

MANITOBA) Order No. 3/08
)
THE PUBLIC UTILITIES BOARD ACT) January 16, 2008

BEFORE: Graham Lane, CA, Chairman
Robert Mayer, QC, Vice-Chairman
Susan Proven, P.H.Ec., Member

**ORDER APPROVING INTERVENER STATUS FOR
TRANSCANADA KEYSTONE PIPELINE GP LTD.:
PUBLIC HEARING
MANITOBA HYDRO, 2008-2009 GENERAL RATE APPLICATION**

1.0 Summary

By Public Notice published October 6, 2007, the Public Utilities Board (Board) advised of Manitoba Hydro's (MH) General Rate Application (GRA), which includes seeking confirmation of existing interim rates, establishing revised 2008/09 rates, an extension for the Surplus Energy Program and a new marginal cost based rate to be applied to all industrial expansions or relocations within Manitoba which exceed 39 GW.h of annual energy (approximately 5 MW at 90% load factor).

Following a Pre-hearing Conference (PHC) held October 15, 2007, the Board issued procedural Order 136/07, and granted intervener status to:

- a) Consumers' Association of Canada (Manitoba) Inc., Manitoba Society of Seniors and Winnipeg Harvest (Coalition);
- b) Manitoba Keewatinook Ininew Okimowin (MKO);
- c) Manitoba Industry Power Users Group (MIPUG);
- d) City of Winnipeg; and
- e) Resource Conservation Manitoba and Time to Respect Earth's Ecosystems (RCM/TREE).

On January 3, 2008 TransCanada Keystone Pipeline GP Ltd. (Keystone) filed an application for intervener status for the Board's public hearing into MH's GRA.

In its application, Keystone advised that evidence filed by MH on December 17, 2007 contained information that Keystone has determined may materially affect its interests. Accordingly, Keystone requested leave for late filing of its application to intervene and the granting of intervener status.

This Order approves intervener status for Keystone.

2.0 Background

Following the public notice, the Pre-Hearing Conference (PHC) was held at the Board's Winnipeg offices on October 15, 2007, which was attended by various parties seeking Intervener status. The PHC also considered a timetable for the orderly exchange of evidence leading up to the public hearing. Following the PHC, by way of Order 136/07, the Board approved, among other things, intervener status to the then-applicants, as noted above.

At the time of the PHC, Keystone was involved in MH's GRA through its association with MIPUG and did not apply for separate intervener status.

3.0 Application for Intervener Status

On November 27, 2007, MH reportedly provided a 16-page document to MIPUG members entitled "*General Service Large - New or Expansion Rate Baseline Energy Consumption Level and Exemption Application Discussion Paper*" (Paper), and subsequently met to discuss the Paper with MIPUG members. The Paper apparently described potential exemptions to a new rate being proposed by MH for large industrial users, the new rate being MH's response to Board direction set out in Order 117/06.

On December 17, 2007, MH provided to the Board, what Keystone has described as a redacted version of the Paper.

As a result of the Paper and the redacted document, and after a review of the potential impact of MH's proposal "*Keystone has concluded that its interests may be materially affected by the final determination of the proposed exemptions in the Discussion Paper, in addition to the impact of the proposed rate itself*".

Keystone also advised the Board that, because its entire (electricity) load is future load, a review of Keystone's circumstances would bring "*a perspective that will be helpful to the Board*", thus Keystone was applying for intervener status. Keystone also advised it would not seek a cost award.

Keystone acknowledged that its application was late, and that its participation would enter the regulatory process at its current stage. Keystone also indicated that it would cooperate fully with MIUPG.

4.0 MH General Comments

By letter dated January 8, 2008, MH commented on Keystone's application and acknowledged that Keystone has a material interest in the outcome of the proceeding, particularly with respect to the *New or Expanded Industrial Load Rate*. In its letter, MH stated it had no objection to Keystone being granted intervener status.

MH noted a potential concern with respect to the risk of significant duplication with both MIPUG and Keystone participating. MH advised that the Utility was reserving its right to object to cross examination or evidence that may be brought by Keystone and which may duplicate the efforts of MIPUG or another intervener.

5.0 Other responses

No other intervener to the process raised an objection to the late granting of intervener status to Keystone.

6.0 Board Findings

The Board accepts that the proposed new industrial rate, if approved, may materially affect Keystone. The Board also notes that Keystone's intervention is intended to be neither general nor broad ranging, but will be sharply focused on only the new industrial rate.

The Board's ability to represent the public interest is enhanced by the contribution Interveners make and accepts that Keystone's unique position may be helpful in ensuring that the Board has a comprehensive understanding of the issues before it.

Accordingly, the Board will grant Intervener status to Keystone, on the understanding that Keystone will enter the regulatory process at the current stage, precluding Keystone from submitting information requests on evidence filed prior to the date of this Order. The Board expects that Keystone will restrict its efforts to matters related to the new industrial rate and cautions Keystone to avoid duplication of the efforts of other Interveners, and be especially mindful of the perspective that MIPUG brings to the proceeding.

Keystone is to be diligent to ensure that its evidence and cross examination of witnesses to the proceeding is distinct and does not duplicate the approach taken by MIPUG or any other party.

7.0 IT IS THEREFORE ORDERED THAT:

Intervener status be awarded to TransCanada Keystone Pipeline GP Ltd.

THE PUBLIC UTILITIES BOARD

“GRAHAM LANE, CA”

Chairman

“G. GAUDREAU, C.M.A.”

Secretary

Certified a true copy of Order No.
3/08 issued by The Public Utilities
Board

Secretary