

MANITOBA)	Order No. 160/05
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THE PUBLIC UTILITIES BOARD ACT)	December 2, 2005

BEFORE: Graham F. J. Lane, CA, Chairman
R. A. Mayer, Q.C., Vice-Chairman
Dr. K. Avery Kinew, Member
Dr. L. Evans, Member

**ORDER FOR A PUBLIC HEARING PROCESS REGARDING
MANITOBA HYDRO - COST OF SERVICE STUDY
METHODOLOGY REVIEW**

1.0 Introduction

With respect to review of Manitoba Hydro's (MH) Cost of Service Study methodology (COSS), by this Order the Public Utilities Board (Board):

- a) accepts as Interveners to the public hearing process, a number of organizations;
- b) sets out the scope of the proceeding; and
- c) establishes a preliminary date of December 16, 2005 for first round information requests to be asked of MH, pending finalization of the timetable.

The Board accepts as Interveners to the public process and hearing the following organizations:

- Consumers Association of Canada/Manitoba Society of Seniors (CAC/MSOS),
- Manitoba Industrial Power Users Group (MIPUG),
- Resource Conservation Manitoba/Time to Respect Earth's Environment (RCM/TREE),
- the City of Winnipeg (City), and
- Manitoba Keewatinook Ininew Okimowin/Natural Resources Secretariat (MKO).

The hearing process began with a Pre-Hearing Conference (PHC) and will conclude with an oral public hearing in the Board's offices. The amended COSS as recently adopted by MH's Board of Directors may or may not be accepted by the Board following the hearing. The COSS is important to MH's electricity rate schedule, which establishes different rates for the various customer classes. One important element of the COSS is the allocation of the costs and revenues associated with the export of electricity.

2.0 Background

The Board held a PHC at its offices in Winnipeg, Manitoba on Thursday, November 24, 2005, following the public notice that led to the attendance of parties seeking Intervener status. The PHC considered a timetable for the process and a public hearing date, and received and discussed Intervener applications. Following the PHC, MH provided a Technical Conference for all interested parties in attendance at which MH described its recently adopted COSS as well the previous model.

In Order Nos. 101/04 and 143/04, the Board directed that MH model a number of particular approaches to the COSS, for a review at a public hearing; this Order establishes the public hearing and sets the parameters for a review of MH's November 1, 2005 submission.

The COSS adopted by MH's Board of Directors in advance of the PHC established an export class to which certain prospective revenues and expenses, considered by MH to pertain to electricity export sales and expenses, are to be allocated, with the net balance allocated amongst the other customer classes. The COSS also allocates the utility's other prospective revenues and expenses to the customer classes, and with the share of net export revenue allocated to

those classes by the COSS, arrives at the ratio of total revenue to total class costs for each customer class.

MH currently defines a “Zone of Reasonableness” (ZOR), as being where the revenue to cost ratios for each customer class is between .95 and 1.05.

The Board is not required to accept MH’s COSS, or even the application of any COSS in its determination of just and reasonable electricity rates by customer class. In short, the Board may accept, deny or vary MH’s request for approval of the revised COSS methodology proposed by MH. When considering a rate application by MH, the Board may or may not decide to employ the COSS, either fully or to any degree, in the determination of rates.

Costs and revenues have been developed and allocated on a prospective basis by MH in accordance with its proposed COSS methodology. The methodology is based on the original cost of capital assets, including major renovations and capital upgrades added to the original cost in accordance with generally accepted accounting principles (GAAP). MH has not established its domestic rates with reference to general industry wholesale or other market rates, nor does MH take into account the replacement cost of its capital assets (generation, transmission and distribution assets, in particular) in its COSS.

While the COSS and the ZOR have been important factors in past rate setting processes, the results of previous COS studies were never fully reflected in rates proposed by MH or accepted by the Board. None of the customer classes has had a revenue to cost ratio of 1.0 (i.e. allocated costs and revenues, including an allocation of net export revenue, arriving at revenue and expense equality, referred to as unity).

3.0 Application for Intervener Status

The following parties, through either attending counsel and/or representatives, made application for Intervener status:

(a) CAC/MSOS

CAC/MOS applied, stating an intention to test the merits of MH's proposed revised COSS as it relates, in particular, to residential consumers.

CAC/MSOS stated its intention to appear throughout the hearing, produce and test evidence, and present final argument. CAC/MSOS indicated a plan to engage a witness to give evidence at the hearing with respect to the merits of MH's proposal.

CAC/MSOS advised that it would seek an award of costs, and filed a proposed budget for their intervention that, including disbursements, aggregated approximately \$61,000. CAC/MSOS also undertook to provide additional budget details of legal costs, together with a range of reasonableness for those costs. MH indicated no objection to CAC/MSOS being granted Intervener status, noting that the detailed budget of Mr. Harper, consultant to CAC/MSOS, appears reasonable for the process contemplated.

(b) MIPUG

Representing ten large industrial customers of MH, MIPUG applied to intervene. It indicated an intention to examine and test MH's proposed COSS, including the prospective impacts on the Revenue Cost Ratios on potential future rate increases, by class.

MIPUG advised as to its plan to file evidence and call witnesses, and indicated it did not anticipate making application for an award of costs. Accordingly, it did not file a proposed budget for its intervention.

MH did not object to the Board granting intervener status to MIPUG.

(c) RCM/TREE

RCM/TREE requested intervener status, indicating its intention to examine:

1. the relation of full cost accounting to the COSS,
2. the concept of marginal cost,
3. the relation of the COSS to the determination of rate structures;
4. the possibilities for and justification/rationale of alternate models for the allocation of net export earnings amongst customer classes;
5. the implications for the COSS arising out of the Government of Manitoba's proposed Natural Gas Rate Stabilization Fund (Bill 11);
6. an evaluation of the four COSS alternatives provided by MH, and consideration of whether other modifications may be desirable; and
7. any other issue bearing on the selection of an appropriate COSS methodology.

RCM/TREE stated its intention to appear throughout the hearing; produce and test evidence; present final argument; and engage and call a witness. RCM/TREE advised that it intends to seek an award of costs, and filed a

proposed budget for its intervention which, including disbursements, aggregated \$15,040.

MH indicated no objection to the Board granting Intervener status to RCM/TREE.

d) City

The City applied to intervene so as to represent its interests with respect to the area and roadway lighting customer class, which may be affected by the proposed change in methodology of the COSS.

The City advised its intention to appear throughout the hearing; produce and test evidence; and present final argument. The City indicated that it had no present intention to call a witness nor would it seek an award of costs.

MH had no objection to granting Intervener status to City.

(e) MKO

MKO requested Intervener status, for the purposes of:

- a) examining and testing the proposals and evidence presented by MH;
- b) producing alternative COSS proposals and additional evidence; and
- c) making recommendations to the Board towards ensuring that MH's COSS methodology is just and reasonable, and results in an equitable allocation of MH's costs and revenues amongst and between the customer classes.

MKO advised as to its special interest, that being the customers of MH who are also citizens of the thirty MKO represented First Nations.

MKO indicated an intention to appear throughout the hearing; test evidence; call a witness; and present final argument. MKO advised it would apply for costs, and provided a proposed budget of \$15,000, noting that it was estimated pending further consultation. MKO also advised that it would provide additional details of its estimate of costs prior to the commencement of proceedings.

MH indicated no objection to granting Intervener status to MKO.

4.0 MH General Comments

At the PHC, MH provided an update of its financial forecast for the current fiscal year, and reported its expectation that its consolidated net income for the 2005/06 fiscal year would be in the range of \$350 million. MH advised that its Centra Gas subsidiary would contribute between \$2 million and \$4 million of the estimated result. MH further advised that it expected to report record export revenues, net export profits and net income for fiscal 2005/06, and that export revenues would exceed revenue earned from Manitoba electricity customers for the first time.

MH concluded by indicating that it would assess its financial position and prospects following its March 31, 2006 year-end, and would subsequently advise the Board of its intentions with respect to a possible further rate application.

5.0 Scope

The Board notes that it has been some time since the COSS was last reviewed in a public hearing, and observed that the scope and complexity of MH has changed over the years.

MH now owns Centra Gas and has incorporated Winnipeg Hydro following its acquisition. As well, significant revenues are now regularly earned from the export of power to the United States and Manitoba's two neighbouring provinces. Also of note, a period of significant import of electricity was experienced during the 2003/04 drought.

Furthermore, the Utility is actively considering major new investments in additional generation and transmission, and has recently announced further sales arrangements with Ontario along with plans for additional wind power generation. The Utility also holds reserve electricity generating capacity with its coal and gas fired generation facilities.

As previously indicated, MH's operations are complex. Given the events since the last review of the COSS, the Board expects that there will be a detailed examination of the issues related to the COSS at the upcoming hearing. In this regard, the Board observes that the critical data necessary to make the hearing effective resides with MH. It is necessary for all parties to the process and hearing to fully understand the purpose, detail and rationale of the Utility's position. Only with such an understanding will the presentation of alternatives be efficacious.

To ensure an orderly and efficient hearing process, the Board sets out guidance on the scope of the issues to be canvassed during the hearing, as follows:

- a) alternative COSS methodologies,
- b) the functionalization, classification and allocation of Board approved costs among customer classes,
- c) cost and load data related to the former Winnipeg Hydro operation,

- d) the treatment of the cost of the uniform rate program in the COSS,
- e) issues related to the allocation of Generation, Transmission and Distribution Costs,
- f) issues related to Transmission and Distribution line losses,
- g) the treatment of northern mitigation costs,
- h) the allocation of fuel and power purchase expenditures,
- i) issues surrounding the creation and operation of an Export Revenue Class,
- j) the definition of Net Export Revenue and its allocation,
- k) forecasted Water Flow Conditions, as they relate to dependable energy and hydraulic generation for exports,
- l) the development of Class Loads,
- m) the use of Surplus Energy Program information for Marginal Costing, and
- n) Revenue Cost Coverage ratios for the various classes.

Issues related to Revenue Requirement and specific rate design are outside the scope of this process; however, the Board anticipates the review of the COSS may extend to consideration as to the use to be made of the COSS in rate setting.

As to the timetable for the hearing process, the Board through its Counsel is in consultation with the various parties and, pending finalization of that process, will

set December 16, 2005 as the preliminary date for first round information requests to be asked of MH.

A final timetable will be issued by further Order of the Board.

6.0 Board Findings

The Board will grant Intervener status to:

- a) CAC/MSOS,
- b) MIPUG,
- c) RCM/TREE,
- d) City, and
- e) MKO.

The awarding of Intervener status does not imply that any or all costs incurred by Interveners seeking cost awards will be approved by the Board. In the particular case of CAC/MSOS and MKO, Intervener status is conditional on the Board receiving additional details and confirmation of the range of the proposed budgets.

In any proceeding the Board may award costs to any Intervener that has:

- a) made a significant contribution that is relevant to the proceeding and contributed to a better understanding by all parties of the issues before the Board;

- b) participated in the hearing in a responsible manner and cooperated with other Interveners with common objectives in the outcome of the proceedings in order to avoid a duplication of intervention;
- c) insufficient financial resources to present the case adequately without an award of costs; and
- d) a substantial interest in the outcome of the proceeding and represents the interests of a substantial number of the ratepayers.

Following the hearing and upon receipt of applications for cost awards, the Board will ask MH for its view. The Board is not bound by MH's view. The Board further advises Interveners that even if the Board's criteria for the awarding of costs are met, the Board is not obliged to award costs or, if costs are awarded, to approve the total request. Along with the established criteria for an award of cost, the Board also considers such related matters as billing rates, time, and disbursements.

As well, the Board expects that:

- a) the efforts of and expenditures incurred by Interveners will be commensurate with the fact that fairly recent reviews of MH results and forecasts have taken place; and
- b) a high degree of cooperation will take place between Interveners, so as to reduce the occurrence of unnecessary duplication.

The Board reminds interveners that it does not award costs with respect to an Intervener's learning curve; the Board notes that none of the interveners are new to the process or subject area.

As the Board will not determine whether costs will be awarded, in whole or in part, until after the hearing, Interveners may wish to consult with Board staff with respect to their intended approach to the intervention, in advance of incurring costs or making commitments to intended witnesses and advisors.

The Board lacks the legislated authority to provide awards of costs in advance of the hearing, yet understands the uncertainty and risk that this may pose for some Interveners. Accordingly, the Board provides the opportunity for interveners to consult with Board staff even though any subsequent Board decisions will not be fettered by such consultations and do not bind the Board.

Board staff will, on request, work with Interveners on a best efforts basis to reduce the probability of failed expectations with respect to the awarding of costs. This approach is similar to the practice followed by Canada Revenue Agency (CRA), whereby CRA representatives provide informal views to taxpayers that, while provided with good intentions, are not binding.

The Board notes that MH and the interveners are expected to work co-operatively to ensure that the COSS hearing process is efficient and cost effective. Costs awarded and/or incurred through this process become a factor in revenue requirement and rates. Thus regulatory cost control requires effective interventions.

That being said, the Board advises Interveners that they may follow a course of action at the hearing in accordance with their own assessment of their interests, as long as that course is consistent with the scope of matters before the Board. This, despite that the awarding of costs remains the Board's prerogative.

The Board understands that its ability to represent the public interest is enhanced by the contribution Interveners make to the process towards ensuring the Board has a comprehensive and full understanding of the issues before it.

In summary, cost awards represent a cost of business to MH, and reasonable efforts should be made by Interveners to ensure reasonable regulatory efficiencies while still testing and commenting on MH's proposed COSS as deemed necessary for the interests represented.

7.0 IT IS THEREFORE ORDERED THAT:

1. Intervener status is awarded to the following applicants:
 - (a) Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors,
 - (b) Manitoba Industrial Power Users' Group,
 - (c) Resource Conservation Manitoba/Time to Respect Earth's Ecosystems Inc.,
 - (d) City of Winnipeg, and
 - (e) Manitoba Keewatinook Ininew Okimowin/Natural Resources Secretariat.
2. First round information requests be asked of MH by December 16, 2005, pending the Board's finalization of the timetable in a subsequent Order.

THE PUBLIC UTILITIES BOARD

"GRAHAM F.J. LANE, CA"

Chairman

"G. GAUDREAU, C.M.A."

Secretary

Certified a true copy of Order No.
160/05 issued by The Public
Utilities Board

Secretary