Hydro emphasized that the entire characterization of the rate decreases as part of redress of historical inequities needs to be considered within the context of net export revenue allocation. No domestic customer class provides revenues which are greater than the costs allocated to that class. Hydro argued, therefore, there is no inter-class cross-subsidization.

3.3 CAC/MSOS

CAC/MSOS was of the view that there was no material error in fact or law, or a material change in circumstances, that would justify variance of this directive. If Hydro truly believed that IFF02-1 is critical, it should have been brought to the Board's attention through evidence in November 2002. To do so at this late date suggests that IFF02-1 is less a material change in circumstance and more a convenient means to revisit what, in Hydro's view, is an unfavourable Order. CAC/MSOS added that there is no certainty that future rate increases will be required.

CAC/MSOS submitted that Hydro's case to delay implementation of the Board's decision has little merit due to a number of factors including:

1. The Board is aware of the potential for future general rate increases;
2. The change in financial outlook is relatively small when contrasted to overall annual corporate revenue of approximately $1.4 billion;
3. The revenue reduction is relatively small when compared to the revenue impact of the Crown dividend estimated to be a maximum of $288 million;
4. Circumstances could change again before Hydro applies for a rate change; and
5. Hydro has not established that rate increases will be needed in the future.

3.4 MIPUG

MIPUG stated that rate relief was warranted to the classes affected, and the financial impact of the rate decreases upon Hydro's overall operations was minimal. MIPUG argued the untested IFF02-1 should not be used to replace the previously tested IFF01-1. It would, in MIPUG's view, render the careful process in which all parties participated during the hearing a waste of time in the context of rate setting. In addition, it is impossible to meaningfully compare IFF01-1 and IFF02-1 given that Winnipeg Hydro data is included in IFF02-1 and not IFF01-1. Furthermore, IFF02-1 does not appear to include revenues or expenses related to the advancement of future generation or transmission projects.

MIPUG stated that there is nothing in the evidence to suggest that the chronic problem of certain customer classes being outside of the zone of reasonableness has changed, so as to make the rate relief any less warranted. To recover additional costs from customer classes whose revenue cost coverage ratios are already above the Board's established Zone of Reasonableness by way of a review and variance application is not compatible with the principles of rate regulation. MIPUG added that if Hydro considers that its financial position has changed dramatically, then the appropriate course of action should be to file a complete General Rate Application ("GRA").

It was of great concern to MIPUG that the findings of Order 7/03, which were the result of a process that took over a year to complete, and required MIPUG members to incur significant expenses, have been deferred on the basis of Hydro's Application to Vary. Accordingly, MIPUG requested that the customers who were to have received a rate decrease effective April 1, 2003 as a result of Order 7/03 be given the rate reduction retroactive to April 1, 2003.

MIPUG pointed out that the practical effect of a 2% rate decrease for the industrial sub-class of customers amounts to approximately $2.5 million towards solving a $26 million problem.

3.5 CCEP

CCEP stated that attempting to avoid confusion and inefficiency is insufficient cause to delay the implementation of the rate reductions in Order 7/03, given the limited evidence. Hydro has failed to thoroughly explain and support any key factual assertion upon which it bases the Application.

CCEP stated that the impact of rate reductions shrink to insignificance given some of the other changes, such as the special export profit payment, or the upwardly spiralling capital expenditures. CCEP argued that it challenges credibility to accept that a $7-$10 million reduction in revenue related to the GSS and GSL rate reductions and the elimination of the winter ratchet will have an adverse impact on Hydro's financial position requiring rate increases or delays of rate reductions, when payment of a maximum of $288 million over the same period will have no impact.

CCEP added that Hydro tends to underestimate extra provincial revenue, and targeted financial ratios appear to be arbitrary. CCEP further submitted that Board ordered reductions may have been easier to implement due to the strong financial position of Hydro, but this circumstance was not the reason or cause for the reductions. Historical inequities saw certain classes contributing revenue to Hydro unacceptably above the cost of serving them. Furthermore, CCEP stated that based on historical experience there is no reason to expect that Hydro will request a rate increase in the immediate or even medium term. Therefore, there is no other solution available to these classes in the foreseeable future other than to uphold Order 7/03 effective April 1, 2003.

3.6 TREE/RCM

TREE/RCM stated that the rate reductions impact Hydro's bottom line, and showcase how the current allocation of export revenues institutionalizes a subsidy. The more valuable the electrical commodity becomes on the open market, the less domestic customers pay for it. Hydro should update the information in IFF02-1 to present a current and accurate financial and operational picture to allow the Board to reconsider whether the rate adjustments will impact the overall financial strength of Hydro or its ability to achieve its financial targets.

In the event that the Board confirms its directive to implement rate reductions, Hydro should make the reduction in such a fashion that it does the least damage to energy conservation incentives by keeping the tail block rates intact and concentrating the reductions in the other charges.

3.7 Mining Association of Manitoba ("the Mining Association")

While not an Intervenor at the public hearing, the Mining Association provided a written submission to the Board in respect of this Application.

The Mining Association supports the directive in Order 7/03 to reduce rates by 1% for GSS and 2% for GSL customers in subclasses greater than 30 kV. The Mining Association believes it is reasonable for industry to pay its fair share of the cost of distributing electricity. However, the current practice of some industry customers subsidizing other Hydro customers is flawed and even greater rate reductions are warranted given that the mining sector in Manitoba has overpaid $60 million in the past ten years. In their view, the money would be better spent investing in mining operations in Northern Manitoba.

3.8 Board Findings

The Board is of the view that there was no material error of law or fact in Order 7/03. Hydro is submitting new evidence, alleging there is a material change in circumstance. The Board has seen no new information that would suggest that the inequities related to the zone of reasonableness have been addressed for the GSS and GSL customer classes. The Board remains of the view that directional rate adjustments are required and appropriate to address these inequities. This was the primary reason for the decision in Order 7/03 and Hydro has provided no new evidence to alter that rationale. Even with these adjustments the GSL sub-classes greater than 30 kV are still significantly outside the zone of reasonableness using the Board's approved cost allocation methodology.

In Order 7/03, the Board supported Hydro's position that there was no need for an overall rate adjustment. In IFF02-1 Hydro forecasts that net export revenues will be lower than the previous forecast in 2002/03 and higher in subsequent years when compared to revenues forecast in IFF01-1. Forecasted decreases in revenues in 2002/03 are attributable to declining prices, waterflow conditions and the lack of snow this past winter in Western Canada. However, this information has not been examined in detail by the Board and other interested parties, nor tested in a public forum. While the Board is aware that parts of Manitoba are experiencing dryer than normal conditions, the extent to which they have impacted Hydro's operations was not part of the forecasts reviewed at the hearing.

The Board is of the opinion that Hydro's financial position, with annual revenues exceeding $1.4 billion, and reserves exceeding $1.2 billion, provide Hydro with the financial strength to sufficiently allow for an absorption of the ordered rate decreases. The Board also notes that the reserves of Hydro were initially sought to protect Hydro and its ratepayers against the risk of negative financial consequences such as a possible drought. The Board agrees with Hydro that forecasted unfavourable financial projections need to be mitigated as soon as possible but does not believe efforts should be taken at the expense of fairness of rates charged to its customers.

The Board notes Hydro's argument that rate reductions now, followed by a rate increase in the near future, may create confusion amongst customers and sacrifice rate stability. While that may in part be true, rates are set based on current circumstances and assumptions, usually to be implemented for the upcoming year. After that, depending upon the ever changing circumstances, rates may be adjusted, upon the request of Hydro. Of necessity, rates are based upon all evidence gathered at a point in time. The Board has considered all submissions and remains of the view that Directive 3(a) and 3(b) of Order 7/03 do not require revision.

In making its decision in Order 7/03, the Board was aware of the potential for future rate increases as set out in IFF01-1 which was reviewed at the public hearing. At the time of the hearing and up to now, Hydro has not yet established that rate increases will be needed in the future. Indeed, the Board expects Hydro to take all reasonable steps to mitigate the financial impacts incorporated in the new financial forecast. If Hydro believes circumstances have changed to warrant an overall rate adjustment, Hydro can file a GRA application, with supporting evidence at any time.

The Board will not vary its directive for a 1% decrease in rates for GSS customers and a 2% decrease in rates for GSL customers in sub-classes greater than 30 kV. These rate decreases are to be effective April 1, 2003. In making this decision the Board wants to ensure all customers receive the full benefits Order 7/03 was to confer on them. Furthermore, on a principled basis, the Board does not accept there should be a delay for customers receiving rate relief by simply filing an application to review and vary a rate order. The Board will direct Hydro to immediately file a revised schedule of rates pursuant to Directive 3(a) and 3(b) to be effective April 1, 2003 for Board approval, including the proposed method of implementation.

4.0 Elimination of the Winter Ratchet

Order 7/03 directed Hydro to file for Board approval a revised schedule of rates to be effective April 1, 2003 including revenue impacts that reflect a decrease in the winter ratchet to 70% and the subsequent elimination of the winter ratchet effective April 1, 2004.

4.1 Hydro's Application to Review and Vary

Hydro requested that the implementation of Directive 3(c) be delayed until such time as Hydro and the Board have considered the results of the 2003 Integrated Financial Forecast together with the results of the report on the impact of decreasing the demand rate and increasing the tail block rate.

4.2 Hydro's Position

Hydro stated that the reduction and subsequent elimination of the winter ratchet will result in increased winter demand and, without compensatory incentives to conserve capacity, will necessitate increased capital expenditures to strengthen the distribution system. The revenue impact attributable to the decrease of the winter ratchet to 70% is $1.8 million in 2003/04, and $2.5 million for its subsequent elimination in 2004/05.

Hydro noted that impacts of the elimination of the winter ratchet could be mitigated by such measures as phasing in and replacement of the winter ratchet with seasonal billing or other measures which encourage conservation of capacity, particularly at the distribution system level. Hydro urged that the winter ratchet should not be eliminated until a decision is taken on an alternate mechanism to signal the significance of the winter, and possibly the summer periods in terms of capacity planning.

Hydro suggested it may be acceptable to reduce the winter ratchet to 70% and to waive its application to loads served at above 100 kV, effective December 1, 2003, provided that Hydro is allowed to collect the revenue, which would otherwise have been lost, through increases to other rates, in a manner deemed appropriate by Hydro and the Board.

4.3 CAC/MSOS

CAC/MSOS stated that Hydro's position smacks of the utmost boldness to request additional time to present options for the elimination of the winter ratchet.

CAC/MSOS submitted that taken on its own, the case for varying the winter ratchet decision appears to have little merit. Other than the financial outlook, there is no "new" information being offered. The revenue loss projected in the outlook is small relative to Hydro's overall revenue. Since Order 51/96, Hydro has had ample opportunity to study the issue and consult with customers as directed, but has failed to present any meaningful alternatives.

CAC/MSOS stated that the Board appears to have been aware of and considered all of the facts in the case. If the Board decides to extend the timeline on the Time of Use Report, it would be reasonable to extend the time line for full elimination of the ratchet. In the meantime, there is no argument which would justify a delay in the reduction to 70%.

4.4 MIPUG

MIPUG considers that the Board's directive to lower the winter ratchet to 70% is reasonable. There is clearly no constraint on the distribution system related to the winter ratchet as it applies to larger General Service customers who make little or no use of the distribution system. MIPUG requested that the Board direct Hydro to implement the phase out and elimination of the winter ratchet as set out in Order 7/03.

4.5 TREE/RCM

TREE/RCM agrees with Hydro that it would be a mistake to eliminate the winter ratchet in isolation from alternative conservation incentives, thereby incurring negative impacts to the system. Further consideration of the winter ratchet should take place in the context of more systematic changes in rate design that address conservation issues.

4.6 Board Findings

In Order 7/03 the Board outlined briefly the recent history of the winter ratchet. The Board notes Hydro had sought its elimination at the 1996 GRA with the implementation of seasonal rates. At that time, the Board directed further study and some customer consultation. There are two aspects to this decision of the Board, the first being the reduction of the winter ratchet to 70% and, second, the elimination of the winter ratchet effective April 1, 2004. The Board is of the view that there is no error in fact or law related to the winter ratchet issues. Furthermore, there has been no change in circumstances. The Board continues to believe that the winter ratchet is problematic, and will not vary the directive in Order 7/03 to reduce the winter ratchet to 70% effective April 1, 2003.

However, the Board agrees that there is merit in more fully understanding the impacts of the elimination of the winter ratchet. The Board will therefore accept Hydro's request to delay the complete elimination of the winter ratchet until the impacts of the elimination can be studied further. The Board will direct Hydro to complete a study by no later than February 28, 2004 that addresses amongst other things, the issue of managing winter demand, alternatives to the winter ratchet, the impacts of the reduction and the elimination of the winter ratchet, and measures to mitigate the impacts of its elimination. The report should also quantify the capital expenditures required to enhance the distribution system for the various customer classes should the winter ratchet be eliminated.

5.0 Elimination of the Limited Use Billing Demand ("LUBD") Program

Order 7/03 directed Hydro to eliminate the Limited Use Billing Demand Rate option on April 1, 2004 and inform all affected customers of the changes to the winter ratchet and the Limited Use Billing Demand Rate option.

5.1 Hydro's Application to Review and Vary

Hydro requested that the implementation of Directive 4 be delayed until such time as Hydro and the Board have considered the results of the 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.

5.2 Hydro's Position

Hydro stated that the LUBD was designed to benefit all customers with low load factors, including those not affected by the winter ratchet. Only nine out of the 120 customers served on LUBD have been billed the winter ratchet. Even these nine customers will not benefit from removal of the winter ratchet if the LUBD is simultaneously eliminated with the winter ratchet. In 2003/04, LUBD customers will save approximately $394,000 by remaining on the rate, even with the reduced winter ratchet. Eliminating LUBD will result in an average bill increase of $3,300 to these customers. Each of the 120 customers currently served on LUBD will experience bill increases if the program is terminated.

Hydro acknowledged that resolution of related issues could affect the purpose and design of LUBD, but submitted that until such resolution, the LUBD should be allowed to continue as a permanent rate offering.

5.3 CAC/MSOS

CAC/MSOS stated that there appears to have been a material fact of which the Board was not aware. On this basis, there appears to be some justification for Hydro's request with respect to the LUBD program. Order 7/03 does not appear to reflect evidence over and above the elimination of the winter ratchet. CAC/MSOS added that there also appears to be an analytical inconsistency between eliminating the LUBD while studying the impact of lowering demand charges and increasing the runoff block of energy charge.

5.4 MIPUG

MIPUG had no specific position regarding the LUBD rate outside of its general concerns regarding providing rate revisions by means of a review and variance application.

5.5 TREE/RCM

TREE/RCM stated that if the Board's decision was based on a misunderstanding of the function of the LUBD, by considering only as a mitigation of the winter ratchet, then there are grounds for delaying implementation of this directive for now until the issue is better understood.

5.6 Board Findings

The Board is of the view that while there was no error of law, there is new evidence provided by Hydro that has a direct bearing on the Board's directive to eliminate the LUBD program. The fact that only nine out of the 120 customers served on the LUBD program have been billed the winter ratchet, and that all 120 customers currently served on LUBD will experience bill increases if the program is terminated, are material facts not previously provided to the Board. The Board wishes to review such information, and will therefore vary Directive 4 in Order 7/03 to permit the Board to consider the LUBD program in greater depth. The Board will direct Hydro to submit, for Board review by no later than February 28, 2004, a study including an analysis of the LUBD program. This study should review the initial and current objectives of the LUBD program and an analysis of whether these objectives have been achieved, possible modifications to revise, improve, or eliminate the LUBD program, together with supporting revenue information and customer data such as customer numbers and revenue impacts. It would also be of assistance to the Board if this report were prepared in conjunction with the report on the winter ratchet and the study on decreasing the demand charges and increase the runoff block of energy charge as set out in Section 4 of this Order.

Until the Board has considered this study, the LUBD will continue as a regular rate offering.

6.0 Transmission Tariff

Order 7/03 directed Hydro to file an application by no later than June 30, 2003, for approval of Hydro's Open Access Transmission Tariff ("the Tariff").

6.1 Hydro's Application to Review and Vary

In its Application, Hydro requested time to consider further its position on jurisdictional issues related to the Tariff and requested that Directive 5 of Order 7/03 be varied to defer the requirement to file an application seeking approval of the Tariff.

6.2 Hydro's Position

Hydro stated that a requirement to seek regulatory approval of its Tariff may result in serious impairment of Hydro's ability to react quickly to events in the United States of America. At this time, the Tariff has no application within Manitoba as retail competition is prohibited and there are no wholesale customers in the province that make use of the Tariff. With respect to evidence elicited regarding the regulation of tariffs in other provinces, Hydro noted that the regulators in these jurisdictions operate under different legislative regimes and that the markets in these jurisdictions are not comparable to Manitoba. Hydro continues to be of the view the Board does not have the necessary jurisdiction to regulate the Tariff.

6.3 CAC/MSOS

CAC/MSOS stated that Hydro has presented no new arguments with respect to jurisdiction. Hydro should not be allowed to escape regulatory oversight simply on the grounds that it makes Hydro's job more difficult. Instead, Hydro should be developing an approach to regulation that allows the Board to retain its oversight while allowing Hydro the flexibility it requires as it did in the case of the surplus power rate program.

6.4 MIPUG

MIPUG saw no benefit to delaying implementation of the Board's Order at this time in order to address Hydro's preference for more time to consider its position on jurisdictional issues.

6.5 Board Findings

The Board is sympathetic to Hydro's requirements to respond quickly in a flexible manner. The Board also notes that, in numerous other jurisdictions, provincial regulators approve transmission tariffs. The Board is willing to establish a process for approval that allows Hydro to operate effectively in a competitive environment.

In the Board's view, Hydro is alleging an error of law in the Board's finding in respect of the jurisdiction of the Board. The Board remains of the view that its jurisdiction and obligations for Hydro rates arise from *The Crown Corporation Public Review and Accountability Act*. Whether a stand alone, bundled or an unbundled service, a transmission tariff is a rate for service for the provision of electrical power. As a rate for service for the provision of electrical power, Hydro is obligated to have such a tariff approved by the Board. Therefore, the Board will deny the request to vary Directive 5 in Order 7/03, subject to amending the filing date from June 30, 2003 to December 31, 2003.

Despite Hydro's extensive legal arguments against the Board's jurisdiction as contained in its rebuttal, the Board does not see any merit in merely deferring the implementation of the decision for Hydro to consider its position on jurisdiction.

7.0 Filing Time for Reports on Inverted Rates, Time of Use and Wind Power

Order 7/03 directed Hydro to file the following information with the Board by no later than December 31, 2003:

6(d) A study on the merits of implementing an inverted rate structure for all customer classes;

6(f) A study, which considers time of use rates for general service classes based on a season, weekly, daily, and hourly basis; and

6(i) Consider the use of wind power in remote diesel electric communities and file a report with the Board.

7.1 Hydro's Application to Review and Vary

Hydro requested that Directive 6(d), (f), and (i) be varied to allow an extension of the submission date for the studies on Inverted Rates, Time of Use Rates, and Wind Power from December 31, 2003 to December 31, 2004.

7.2 Hydro's Position

Hydro noted that one item for consideration in the implementation of inverted rates is the relationship between customer load factor and energy consumption. If full exploration of this relationship is deemed to be an integral part of the study of inverted rates, it will require redesign of Hydro's load research sample. Hydro estimated that the results from the redesign will not be available for 18 months, therefore an extension for the Inverted Rate Study is required.

Hydro stated that given the inability of existing billing and metering infrastructure to support time of use rates until 2007, a delay in the production of the Time of Use Rate study would not result in any delay in implementation of the actual rates. Expenditures of some $20 million are planned by Hydro together with detailed planning and co-ordination. Hydro stated that it is reasonable to plan for the introduction of time of use rates, but there is no compelling reason to rush them into effect. Within this context, a December 31, 2004 completion date is reasonable and realistic and can incorporate all study objectives, including the development and deployment of a load research sample which is appropriate to the study of this issue.

Hydro is currently undertaking a study on the feasibility of wind power at several locations in Manitoba. Hydro explained that the study is not expected to be completed until the spring of 2004. Hydro reported that it has been provided the results of the "Barren Lands First Nation alternate Energy Feasibility Study". Hydro has been informed that this study concludes that wind has been screened out as a viable option. This result is based, in part, on the local wind resource measured at Brochet and Lynn Lake being extremely low.

7.3 CAC/MSOS

CAC/MSOS stated that in the case of inverted rates, Hydro appears to have a legitimate case for varying Order 7/03 to obtain the necessary data to properly complete the assessment. However, in the case of Time of Use rates there appears to be little analytical basis for Hydro's argument other than the fact that a one-year delay would not impact on a 2007 implementation date. The 2007 date is predicated on the need to revamp the billing and metering infrastructure but the revamping of the infrastructure is more a matter of time and priorities.

CAC/MSOS noted that the wind power study would have to be completed prior to the start of the CEC review in the fall of 2003 or the winter of 2004. Unless Hydro is conducting two separate wind power studies, one might expect Hydro's review to be completed prior to April 2004.

7.4 MIPUG

Given that seven years have elapsed since Hydro was directed to consider time of use rates in consultation with interested parties, MIPUG can see a benefit in approving Hydro's requested delay in the Time of Use Rate study to December 31, 2004, but including within the study a requirement for there to be detailed and meaningful consultation with potentially affected customer groups regarding any proposal that may come forward at that time.

MIPUG took no position with respect to Hydro's request to delay the delivery of the study related to inverted rates or wind power in remote diesel electric communities until December 31, 2004.

7.5 TREE/RCM

TREE/RCM stated that varieties of rate inversion have been in place for decades and the concepts are well established, well analyzed, and in many places legally mandated. It is important that the study comes sooner rather than later, given that Hydro's current methods of rate setting are at variance with mandated principles of sustainability. In TREE/RCM's view, the December 31, 2003 deadline for the Inverted Rate Study remains appropriate and the request to vary should be denied, with the caveat that incomplete load studies may be completed and filed at a later date.

With respect to Time of Use Rates, TREE/RCM noted that on the grounds that the infrastructure necessary for metering time of use will not be in place before 2007, TREE/RCM had no objection to the postponement and would accept, as satisfactory justification, a simple prioritization of workload to facilitate the completion of more urgent studies by December 31, 2003.

With respect to the wind power study, TREE/RCM added that Hydro and the Board should ensure that the implementation of wind power should not be delayed a result of a delay in the completion of the studies.

7.6 Board Findings

The Board is of the view that while there has been no error of fact or law, Hydro has provided new evidence suggesting the quality of the Inverted Rates, Time of Use Rates, and Wind Power Studies will be improved by the Board extending the filing dates to December 31, 2004, due to Hydro's ability to gather more extensive data. As well, Hydro will have an ability to prioritize more pressing projects. With the additional time, the Board will expect each of these studies will include thorough analyses of the issues and impacts that will be of assistance to the Board and all interested parties. The Board will approve Hydro's request to vary Directive 6(d), (f) and (i) of Order 7/03 by amending the filing date for the Inverted Rate Study, the Time of Use Rate Study and the Wind Power Study from December 31, 2003 to December 31, 2004.

With respect to the Wind Power Study, the Board expects the study to specifically include consideration of potential for wind power in the four diesel communities currently served by Hydro, given the high cost of energy in these regions. Considering environmental issues, and the existing issues related to the high costs of providing diesel service, the Board encourages Hydro to work with interested parties to find innovative ways to address the provision of electrical service in northern communities.

8.0 Cost of Service Studies Filing Date

Order 7/03 directed Hydro to file actual and prospective cost of service studies by September 30, 2003.

8.1 Hydro's Application to Review and Vary

Hydro requested that Directive 8 be varied by extending the deadline for filing the cost of service studies from September 30, 2003 to December 31, 2003.

8.2 Hydro's Position

With respect to the extension in the filing deadline, Hydro stated that it will not be possible to file a study based on actual 2002/03 costs by September 30, 2003, as the data for the study will not be available until sometime in June of 2003. A prospective study for the year 2003/04 can be filed but it will have to utilize data from IFF02-1, since IFF03-1 will not be available until at least October 2003. Both studies will require the incorporation of load and cost data from the former Winnipeg Hydro service territory. Load data required for peak load estimation, either actual or forecast, will not be available for at least 18 months, as customers of the former Winnipeg Hydro do no currently have any load research infrastructure in place.

8.3 CAC/MSOS

CAC/MSOS believes that the request with respect to the prospective cost of service studies appears to have merit, as the data and time constraints appear to be real. The timing would also allow the study to reflect more current data and incorporate the results of other analysis Hydro has been directed to undertake.

However, the usefulness of the actual cost of service study is questionable. Perhaps the Board should consider waiving this requirement entirely and allow Hydro to concentrate its efforts on resolving outstanding cost of service study methodology issues and completing the prospective cost of service study.

8.4 MIPUG

With respect to the extension of the filing date, MIPUG was sensitive to Hydro's need for the appropriate data to complete both the actual and prospective cost of service studies required by the Board. MIPUG was very interested in the results of the studies and considers that delivery of the studies by December 31, 2003 would be acceptable and would not constitute undue delay on the part of Hydro. However, MIPUG urged the Board to emphasize that the studies are required even if Hydro does not file a GRA seeking revised rates for 2004.

8.5 TREE/RCM

With respect to the filing date for the cost of service studies, TREE/RCM stated a three-month delay is justified. It is important at this time not to force Hydro into a premature GRA before loose threads in cost and revenue allocation and rate design can be tied up and rates can be put on a more efficient and equitable footing.

TREE/RCM suggested that Hydro should prepare two sets of cost of service studies and rate proposals for the next GRA. One set should be constructed in accordance with Order 7/03. The other set should introduce whatever modifications are required to better reflect the principles of sustainability and energy efficiency as clarified through the various studies that have been ordered or undertaken. It would be intolerable to progress through another rate hearing, at tremendous cost in time and money, in which rate determination continues to be disassociated from the principles of sustainability.

8.6 Board Findings

With respect to the filing date for the cost of service studies, the Board is of the view that there is no material error of fact or law. However, the Board recognizes Hydro's new evidence regarding the availability of information. Therefore, the Board will approve Hydro's request to vary Order 7/03 by amending the filing date for the actual and prospective cost of service studies from September 30, 2003 to December 31, 2003. This additional time will permit Hydro to utilize actual data for 2002/03. The additional time will also permit Hydro to utilize its most current IFF and data from the former Winnipeg Hydro service territory.

For greater certainty, cost of service studies for the year ended March 31, 2003 and the prospective cost of service study for the year ending March 31, 2004 are to reflect Directives 8(a), (b), (e), (f), (g), (h), (i) and (j) as directed in Order 7/03.

9.0 The Allocation Methodology for Net Export Revenues

Order 7/03 denied Hydro's proposed cost of service study methodology, which included allocating net export revenues to customer classes on the basis of total allocated costs including distribution costs, and continued to support the allocation methodology set out in Order 51/96, which allocated net export revenues on the basis of only generation and transmission costs.

9.1 Hydro's Application to Review and Vary

Hydro requested that the Board vary Directive 7 in Order 7/03 to permit Hydro to further explore options for the allocation of net export revenues and to present these options to the Board for consideration.

9.2 Hydro's Position

With respect to net export revenue allocation, Hydro was of the view that at current export prices, the allocation of export revenues based only on generation and transmission costs unduly subsidizes the commodity. This situation provides a greater incentive to utilize energy, thereby depriving all classes of export revenues.

Continuing to allocate export revenues as directed in Order 7/03 will widen further the gap between short-run marginal costs and rates. Rates to large industry, which are already the lowest in North America, would be eventually reduced by a further 10%. Given Hydro's already very low energy rates and the relative impact on different customer classes, Hydro believes that there is merit in examining other alternatives in allocating the benefits of export sales among Hydro's customers.

Hydro added that the request derives from Hydro's ongoing concern that crediting export benefits to customer classes can result in rates often falling below short-run marginal costs. The longstanding methodology exacerbates these impacts. Because the methodology has the greatest proportionate impact on rates to large customers served directly from high voltage, it also sends the least appropriate price signals to a class of service, which has more than average sensitivity to price signals.

9.3 CAC/MSOS

CAC/MSOS stated that during the hearing, there was an express analytical coupling between the concept of the export class and the allocation of export revenues. Given this linkage, the Order appears to lie outside the range of positions adopted by the Intervenors on this matter.

9.4 MIPUG

With respect to net export allocation, MIPUG is uncertain of what specific relief related to this issue is being requested by Hydro and notes that Hydro has proposed no timeline for completion of the proposed study. Given the extent to which this issue has been tested and reviewed by the Board over more than a decade with consistent finding each and every time, MIPUG does not see any value to having Hydro delay any aspects of Order 7/03 to permit some further study of this issue, particularly at the potential cost of deferring other pressing regulatory matters on Hydro’s agenda.

9.5 TREE/RCM

TREE/RCM believes Hydro and the Board must explore options for allocation of net export revenues that better conform to the requirements of the *Manitoba Hydro Act* and *The Sustainable Development Act*, such as direct investments in energy conservation, which provide system-wide benefits beyond the benefit to individual customers. Hence the request to explore options for allocation of net export revenues should be approved.

9.6 Board Findings

The Board is of the view that while the allocation of net export revenue is a distinct issue from the determination of net export revenue, the two are linked and should not be considered in isolation. With respect to the allocation of net export revenue, the Board continues to believe that the principle of cost causation is an important consideration in a cost of service study.

The Board believes that there is no material error of law or fact, no material change in circumstances, and no new evidence has been adduced. Therefore, the Board will uphold the directive for Hydro to file the cost of service studies using the net export revenue allocation methodology set out in Order 51/96 as directed in Section 8.6 of this Order.

In the Application Hydro has offered to explore options for the allocation of net export revenue. Therefore, the Board will direct Hydro to file a study that examines options and impacts to customer classes for the allocation of net export revenue. The study should clearly set out the impacts to each of the customer classes and include an analysis that is linked to the principles of ratemaking. The study should be filed for Board review by December 31, 2003 in conjunction with the filing of the requested cost of service studies as directed in Sections 8.6 and 10.5. The Board will subsequently consider together the cost of service studies as directed in Section 8.6, the allocation options for net export revenues, and the methodologies proposed for the determination of net export revenue.

10.0 The Determination of Net Export Revenue

Directive 8(c) and 8(d) of Order 7/03 directed Hydro file an actual cost of service study for the year ended March 31, 2003 by no later than September 30, 2003 and a prospective cost of service study for the year ended March 31, 2004 by no later than September 30, 2003 which reflected the following:

> 8(c) The creation of a Firm Export Class. This class was to include long-term firm export sales and one-year firm export sales, with costs allocated on a fully embedded basis using a 2 CP allocation as is proposed for general service customers; and
>
> 8(d) The creation of an Opportunity Export Class. This class was to allocate costs using a similar basis to the domestic interruptible GSL customer class.

10.1 Hydro's Application to Review and Vary

Hydro requested that the Board vary Directive 8(c) and (d) and defer implementing the directive relating to the creation of an export class or classes until Hydro can further review this issue and file the results of such review with the Board for further direction. Hydro stated that the expected completion date for this review was December 31, 2003.

10.2 Hydro's Position

Hydro stated that an export class is not supportable on the same cost causation basis as domestic customer classes and will necessitate arbitrary allocations of cost. Hydro submitted it builds very little plant to serve the export market. Export sales are made from generation which was built to serve the domestic market and which is temporarily surplus to the needs of that market. The creation of separate classes for firm and opportunity sales would require Hydro to disclose its forecast sales volumes and revenues in each of these specific markets. Export sales, even firm sales, do not meet domestic load characteristics. The degree to which embedded costs are discounted when allocating to an export class cannot be determined with any precision and would be arbitrary.

Hydro noted that the Order directed embedded costs be allocated to an opportunity export class on the same basis as costs are allocated to domestic Surplus Energy customers, essentially asking Hydro to assume the cost to serve this class is always equal to revenue. This result is because short-term export revenues are the opportunity cost basis of assigning costs to the Surplus Energy customers in the cost of service study.

10.3 CAC/MSOS

CAC/MSOS stated that in theory, the creation of an export class would help to answer the question of whether the investments Hydro has made to support exports truly benefit customers. However, the Board Order is based on twin-mistaken premises that it is technically feasible to create an export class and that the results will be meaningful. CAC/MSOS added that the Order is at odds with the expert evidence and the positions of the interested parties.

10.4 MIPUG

MIPUG supports Hydro's Application in respect of the introduction of Firm and Opportunity Export Classes in the Actual and Prospective Cost of Service Studies. The creation of a net export class of customers is a complicated matter that is likely not well addressed solely by a utility-led analysis. As an initial step in addressing one or more potential export classes of customers, it would be preferable to MIPUG to have Hydro prepare a study on alternative approaches to developing such customers classes by the stated December 31, 2003 date. Such a study should set the stage for two major questions that will need to be answered: is there merit in implementing an export class of customers, and secondly, if there is merit in implementing an export class, how can this best be achieved?

10.5 Board Findings

At present the Board is of the view that there is insufficient information on the public record regarding the impact to the customer classes of export revenues and costs. Given the magnitude of export revenues and costs, the Board believes these should be more thoroughly investigated for their impact on ratemaking. The Board notes CAC/MSOS' comments that "in theory, the creation of an export class would help to answer the question of whether the investments Hydro has made to support exports truly benefit customers." As identified by MIPUG, the Board also is interested in continuing the examination of, "… whether there is merit in implementing an export class of customer". The Board also heard evidence in the hearing from Hydro that the creation of an export class is practical and possible. The Board recognizes, of course, this is not the preferred option of these parties.

The Board understands the concerns of Hydro that allocating export benefits to customer classes can result in rates falling below short-run marginal costs. The Board is confident Hydro can devise a methodology to adequately identify and assign costs related to the export revenues earned.

The Board wishes to clarify that the purpose of the request in Order 7/03 for the cost of service studies to include firm and opportunity export classes was not to establish a new rate class, but rather to examine alternate approaches by which export power costs and revenues may be determined, and ultimately, to assist in ratemaking that is fair and equitable for domestic customers.

The Board continues to be concerned there may be direct and indirect costs related to export power inappropriately being allocated to other customers. The Board has heard no new evidence to alleviate these concerns. The Board is of the view that a portion of Hydro's capital program and operating budget is driven primarily by export opportunities. As such, the assignment of embedded costs and a broader range of incremental operating costs need to be examined as options when determining net export revenue related to export sales. Opportunity export sales need to attract a broader range of incremental operating costs and possibly some level of embedded costs.

The Board will therefore approve Hydro's request to vary Directives 8(c) and 8(d) in Order 7/03 such that Hydro can further review the issue of the creation of an export class or classes and file the results of such review with the Board, including recommendations, financial impacts and supporting cost of service information, by no later than December 31, 2003.

The study should clearly illustrate alternative methodologies for the identification and assignment of costs related to the firm and opportunity export revenue received and discuss the relative merits of each approach. The Board will direct Hydro to allocate costs using incremental energy and an appropriate level of embedded costs similar in rationale to the domestic interruptible GSL customer class. The Board recognizes Hydro's concern for commercial confidentiality and is prepared to deal with total revenues and costs as opposed to disaggregated information. The study should also include a separate prospective cost of service study for the year ending March 31, 2004 which incorporates all the directives from 8(a) to 8(j) as contained in Order 7/03.

The Board agrees with MIPUG that the establishment of export classes are not best addressed solely by the utility and believes that the results of the study should be tested by all interested parties as determined by the Board.

11.0 Filing Dates

Throughout this Order, the Board has directed various filing dates for studies and other matters. Many of these dates were requested by Hydro. The Board recognizes that as a result of the passage of time dealing with the Application, some of these filing dates may no longer be achievable. The Board also recognizes that Hydro has a number of other matters on its regulatory agenda. The Board will expect Hydro to advise the Board if the filing dates set out in this Order are achievable and, if not, to recommend achievable filing dates.

12.0 IT IS THEREFORE ORDERED THAT:

1. Board Order 7/03 is reinstated as of the date of this Order.

2. (a) Hydro's request to vary Directives 3(a) and 3(b) of Order 7/03, BE AND IS HEREBY DENIED.

   (b) Hydro's request to vary Directive 3(c) of Order 7/03, BE AND IS HEREBY DENIED subject to the elimination of the winter ratchet being deferred from April 1, 2004 until a further Order of the Board, to permit consideration of Hydro's request on the impacts of the reduction and possible elimination of the winter ratchet.

(c) Hydro immediately file a revised schedule of rates pursuant to Directives 3(a), 3(b) and 3(c) to be effective April 1, 2003 for Board approval including the proposed method of implementation.

3. Hydro file a report with the Board, by no later than February 28, 2004, that includes consideration of the impacts of the ordered reduction of the winter ratchet to 70%, the impacts of the possible elimination of the winter ratchet, the measures to mitigate the impacts of the possible elimination of the winter ratchet, and the capital expenditures that would be required to enhance the distribution system should the winter ratchet be eliminated.

4. Hydro's request to vary Directive 4 of Order 7/03, BE AND IS HEREBY APPROVED, such that the Limited Use Billing Demand Program will continue as a regular rate offering until further Order of the Board.

5. Hydro file a report with the Board, by no later than February 28, 2004, that includes consideration of the initial and current purposes of the Limited Use Billing Demand Program and whether such purposes have been achieved, possible revisions to improve the program, and impacts of elimination of the program.

6. Hydro's request to vary Directive 5 of Order 7/03, BE AND IS HEREBY DENIED, subject to the filing date, for Board approval of the Transmission Tariff being amended from June 30, 2003 to December 31, 2003.

7. Hydro's request to vary Directives 6(d), 6(f) and 6(i) of Order 7/03, BE AND IS HEREBY APPROVED, such that the filing dates for the Inverted Rate Study, the Time of Use Rate Study and the Wind Power Study is amended from December 31, 2003 to December 31, 2004.

8. Hydro's request to vary Directive 8 of Order 7/03, BE AND IS HEREBY APPROVED such that the date, for the filing of an actual cost of service studies for the year ended March 31, 2003 and a prospective cost of service study for the year ended March 31, 2004, both incorporating Directives 8(a), (b), (e), (f), (g), (h), (i), and (j), is amended from September 30, 2003 to December 31, 2003.

9. Hydro's request to study and present various options for the allocation of net export revenue to the Board, BE AND IS HEREBY APPROVED, with such options to be presented by December 31, 2003.

10. Hydro's request to vary Directives 8(c) and 8(d) in Order 7/03, BE AND IS HEREBY APPROVED such that Hydro can further review the issue of the creation of an export class or classes, and file the results of such review with the Board, including recommendations and financial impacts and supporting cost of service information, by no later than December 31, 2003.

The Public Utilities Board

Chairman

Secretary

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"
Chairman

"G. O. BARRON"
Secretary

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Secretary