

**MANITOBA HYDRO'S INTERIM APPLICATION FOR  
APRIL 1, 2016 ELECTRICITY RATES**

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**SUBMISSION OF MANITOBA  
KEEWATINOWI OKIMAKANAK INC.**

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## **Part 1 INTRODUCTION**

Manitoba Keewatinowi Okimakanak Inc. (MKO) has been granted Intervener status for the purpose of this hearing before the Public Utilities Board (Board).

MKO's position is:

1. No urgency has been properly demonstrated that warrants the Board to make an interim order and that to do so would exceed the jurisdiction of the Board.
2. The financial information provided is insufficient to warrant an interim rate increase for 2015-2016.

## **Part 2 ORDER 73/15**

In Board Order number 73/15 the Board approved rates for Manitoba Hydro for the April 1, 2015 to March 31, 2016 fiscal year. The Board approved a total increase of 3.95% in Manitoba Hydro consumers bill rates. The result of that rate increase was that the monthly bill of an average residential customer using electric space heat would increase by \$6.11 per month.

The Board at page 5 of its Order indicated that it did not consider new rates for April 1, 2016 at the hearing and did not expect to award any further rate increases until a Cost of Service Study (COSS) application had been filed and the Board had sufficient time to review the COSS application. In the meantime, the Board

directed Manitoba Hydro to initiate a collaborative process to develop a bill affordability program with the goal that such a program would be implemented within one year from the Board's approval of the terms of reference. The Board also directed Manitoba Hydro to consider additional measures to increase participation rates in the affordable energy program and to assist all-electric customers. The Board further recommended that in the meantime the interveners including MKO encourage their members to take advantage of potential savings that can be generated by the affordable energy program to ameliorate the effect of the proposed increase.

The Board also indicated that it will scrutinize all future requested rate increases and approve rates that are justified by the evidence examined. The Board stated that it would scrutinize all future requested rate increases and approve rates that are justified by the evidence examined.

The Board made those recommendations in its Order in recognition of the fact that:

**"The Board recognizes that higher electricity rates will have an impact on all Manitobans and especially lower income Manitobans."**

### **Part 3      CURRENT APPLICATION**

In its letter dated December 24, 2015 the Board specified that in so far as the interim application was concerned:

“The scope of the Boards intended review process will be limited to Manitoba Hydro's financial situation and whether interim relief prior to the hearing of the next general rate application is warranted.”

It is the position of this intervener that given the very serious considerations which the Board brought forward in its Order to protect the interests of lower income Manitobans and to help ameliorate the impact of successive and significant rate increases on ratepayers that limiting the scope of this hearing to only the financial situation of Hydro goes against the principal set out by the Board in its Order which states:

**“However, in setting just and reasonable rates, the Board must balance the interests of ratepayers with the financial health of the utility.”**

#### **PART 4 RESPONSIBILITY OF THE BOARD**

The position of this intervener MKO is that an interim application is unnecessary as no urgency has been determined or proven so that the Board would have to proceed on the basis of unproven and untested information.

The Public Utilities Act sets out the duties of the Board in making an Order and how that Order is to be dealt with.

## ORDERS OF THE BOARD

### Power to order partial or other relief

[44\(1\)](#) Upon any application to it, the board may make an order granting the whole or part only of the application or may grant such further or other relief in addition to or in substitution for that applied for, as fully and in all respects as if the application had been for such partial, further or other relief.

### Review of orders

[44\(2\)](#) The board may require a re-hearing of an application before making any decision thereon.

### Varying order

[44\(3\)](#) The board may review, rescind, change, alter, or vary any decision or order made by it.

### Interim orders ex parte

[45](#) The board may, if the special circumstances of any case so require, make an interim ex parte order authorizing, requiring, or forbidding, anything to be done that the board would be empowered on application, petition, notice, and hearing to authorize, require, or forbid; but no such order shall be made for any longer time than the board deems necessary to enable the matter to be heard and determined, on such application, petition, notice or hearing.

### Extension of time for compliance with order

[46](#) Where any work, act, matter, or thing, by any order, regulation, or decision of the board is required to be done, performed, or completed within a specified time, the board may, if the circumstances appear so to require, upon such notice as it deems reasonable, or, in its discretion, without notice, extend the time so specified.

### Orders subject to 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.

### Interim order

[47\(2\)](#) The board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter, or for further application.

### Orders involving expense to parties to be after notice and hearing

[48](#) The board shall not make an order involving any outlay, loss, or deprivation to any owner of a public utility, or any person without due notice and full opportunity to all parties concerned, to produce evidence and be heard at a public hearing of the board, except in case of urgency; and in that case, as soon as practicable thereafter, the board shall, on the application of any party affected by the order, re-hear and reconsider the matter and make such order as to the board seems just.

#### Contents of order

[49\(1\)](#) The board need not show upon the face of an order that any proceeding or notice was had or taken, or that there existed any circumstances necessary to give it jurisdiction to make the order.

#### Substantial compliance with Act only required

[49\(2\)](#) A substantial compliance with the requirements of this Act is sufficient to give effect to all the orders, rules, acts, regulations, or decisions of the board; and they are not inoperative, illegal, or void for any omission of a technical nature with respect thereto.

#### When orders effective

[50\(1\)](#) Every order of the board comes into effect at the time prescribed by the order, and its operation is not suspended by an appeal to The Court of Appeal for which provision is hereinafter made, unless otherwise ordered by the judge granting leave to appeal or by the court on hearing of the appeal; but the board itself may suspend the operation of the order from which appeal is made until the decision of The Court of Appeal is rendered.

#### Lapse of order

[50\(2\)](#) Except where the board extends the time for taking the action, unless action under an order of the board authorizing any action to be taken, is taken within one year of the date of the order, the order is void at the expiration of one year from its date.

Section 48 determines how and when the Board can make an Order. The Board must have a public hearing where all parties may be heard. If there is an urgency the Board may proceed without such a hearing but if anyone objects to the order, there must be a full re-hearing, in effect a replacement hearing with all of the formalities required being observed. That second hearing must be done as soon as practical thereafter. If any intervener or any other person affected by the interim

order applies, the Board will be forced to go through an entire new hearing not at a date sometime in the future or dependant upon any other event but at a date as soon as practical.

Section 47(2) which allows for an interim hearing is part of section 47 and must be read in its entirety. It allows for an interim order where in the course of a full hearing it is necessary to grant only part of the order requested. It is not a separate paragraph which gives rise to a separate type of hearing,

In conclusion, in order to anchor this application and to obtain an interim order, Hydro must show urgency. Given these rates are to be a smoothing out of rates for numerous years and which are to prevent rate shock in 2019 or 2020 where is the urgency in leaving the determination of the actual rate to a date several months or even a year later ?

In its final submission at the 2015 Rate Increase Hearing this intervener, MKO, submitted that if the Province reduced its share of the funds taken by Water Taxes etc the increase of rates could be left at 2% until 2019 and then at 4% thereafter. The Board in its Order at the NFAT hearing had made such a recommendation. The Minister accepted that recommendation.

All of the urgency set out in this application is for the benefit of Hydro's financial interests and does not balance it in any way with the interests of ratepayers who had been promised ameliorating conditions as part of the plan to raise rates substantially and yearly. The application is to obtain money right away without any

information as to why it cannot be collected after a full and proper hearing. Ratepayers are not disappearing or becoming unable to pay during the next several months. Hydro will not become insolvent over the next several months. Work will not have to stop on Hydro projects if several more months go by without a rate increase being approved. Where does urgency come into play in this application.

MKO takes the position that the jurisdiction given to the Board to hear matters on an interim basis is to be used sparingly and only in the event of urgency. The purpose of allowing interim applications is not to be a shortcut for Hydro to prevent the Board from acting with its full regulatory authority. Such a position is to the detriment of the general public.

## **Part 5            INFORMATION PREPARED TO JUSTIFY RATE INCREASE**

In its approach to preparation for its budget and in preparing for the intervener submissions, MKO had access to the information requests specifically prepared by the Coalition and has worked with the Coalition in understanding the information submitted and to the analysis of that information with respect to the position of MKO.

MKO has had the opportunity to see and to review the draft proposal which was to be submitted by the Coalition. MKO is in agreement with the financial analysis done by the Coalition and is in agreement with its submission that the financial



information do not support a 3.95% increase. MKO also supports the submission that no increase should be given until a full and complete hearing is conducted using the methodology ordered by the Board.

February 10, 2016