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July 8, 2019

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

Dear Mr. Christle:

RE: CENTRA GAS MANITOBA INC. ("CENTRA") 2019/20 GENERAL RATE APPLICATION – REPLY TO INTERVENER POSITIONS ON ISSUES FOR ORAL HEARING

By letter of June 27, 2019, the Public Utilities Board of Manitoba ("PUB" or the "Board") requested that Interveners provide their positions on which issues, if any, should be the subject of oral evidence together with reasons for such positions by July 5, 2019. The PUB further requested that Centra reply to the submissions of Interveners on July 8, 2019.

Written submissions with respect to the identification of issues for an oral hearing were provided by the Consumers Association of Canada (Manitoba) ("CAC"), Industrial Gas Users Group ("IGU"), and Koch Fertilizer Canada, ULC ("Koch").

Having reviewed all submissions, Centra respectfully submits that, with the possible exception of final argument, it is in the overall public interest for this proceeding to be conducted entirely in writing. In reaching this position, Centra has considered the full and fair process and robust evidentiary record to date with very few facts in dispute, and that many recommendations and positions advanced by interveners concern matters unrelated to the specific relief sought in the Application. Centra has also considered the principle of regulatory efficiency together with the direction of the Minister of Crown Services in her mandate letter to Manitoba Hydro of April 24, 2019 to "... streamline processes, in an effort to reduce overall costs to ratepayers of regulatory hearings."

From the outset, it is well-established that the PUB is the master of its own process and the *Public Utilities Board Rules of Practice and Procedure* (the "Rules") provide the PUB with broad discretion to determine the procedure for any proceeding commenced before it. In particular, section 4. (1) provides "In any proceeding, the Board may issue directions on procedure which will govern the conduct of that proceeding and will prevail over any provision of these Rules that is inconsistent with those directions."

Centra recognizes that pursuant to Section 123 of *The Public Utilities Board Act*, it bears the onus to demonstrate that the proposed rates are just and reasonable. In addition to the initial filing of the

Application on November 30, 2018 which sought rate approvals for August 1, 2019, and the additional written evidence in response to the PUB's Completion Certificate process, in accordance with Hearing Order 24/19, Centra's evidence has been tested through two rounds of information requests ("IRs"), with Centra answering 990 IRs in the first round and 350 IRs in the second round.

Three parties have filed intervener evidence: CAC, IGU and Koch. Minimal IRs were filed in respect of the intervener evidence. Centra continues to observe that there is limited dispute as to evidentiary facts. Centra submits that upon conclusion of the filing of Intervener Information Request responses, its Pre-Hearing Update and minimal rebuttal evidence, the evidentiary record shall be sufficiently complete such that the recommendations and proposals raised by the interveners in their evidence can be adequately addressed directly through final argument without the need for any oral testimony.

CAC suggests that its experts must explain their evidence to the PUB panel because it is the first time the PUB is addressing these "very technical matters." While Centra does not agree with all of the evidence put forward by CAC's experts, their proposals and recommendations for the future are unrelated to the actual relief sought in this Application and are relatively straight-forward and not unique to this particular Application. There is no need for any of those experts to repeat and expand upon their pre-filed written evidence. The limited number of IRs posed by the PUB, Centra and other interveners to CAC's experts is evidence of the PUB's understanding and any limited need for additional clarification or testing.

IGU and Koch submit that cost of service matters should be severed and rates should not be set until a generic cost of service review is conducted. These submissions are repetitive of those advanced by Koch in its motion filed June 14, 2019. In Order 91/19, the PUB considered and rejected the request to defer any rate increase until such time as cost of service issues were heard in an independent process. Centra reiterates its position outlined in its response to the Koch motion; this proceeding was not intended to be a full cost of service methodology review similar to the electric proceeding that led to Order 164/16. Furthermore, suspending this proceeding pending the outcome of a cost of service review will harm ratepayers who are expected to receive rate reductions. Stalling out this well advanced process at this time, for the reasons advocated by IGU and Koch, is not in the public interest.

CAC suggests that absent an oral hearing, it will be unable to test Centra's Pre-hearing Update or rebuttal evidence or have its experts respond to that material. Centra can advise that it intends to file limited rebuttal evidence on the following issues:

- The impact of O&A reductions;
- The observations with respect to Centra's long-term financial forecast;
- Impact of a cumulative profit adjustment;
- Alternative balancing fee proposals;
- The necessity of certain capital projects;
- The treatment of heating value deferral;
- The minimum margin guarantee for the Power Station class; and,
- Debt management matters.

Centra can also advise that it anticipates the Pre-Hearing Update will show a further rate reduction for most customer classes.

At page 2 of its letter, CAC submits that an oral hearing is necessary for "Intervener expert witnesses to

address Centra's rebuttal evidence." With respect, further Intervener evidence following Centra's rebuttal evidence can only be characterized as sur-rebuttal. Filing of sur-rebuttal evidence was not contemplated by Order 24/19, is generally not permitted and is limited to exceptional circumstances. The Applicant *as the party bearing the onus* is entitled by the rules of natural justice to fairly address new facts, proposals and recommendations introduced by other parties through the filing of their pre-filed written evidence. Procedural fairness does not entitle opposing parties to continually adduce new evidence to respond to the Applicant's case thus "getting the final word". If it is established that the content of Centra's pre-hearing update or rebuttal evidence is improper in some way, then any party can raise those issues with the Board, for example by filing a motion to file additional evidence (sur-reply) in accordance with the Board's Rules.

In addition to the general comments above, to assist the PUB in its consideration of the issues for oral evidence, Centra has provided its comments on the issues included in Appendix A of Order 24/19 below.

No party has identified any of the following issues as requiring oral evidence:

- Issue 2 – Centra's strategic plan
- Issue 10 – Liability Insurance
- Issue 13 – DSM (with the exception of the sub item v. disposition of the Furnace Replacement Program disposition)
- Issue 14, sub item ii – Carbon levy impacts and presentation of the levy on customer bills
- Issue 15 – Load forecast
- Issue 16 – Gas Costs
- Issue 18 – Western Transportation Service
- Issue 19 – Fixed Rate Primary Gas Service
- Issue 20 – Feasibility Test true-ups
- Issue 21 – Approval of interim orders
- Issue 22 (with the exception of Load Balancing Fees (discussed below)).

As such, Centra submits no oral evidence is needed on any of the above issues.

Additionally, Centra notes that both CAC and IGU agree that disposition of the heating value deferral account can be argued on the basis of the current written record.

Cost Allocation Study (Issue 17), Rate Changes Requested (Issue 1) and Rate Design (Issue 24)

Centra submits that its current cost allocation methodology produces fair and reasonable outcomes on a principled basis. This is confirmed by CAC's own expert consultant (Ms. Derksen) who opined that "Centra's long-standing cost allocation methodology is reasonable, principled and accepted industry practice, notwithstanding that there are significant impacts to customer classes"¹. As noted throughout its Application, and in response to information requests, Centra has not made any substantive changes to its cost allocation study since it was last approved by the PUB.

Centra acknowledges that the 2019/20 cost allocation study, particularly the related bill impacts for certain customer classes, are the subject of concern for certain Interveners who have retained their own experts and provided their own evidence and recommendations to address the results of the cost

¹ Evidence Prepared by Darren Rainkie & Kelly Derksen, June 26, 2019, page 94

allocation study. Similarly, Counsel for CAC cites as a basis for oral evidence in its July 5th letter that "Significant divergent perspectives exist between CAC, IGU and Koch with respect to the Application of rate change proposals flowing from Centra's GRA"², and then goes on to say that that "consideration of these alternatives will require some review of the current methodology on a limited basis such that the Board may adjudicate on the current GRA and related rate changes proposed by Centra for November 1, 2019." (emphasis added)

These divergent positions and recommended alternatives advanced by parties to the Application are not unexpected and do not appear to be based on a dispute of facts that would require further consideration as part of an oral hearing. Rather, parties appear to be advocating for a public hearing as a means to further advance these arguments and alternatives and not to seek clarification of facts with respect to cost allocation matters. The value of an oral hearing simply to provide parties an opportunity to reiterate their respective positions that have already been well articulated in the evidence is questionable for both the PUB (who looks to Interveners to assist them in testing the evidence filed) as well as to ratepayers (who are ultimately funding the cost of this entire proceeding). Even more questionable would be the value to be gained from a "limited review" of such alternatives.

Based on the foregoing, Centra is of the view that evidence filed by CAC, IGU and Koch on options to mitigate bill impacts on certain customer classes arising from Centra's 2019/20 cost of service study, represent pure argument for the PUB's consideration. Accordingly, Centra's cost allocation methodology and rates flowing from the results of the study do not require further consideration as part of an oral proceeding; rather, parties can reiterate their positions in written submissions, following the receipt of Centra's rebuttal evidence, to assist the PUB in its deliberations.

With respect to the recommendation for a generic cost allocation methodology review, Centra agrees that a full methodology review is appropriately a matter for a future generic hearing, with the emphasis being on a "future" proceeding. Centra did not retain its own expert consultant to provide evidence on the appropriateness of its current PUB-approved cost allocation methodology when it filed its Application in November 2018, nor did the PUB identify a complete methodology review in the Issues List included in Appendix A of Order 24/19. As such, Centra submits that it would be procedurally unfair, and practically impossible, at this late stage in the process to now expect a full generic cost allocation review take place as part of the current proceeding.

Transportation Service Load Balancing Fees

IGU has requested that a decision on the proposed load balancing fee structure be deferred following another collaborative process.

Over a multi-year consultation process, Centra was unable to reach consensus with Transportation Service ("T-Service") customers on the need for balancing fees and a structure to accomplish them. Despite Centra's best efforts with these stakeholders, this issue was not resolved by way of settlement or consensus. Centra is not amending or withdrawing its Application to implement the proposed balancing fee structure. Parties have had significant notice of the change. Centra took concrete steps in formulating its proposal to mitigate the impacts on T-Service customers. There is ample evidence (including responses to approximately 110 information requests explaining and supporting Centra's

² Page 9 of Correspondence from DD West LLP dated July 5, 2019

proposal). The positions advanced by interveners are clear. Therefore Centra is requesting that the Board rule on the matter as part of this GRA and without oral evidence.

Issues Related to Future GRAs/Test Years

A number of the priority issues identified by CAC to be examined in the oral rate setting hearing relate to issues that are beyond the test year included in the current GRA. These include: assumptions with respect to financial ratios assumed by Centra in CGM18 and the related impact on indicative rate projections to 2027/28 (Issues 12 & 4); minimum filing requirements on finance expense to be included in future GRA filings (Issue 5); future reports on the integrated cost allocation methodology (Issue 9); and capital expenditures and rate base additions that are driving increases in finance expense, depreciation and taxes in future (Issue 11). As the PUB and interveners are aware, a number of these issues are currently being reviewed as part of Manitoba Hydro's enterprise wide strategic planning process that is underway. There is limited value in an extensive review of these issues at this time while that work is in progress.

CAC has also identified issues that would require examination at an oral hearing setting that are completely outside of Centra's control, including the disposition of the excess furnace replacement funding and impacts of the 2018 Province-wide property tax reassessment of Centra's assets. None of these issues would benefit from further examination as part of an oral hearing to set rates for the 2019/20 test year.

CAC further cites its expert witness' recommendation that the PUB direct consideration of the establishment of a Minimum Retained Earnings test for future Centra GRAs and the increase in Centra's financial reserves since the last gas GRA as a basis for oral evidence noting that "...it is important that these issues be reviewed at an oral hearing and that the Board provide direction for future rate proceedings with respect to Centra's financial reserve requirements for rate-setting purposes"³ (Issue 3). The PUB has already provided its direction in Order 69/19 with respect to the consideration of the use of rule-based regulation in setting of consumer rates, and the role and sufficiency of reserves in Manitoba Hydro's operations, and has set in motion a course of action such that there would be limited value to be gained by the PUB, Interveners and ratepayers for an oral hearing on these matters.

Conclusions on Oral Evidence

For the reasons identified above, and in consideration of the heightened administrative challenges associated with conducting a public oral hearing because of the commercially sensitive information and the differing levels of access that has been granted to certain parties, Centra respectfully submits that it is in the overall public interest for this proceeding to be conducted entirely in writing.

In the alternative, if the PUB determines that an oral hearing with cross-examination is necessary to assist the Board Panel's understanding of specific issues, Centra submits the following should be taken into consideration:

- After witnesses have been introduced and duly sworn, they should be subjected to cross-examination without the opportunity for providing direct evidence;
- Cross-examination should be time limited and restricted to discrete topics;

³ Page 4 of Correspondence from DD West LLP dated July 5, 2019

- All parties should be reminded that the purpose of cross-examination is to test or challenge evidence on the record (repeated confirmation of information that is already on the record or advancing argument is inappropriate); and,
- Should any portion of the hearing conclude ahead of schedule, parties must be prepared to proceed to the next item on the hearing schedule without delay.

If the PUB determines it requires oral argument, Centra supports the option for parties to also file written argument, provided such argument is filed sufficiently in advance of any date for oral argument to allow Centra a fair opportunity to review and respond to any such written submissions. In addition, Centra submits that any oral argument be reasonably limited in time.

In the event the PUB determines that the review of Centra's GRA can proceed entirely by way of a written process, Centra respectfully suggests that the schedule can be advanced such that all final arguments are completed by August 30, 2019.

Centra thanks the PUB for the opportunity to file these comments. If you have any questions or require clarification with respect to this submission, please contact the writer at 204-360-3257 or Paul Chard at 204-360-5146.

Yours truly,

MANITOBA HYDRO LEGAL SERVICES DIVISION

Per:



BRENT A. CZARNECKI
Barrister & Solicitor

cc: Rachel McMillin, Assistant Associate Secretary
Bob Peters, Board Counsel
Dayna Steinfeld, Board Counsel
Intervenors of Record