

The Public Utilities Board

IN THE MATTER OF *The Public Utilities Board Act (Manitoba)* and an Application by Centra Gas Manitoba Inc. for an Order of the Public Utilities Board Approving Changes to Natural Gas Rates

Koch Fertilizer Canada, ULC

Reply to Objection of Centra Gas Manitoba Inc. on Motion for Access to Confidential Information Filed in Connection with the 2019/2020 General Rate Application

June 21, 2019

I. INTRODUCTION

1. Koch Fertilizer Canada, ULC (**Koch**) is in receipt of Centra Gas Manitoba Inc.'s (**Centra**) response to Koch's motion for access to confidential information. The following is Koch's reply. Defined terms set out in Koch's motion will be used below.

II. NO DELAY

2. Koch did not delay in bringing its motion. It only became necessary to seek the Board's direction as of June 5, 2019, when Centra informed Koch its representatives would not be allowed access to confidential information on the same terms granted to IGU counsel and consultant as allowed in Order 77/10. Koch filed its access to confidential information within days of Centra's denial of access.
3. Prior to this motion Koch worked collaboratively with Centra, before and after the IRs were filed, in an effort to obtain satisfactory COS information in accordance with Board Order 24/19. Despite Koch's efforts, Centra denied a meaningful path forward – as it is doing now.
4. Koch's motion for access raises key issues of procedural fairness and natural justice. It does not seek to prejudice any party, nor does it raise questions that undermine the integrity of the Board's process.

III. SCOPE OF THE HEARING

5. Order 24/19 states the following on Koch's participation (at page 12 and 13):

This proposed Intervener is concerned that Centra's proposed rate structure will substantially increase operating costs, which Koch Fertilizer Canada, ULC cannot flow through to its markets and believes it is being singled out and paying an unjustifiable amount. Koch Fertilizer Canada, ULC plans to fully and actively participate in the Centra GRA and will not be seeking an award of costs.

6. The Issues List attached as Appendix A to Order 24/19 sets out the issues which include:
 1. Rate changes requested;
 9. Integrated Cost Allocation Methodology (allocation of costs between MH and Centra); and
 14. Bill impacts on consumers:

- i. Macro-economic impacts of the proposed rate changes which include evidence from industrial customers as to the effect Centra's proposed rate adjustments will have on their businesses;
 - ii. Carbon levy impacts and presentation of the levy on customer bills.
- 7. Centra has clearly known from the date of Order 24/19, if not earlier¹, that the cost of service was the central concern for Koch in this hearing and was accepted as valid areas of inquiry by the Board, being specifically included as issues within the scope of the hearing. It is disingenuous for Centra to suggest otherwise.
- 8. The Board also stated at page 23 of Order 24/19 that:

The Board finds that fairness requires that Interveners have the right to participate in the testing of Centra's evidence and in presenting evidence on the issues within the scope of this GRA. The participation of Interveners in evidentiary steps in the process will also assist the Board, as this participation contributes to a robust, transparent, and evidence based decision-making process.
- 9. It has always been contemplated that a complete review of the COS methodology may or may not be necessary once Koch has the benefit of its COS expert seeing the Centra COS study.
- 10. It is up to the Board, not Centra, to determine whether a complete review of the COS methodology is appropriate.
- 11. If the Board sees merit in receiving a full record on the COS methodology and whether it continues to be appropriate in light of the significant rate increases it produces, and the judgment exercised by Centra in functionalizing the costs of the system and allocating them to various customer classes, it follows, that there is no prejudice to any party.
- 12. Ignoring procedural fairness is far more prejudicial to customers facing the large rate increases than those who will enjoy the rate decreases. Due process eliminates the alleged prejudice on all sides.

IV. DUPLICATION

- 13. Centra complains that Koch is attempting to enlarge the scope of the GRA hearing by seeking a full review of Centra's cost allocation methodology. Centra then complains Koch's proposed cost allocation expert evidence is the exact type of *duplication* the Board ordered the Interveners to avoid in Order 24/10.

14. If Koch is trying to create a new area of inquiry, which it denies, then how can it be duplicative? This doesn't add up.
15. Because Centra has denied access, Koch has not been afforded the opportunity to determine the specific costs that Centra proposes to allocate to it, or to the transmission class of customers. It is therefore premature for Centra to assert whether there may be any duplication in what it seeks to test in Centra's COS methodology.

V. KOCH IS NOT A COMMERCIAL COUNTERPARTY

16. Centra is attempting to create an artificial roadblock by suggesting that Koch is a commercial counterparty when it is nothing more than a customer, albeit a significant one. Koch has every right to know the case Centra puts forward and fully understand the basis of the proposed charges its' seeking to recover from Koch.
17. Koch does not have competing business interests with Centra visa-vis the significantly increased rates that Centra proposes to charge Koch. Merely stating it does, does not make it so. Centra attempts to defy the facts and regulatory principles to suggest that a customer such as Koch is, by virtue of receiving utility service from Centra, put in the position of a competing business.
18. Centra is a gas utility. Koch manufactures fertilizer. They are different businesses with different markets and different products.
19. There is no-irreparable harm, nor any harm, to Centra, in disclosing to one of its most significant customers the basis upon which its rates are designed, and the cost allocations that it determines appropriate in its COS study. That is Centra's obligation as a utility. There is no evidence of which Koch is aware that suggests otherwise.
20. It is a non-sequitur to suggest, as Centra appears to, that a utility has to keep the basis of the rates that it proposes a secret from its customers.
21. Koch is a customer receiving service from Centra – nothing more. In fact, Koch would suggest that there is harm, perhaps irreparable harm in Centra not disclosing the information contained in the COS study to Koch and other customers. It is only when the basis for the proposed rate(s) is made transparent to both the PUB and customers that parties can respond with (expert) evidence that will assist the PUB in determining the justness and reasonableness of the proposed rates. To do otherwise raises the specter of a Board determination made in a vacuum which would raise potential uncertainty over the Board's process. Such uncertainty can easily be seen to cause potential harm to Centra, and others.

VI. CONCLUSION

22. Some or all of the relief requested in Koch's June 14, 2019 motion for access to confidential information should be granted.

All of which is respectfully submitted this 21st of June, 2019.

Lawson Lundell LLP

< original signed by >

Lewis Manning,
Counsel for Koch Fertilizer Canada, ULC