

M A N I T O B A

Order No. 92/13

THE PUBLIC UTILITIES BOARD ACT

August 9, 2013

Before: Régis Gosselin, B.A., C.G.A., M.B.A., Chair
Larry Soldier, Member
Marilyn Kapitany, B.Sc. Hon., M.Sc., Member

**NFAT PROCEDURAL ORDER ON MATTERS ARISING
FROM BOARD ORDER 67/13**

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1.0.0 EXECUTIVE SUMMARY

By this Order, the Public Utilities Board of Manitoba (“Board”) addresses several NFAT Review Hearing issues that have arisen as a result of, or subsequent to, Board Order 67/13.

This Order provides preliminary approval of Interveners’ consultants and expert witnesses and draft budgets. No Intervener’s consultant request and budget request was approved as filed. The Board exercised its discretion as to which consultants and expert witnesses would be funded, and the potential amount of such funding with a view to eliminating duplication of evidence on approved issues. The Board also considered that independent expert consultants will be engaged to assist with evidence in the NFAT Review proceeding. The Board still expects Interveners to work jointly with other Interveners on common issues.

This order also provides the NFAT Review definitions for ‘macro environmental’ and ‘socio-economic’.

Additionally, the Board’s consideration of Manitoba Hydro’s Internal Load Forecast is provided, together with a revised draft NFAT Review Hearing Timetable.

2.0.0 BACKGROUND

In Order 67/13, the Public Utilities Board (“Board”) granted Intervener Status, with respect to the Needs For and Alternatives To (“NFAT”) Review of Manitoba Hydro’s Preferred Development Plan for the Keeyask Generating Station, Conawapa Generating Station and associated transmission and interconnection infrastructure, to the following Intervener Applicants:

- (a) Consumer’s Association of Canada (Manitoba Branch);
- (b) Green Action Centre;
- (c) Manitoba Industrial Power Users Group;
- (d) Manitoba Keewatinowi Okimakanak Inc. and;
- (e) Manitoba Metis Federation.

In Order 67/13 the Board noted instances where identical issues were raised by more than one approved Intervener and that it was not the Board’s intention to permit duplication of evidence and process on the same issue. Parties were advised that approved Interveners would be required to submit additional information to the Board, detailing the specific approved issues the Intervener was proposing to address, together with the specific consultants and expert witnesses proposed to be retained by that Intervener, together with the budgets proposed. Parties were further advised, in Order 67/13, that the Board will not approve funding for duplication of expert evidence and retention of consultants on common issues.

The cost of, and incidental to, any proceeding before the Board are in the discretion of the Board. In exercising its discretion in respect of Intervener funding, the Board considered the detailed submissions by the approved Interveners, together with Manitoba Hydro’s submissions in respect of each Intervener’s request.

The Board notes the universal high quality of all the proposed consultants and expert witnesses. However, to avoid duplication and to ensure the approved Interveners were bounded by issues that are within the scope of the NFAT, and approved for them in Order 67/13, the Board has made adjustments to each Intervener's proposal. The Board also intends to engage Independent Expert Consultants, as permitted by the NFAT Terms of Reference, to file evidence and further assist in the NFAT Review.

3.0.0 APPROVED CONSULTANTS AND BUDGETS

All approved Interveners have submitted their additional requested materials and information – including names of proposed consultants and expert witnesses with financial budgets for the issues on which that Intervener was approved in Order 67/13.

Manitoba Hydro has also provided its position and submissions for each Intervener on the consultants, expert witnesses and budgets proposed.

Having reviewed the extensive material and submissions provided by the parties, the Board will approve the following draft budgets for the approved consultants and expert witnesses on the specific issues identified in the proposals – unless otherwise noted:

3.1.0 CONSUMERS’ ASSOCIATION OF CANADA (MANITOBA BRANCH) (“CAC”)

- (a) Mr. Harper - \$140,800;
- (b) Dr. Simpson - \$23,250;
- (c) Mr. Stevens - \$6,800;
- (d) Dr. Gotham - \$36,792;
- (e) Mr. Dunsky - \$47,500 (with a similar further amount included in GAC’s budget) – The reductions in funding are to recognize that Manitoba Hydro has recently advised that it will be filing its long awaited DSM Potential Study and the Board does not expect or require Mr. Dunsky to recreate that Study.
- (f) Dr. Gibson - \$6,300 plus \$2,000 for a student’s literature review. The scope is confined to assess whether, and how, Manitoba Hydro’s Plan(s) accord with the Province’s sustainability framework;
- (g) Dr. Gaudreau - \$14,500;
- (h) Dr. Higgin - \$16,000;
- (i) Legal fees and disbursements \$332,200

3.2.0 **GREEN ACTION CENTRE (“GAC”)**

- (a) Mr. Chernick - \$33,010 – only for expert support in reviewing, interpreting and evaluating evidence;
- (b) Mr. Dunsky – \$47,500 additional funding, but for the reasons explained in regards to CAC’s budget requests;
- (c) Power Advisory - pending Board consideration and adjudication of the detailed scope of work and budget submission to be filed by GAC;
- (d) Legal fees - \$115,000;

3.3.0 **MANITOBA INDUSTRIAL POWER USERS GROUP**
("MIPUG")

- (a) Mr. Bowman - \$249,000 plus \$36,000 for business consultation;
- (b) Public Sector Finance witness – pending Board consideration and adjudication of the detailed scope of work and budget submission to be filed by MIPUG;
- (c) Legal fees - \$185,000;

3.4.0 **MANITOBA KEEWATINOWI OKIMAKANAK INC. (“MKO”)**

- a) Mr. Hildebrand, Mr. Chymko and Mr. Turner - \$117,000 – only for the two issues (rate impacts and socio-economic impacts) as approved in scope for MKO in Order 67/13;
- b) Legal Fees – pending Board consideration and adjudication of the detailed scope of work and budget submission to be filed by MKO;

3.5.0 **MANITOBA METIS FEDERATION (“MMF”)**

- (a) Mr. Hendricks - \$32,500 - only as to the approved in scope issues for MMF and as those issues are further defined by the PUB in this Order;
- (b) Ms. Stewart - \$20,520 - only as to the approved in scope issues for MMF and as those issues are further defined by the PUB in this Order;
- (c) Ms. Birnie - \$48,840 - only as to the approved in scope issues for MMF and as those issues are further defined by the PUB in this Order;
- (d) Ms. Larcombe – pending Board consideration and adjudication of the detailed scope of work and budget submission to be filed by MMF;
- (e) Legal counsel - pending Board consideration and adjudication of the detailed scope of work and budget submission to be filed by MMF;

3.6.0 INVOICING PROTOCOL

Due to the uniqueness of the NFAT Review, the Board will vary its usual practice for approval of Intervener costs.

Up to 70% of approved budgets for all parties are subject to being reviewed and approved by the PUB for payment by Manitoba Hydro during the hearing process. The balance of 30% of approved budgets will be considered after closing submissions by all Parties have been made.

Parties will be provided with a billing protocol, to submit invoices on a monthly basis for Board review and approval before the Board forwards the approved invoices to Manitoba Hydro for direct payment to the Party.

The Board will only review and approve invoices provided they are accompanied by a monthly spreadsheet report, tracking the invoices to the budgets that have been tentatively approved by this Order. Variances must be explained, together with an explanation as to how that Intervener will address the variance.

The Board will consider its usual criteria in reviewing all costs submitted – subject to the MIPUG exception noted in Order 67/13.

4.0.0 SCOPING OUT THE MEANING OF “MACRO ENVIRONMENTAL”

The NFAT Terms of Reference include the assessment of alternatives to Manitoba Hydro’s Preferred Development Plan. Such assessment is to take into consideration:

2 j *“the Macro Environmental Impact of the Plan compared to Alternatives.”*

The Terms of Reference expressly exclude from the scope of the NFAT Review:

“The environmental reviews of the proposed projects that are part of the Plan, including Environmental Impact Statements (these will be conducted through individual processes by the Manitoba Clean Environment Commission (“CEC”), and where possible the impacts of the matters to be considered by the CEC are included in the costs of the projects that are part of the Plan.”

Parties were requested, in Order 67/13, to provide the Board with working definitions of “Macro Environmental”. Parties were aware of, and some approved Interveners in this NFAT review are also funded participants in, the Clean Environment Commission’s [CEC] review of the Environmental Impact Statements [EIS] related to the Keeyask Generating Station proceedings that are contemporaneously underway. A CEC review of the Conawapa Generating Station EIS is also expected.

That said, the Board’s NFAT Review is not the correct forum to address the environmental issues that are properly before the CEC. Evidence for the CEC proceedings ought not be filed in the PUB NFAT Review. The Board will expect Manitoba Hydro to monitor Intervener evidence in both proceedings and to advise the Board of any duplication. The NFAT Review will be informed by the CEC decision which is scheduled to be issued prior to the commencement of the NFAT Review oral public hearing.

The NFAT Review will include consideration of the Macro Environmental costs of the projects that are part of Manitoba Hydro's Preferred Development Plan.

For purposes of the NFAT Review, the parties and their consultants and expert witnesses are to be bounded by the following definition of "Macro Environmental" impact assessment:

A critical analysis of the macro environmental impacts and benefits of Manitoba Hydro's Preferred Development Plan and alternative Plans. Specifically this refers to the collective macro-economic consequences of changes to air, land, water, flora and fauna, including the potential significance of these changes, their equitable distribution within and between present and future generations.

5.0.0 SCOPING OUT THE MEANING OF “SOCIO-ECONOMIC” IMPACT

The NFAT Terms of Reference include the assessment of alternatives to Manitoba Hydro’s Preferred Development Plan. Such assessment is to take into consideration:

2 h *“The Socio-Economic impacts and benefits of the Plan and Alternatives to Northern and Aboriginal communities”;*

and

2 j *“If the plan has been justified to provide the highest level of overall socio-economic benefit to Manitobans, and is justified to be the preferable long-term electricity development option for Manitoba when compared to alternatives.”*

In Order 67/13, Parties were invited to provide the Board with a working definition, for NFAT Review purposes, of “socio-economic”.

For purposes of the NFAT Review, the Parties and their consultants and expert witnesses are to be bounded by the following definition of “socio-economic” impact and benefits:

A critical analysis of the socio-economic impacts and benefits of Manitoba Hydro’s Preferred Development Plan and alternative Plans. Specifically, a high level summary of potential effects to people in Manitoba, especially Northern and Aboriginal communities, including such things as employment, training and business opportunities; infrastructure and services; personal family and community life; and resource use.

6.0.0 MANITOBA HYDRO'S RESPONSE TO ORDER 67/13

Manitoba Hydro responded to Order 67/13 by way of a letter dated June 19, 2013, indicating:

- Manitoba Hydro will provide an additional Plan that includes 1000 MW of wind energy in conjunction with CCCT natural gas generation;
- Manitoba Hydro will address the consequences of deferring or delaying the implementation of each Plan;
- Manitoba Hydro will provide detailed calculations of the Operating Statement "In-Service Energy Costs and Revenues" for each added generating source, together with detailed calculations of the "marginal costs and marginal revenues" for each added generating source;
- Manitoba Hydro will provide Integrated Financial Forecasts ("IFF") together with all underlying IFF assumptions and inputs for each Plan and Scenario;
- Manitoba Hydro will provide a decision matrix that compares and contrasts all plans and scenarios by the factors utilized by Manitoba Hydro, together with the factors, the weightings and resulting assessments by Manitoba Hydro;

Of concern to the Board is that Manitoba Hydro may be unable to provide further alternative plans and scenarios as may be requested by the Board, independent experts or intervener consultants.

While Manitoba Hydro has explained its timelines to provide further alternative plans and scenarios, the Board will expect Manitoba Hydro to be able to model such alternatives and scenarios to permit critical examination.

The Board acknowledges that because the Board and all other Parties (except Manitoba Hydro) have yet to see the details of Manitoba Hydro's NFAT Review filing, it is premature to conclude whether the Board, Interveners or Independent Expert Consultants will request further alternative Plans.

The Board may require the services of an Independent Expert Consultant(s) to assist in the modeling of further alternative plans and scenarios, and expects Manitoba Hydro's full cooperation should such services be required.

7.0.0 LOAD FORECAST

By letter of July 2, 2013, Manitoba Hydro requested the Board not include Manitoba Hydro's internal Load Forecast as "commercially sensitive information" in the NFAT Review.

While this matter was raised at the Pre-Hearing Conference, Manitoba Hydro advises that the only difference between the internal load forecast and the external load forecast is an Appendix which contains a forecast of electricity consumption by Manitoba Hydro's Top Consumers. The Appendix is compiled from various sources of information, including confidential disclosure of these Top Consumers' business plans to Manitoba Hydro.

If the Appendix is disclosed (as Commercially Sensitive Information) Manitoba Hydro is concerned that the confidential voluntary disclosures by its Top Consumers may cease, thereby negatively affecting future Load Forecasts.

MIPUG supports Manitoba Hydro's request. Other Interveners have been silent on this issue.

The Board will consider this issue further, and may have one of its Advisors and/or Independent Expert Consultants review the Internal Load Forecast, before concluding on this matter.

8.0.0 TIMETABLE

Following the Pre-Hearing Conference that gave rise to Order 67/13, the Board has further revised the draft timetable for the orderly exchange of evidence leading to the oral evidentiary NFAT Review hearing.

Attached to this Order as Schedule "A" is a revised draft for the parties to review and provide comments on, at the September 4, 2013 Pre Hearing Conference.

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 PUBLIC UTILITIES BOARD

"RÉGIS GOSSELIN, BA, CGA, MBA"
Chair

"HOLLIS SINGH"
Secretary

Certified a true copy of Order No. 92/13
issued by The Public Utilities Board

Secretary

Schedule “A”

NFAT Calendar

Last updated: August 7, 2013

	Schedule	
Applications for Intervener Status	14-May	
Pre-Hearing Conference #1	16-May	
Technical Conference	15-Jul	17-Jul
NFAT Filing	16-Aug	
Presenter Status Applications	30-Aug	
Pre-Hearing Conference #2	04-Sep	
Technical Conference	05-Sep	06-Sep
Round 1 IRs	16-Sep	
Motion Day (MH)	30-Sep	
Community Hearing - Brandon	08-Oct	
Community Hearing - Thompson	10-Oct	
Answers to Round 1 IRs	21-Oct	
Motion Day (Interveners)	30-Oct	
Round 2 IRs	04-Nov	
Motion Day (MH)	08-Nov	
Answers to Round 2 IRs	25-Nov	
Motion Day (Interveners)	02-Dec	
Independent Expert Evidence Due	10-Dec	
IRs on IE Evidence	20-Dec	
IE Responses to IRs	06-Jan	
Intervener Evidence	16-Jan	
IRs on Intervener Evidence	24-Jan	
Intervener Responses to IRs	03-Feb	
Manitoba Hydro Rebuttal	17-Feb	