

MANITOBA) Order No. 101/08
)
THE PUBLIC UTILITIES BOARD ACT) July 11, 2008

BEFORE: Graham Lane, CA, Chairman
Len Evans, LLD, Member
Monica Girouard, CGA, Member

CENTRA GAS MANITOBA INC. -
APPLICATION TO REVIEW ORDER 14/08:
GAS AND COMBINED GAS/ELECTRIC SERVICES
DISCONNECTION AND RECONNECTION
POLICY AND PROCEDURES

SUMMARY

By this Order, the Public Utilities Board (Board) confirms Order 14/08 and denies Nancy Thomas and Gary Lenko's (Applicants) request to review and vary Order 14/08.

By Order 14/08, the Board approved revised conditions precedent and procedures for gas and combined gas/electric services disconnection and reconnection, for Centra Gas Manitoba Inc. (Centra), a wholly owned subsidiary of Manitoba Hydro (Hydro). Hydro's combined natural gas and electrical utility operation is hereinafter referred to as the "Utility", and the conditions precedent are referred to as the Service Disconnection and Reconnection Policy and Procedures for the discontinuance of service, pursuant to Section 104.1(6) of *The Public Utilities Board Act*.

The Disconnection and Reconnection Policy and Procedures approved by Order 14/08 applies to all customers who have both gas and electric service and are in arrears on the 'single bill' issued by the Utility. The Board's Order allows for the installation of an electrical 'load limiter' at any time of the year when the customer's account is in arrears.

By the Order, Centra is also required to reconnect disconnected gas service by October 1 of any year, thereby eliminating the potential risk of harm to customers because of no space heat during the winter months. The Order also provides that, for gas-heated customers, the Board will have oversight of electricity

disconnection practices, allowing for both aggrieved electricity and gas customers to appeal disconnection to the Board.

On March 19, 2008, the Applicants applied to have Order 14/08 revoked, on the grounds that both the Board and Centra had exceeded their jurisdiction and were in contravention of section 4(4) of the *Manitoba Hydro Act*.

After a thorough review of the Applicants' request and grounds therefore, and by this Order, the Board confirms Order 14/08, and denies the Applicants' request to review and vary Order 14/08.

APPLICATION:

The Applicants are of the view that Order 14/08 contravenes section 4(4) of the *Manitoba Hydro Act*:

Proceedings against corporation affecting supply of power prohibited

4(4) No action or proceedings by way of injunction, mandamus, prohibition or other restraining process or proceeding of any nature that has, or may have, the effect of terminating, suspending, curtailing, limiting, or hindering the supply of power to any person shall be brought, or may be maintained, against the corporation in any court.

The Applicants suggested that Order 14/08 has the effect of providing a directive to Hydro, an action they claimed is prohibited under section 4(4) of the *Manitoba Hydro Act*, and added that in accordance with *The Public Utilities Board Act* the Board does not have jurisdiction over Hydro other than as afforded under *The Crown Corporations Public Review and Accountability Act*.

The Applicants stated:

"The Order provides an unauthorized method to enforce collection of electric service charges and arrears by disconnecting or limiting the supply of electric power to residential customers that is contrary to the collection methods granted to the utility under section 27 of the Manitoba Hydro Act."

"The Order fails to prescribe a policy that sets out the criteria the utility will apply to determine suitable arrangements that may be made by customers to avoid disconnection of electric services or the use of an electric load limiter. The order does not contain provisions directing the utility to provide consumers with pre-disconnection notices. The use of an electric service load limiter may conflict with the winter disconnection moratorium. If no general conflict is found, there may be a conflict with respect to residential electric heating customers."

"The order eliminates the existing legislated safeguards respecting termination of natural gas service that protect consumers against inter alia unnecessary or unreasonable termination of service, particularly during the winter moratorium period where no owner or agent of a utility may disconnect service that will affect the supply of heat to residential premises. The unauthorized interference with the supply of electric power to residential consumers for unrelated overdue accounts will result in arbitrary terminations of essential consumer services. The discontinuance of power to an occupied residence presents a risk of disproportionate harm to the public. The PUB order fails to protect combined electric and electric only consumers by providing no venue or reasonable process to resolve complaints and service denials. Stricter regulatory control over Manitoba Hydro is absolutely essential. It is clear from the wording of the act, its structure and its purpose that it was never intended that Manitoba Hydro be exempt from supervision. Consumers' ability to reset an electric load limiter is unknown as is the risk of an erroneous assessment by the utility qualifying a consumer's resetting ability. The use of

residential electric load limiters may conflict with industry safety standards."

BACKGROUND:

The Disconnection and Reconnection Policy and Procedures approved in Order 14/08 may apply to any Hydro customer who has both gas and electric service and is in arrears. For this purpose, 'arrears' apply to arrears with respect to either or both natural gas and electric accounts included in the single bill issued by the Utility covering both electricity and natural gas accounts.

Order 14/08 allows Hydro to install an electrical load limiter on the property of any customer who, at any time of the year, is in arrears and has not made payment arrangements with the Utility. It also allows that in such a case either or both services may be disconnected during the non-heating season (May 15 to September 30).

In the case of a disconnection, Hydro is required to reconnect both the gas and electrical services by October 1 of each year, thereby eliminating the potential risk of harm to a customer because of a lack of heat. However, the reconnected electrical service may have a device applied to it which limits the service to 15 AMPS (load limiter), providing sufficient electricity to allow both for basic electricity service and the furnace to operate. Customers have the right to appeal to the Board, both with respect to disconnection and reconnection, of either or both services, including the installation of the load limiter.

Hydro is obligated to conduct an assessment of a customer's ability to reset the electrical load limiter, as well as assess any other risks to the customer that may arise through the installation of a load limiter. A risk assessment is required for all disconnected customers.

THE UTILITY'S RESPONSE:

Hydro reported being in full agreement with Order 14/08. In the Utility's response of April 30, 2008, Hydro refuted the Applicants' arguments.

As to extant legislative provisions, Hydro provided the following analysis:

"With respect to the Applicants' suggestion that Order 14/08 contravenes s.4(4) of the Manitoba Hydro Act, Centra respectfully submits that this section has no application in the present circumstance. No proceeding has been brought against Manitoba Hydro in any court. Further, the Order of the PUB does not bring an action against the corporation or require Manitoba Hydro to terminate, suspend or limit the supply of power. Rather, Order 14/08 is directed to Centra, and grants additional remedies in the event of non-payment of a customer account. The above-referenced application by Centra to amend the Terms and Conditions of Service will address the requirement of Manitoba Hydro to have the customer's direction to limit electric energy supply in the event on non-payment of the customer's combined bill.

With respect to the Applicants' submission that the PUB has, in contravention of s.2(5) assumed jurisdiction over Manitoba Hydro electric services, Centra respectfully disagrees. As noted above, Order 14/08 is not directed to Manitoba Hydro Manitoba Hydro's participation in this initiative has been undertaken in cooperation with Centra and the PUB staff. Manitoba Hydro has not attorned to the

jurisdiction of the PUB, but rather has agreed to participate in this initiative in the interest of avoiding disconnection of natural gas service to customers with a combined gas and electric account, and to permit the opportunity for more flexible payment arrangements with customers. The Manitoba Hydro/Centra Gas Gas and Combined Gas/Electric Services Disconnection and Reconnection Policy and Procedures, (The "Policy and Procedures"), attached as Appendix A of Board Order 14/08, expressly excludes "electric only" customers. Manitoba Hydro has consented to the PUB acting as a review body with respect to combined gas/electric services, and to consider recommendations made by the PUB with respect to Manitoba Hydro's combined gas/electric disconnection and reconnection policy and procedures. The relationship described in section 3.3 of the Policy and Procedures does not grant the PUB any powers in contravention of the legislation.

The Applicants further suggest that this Order contravenes s.27 of the Manitoba Hydro Act, particularly that Order 14/08 provides "an unauthorized method to enforce collection of electric service charges and arrears". Centra notes that Manitoba Hydro, by virtue of Regulation H190 - 186.90, s. 17 is entitled to, at its option, discontinue the supply of power to the user where the user is in default of payment of an account for power, or other breaches or defaults in observing the terms and conditions. Order 14/08 does not grant any additional powers for the collection of charges for electric energy. Order 14/08 speaks to arrears for the supply of natural gas, and permits an alternative to disconnection of supply of natural gas. The authority to make orders with respect to the disconnection procedures of Centra is clearly granted by s. 104.1(6) of the PUB Act. The amendment of the Terms and Conditions of Service requested by Centra which will irrevocably authorize Centra, on the customer's behalf to request the installation of an electric load limiting device, in lieu of disconnection of natural gas supply when the customer's account it is arrears will formalize the relationships necessary between Centra, Manitoba Hydro and the customer in order to carry out this initiative."

BOARD FINDINGS:

By Order 14/08, the Board acted to revise the Disconnection and Reconnection Policy and Procedures. The Board did so out of an abundant concern for the well being of Centra's customers.

Order 14/08 provides that all of Centra's residential customers will have heat during the heating season (winter), even if their account is in arrears. It also provides customers in arrears more time to pay, as the gas service will not be disconnected.

The Board's mandate is to determine the public interest, and doing so requires a weighing of the interests of both ratepayers and the Utility. In an effort to ensure all residents have heat in the winter months, an objective the Board holds to be in the public interest, the Board has also, by Order 14/08, instituted measures to alleviate certain collection difficulties now experienced by Hydro, the primary measure being provision for the installation of a load limiter.

Load limiters restrain electricity consumption and, therefore, restrain the level of indebtedness of consumers. Customers in arrears that have a load limiter installed will receive natural gas supply in the winter season, but in a manner that will prevent them from being able to "run-up" their electrical bill. Prior to Board acceptance of load limiters, by way of Order 14/08, a disconnected natural gas customer could obtain space heat through electric space heaters, or by way of leaving the oven on and the door open, both measures involving safety and health risks.

It is important to note that with Order 14/08 in place service disconnection and/or limitation can and will only occur where payment arrangements are not made. The Order does not require that the customer pay the full bill immediately, only that s/he contact Hydro and reach an understanding as to the addressing of the arrears.

The Applicants contended that Order 14/08 does not provide a venue or reasonable process to resolve complaints or service denials. This assertion is incorrect. The Policy and Procedures state:

3.4 Every effort will be made by the Company to resolve outstanding accounts, disconnection and reconnection issues directly with its customers. If a solution cannot be reached on a gas or combined gas/electric service(s) disconnection or reconnection, the customer may apply to the Board for dispute resolution.

The Applicants also asserted that risk assessment is not undertaken by the Utility before the installation of a load limiter. That is also incorrect. The Policy and Procedures state:

3.17 Where the customer or any of the permanent residents of the premises appear to be physically incapable of resetting the load limiter or where the Company does not reasonably believe that the customer or any of the other permanent residents notified fully understands the consequences of load limited or disconnected service, the Company will fully reconnect service(s) and contact the appropriate social agency.

With respect to the question of jurisdiction and legal enablement, concerning the use of service disconnection to achieve the objectives of providing heat while limiting indebtedness, the Board accepts the arguments and approach of Hydro.

The Board interprets Hydro's approach to be that in accepting natural gas service a customer will be subject to the terms and conditions attendant to that service. Those terms and conditions will now include direction by the customers for Centra to request, on the customer's behalf, that Hydro limit or discontinue their electrical service in the event of arrears for which payment arrangements have not been made.

The Board finds it neither logical nor defensible for that same customer to dispute Hydro's acting in accordance with the customer's direction.

IT IS THEREFORE ORDERED THAT:

The application by Nancy Thomas and Gary Lenko, dated March 19, 2008, to review and vary Board Order 14/08 BE AND IS HEREBY DENIED.

THE PUBLIC UTILITIES BOARD

"GRAHAM F. J. LANE, CA"
Chairman

"GERRY GAUDREAU, CMA"
Secretary

Certified a true copy of
Order No. 101/08 issued by
The Public Utilities Board

Secretary