

M A N I T O B A) Order No. 22/05
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THE PUBLIC UTILITIES BOARD ACT) February 11, 2005

BEFORE: Graham F. J. Lane, C.A., Chairman
Monica Girouard, C.G.A., Member
Mario J. Santos, LLB, Member

**ORDER FOR A PUBLIC HEARING PROCESS REGARDING A
GENERAL RATE APPLICATION BY CENTRA GAS MANITOBA
INC. BASED ON 2005/06 AND 2006/07 TEST YEARS**

On Thursday, February 3, 2005, The Public Utilities Board of Manitoba (the "Board") held a Pre-Hearing Conference ("PHC") at its offices in Winnipeg, Manitoba. The Board considered applications for Intervenor status and a timetable for the orderly exchange of information, both related to a General Rate Application ("GRA") filed by Centra Gas Manitoba Inc. ("Centra") on January 10, 2005.

Present were representatives from Centra and applicants for Intervenor Status. Seeking Intervenor Status were the Consumers' Association of Canada (Manitoba) Inc. and the Manitoba Society of Seniors ("CAC/MSOS"); Direct Energy and

Municipal Gas ("Direct/Municipal"); Energy Savings (Manitoba) Corp. ("ESMC"); and Resource Conservation Manitoba and Time to Respect Earth's Ecosystems Inc. ("RCM/TREE").

Subsequent to the PHC, the Board received an application for Intervenor Status from Communications, Energy and Paperworkers' Union, Local 681 ("CEPU"), representing a cohort of Centra employees.

The following documents were filed at the PHC:

- a) PUB Exhibit #1, Public Notice dated January 13, 2005;
- b) PUB Exhibit #2, Draft timetable dated January 31, 2005;
- c) PUB Exhibit #3, Board Order No: 13/05;
- d) CENTRA Exhibit #1, Application dated January 10, 2005;
- e) CENTRA Exhibit #2, Centra's Affidavit of Service; and,
- f) CAC/MSOS Exhibit #1: Letter of CAC/MSOS of January 21, 2005; Board letter dated January 26, 2005; Centra's letter dated January 27, 2005; and, letter of CAC/MSOS dated February 2, 2005.

Centra provided an Affidavit, as Centra Exhibit #2, confirming that the Public Notice of the Application and the Pre-Hearing Conference was served on:

- a) all franchise granting municipalities;
- b) all registered brokers of natural gas;
- c) all registered Intervenor in Centra's last General Rate Application hearing;
- d) Special Contract customers; and

e) All Interruptible, Mainline and High Volume Firm (HVF) customers.

At the PHC, in addition to the matters dealt with referred to above, the Board sought a response from intervenor applicants with respect to the Board's processes.

In particular, the Board sought the views of Intervenors as to a recent ex-parte Application by Centra, which led to Order 13/05.

Intervenor Comments on Ex-Parte Process

CAC/MSOS expressed concern with the Board's use of the ex-parte process with respect Order 13/05, which approved interim sales rates for Centra reflecting a 2.5% increase in overall revenue, effective February 1, 2005.

CAC/MSOS argued that the statutory authority for the ex-parte process requires the existence of extraordinary circumstances, and that such circumstances did not exist with respect to Centra's Application for the interim rate increase. CAC/MSOS indicated disagreement with the rationale of the Board as expressed in Order 13/05, whereby the Board cited specific extraordinary circumstances.

CAC/MSOS contended that the Board's acceptance of Centra's Application on an ex-parte basis was contrary to Queen's Bench processes. CAC/MSOS further opined that interim Queen's Bench injunctions are generally granted only under

extraordinary circumstances, and then for very limited time periods. CAC/MSOS noted that, in this case, the interim increase will remain in place until the upcoming GRA is concluded and an Order released

CAC/MSOS suggested that the Board should have deferred consideration of the rate increase until the GRA, or, at a minimum, held an oral hearing that would have included the attendance of Intervenors.

CAC/MSOS did agree with the Board's view, also expressed in Order 13/05, that the interim rate increase was driven by corporate allocations made against Centra by its parent, Manitoba Hydro ("MH"), and opined that the allocations have yet to be tested through a public hearing.

CAC/MSOS also expressed concern that the Board, by granting an interim rate increase, has shifted the onus of proving the need for any increase in rates away from Centra. CAC/MSOS indicated concern that Intervenors would now be obliged to prove that the increase was not justified.

Direct/Municipal expressed the view that all rate-setting processes should be conducted in a public forum. At the PHC, the other intervenor applicants did not comment on ex-parte hearings or the Board's processes in general.

Board Comments on Ex-parte Issue

The Board's rationale for proceeding on an ex-parte basis was enunciated in Order 13/05. The very nature of ex-parte processes, as provided for by statute, requires the process to be conducted without notice to Intervenors.

The Board reiterates that the rate increases granted by Order 13/05 are interim in nature, and will be the subject of discussion, testing and final decision at the upcoming GRA.

The Board supports Centra's view that the Board's use of the ex-parte process in this case met the test of extraordinary circumstance.

In the absence of the interim rate increase, Centra's forecast loss for its 2004/05 fiscal year would have been high, following successive losses in the fiscal years ended March 31, 2003 and 2004. Excepting for the absence of a MH corporate allocation against Centra in the years immediately following its acquisition by of Centra, Centra would have an accumulated deficit going into fiscal 2004/05.

Given the reduction in February 1, 2005 primary gas costs (Order 12/05), the absence of Order 13/05's interim rate increase, consumers would risk rate volatility, if not rate shock, as of August 1, 2005. The Board remains of the view that the public interest was better served by the granting of the interim increase, which will be tested at the public GRA, this May.

The Board considers its interpretation of statute and its use of the ex-parte process reasonable, with respect to Order 13/05. As indicated, the interim increase will be subject to a full review by Intervenors and the Board at the upcoming GRA, when MH's corporate allocations will also be examined.

The onus of proof has not shifted to the Intervenors. The burden of proof for a rate increase is always on the Applicant. If it is unable to prove its case in the GRA, Centra's ex-parte Application and the resultant award will not stand.

Applications for Intervenor Status

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

CAC/MSOS sought Intervenor status, and indicated that it would fully intervene on all issues covered by and related to the Application.

CAC/MSOS stated its intention to appear throughout the hearing, test the evidence and make final argument. As well, CAC/MSOS indicated that it planned to call witnesses from two firms, being Stephen Johnston and Econalysis Consulting Services Inc.

CAC/MSOS advised it planned to apply for costs and, to that end provided a draft budget approaching \$300,000 (\$150,000

for legal counsel fees, \$100,000 for consultants, \$20,000 for disbursements, and \$23,800 in taxes).

CAC/MSOS' Counsel advised that the draft budget was predicated on the hearing extend up to two weeks, and had been prepared without having received estimates from its experts or concurrence by CAC/MSOS.

CAC/MSOS' Counsel suggested that CAC/MSOS' draft budget would be revised once CAC/MSOS had been accepted as an Intervenor and the Board had determined the scope of the proceeding. Subsequently, CAC/MSOS' Counsel advised the Board that CAC/MSOS' draft budget had been confirmed by CAC/MSOS.

Centra did not object to the granting of Intervenor Status to CAC/MSOS, but reserved comment with respect to CAC/MSOS's budget until it was finalized.

Direct Energy/Municipal Gas ("Direct/Municipal")

Direct/Municipal indicated that its planned intervention would generally relate to the interface of Centra with competitive market operations. Direct/Municipal indicated its major focus would be Centra's proposals in respect of Cost of Gas, Cost Allocation and Rate Design, and Centra's Terms and Conditions of Service.

Direct/Municipal reported that it would neither file evidence nor apply for costs, but that it would test the evidence and present final argument.

Centra did not object to the Board granting Direct/Municipal Intervenor status.

Energy Savings (Manitoba) Corp. ("ESMC")

ESMC applied for Intervenor status and indicated its intention to appear throughout the hearing, participate in the testing of evidence and present final argument. ESMC advised that it neither planned to call witnesses nor apply for costs.

ESMC advised its specific interests in the GRA to be Centra's "one-bill" initiative, consumer choice, consumer education and communication materials, and the potential for fixed price offerings by Centra.

Centra did not object to the Board's granting ESMC's application for Intervenor status.

Resource Conservation Manitoba and Time to Respect Earth's Ecosystems Inc ("RCM/TREE")

RCM/TREE indicated that its interests lie in the following five areas related to the Application:

- (1) DSM programming;
- (2) Allocation between customers of Centra's revenue requirement;

- (3) Justification for the proposed revenue requirement, and the allocation of costs amongst customer classes;
- (4) Social justice issues, related to meeting the basic needs of the poor; and,
- (5) Sustainability issues (conservation/efficiency).

RCM/TREE advised that it would appear throughout the hearing, test the evidence, participate in the production of evidence and make final argument. RCM/TREES indicated that it planned to engage and call a witness, Mr. Jim Lazar, and may seek one additional witness. RCM/TREE indicated that it would apply for costs, and provided a draft budget of \$48,000.

RCM/TREE indicated that its participation is subject to the review and approval of its governing bodies.

Centra advised it had no objection to the granting of Intervenor status to RCM/TREE.

Communications, Energy and Paperworkers' Union, Local 681
("CEPU")

Subsequent to the hearing, the Board received an application from CEPU, which represents a cohort of Centra employees. CEPU indicated its attendance would be for the purpose of gathering information and monitoring proceedings, and that it may test evidence.

CEPU reported its intention to appear throughout the hearing, but that it will neither participate in the production of evidence nor make final argument. CEPU also indicated that it would not call witnesses or apply for costs.

Centra has indicated no objection to the granting of Intervenor status to CEPU.

Board Comment and Findings

The Board will grant Intervenor status to all those parties that applied: CAC/MSOS, Direct/Municipal, ESMC, RCM/TREE and CEPU.

With respect to possible cost awards, the Board notes that only CAC/MSOS and RCM/TREE have indicated an intention to seek costs. In the case of RCM/TREE, subject to finalization of the plans to consider another witness and confirmation of the budget proposal, the draft budget is considered by the Board to be reasonable considering the intended scope.

With respect to CAC/MSOS, the Board is concerned with the magnitude of its draft budget, particularly the projected CAC/MSOS' Counsel fees, and looks forward to the refinement CAC/MSOS suggested might occur. Of further particular interest is CAC/MSOS' plans for the utilization of expert witnesses. While the Board will not constrain the efforts of intervenors to prepare and advance their positions, when it comes to the granting of cost awards, the Board prefers focused intervenor

efforts. No blank cheque will be issued by the Board with respect to the granting of costs awards.

In this regard, the Board wishes to point out that it intends to take an active role through its testing of the evidence and plans to file extensive Information Requests (IRs) with Centra. Accordingly, the Board expects CAC/MSOS, as well as other Intervenors to take note of the Board's extensive involvement in producing and testing evidence, and to strive to achieve economy and efficiency in its own participation. Economy and efficiency may best be accomplished through cooperation with the other Intervenors and the Board.

The Board explicitly notes that while a GRA relates directly or indirectly to all matters concerning Centra, this particular GRA covers a number of very familiar subject matters which have been adequately examined in previous hearings.

The Board notes that Centra was acquired by MH in 1999, and the acquisition and its implications for the ratepayers of both Centra and MH have been the subject of and tested at several public hearings.

By Orders 146/99 and 208/02, the Board approved the acquisition, and the accompanying write-up of Centra's assets, the amortization of MH's goodwill, Centra's one-time income tax expense and the acquisition and integration costs incurred by both Centra and MH's.

In doing so, the Board cited the necessity of ensuring both Centra and MH's ratepayers were saved harmless by Hydro's acquisition and subsequent operation of Centra. That plan involves the achievement of savings through operating synergies, and the Board will continue to follow the progress of the plan towards the achievement of that underlying goal.

With Centra's operations, including staff and their functions, fully integrated with MH's operations, and with common assets employed for many of Centra's functions, the Board understands the need for fairly allocating costs between the two utilities. Accordingly, the Board plans to test the allocation on a regular basis, including at the upcoming GRA. One of the purposes of the intended examination is to determine if the sought-after savings from synergies are being realized.

As to the corporate allocations being levied by MH on Centra, such levies are understood by the Board to be a natural outcome of merged operations and the need to amortize the acquisition and acquisition related costs over a suitable period of time. Order 13/05 opines that the rate of return allowed Centra, last established by Order 79/98, may be sufficient to allow MH to achieve the goal of saving harmless the ratepayers of the two utilities. This will be one of the matters determined at the GRA.

The Board intends to test the hypothesis that if Centra was still owned by private owners, the allowable rate of return would be sufficient to provide for rates no lower than that now provided on an interim basis by the Board.

In Order 13/05, the Board directed Centra to develop financial indicators, such indicators to include debt:equity, interest coverage and such other indices as may be required to ensure a properly funded operation. These financial indicators are to be placed before the Board at the upcoming GRA, and will assist the Board in reaching a conclusion on Centra's Application.

The Board notes that Centra was before the Board with a similar application in 2002, only three years ago. While the Board does not seek to fetter, impede or hinder the work of Intervenor, which is critical to the public interest purposes of this proceeding, the Board will insist that all parties be mindful of the impact on consumer rates arising out of hearing-related costs.

That being said, the Board appreciates the interest of the Intervenor in the testing of the evidence placed and to be placed before the hearing, both by cross-examination, the production of witnesses and final argument.

The Board notes that Centra neither proposes a major expansion of its system nor forecasts achieving large net income results for 2005/06 or 2006/07. Last year's Cost of Gas hearing reviewed many matters thoroughly, and those matters will be tested again by the Board at the upcoming GRA.

As well, the Board notes that Centra's forecasts for operating costs, leaving aside the corporate allocation

projected, indicate increases at or below the current rate of general price inflation in the economy.

Towards contributing to an efficient hearing, the Board will develop first round IRs, which will be filed simultaneously with Centra and the Intervenors in as timely a fashion as possible. Intervenors planning to prepare IRs may wish to defer detailed preparation prior to receipt of the Board's IRs. The Board notes that based on the presentations of the Intervenors at the PHC, it seems that all, or virtually all, of the areas identified for testing will also be reviewed by the Board, with the assistance of its Advisors.

In particular, the Board intends to test various aspects of Centra's GRA, and consider related matters, including:

- a) Revenue requirement determination methodology, including cost of service, rate base and rate of return;
- b) Review of appropriate financial indicators to evaluate Centra's financial condition;
- c) MH's allocation to Centra of \$15 million of corporate charges, and allocation of other direct and indirect common costs;
- d) Centra's proposed revenue requirement for 2005/06 and 2006/07;
- e) Cost allocation and rate design issues;
- f) Projected plant additions, particularly as such relate to strategic plans for system expansion and integrity, and natural gas safety;

- g) Impact of the Gladstone/Austin Natural Gas Co-op acquisition;
- h) Evaluation of synergies achieved as compared to planned and/or forecast;
- i) DSM programming, including matters related to low-income and rental property customers, and higher volume customers;
- j) Cost of gas issues related to the recent interim ex-parte increase, as well as other cost of gas issues which have not been covered in previous cost of gas hearings;

Centra's Terms and Conditions of service, particularly the one-bill initiative and service connection charges; and other relevant matters, including the natural gas landscape and including fixed price offerings, as well as reports to be filed with the Board by Centra.

Intervenors with an interest in a cost award are referred to Order 43/04 for information on the Board's perspective on the issue of cost awards. As well, and as was summarized at the PHC, the criteria for an award of costs is set out in the Board's draft Rules of Practice and Procedure. The Board will apply the criteria assiduously with respect to any application for costs.

All parties to these proceedings are expected to act in a prudent and effective fashion throughout this proceeding. The purpose of intervention is to assist the Board in meeting its mandate. Regulatory efficiencies are enhanced through focused proceedings, with the parties co-operating with others

to avoid duplication, frivolous, vexatious or uneconomical pursuits.

When Intervenors engage legal, consulting and other expertise, if cost awards are to be sought these arrangements should be at reasonable rates and be managed effectively.

The Board advises Intervenors seeking cost awards to consult with Board staff before finalizing draft budgets. Board staff will attempt to assist Intervenors in indicating where areas of examination may best be allocated between Intervenors and the Board, towards the goal of having a cost effective, efficient and overall successful hearing. Revised budgets for the consideration of the Board could even follow the release of the Board's first round of IRs. In conclusion, while the Board will not impair the ability of Intervenors to pursue their interests at the upcoming GRA, it will consider cost award applications with the perspective as set out above.

Timetable

A draft timetable was circulated for discussion at the PHC. The timetable is to facilitate the exchange of information leading up to the public hearing to be held commencing on May 30, 2005.

The Board considered all positions with respect to the timetable and will approve an amended timetable, attached as Schedule "A".

IT IS THEREFORE ORDERED THAT:

1. Intervenor Status will be granted as follows:
 - i) Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors ("CAC/MSOS");
 - ii) Direct Energy/Municipal Gas ("Direct/Municipal), based on no cost award being sought;
 - iii) Energy Savings (Manitoba) Corp. ("ESMC"), based on no cost award being sought;
 - iv) Resource Conservation Manitoba and Time to Respect Earth's Ecosystems Inc. ("RCM/TREE"); and
 - v) Communications, Energy and Paperworkers' Union, Local 681 ("CEPU"), based on no cost award being sought.

2. The timetable for the orderly exchange of information and for the public hearing shall be as set out in Schedule A.

THE PUBLIC UTILITIES BOARD

"GRAHAM F. J. LANE, C.A."
Chairman

"H. M. SINGH"
Acting Secretary

Certified a true copy of Order No.
22/05 issued by The Public
Utilities Board

Acting Secretary

SCHEDULE "A"

**Centra Gas Manitoba Inc.
2005/06 & 2006/07 General Rate Application**

Timetable

ITEM NO.	TASK	DATE
1	Centra to file Revenue Requirement (Volume I)	January 10, 2005
2	PUB Approval of Notice	January 13, 2005
3	Centra to Publish Notice in Daily/Weekly Newspapers	January 22 & 24-28, 2005
4	Interested Parties to Register with the PUB for Intervenor Status	February 1, 2005
5	Pre-Hearing Conference	February 3, 2005
6	Centra to File Cost of Gas, Cost Allocation & Rate Design, and Terms & Conditions of Services Material (Volume II)	February 21, 2005
7	Centra to be in Receipt of 1 st Round Information Requests on Volume I (and to the extent possible, also on Volume II)	February 28, 2005
8	Centra to be in receipt of 1 st Round Information Requests on Volume II material, including Cost of Gas, Cost Allocation Rate Design, and Terms and conditions of service.	March 7, 2005
9	Centra to File Responses to 1 st Round Information Requests	March 21, 2005
10	Centra to be in Receipt of 2 nd Round Information Requests	April 4, 2005
11	Centra to File Responses to 2 nd Round Information Requests	April 25, 2005
12	Centra to File Cost of Gas Update	April 29, 2005
13	Centra to File Reminder Notice with PUB	April 29, 2005
14	PUB Approval of Reminder Notice	May 4, 2005
15	All Parties to be in Receipt of Intervenor Evidence	May 5, 2005
16	All Parties to File Information Requests of Intervenor Evidence	May 12, 2005
17	Centra to Publish Reminder Notice in Daily/Weekly Newspapers	May 14 and May 16 – 20, 2005
18	Intervenors to File Responses to Information Requests	May 19, 2005
19	Centra to File Rebuttal Evidence, if any	May 26, 2005

20	GRA Hearing Commences	May 30, 2005
20 (a)	- Policy Questions on Cost of Gas Panel Issues	May 30, 2005
20 (b)	- Cost of Gas panel continues, without Policy Witness	May 31 and June 1, 2005
20 (c)	- Hearing Continues	June 6,7, and 8, 2005
20 (d)	- Hearing Continues	June 13, 14, and 15, 2005
20 (e)	- Closing Submissions	T.B.A.