

MANITOBA) **Order No. 155/06**
)
THE PUBLIC UTILITIES BOARD ACT) **November 17, 2006**

BEFORE: Graham F. J. Lane, B.A., C.A., Chairman
Monica Girouard, C.G.A., Member
Alain Molgat, B.Comm, C.M.A., Member

**RULING ON MOTION BY CENTRA GAS MANITOBA INC. FOR THE
REMOVAL OF PRE-FILED EVIDENCE FROM THE RECORD
WITH RESPECT TO THE HEARING ON 2006/07 GAS COSTS**

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1.0 SUMMARY

By this Order, the Public Utilities Board (Board) rules on a motion be Centra Gas Manitoba Ltd. (Centra), requesting that pre-filed evidence be removed from the record, and clarifies the scope of the upcoming Cost of Gas hearing for Centra Gas Manitoba Ltd. (Centra).

2.0 BACKGROUND

On June 15, 2006, Centra Gas Manitoba Inc. (“Centra”) filed its 2006/07 Interim Non-Primary Gas Cost Application (“Interim Application”) with the Manitoba Public Utilities Board (“Board” or “PUB”).

Centra’s Interim Application had two major aspects:

- (i) a \$6.6 million forecast reduction in rates for 2006/07 Non-Primary Gas Costs (i.e. Supplemental Gas, Transportation to Centra and, Unaccounted for Gas Costs); and
- (ii) a \$13.2 million refund to customers of various Non-Primary Gas (PGVA) and gas cost deferral account balances, as of March 31, 2006 (with carrying costs to July 31, 2006):

The Board invited comments from prior Interveners, (including Direct Energy Marketing Ltd. (DEML), the parent company of Municipal Gas) with respect to Centra’s Interim Application. DEML did not object to the interim rate reductions proposed by Centra provided there was a full review at an annual Cost of Gas Hearing.

The Board, in Order 116/06, granted interim approval of Centra’s Interim Application, and directed Centra to proceed with an annual Cost of Gas Hearing.

On September 13, 2006, Centra filed its 2006/07 Non-Primary Gas Cost Application which sought:

- (a) final approval of the Non-Primary Gas sales rates that were approved on an interim basis in Order 116/06 (including the \$6.6 Million reductions);
- (b) final approval of Gas Costs from April 1, 2005 to March 31, 2006;
- (c) final approval of balances and disposition of various Non-Primary Gas Purchased Gas Variance Accounts (PGVA's) and gas cost deferral account balances accumulated to March 31, 2006 (with carrying costs to July 31, 2006) in the amount of \$13.2 million to be refunded to consumers, in accordance with Interim Order 116/06;
- (d) final approval of Non-Primary Gas rates effective August 1, 2005, which were approved on an interim basis in Order 115/05;
- (e) final approval of quarterly Primary Gas rates that were effective August 1, 2005, November 1, 2006, February 1, 2006, May 1, 2006, and August 1, 2006; and
- (f) final approval of the Board's Interim Orders that provided approval of new or amended franchise agreements for the extension of natural gas service to customers in the Rural Municipalities of Rockwood, Ste. Anne, and North Cypress.

DEML sought, and was granted, Intervener status for the annual Cost of Gas Hearing based on Centra's Application to finalize 2006/07 Non-Primary Gas Rates. DEMML expressed interest with respect to Centra's hedging and gas supply activities.

DEML's counsel notified the Board (and copied all other parties), by letter dated October 11, 2006, that it would not be advancing any Information Requests as DEMML's areas of interest were adequately canvassed by other parties. DEMML indicated that it had not made a definitive decision as to whether or not it would file evidence, and would wait until it had reviewed Centra's responses to Information Requests.

On November 3, 2006, DEML filed evidence that was to be the framework for the testimony of their officials, Messrs. E. Stephens and G. Newcombe. The evidence addressed three points:

- (a) the appropriate role for default supply;
- (b) the benefits of retail choice; and
- (c) an appropriate default supply mechanism or model.

3.0 MOTION BY CENTRA

On November 8, 2006, Centra filed a Motion with the Board seeking to have DEML's pre-filed evidence removed from record of the proceedings, on the grounds that DEML's pre-filed evidence:

- (i) is not relevant to the matters at issue before the Board; and
- (ii) the excerpts of other proceedings and quotes from evidence, orders, and reports taken from other jurisdictions, are not properly admissible as evidence in this case.

4.0 RESPONSE BY DEML

DEML responded to Centra's motion, by letter dated November 10, 2006, in which DEML maintained, *inter alia*,

- (i) that because the upcoming public hearing contemplates a discussion of Centra's Derivative Hedging Program, the DEML evidence on this matter is relevant;

- (ii) the form of the extracts from other regulatory hearings provided by DEML was for the convenience of all parties, with the full documentation available on the public review or through Information Requests of DEML; and
- (iii) Centra is not prejudiced by the DEML evidence being admitted to the record of proceedings and it is open to Centra to advance submissions as to what, if any, weight the Board should afford such evidence.

5.0 POSITION OF CAC/ MSOS

By email of November 9, 2006, Consumer's Association of Canada/ Manitoba Society of Seniors (CAC/MSOS) opposes Centra's motion to strike DEML's evidence, and submits that DEML's evidence has relevance to the issue of the efficacy of Centra's Derivative Hedging Program as viewed in the broader context of the development of a competitive retail natural gas market.

CAC/MSOS also submits that the excerpts from regulatory proceedings of other jurisdictions are of little value to the current proceeding before the Board, and, as such, should be given little, if any, weight by the Board in its final deliberations.

6.0 REPLY BY CENTRA

Centra replied to DEML's and CAC/MSOS' submissions by letter on November 14, 2006.

Centra acknowledged that the current proceeding will consider its Derivative Hedging Program, but Centra maintains that the complex issues specifically addressed in the evidence of DEML are beyond the scope of the current proceeding, and therefore not relevant.

Centra also replied, that due to the significance of the issues raised by DEML in its pre-filed evidence, all parties should be afforded a full and fair opportunity to consider, review and formulate a position rather than proceeding through Information Requests and cross-examinations.

Centra maintained its previous position, that all parties should have detailed pre-filed witness evidence, and that DEML has not provided it.

7.0 BOARD'S FINDINGS

The forthcoming hearing, in respect of Centra's Application to finalize 2006-2007 Non-Primary Gas Costs, is to review and finalize prior years gas costs as well as the forecast of Non-Primary Gas Costs for the test year.

Included in the gas costs, for which Centra seeks Board approval, are the quarterly Primary Gas Costs. The quarterly Primary Gas Costs are determined through an approved Rate Setting Methodology, which includes the use of derivation hedging instruments. To that extent, Centra's Derivation Hedging Program will be the subject of review at the public hearing.

The Board shares Centra's view that much of DEML's pre-filed evidence invites an examination of a new market structure for Manitoba, in which Centra would be a default supplier of natural gas with a single market rate offering and in which the sale of natural gas, in all other respects, would be conducted by marketers and brokers.

It is not within the scope of the current proceeding to consider the implementation of a new market structure, in which Centra's role in the natural gas market is under review.

The Board also accepts Centra's submission that the major issues raised by DEML would be more appropriately addressed in the context of a public hearing process where any and all interested parties and industry stakeholders would have full and adequate notice of a proceeding, which would consider specifically defined issues.

That said, to the extent that DEML's evidence relates to Centra's Derivative Hedging Program, such evidence is relevant and admissible. The Board welcomes DEML's views on Centra's Hedging Program and urges DEML to ensure its evidence is on point.

As for the balance of DEML's evidence, and the issues it raises, the Board will consider instituting a special hearing process in 2007 which will allow for a thorough examination of the natural gas landscape in Manitoba. DEML has assisted the Board in the consideration of some of the issues that need to be explored as to the appropriate type of competitive marketplace that should be implemented in Manitoba and the role of the regulated utility in that marketplace.

Therefore, the Board will request DEML to reconsider and revise or abridge its pre-filed evidence to address the specifics of the issues before the Board in this proceeding. Alternatively, DEML may choose to withdraw its evidence from this proceeding and await a further proceeding to advance its issues.

The Board will subsequently issue directives as to a new proceeding to specifically consider the type of competitive natural gas marketplace that is appropriate and in the public interest for Manitoba, including the role of the regulated utility in that marketplace.

8.0 IT IS THEREFORE ORDERED THAT:

1. Should DEML want to file evidence related to the issue of Centra's Derivative Hedging Program, or the gas costs that are the subject of this proceeding, DEML is to forthwith revise or abridge its pre-filed evidence on these issues, to permit other parties the opportunity to advance Information Requests.
2. DEML's pre-filed evidence on a new natural gas market structure for Manitoba, and the proposed role of the regulated utility in that marketplace, is not relevant to the issues in this proceeding and is therefore, not admissible.
3. The broader issues raised by DEML, as to the future natural gas landscape in Manitoba, and the role of the regulated utility, are to be considered further by the Board and the subject of future Board directions and Orders.

THE PUBLIC UTILITIES BOARD

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

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

Certified a true copy of Order No.
155/06 issued by The Public Utilities
Board

Secretary