



PO Box 815 • Winnipeg, Manitoba Canada • R3C 2P4
Street Location for DELIVERY: 22nd floor 360 Portage Ave
Telephone / N° de téléphone : (204) 360-3633 • Fax / N° de télécopieur : (204) 360-6147 • ofernandes@hydro.mb.ca

January 30, 2015

Mr. D. Christle
Secretary and Executive Director
Public Utilities Board
400-330 Portage Avenue
Winnipeg, Manitoba
R3C 0C4

Dear Mr. Christle:

RE: Manitoba Hydro 2015/16 & 2016/17 General Rate Application

On January 16, 2015, Manitoba Hydro filed a Letter of Application with respect to its General Rate Application (“GRA”) requesting approval of a 3.95% across-the-board rate increase in each of the 2015/16 and 2016/17 fiscal years, as well as finalization of the 2.75% interim rate increase awarded in Order 49/14. The Public Utilities Board of Manitoba (“PUB”) approved a Notice of Application for revised electricity rates on January 19, 2015, which included Manitoba Hydro’s request for an interim rate increase effective April 1, 2015 and a request for a further rate increase effective April 1, 2016. The public notice is being published in the daily newspapers over the period of January 24-30, 2015. Manitoba Hydro filed its supporting material on January 23, 2015.

By letter of January 27, 2015, the Associate Secretary of the PUB advised that the PUB concluded that it would not be reviewing or approving rate increases for the 2016/17 fiscal year and that it does not consider it to be in the public interest to consider interim rates for April 1, 2015.

Section 36 of *The Public Utilities Board Rules of Practice and Procedure* (the “Rules”) provides that the PUB may, on application to it, review, rescind, change, alter or vary any decision or order by it. For the purposes of this submission, Manitoba Hydro is treating the January 27, 2015 letter as a “decision” as contemplated in Rule 36. Alternatively, if the PUB does not agree that the January 27, 2015 letter is a decision of the PUB, please accept this submission as a motion pursuant to Section 22 of the Rules.

Manitoba Hydro has reviewed the reasons set forth in the PUB’s letter of January 27, 2015 and submits that the PUB’s decisions have been made prior to a full and proper review and testing of the evidence presented. Manitoba Hydro also submits that it has not been provided with a full opportunity to address concerns or questions of the PUB prior to the decisions made in its letter.

Relief Sought

Manitoba Hydro requests that the PUB review and vary its decision in its letter dated January 27, 2015 as follows:

1. That the PUB refrain from making any determination on whether rates should be set for the 2016/17 test year until such time as Manitoba Hydro has had the opportunity to present its evidence in that regard, and that the evidence has been fully tested during the upcoming GRA process;
2. That the PUB consider the options available for purposes of approving changes in rates for the 2016/17 test year, including the possibility of a conditional approval of a change in rates, as an alternative to declining to review Manitoba Hydro's application with respect to 2016/17 rates; and,
3. That the PUB consider a process be established to review Manitoba Hydro's request for an interim rate increase.

2016/17 Fiscal Year

In its January 27, 2015 letter, the PUB references commentary contained in Order 49/14 expressing its concern with a three year rate process and reluctance to approve such a rate proposal. The PUB also references its direction to Manitoba Hydro to file a fully comprehensive two-year GRA for the 2014/15 and 2015/16 fiscal years. The PUB notes that Manitoba Hydro made no application to Review and Vary Order 49/14, or to appeal that Order.

Manitoba Hydro has filed a fully comprehensive GRA for the 2014/15 and 2015/16 fiscal years as directed in Order 49/14. Manitoba Hydro was certainly cognizant of the PUB's comments regarding a 2016/17 rate increase; however, such comments were made without an application or any evidence before the PUB regarding a 2016/17 rate increase. As parties are aware, in the spring of 2014, Manitoba Hydro was fully engaged in the NFAT proceeding and had yet to commence its financial planning process leading up to IFF14. The Manitoba Hydro Electric Board ("MHEB") had not yet considered the Corporation's revenue requirements for the 2016/17 fiscal year, as this typically does not occur until late in 2014 (IFF14 was approved by the MHEB on December 3, 2014). Expressions of concern or reluctance such as those made in Order 49/14 are not matters which would be subject to a review and vary application and Manitoba Hydro was not in a position to review and vary a matter that had not yet been presented to the PUB, or the MHEB, for consideration. Such decisions are properly made after the MHEB has considered and directed the Corporation to proceed with an Application and the PUB has had the opportunity to review the evidence upon which the application was made.

Manitoba Hydro's application to the PUB is made pursuant to *The Crown Corporations Public Review and Accountability Act* (the "Accountability Act"). Section 27(1) specifically provides that

27(1) A corporation may submit for approval, proposals regarding rates for services relating to a period of not more than 3 years and the board shall identify in its order the change approved, if any, with respect to each year.

Pursuant to the Accountability Act, Manitoba Hydro is authorized to submit a proposal for rates for a period of up to 3 years. The laws of natural justice and procedural fairness dictate that Manitoba Hydro must have the opportunity to present its evidence and have that evidence considered prior to the PUB making a determination as to the application. The PUB speaks through its Orders and the commentary contained therein. Manitoba Hydro appreciates being made aware of the PUB's concern with a multi-year rate increase as it afforded the Corporation the opportunity to carefully consider whether, in the circumstances such application should be made to the PUB. Manitoba Hydro concluded it should and it is incumbent on the PUB to hear that evidence prior to reaching a conclusion on the matter.

In its January 27, 2015 letter, the PUB quoted Order 49/14, wherein the PUB expressed concerns that the Corporation was in a period of volatility such that it cannot determine rates for 2016/17. There have been a number of regulatory proceedings where Manitoba Hydro's major capital plans have been discussed and tested at length. The Corporation has received the necessary approvals and has commenced construction on the Bipole III Reliability Project and the Keeyask Generating Station. The approval for the Keeyask Generating Station was received subsequent to the issuance of Order 49/14. As well, Manitoba Hydro has completed a more comprehensive assessment of the condition and the capital requirements associated with the renewal of its existing asset base, and has an updated forecast of its required sustaining capital expenditures. As a result, there is more certainty with respect to Manitoba Hydro's investment requirements to be made on behalf of customers than has existed in GRA's conducted over the past decade.

Manitoba Hydro fully expects the PUB to carefully review the impact of these expenditures on rates. However, GRAs are expensive and time consuming proceedings, and based on past experience, Manitoba Hydro expects that a full GRA review would entail costs to ratepayers of approximately \$5 million. In light of this significant cost, having regard for the legislative authority for Manitoba Hydro to seek rate increases for three fiscal years, and considering regulatory efficiency, Manitoba Hydro encourages the PUB to explore alternatives to requiring a separate GRA to consider rate increases for 2016/17 as a means of balancing the public interest during this time of intensive investment.

Section 47(1) of *The Public Utilities Board Act* provides the PUB with authority to issue Orders subject to the utility meeting certain conditions:

47(1) The board may direct, in any order, that the order or any portion or provision thereof shall come into force

(a) at a future fixed time; or

(b) upon the happening of any contingency, event, or condition specified in the order; or

(c) upon the performance to the satisfaction of the board, or a person named in the order for the purpose, of any terms that the board may impose upon any party interested;

and the board may direct that the whole or any portion of the order shall have force for a limited time, or until the happening of a specified event.

The PUB has approved rate increases for future test years on a conditional basis in previous electric proceedings. Some of these conditions included provision of certain financial results and updated financial forecasts or an abbreviated hearing in order to allow the PUB to cross examine Manitoba Hydro's witnesses on the updated information prior to finalizing and implementing a rate increase. For example, in Order 101/04, the PUB ordered a rate increase for August 1, 2004 and conditionally provided for two subsequent interim conditional rate increases to be effective April 1, 2005 and October 1, 2005. These conditional increases required the provision by Manitoba Hydro of additional material, including an update of its forecasts and financial statements. The PUB also provided intervenors with opportunity to participate in the PUB's consideration of the conditional increase through a paper process.

More recently in Order 90/08, the PUB approved an across the board 5% rate increase and then a provisional rate increase of 4%, which was conditional on Manitoba Hydro providing further information to the PUB. The intervenors to the GRA process were also granted the ability to provide submissions for the PUB to consider in making its final determination with respect to the conditional increase granted. Following a review of the information, in Order 32/09, the PUB varied and reduced the rate increase to 2.9%. The use of conditional increases is an alternative which can be used by the PUB as a means of balancing the public interest.

The PUB indicates that it expects the Cost of Service Study Methodology to be filed and reviewed by the PUB before a regulatory proceeding to determine rates for 2016/17 can proceed. Manitoba Hydro submits that this can be effectively and efficiently accomplished by conducting a review of 2016/17 revenue requirements in the current GRA process and issuing an Order on a conditional basis. The PUB can approve an overall rate increase, subject to the additional revenues flowing from that increase being allocated amongst customer classes and considering the Cost of Service review to be held later in 2015, and any other conditions the PUB considers in the public interest.

If such an approach is not adopted, the examination of the revenue requirements for the fiscal 2016/17 will inevitably have to follow shortly after the conclusion of the current GRA proceeding in order for timely implementation of the associated rate increase. A 2016/17 regulatory process would have to commence by September 2015 in order to result in an April 1, 2016 implementation of revised electricity rates. This means that the PUB would be required to conduct three Manitoba Hydro related regulatory proceedings in the fall of 2015 (Cost of Gas, Cost of Service Study and a GRA) as well as hearings for other regulated bodies such as Manitoba Public Insurance.

In this circumstance, the regulatory schedule may necessitate the need for Manitoba Hydro to request an interim rate increase in order to implement rates effective April 1, 2016. Manitoba Hydro considered this likely outcome when it concluded that a multi-year rate approval process would be a more practical and efficient means of proceeding. Manitoba Hydro submits that a single process that reviews the proposed rate increases for 2015/16 and 2016/17 is in the public interest.

In Manitoba Hydro's view, it is appropriate to begin to address rate-setting and revenue requirement matters associated with Manitoba Hydro's investments on a proactive basis, rather than defer their consideration to future rate proceedings. In its application, Manitoba Hydro has submitted that the proposed rate increases are necessary to promote rate stability for customers by ensuring the continued financial strength of the Corporation during this period of intensive capital investment and avoid the potential for rate shock in the future. Examination of the 2016/17 rate increase during this proceeding is both appropriate and desirable, and delaying such a review is neither efficient nor necessary and is not in the best interest of Manitoba Hydro's customers.

April 1, 2015 Interim Rate Increase

In its letter of January 27, 2015, the PUB also concluded that it is not in the public interest to consider interim rates for April 1, 2015 as there are no deleterious effects during the length of this regulatory proceeding that would justify consideration of an interim rate increase.

Manitoba Hydro disagrees with this conclusion. If an April 1, 2015 interim rate increase is not approved, Manitoba Hydro will lose revenues in excess of \$4 million per month. If implementation of the rate increase was delayed to August 1, 2015, the reduction in revenues would be approximately \$17 million for 2015/16, and a rate increase of approximately 5.0%, rather than 3.95%, would be required in 2015/16.

Even with the proposed and indicative rate increases set out in IFF14, Manitoba Hydro is projecting losses on electric operations in 2018/19 through 2025/26 of approximately \$980 million. Assuming the PUB does not reduce Manitoba Hydro's proposed revenue requirement following the oral hearing of this matter, the rate increase required to recover the additional revenues would need to be higher than the requested 3.95% in the remaining months of fiscal 2015/16 or would need to be imposed retroactively. Manitoba Hydro submits that neither of these results is preferable to a predictable, stable April 1st rate increase.

The PUB noted in Order 20/07, "An interim rate increase is exactly that, interim. If a different structuring of the rate increase now provided, or even a consideration of the overall effect, is required, then the Board can amend the interim rate decision now made." (pg. 34) Manitoba Hydro submits that an interim increase on April 1, 2015 is in the public interest. However, this is not the appropriate time to make that decision. Manitoba Hydro's proposed process for an April 1, 2015 interim rate increase would allow all parties to ask one round of Information Requests of Manitoba Hydro and for intervenors to make submissions before an interim Order is issued by the PUB.

Manitoba Hydro therefore respectfully requests that the PUB provide its direction to all parties that the Board will hear the evidence submitted in respect of Manitoba Hydro's application, including the interim rate relief effective April 1, 2015 and the rate relief requested for 2016/17, and will reserve its decision in respect of those matters until such time as the evidence can be heard and tested.

Should you have any questions with respect to the foregoing, please do not hesitate to contact the writer at 204-360-3633 or Brent Czarnecki at 204-360-3257.

Yours truly,

MANITOBA HYDRO LAW DIVISION

Per:



 **ODETTE FERNANDES**
Barrister & Solicitor

cc: Intervenors of past record (2012/13 & 2013/14 General Rate Application and Needs For and Alternatives To proceedings)