

Order No 84/16

**SECOND PROCEDURAL ORDER IN RESPECT OF MANITOBA HYDRO'S
COST OF SERVICE STUDY METHODOLOGY REVIEW**

July 12, 2016

BEFORE: Marilyn Kapitany, B.Sc. (Hon), M.Sc., Member
Régis Gosselin, B ès Arts, MBA, CGA, Chair
Hugh Grant, Ph.D., Member
Larry Ring, Q.C., Member

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1.0 Executive Summary

This is the second procedural Order in respect of the Public Utilities Board's (Board) review of Manitoba Hydro's Cost of Service Study Methodology. By this Order, the Board:

- Establishes a process for the remainder of the hearing, including the delivery of rebuttal evidence, submissions, and oral direct evidence and cross-examination over the course of three days on September 7, 8, and 9, 2016;
- Establishes the following issues as “key issues” upon which oral cross-examination will be received:
 - The treatment of export costs, including the number of export classes and the allocation of fixed and variable costs to such classes;
 - The treatment of net export revenue and the allocation thereof;
 - The functionalization, classification and allocation of generation and transmission assets, including the HVDC system and the U.S. interconnection, but excluding wind and coal assets;
 - The classification and allocation of demand-side management; and
- Establishes the timetable set out in Appendix “A” to this Order for the remaining steps in the hearing.

2.0 Procedural History

Manitoba Hydro's last General Rate Application was heard in 2015 and dealt with the 2013/14 and 2015/16 fiscal years. In a January 27, 2015 procedural direction to Manitoba Hydro, the Board stated that:

Additionally the Cost of Service Study Methodology review, which was to be conducted after MH's last GRA, has still not been filed by MH and approved by the Board. The Board expects this Cost of Service Study Methodology to be filed and reviewed by the Board before the GRA for any revised rates in MH's 2016/17 fiscal year.

On November 20, 2015, Manitoba Hydro filed an application for interim rates effective April 1, 2016.

On December 4, 2015, Manitoba Hydro filed its Cost of Service Study Methodology submission, including Prospective Cost of Service Study PCOSS14 and a report by Christensen Associates Energy Consulting, LLC with recommendations regarding Manitoba Hydro's Cost of Service Study Methodology.

By letter dated December 8, 2015, the Board directed Manitoba Hydro to provide a copy of, or link to, the submission to past Interveners of Record and to answer Minimum Filing Requirements previously requested by the Board. In that letter, the Board also asked past Interveners of record to provide any additional Minimum Filing Requirements requested by them for the Board's consideration.

The Board received proposed Minimum Filing Requirements from the City of Winnipeg, the Consumer Coalition, and MIPUG in December 2015.

Manitoba Hydro filed responses to the Minimum Filing Requirements requested by the Board on December 18, 2015.

By way of letter dated January 22, 2016, the Board advised that in addition to reviewing Manitoba Hydro's Cost of Service Methodology, the Board would also review several rate-related matters, namely:

- Manitoba Hydro's policies and plans on rate rebalancing that may arise from the outcome of the COSS review;
- Rate design matters such as adjustments to the Basic Monthly Charge, energy charge and demand charges;
- Rate design considerations for such matters as Industrial Time of Use Rates and Residential Conservation Rates; and
- Manitoba Hydro's Terms and Conditions of Service including Service Extension Policies.

In its January 22, 2016 letter, the Board directed any parties wishing to intervene in the Cost of Service Methodology Review to file an Application for Intervener Status and budget request by February 5, 2016, and advised that for purposes of this hearing only, the Board was prepared to determine awards of costs to Interveners without regard to the sufficiency of financial resources of the prospective Intervener. The Board further advised that for purposes of understanding the views and positions of Manitoba Hydro's General Service Small (GSS) and General Service Medium (GSM) customers, it had approved the law firm of Hill Sokalski Walsh Olson LLP as legal counsel for these customer classes.

In its letter, the Board further directed Manitoba Hydro to answer the Minimum Filing Requirements proposed by the Consumer Coalition and by MIPUG. With respect to the City of Winnipeg's proposed request for Manitoba Hydro to make an electronic model of its Cost of Service Study available, the Board directed Manitoba Hydro to make available a rudimentary working model and provide training on how to use that model.

Lastly, the Board directed Interveners to, by February 10, 2016, provide detailed written submissions in respect of several issues related to the Cost of Service Methodology:

On February 5, 2016, Manitoba Hydro provided written process submissions. On February 10, 2016, the Board received written submissions from the Consumer Coalition, the Green Action Centre, MIPUG and the City of Winnipeg. In addition, Manitoba Keewatinowi Okimakanak Inc. and the Manitoba Métis Federation filed Applications for Intervener status on February 11 and February 12, 2016, respectively. Neither of those two parties filed written submissions.

On February 12, 2016, the Board conducted the first oral Pre-Hearing Conference in this matter, which gave rise to the first procedural Order in this matter, Order 26/16. In Order 26/16, the Board granted Intervener status to seven Interveners, namely the City of Winnipeg, the Consumer Coalition, the Green Action Centre, the Manitoba Industrial Power Users Group, Manitoba Keewatinowi Okimakanak Inc., the Manitoba Métis Federation, and the General Service Small / General Service Medium Representative.

In Order 26/16, the Board further directed a process whereby, following one round of written Information Requests to Manitoba Hydro, two facilitated Workshops would take place in lieu of further Information Requests to Manitoba Hydro and to Interveners. The Board directed that following these Workshops, parties were to make submissions at a second prehearing conference as to what issues were of sufficient importance to warrant oral concurrent evidence, and which issues would be limited to written submissions. This Order is the result of that second pre-hearing conference, held June 24, 2016.

3.0 Process Submissions from Manitoba Hydro and Interveners

Manitoba Hydro

In oral submissions, Manitoba Hydro submitted that the Board should allow Manitoba Hydro to provide oral evidence at the public hearing scheduled for September 2016, although it was indifferent as to whether that evidence would be provided through a concurrent evidence panel or a more traditional process. In Manitoba Hydro's view, it is important that the Utility have an opportunity to provide direct evidence, be subject to cross-examination, and cross-examine the Intervener's experts.

Manitoba Hydro suggested that certain key issues be dealt with through oral evidence, with the remainder being dealt with by way of only written submissions.

Manitoba Hydro suggested that the following issues and sub-issues be explored in oral evidence and written submissions, respectively:

Issues for Oral Hearing	Issues for Written Submissions
Treatment of Export Costs <ul style="list-style-type: none">• Assignment of Costs• Cost Assignment to Dependable versus Opportunity	Subtransmission <ul style="list-style-type: none">• Role of subtransmission• NCP vs 2CP
Net Export Revenue <ul style="list-style-type: none">• Generation, Transmission & Distribution• Generation, Transmission & Distribution including direct costs• Exclude from Cost of Service• Reserve Fund	Distribution <ul style="list-style-type: none">• All distribution matters raised in evidence, including:<ul style="list-style-type: none">– NCP vs CP– Customer vs Demand
Generation and Transmission <ul style="list-style-type: none">• Classification and allocation of generation (including Bipole I and II)• Dorsey / Riel Converter Stations• Bipole III• U.S. Interconnections• Other:<ul style="list-style-type: none">– Generation Related	Other <ul style="list-style-type: none">• Uniform Rate Adjustment• Affordable Energy Fund• CRP Application of Credit• Weighting factors• Common costs• Street and Sentinel lighting subclasses

Issues for Oral Hearing	Issues for Written Submissions
<ul style="list-style-type: none">– Transmission– Wind– Coal	<ul style="list-style-type: none">• Late payment revenue• Model
<p>Demand Side Management</p> <ul style="list-style-type: none">• Direct Assignment to participating classes• Generation, Transmission & Distribution	

Manitoba Hydro noted that the Board approved rate design matters to be in scope after Manitoba Hydro had filed its initial submission and that these issues were not canvassed in the Workshops. Similarly, metering was not explored. Manitoba Hydro submitted that it would be premature and inappropriate for the Board to make a determination on these issues without having filed evidence on the record. In Manitoba Hydro's view, these issues would be more appropriately dealt with at the next General Rate Application.

On June 28, 2016, Manitoba Hydro provided a written submission as to process for the remaining aspects of the Cost of Service Methodology Review. In its written submission the Utility suggested that all parties be permitted to file rebuttal evidence, with Intervener rebuttal evidence being due by August 12, 2016 and Manitoba Hydro rebuttal evidence being due by August 19, 2016.

In its letter, Manitoba Hydro reiterated its perceived need for an oral hearing, and suggested that a traditional oral evidence process might be more appropriate than concurrent evidence, especially given the number of experts involved in the hearing. Manitoba Hydro requested a half day for its direct evidence at the start of the oral hearing. Manitoba Hydro further recommended that the Board focus attention on the most contentious issues with the biggest revenue to cost coverage (RCC) impacts.

In case the oral portion of the hearing is structured as a concurrent evidence session, Manitoba Hydro is of the view that its corporate witnesses should participate in the

session, particularly to be in a position to correct factual misunderstandings. Otherwise, Manitoba Hydro requests a right of reply. Manitoba Hydro does not see a need for oral closing submissions at the conclusion of the hearing.

City of Winnipeg

The City of Winnipeg advised that it does not require oral concurrent evidence to deal with the evidence it put forward, but it would not oppose such a session. The City also advised that it was prepared to make its expert available to participate in concurrent evidence, should the Board so request.

The City of Winnipeg further suggested that the Board consider its goal for the concurrent evidence session, in particular whether the session is intended to assist the panel or the parties, and structure the session accordingly.

The City of Winnipeg considers it important that there will be an opportunity for oral argument at the conclusion of the hearing.

Consumer Coalition

The Consumer Coalition submitted that Order 26/16 promised cross-examination on key issues, and that the Consumer Coalition relied on that promise. In the Consumer Coalition's submission, significant testing of Manitoba Hydro's filing has yet to happen, and a number of issues raised in the Intervener Workshop were not fully explored. As such, the Consumer Coalition is of the view that a further oral hearing process is required. The Consumer Coalition indicated that it would be prepared to work within either a concurrent evidence process or by examining selected witnesses, and did not have a strong preference for either process.

The Consumer Coalition was open to concurrent evidence but drew a distinction between independent witnesses and corporate witnesses, recommending that the two be kept separate. The Consumer Coalition referred the Board to a recent decision of the

Ontario Energy Board (OEB) for guidance on the potential process to be followed by a concurrent evidence panel. In particular, the Consumer Coalition suggested that experts should not be allowed to question or cross-examine each other.

The Consumer Coalition would like to see the following matters addressed in oral evidence:

- Generation (Classification & Allocation);
- Export classes and treatment of exports;
- Treatment and use of net export revenue;
- Transmission and Generation-Related Transmission;
- Treatment of Interconnections;
- Treatment of Demand-Side Management, particularly allocation compared to Direct Assignment.

While the Consumer Coalition initially identified non-tariffable transmission as an issue for the hearing, it stated that it was not adamant that this issue be dealt with in oral evidence.

Green Action Centre

The Green Action Centre advised that it did not see a need for further oral evidence, but heard compelling arguments from the other parties as to why such a session could be beneficial. If the Board decides to hear further oral evidence, the Green Action Centre believes that there would be some value to structuring it as a concurrent evidence session. However, the questioning should be performed by lawyers rather than the experts themselves.

The Green Action Centre further recommended that all parties be provided with an opportunity to file written rebuttal evidence.

While the Green Action Centre did not take a position on the list of issues for oral evidence presented by Manitoba Hydro, it would like to see the following additional issues dealt with in oral evidence:

- Distribution;
- Subtransmission;
- Demand allocator (capacity adder);
- Subfunctionalization; and
- Service drops.

Manitoba Industrial Power Users Group (MIPUG)

The Manitoba Industrial Power Users Group (MIPUG) expressed the view that the evidentiary record was sufficient and that no further oral evidence, or even oral argument, was required. If the Board chose to hear further oral evidence, then cross-examination should be limited to issues on which the parties are adverse in interest.

MIPUG recommended against the use of concurrent evidence for any further oral evidence session, stating that the process is intended to resolve narrow issues, and that with five parties the process would become unwieldy. MIPUG stated that concurrent evidence is intended for independent experts only, and that Manitoba Hydro should not participate in such a session. MIPUG recommended against experts examining each other.

MIPUG further questioned whether it was possible to separate issues into key issues for oral evidence, since the importance of issues varies between parties and contentious

issues should be explored. In MIPUG's submission, any inefficiencies caused by a party could be dealt with through a costs award.

By letter dated June 30, 2016, MIPUG provided written submissions in response to Manitoba Hydro's letter of June 28, 2016. MIPUG suggested that because less time was allocated to Intervener presentations than the time allocated to Manitoba Hydro at the Manitoba Hydro Workshop, the Board should consider granting Interveners more presentation time.

In its letter, MIPUG noted that Manitoba Hydro wishes to correct information on the record through its proposed rebuttal evidence. In MIPUG's view, Manitoba Hydro's rebuttal evidence should be issued prior to that of the Interveners to provide the Interveners the opportunity to consider any corrected evidence.

Manitoba Keewatinowi Okimakanak Inc. (MKO)

Manitoba Keewatinowi Okimakanak Inc. (MKO) advised that it agreed with much of the Consumer Coalition's submission. In particular, MKO is of the view that Order 26/16 made it clear that the purpose of the workshops was not to serve as a hearing or test evidence. In MKO's view, it would be unfair if parties that had relied on the previous direction of the Board would lose their right to cross-examination. As such, the MKO strongly recommends an oral hearing. However, the MKO agreed with MIPUG's submission that experts should not be allowed to cross-examine each other at the hearing.

GSS/GSM Class

The GSS/GSM Class submitted that there was no need for further oral evidence. However, the GSS/GSM Class accepted the comments by Manitoba Hydro and the Consumer Coalition that experts should be qualified and that evidence should be tested.

In this Intervener's view, the Board should determine on what issues it needs to receive further evidence and whether such evidence is best presented in a concurrent evidence session or a traditional hearing process. The GSS/GSM Class agreed with the several other Interveners who submitted that experts should not be cross-examining each other.

4.0 Board Findings

Submissions of the Parties

The Board has considered the submissions of the Parties and has concluded that Parties will be provided an opportunity to submit written rebuttal evidence. Additionally, the Board will hear further oral evidence and cross-examination on only key issues that the Board has identified. The Workshops were informational in nature and neither intended nor suitable to fully supplant the hearing process. Experts were not formally qualified to provide opinion evidence at the Workshops and legal counsel did not have an opportunity to cross-examine witnesses.

Issues and positions were further developed in the course of the Workshops. In order to provide an opportunity for Manitoba Hydro and the Interveners to provide a focused summary of their positions on the key issues and any inter-relationship of those issues, the parties will be permitted to present oral direct evidence on the key issues prior to cross-examination.

The Board remains of the view that expert evidence in this hearing, on key issues, should be explored in a concurrent evidence format. However, the cross-examination of Manitoba Hydro should take place in a separate session that utilizes a traditional evidentiary process.

Key Issues for Oral Evidence

Having heard the submissions from the Parties as to what issues they consider to be “key issues” for oral evidence, the Board has determined the following key issues are in scope for cross-examination at the oral hearing:

1. The treatment of export costs, including the number of export classes and the allocation of fixed and variable costs to such classes;
2. The treatment of net export revenue and the allocation thereof;

3. The functionalization, classification and allocation of generation and transmission assets, including the HVDC system and the U.S. interconnection, but excluding wind and coal assets;
4. The classification and allocation of demand-side management.

All other issues are to be addressed by all Parties, in writing.

Process and Revised Timetable

The Board establishes the following process for the remainder of the Cost of Service Methodology Review:

- Manitoba Hydro may provide written rebuttal evidence on all issues in this proceeding by July 22, 2016. Manitoba Hydro's written rebuttal evidence is to be divided between the key issues which are subject of the oral hearing and those issues that are only being addressed through written submissions. Manitoba Hydro's written rebuttal evidence is to address what Manitoba Hydro has considered new evidence raised in the Interveners' pre-filed and oral evidence.
- All Parties are to provide the CVs of their experts by July 29, 2016 and indicate the scope for which they seek their expert to be qualified by the Board to give opinion evidence. Any challenges to any expert witnesses' requested qualifications are to be filed by August 5, 2016. If any such challenge is received, the Board will provide an opportunity for reply.
- The Interveners may provide written rebuttal evidence on all issues in this proceeding, including evidence raised by Manitoba Hydro in its written rebuttal evidence, by August 5, 2016. The rebuttal evidence by Interveners is to be divided between the key issues which are subject of the oral hearing and those issues that are only being addressed through written submissions.

- Written submissions by all Parties, on issues not identified as key issues for oral evidence are due on August 12, 2016, with written Reply submissions from all Parties due on August 19, 2016.
- Manitoba Hydro will be permitted to provide a 1-hour presentation of its position on the key issues for oral evidence on September 7, 2016, followed by cross-examination by Interveners' counsel and Board counsel for the remainder of that day. Cross-examination of Manitoba Hydro will proceed sequentially by Party rather than by issue.
- Intervener experts that are providing testimony on "key issues" identified by the Board will be permitted to provide 1-hour presentations of their positions on those issues on September 8, 2016. The presentations will proceed sequentially by Party rather than by issue.
- Following the presentations, Intervener experts will be cross-examined for the remainder of the two days during September 8 and 9, 2010. This process will be structured as a concurrent evidence session for which the following procedure applies:
 - All experts that are providing testimony on "key issues" identified by the Board are to participate in the concurrent evidence session.
 - Manitoba Hydro staff will not participate in this session, but any independent expert retained by Manitoba Hydro may participate.
 - Only legal counsel is permitted to cross-examine, and experts are not to ask questions of each other.
 - Legal counsel decides to whom a question is asked. Only the person to whom the question is asked is to provide a response, unless legal counsel requests the perspective of another expert on the panel.

- Cross-examination proceeds sequentially by issue rather than by party, with time limits being set by the Board to ensure the process can be completed.
- The parties will be permitted to make written submissions on issues canvassed in the oral hearing following the closing of evidence.
- The Board will retain the right to request oral submissions from the Parties on a date to be set.

Schedule “A” to this Order sets out a revised hearing timetable.

Intervener Budgets

Several Interveners commented that they anticipate difficulties with their approved budgets for their intervention. Any Intervener who expects to exceed their budget should provide a written explanation regarding their anticipated exceedance and seek permission from the Board as to any budget variance.

5.0 IT IS ORDERED THAT:

1. The process as set out in section 4.0 of this Order be, and hereby is, established for the hearing of Manitoba Hydro's Cost of Service Study Methodology Review.
2. The following issues are identified as "key issues" subject to cross-examination at the oral portion of the hearing of Manitoba Hydro's Cost of Service Study Methodology Review:
 - (a) The treatment of export costs, including the number of export classes and the allocation of fixed and variable costs to such classes;
 - (b) The treatment of net export revenue and the allocation thereof;
 - (c) The functionalization, classification and allocation of generation and transmission assets, including the HVDC system and the U.S. interconnection, but excluding wind and coal assets;
 - (d) The classification and allocation of demand-side management.
3. The timetable attaches as Appendix "A" to this Order be, and hereby is, established for the hearing of Manitoba Hydro's Cost of Service Study Methodology Review.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca.

THE PUBLIC UTILITIES BOARD

"RÉGIS GOSSELIN, B ès Arts, MBA, CGA"

Chairman

"KURT SIMONSEN"

Acting Secretary

Certified a true copy of Order No. 84/16
issued by The Public Utilities Board

Acting Secretary

SCHEDULE A – REVISED HEARING TIMETABLE

Step in the Hearing	Due Date (No Later Than)
Manitoba Hydro Written Rebuttal Evidence on All Issues	Friday, July 22, 2016
Expert CVs and Scope of Expert Witness Qualification Submissions	Friday, July 29, 2016
Intervener Written Rebuttal Evidence on All Issues	Friday, August 5, 2016
Written Challenges to Scope of Expert Witness Qualification	Friday, August 5, 2016
All Parties' Written Submissions on Issues not Subject to Oral Hearing	Friday, August 12, 2016
All Parties' Written Reply Submissions on Issues not Subject to Oral Hearing	Friday, August 19, 2016
1-Hour Presentation by Manitoba Hydro and Cross-Examination of Manitoba Hydro Panel	Wednesday, September 7, 2016
1-Hour Presentations by Independent Experts and Cross-Examination of Independent Experts (Concurrent Evidence Panel)	Thursday, September 8, 2016 and Friday, September 9, 2016 Saturday, September 10, 2016 as Overflow Date
Intervener Written Submissions on Issues Subject to Concurrent Oral Evidence	Wednesday, September 21, 2016
Intervener Reply Submissions to Other Interveners on Issues Subject to Concurrent Oral Evidence	Monday, September 26, 2016
Manitoba Hydro Reply Submissions on Issues Subject to Concurrent Oral Evidence	Wednesday, September 28, 2016
Optional Oral Closing Submissions	TBD