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April 12, 2021

Public Utilities Board
400-330 Portage Avenue
Winnipeg, Manitoba R3C 0C4

Via: Email: publicutilities@gov.mb.ca

Attention: Dr. Darren Christle and Ms. Rachel McMillin

RE: Application of the Consumers Coalition for an Order Requiring a Status Update from Manitoba Hydro

These submissions are filed on behalf of the Assembly of Manitoba Chiefs (the “**AMC**”)¹ pursuant to the request of Assistant Associate Secretary Rachel McMillin dated April 1, 2021, requesting that all parties provide written submissions on whether the Public Utilities Board (the “**Board**” should consider the application of the Consumers Coalition sent by email dated March 26, 2021 (the “**Application**”).

Submissions Regarding the Application

Since September 1, 2020, most First Nations on-reserve residential ratepayers have faced an approximately 9% rate increase without fulsome regulatory oversight or review by the Board.² This has exacerbated the energy poverty faced by these ratepayers during a time of economic recession and the significant negative effects of the COVID-19 pandemic. These increases amount to rate shock. The three-year gap since the last rate hearing has been detrimental for First Nations ratepayers in Manitoba who have been “left in the dark” about the impact of recent changes to Manitoba Hydro.³

The AMC urges the Board to grant the Application. In particular, the AMC submits that the Board should:

¹ The Assembly of Manitoba Chiefs is the political and technical coordinating organization of 62 of 63 First Nations in Manitoba, including Anishinaabe (Ojibway), Nehetho/Ininew (Cree), Anishinew (Ojibwe-Cree), Denesuline (Dene) and Dakota Oyate (Dakota) Nations. The AMC advocates on issues of common, political and legal interest for these First Nations.

² see Application at p. 17.

³ see Application at p. 3.

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1. Find that the circumstances of Manitoba Hydro have changed substantially since Orders 59/18 and 69/19;
2. Establish a status update hearing process to:
 - a. Examine whether current Manitoba Hydro rates are just and reasonable and costs fairly allocated;
 - b. Address unfinished business from Order 69/19 regarding the deferral account set aside to protect future Manitoba Hydro ratepayers from rate shock; and
 - c. Establish a process to address other unfinished directives from Order 59/18 and 69/19;
3. Direct Manitoba Hydro to file the information requested in the Application; and
4. Direct that a pre-hearing conference be held regarding the status update hearing.

In addition to the issues set out in the Application, the status update hearing should also address whether Manitoba Hydro's rate classifications are just and reasonable. The Board's jurisdiction to approve and set just and reasonable rates extends to creating customer classifications as "setting of customer classifications is an inherent part of the setting of rates."⁴

Submissions Regarding Process

Given that the Board did not hold a full hearing for the 2019/20 year in anticipation that Manitoba Hydro would file a full rate application in late 2019,⁵ the AMC submits that the Board should now hold a full hearing. In particular, this hearing should consist of submissions preceded by the provision of information and evidence.⁶

To accommodate COVID-19 precautionary measures, as well as to reduce costs and create efficiencies for all parties, the hearing process should be as flexible as possible. The hearing should combine the processes identified in the definitions of "Oral Hearing" and "Electronic Hearing" set out in the *Public Utilities Board Rules of Practice and Procedure* (the "**Rules**"), as follows:

- **Oral Hearing:** a hearing at which the parties or representatives attend before the Board in person.
- **Electronic Hearing:** a hearing held by conference telephone or some other form of electronic technology allowing persons to communicate with each other.⁷

In addition, the Board should direct that:

⁴ *Manitoba (Hydro-Electric Board) v Manitoba (Public Utilities Board) et al*, 2020 MBCA 60 at paras 38 to 41; *Public Utilities Board Act*, CCSM c. P280 at ss. 77(b) and 82(1)(c).

⁵ see Application at p. 4.

⁶ *Public Utilities Board Rules of Practice and Procedure* at 2(i). [**Rules**]

⁷ Rules at 2(h) and (m).



- a pre-hearing conference be held by videoconference under Rule 11(1);
- consideration be given to holding a non-evidentiary technical conference under Rule 11(2);
- scheduling be discussed at the pre-hearing conference, following Manitoba Hydro's submission of the information requested in the Application;
- scheduling reflect sufficient time for the parties to fully participate in the hearing, including time for parties to:
 - apply to intervene under Rule 27;
 - retain experts;
 - review the information provided by Manitoba Hydro and for their experts to prepare written evidence;
 - make and respond to information requests under Rules 14 and 15;
 - present evidence;
 - cross-examine representatives of Manitoba Hydro;
 - cross-examine experts; and
 - make written and oral arguments under Rule 31;
- presentations are permitted under Rule 28;
- a reporter be retained, and daily hearing transcripts provided under Rule 34; and
- costs are available to the parties under Part IV of the Rules, including costs for consultant, expert witness and counsel fees.

If you have any questions about these submissions, please let us know.

Sincerely,

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cc:

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