

April 4, 2016

Approved Interveners:

(City of Winnipeg, Consumer Coalition, Green Action Centre, Manitoba Industrial Power Users Group, Manitoba Keewatinowi Okimakanak Inc., Manitoba Métis Federation and General Service Small and General Service Medium Representative)

Re: Manitoba Hydro Cost of Service Study Methodology Review - Intervener Budgets

In Board Order 26/16, the Public Utilities Board (“Board”) approved the following Interveners for the Board’s Review of Manitoba Hydro’s Cost of Service Study Methodology:

- The City of Winnipeg (“City”),
- Consumer Coalition (“Coalition”),
- Green Action Centre (“GAC”),
- Manitoba Industrial Power Users Group (“MIPUG”),
- Manitoba Keewatinowi Okimakanak Inc. (“MKO”),
- Manitoba Métis Federation (“MMF”), and
- the General Service Small / General Service Medium Representative (“GSS/GSM Class”)

The Board further indicated that for this particular proceeding, it would entertain cost awards for all of the approved Interveners. Board Order 26/16 required all approved Interveners to file a budget with the Board by March 1, 2016.

The Board has received budget submissions from each of the approved Interveners. On March 7, 2016, Manitoba Hydro filed a letter with the Board setting out the utility’s position with respect to the budgets sought by the Interveners. The Board subsequently received written reply submissions from the Coalition, GAC, GSS/GSM Class, and MIPUG.

Board Decisions on Intervener Budgets

The Board has reviewed and considered the submissions from each of the Interveners, as well as Manitoba Hydro, and will acknowledge the budgets as proposed by the City of Winnipeg, Coalition, GAC, MIPUG, and MKO. The Board believes the budgets proposed by these Interveners are appropriate for the scope of work contemplated for the review of Manitoba Hydro’s Cost of Service Study.

With respect to the budget filed by the MMF, the Board has determined that a modest budget should be allowed for the MMF's watching brief. While the MMF has not participated in a Cost of Service methodology review to date, this is a function of no such review having taken place since 2008. The Board is of the view that allowing the MMF to participate in a watching brief is appropriate for the MMF's meaningful intervention on rate setting.

However, as an Intervener participating in a watching brief, the MMF's scope of work will not be as comprehensive as those Interveners fully participating in the Cost of Service review and providing evidence to the Board. Therefore, the Board is of the view that the MMF's proposed budget is higher than what is required for its Intervention. The Board expects MMF's scope of work will consist of attendance at workshops and oral hearings. The Board will therefore set a budget for the MMF of \$15,000 (inclusive of disbursements) plus taxes.

With respect to the budget filed by the GSS/GSM class, the Board shares Manitoba Hydro's concern that the budget is significantly higher than those of the other Interveners who have indicated their intention to intervene on all issues. In the Board's view, it is reasonable for the GSS/GSM class to have a budget similar to the budgets approved for the other major Interveners. The Board therefore supports a budget for the GSS/GSM Class of \$230,000 (including disbursements), which compares with the budgets approved for GAC and MIPUG. This budget may be allocated between legal and expert consulting work as appropriate.

The Board is mindful of Manitoba Hydro's position that the total Intervener budgets for this Cost of Service review amount to approximately twice the Intervener budget for the last General Rate Application. However, the Board recognizes the importance of this review and notes that the total budget would be similar to the budget of the last General Rate Application in the absence of additional Interveners seeking costs in this hearing. In the Board's view, a budget "cap" as requested by Manitoba Hydro would be inappropriate.

The Board expects the proposed Intervener budgets to be the upper limit for the approved scope of work. Interveners are expected to achieve efficiencies through collaboration with other Interveners wherever possible and to use the scheduled workshops and concurrent evidence proceedings to bring efficiencies to the review process.

Through the course of this review, should any Intervener believe their budget will be exceeded, the Board should be notified in advance before any further expenditures are made. The Board will require an explanation for any additional budget expenditures by Interveners since as already stated, the Board expects proposed budgets to be the upper limit for the approved scope of work.

The Board's acknowledgment of the proposed budgets does not entitle Interveners to a full cost award. Interveners are reminded that they will have to file with this Board a complete Cost Application at the termination of this Cost of Service proceeding that demonstrate compliance with the factors set out in Part IV of the Board's Rules of Practice and Procedure to be entitled to recovery of costs.

Interim Payments

In its correspondence of March 7, 2016, Manitoba Hydro advised that it did not support the use of interim payments in this proceeding. Order 26/16 stated that the Board would consider interim payments subject to a 25% holdback.

Manitoba Hydro bases its reasoning on the 1982 Manitoba Court of Appeal decision in *Manitoba Society of Seniors Inc. v. Greater Winnipeg Gas Co.*, 18 Man. R. (2d) 440. However, in the Board's view, the case provides little guidance to the current situation.

The *Manitoba Society of Seniors* case does not stand for the proposition that interim payments are not permissible under *The Public Utilities Board Act*. The facts of the case were such that the Manitoba Society of Seniors, one of the Interveners, was seeking a preliminary award of costs from the Board, which was denied. A preliminary award of costs would have entitled the Intervener to costs as a right before any costs were incurred. This is a different situation than the interim cost awards contemplated by Order 26/16. Even with the Board being amenable to interim payments in the current proceeding, Interveners will still have to justify their costs upon rendering an invoice and are not entitled to costs as of right.

The Board notes, and Manitoba Hydro affirms, that the Board granted interim payments in two prior proceedings involving Manitoba Hydro, namely the Risk Review and the NFAT Review.

While Manitoba Hydro indicated that it does not support the concept of interim cost awards, it did not seek to review and vary Order 26/16. The Board is not persuaded to vary Order 26/16 on its own accord and will therefore retain the concept of interim cost awards as described in Order 26/16.

Interveners are encouraged to work with Board staff and Manitoba Hydro in developing interim billing requirements and processes.

Yours truly,

“Original Signed By”

Kurt Simonsen
Associate Secretary

KS/df

cc: Odette Fernandes
Greg Barnlund
Shannon Gregorashuk
Bob Peters
Sven Hombach