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November 30, 2022

THE PUBLIC UTILITIES BOARD OF MANITOBA  
400-330 Portage Avenue  
Winnipeg, Manitoba  
R3C 0C4

ATTENTION: Dr. D. Christle, Board Secretary and Executive Director

Dear Dr. Christle:

**RE: COMMENTS ON APPLICATIONS FOR INTERVENER STATUS FOR  
MANITOBA HYDRO'S 2023/24 & 2024/25 GENERAL RATE APPLICATION**

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Manitoba Hydro has reviewed the six applications for Intervener Status submitted to the Public Utilities Board of Manitoba ("PUB") with respect to Manitoba Hydro's 2023/24 & 2024/25 General Rate Application ("GRA" or "Application").

In efforts to streamline the Pre-Hearing Conference scheduled for 9:00 a.m. on December 5, 2022, Manitoba Hydro is providing the following comments.

Manitoba Hydro has no objection to the PUB granting Intervener Status to the following parties:

- Assembly of Manitoba Chiefs ("AMC");
- Consumers Coalition (made up of the Consumers' Association of Canada (Manitoba Branch), the Aboriginal Council of Winnipeg, and Winnipeg Harvest);
- General Service Small and General Service Medium Customer Classes ("GSS/GSM");
- Manitoba Industrial Power Users Group ("MIPUG"); and
- Manitoba Keewatinowi Okimakanak Inc. ("MKO").

Mr. Gerald Finkle

In addition to the parties noted above, Mr. Gerald Finkle has applied for Intervener Status. Manitoba Hydro notes that Mr. Finkle's Intervener Request Form indicates his representation is "unknown/but probably vast majority of rate payers and taxpayers". Mr. Finkle previously applied for Intervener Status during the 2017/18 & 2018/19 GRA, and in Order 70/17, the PUB found:

*“In determining whether intervention status is the appropriate method of participation for a specific Party, the Board considers, for purposes of regulatory efficiency, whether the proposed intervener represents a substantial number of ratepayers that are not otherwise represented on issues that are within the scope of this hearing. The Board encourages individual ratepayers who apply for Intervener status to work with approved Interveners who represent their individual interests best.... The Board invites Mr. Gerald Finkle to communicate his issues to the Consumers Coalition for its consideration. The Board also invites Mr. Gerald Finkle to either provide a written presentation or register with the Board Secretary to provide an oral public presentation.”*

Similar to the 2017 GRA, it appears that Mr. Finkle’s issues have been raised by other parties who have applied for Intervener status; therefore, as previously determined by the PUB, Mr. Finkle should not be granted status as an Intervener but can rather communicate his issues to the Consumers Coalition and be afforded Presenter status.

#### Concerns with Duplication of Efforts Between and Among Interveners and General and Broad Retainers of Work to be Performed

Although prospective interveners have indicated they intend to work closely together to minimize duplication, there is some direct overlap both on the issues they intend to address and the associated work to be completed by the proposed consultants. In addition, from what has been presented thus far, it is not clear as to what specific topics or tasks each consultant will be retained to perform. Consequently, it is difficult to assess whether consultants will opine on matters beyond their expertise or duplicate work efforts of other consultants. Further comments on the proposed interventions of certain parties are provided below.

#### Assembly of Manitoba Chiefs

AMC intends to engage two technical advisors to support its proposed intervention, Mr. Brady Yauch and Ms. Christine Runge. These advisors were previously retained by AMC for Manitoba Hydro’s 2021 Interim Rate Application and performed work at a rate of \$250 per hour. For the current proceeding, these consultants are seeking an hourly rate of \$290 per hour, which is above the maximum hourly tariff rates approved by the PUB for professional accounting and engineering services for individuals with experience of 20+ years. Manitoba Hydro requests the PUB consider requiring AMC’s consultant’s hourly rate to be maintained within the maximum hourly rates permitted in its tariff schedule based on years of experience.

### Consumers Coalition

The Consumers Coalition has advised, on a preliminary basis, that it intends to engage five technical advisors as part of its proposed intervention. While the specific issues that each technical advisor intends to examine have not yet been identified, there appears to be duplication between the experience and qualifications of certain advisors, namely Mr. Darren Rainkie and Mr. Pelino Colaiacovo, in the areas of financial forecasting and financial metrics for large utilities. Due to the similarities in experience and qualifications between Mr. Rainkie and Mr. Colaiacovo, and that of Mr. Yauch, Ms. Runge and Mr. Bowman who MIPUG is proposing to retain, Manitoba Hydro submits that the PUB should limit the Consumers Coalition to the use of one consultant to provide independent expert evidence on financial matters deemed to be in-scope by the PUB to reduce the potential for duplication, ensure regulatory efficiency and to appropriately limit regulatory costs.

One of the key issues for this proceeding identified by the Consumers Coalition is “Manitoba Hydro’s medium and long-term strategic planning, including through and as informed by Manitoba’s provincial energy strategy, Manitoba Hydro’s Strategy 2040, and its forthcoming Integrated Resource Plan.” Furthermore, the Consumers Coalition indicates that one of the key issues it intends to focus its intervention on is Manitoba Hydro’s load forecast.

As discussed in Tab 2 of the Application, the evolving energy landscape is driving greater uncertainty in forecasting both energy demand and energy supply planning, and Manitoba Hydro is currently engaged in its first Integrated Resource Plan ("IRP") Development Process, which will provide a long-term roadmap to enable Manitoba Hydro to effectively plan and respond to the changing landscape and its impacts on customers. As part of the IRP process, Manitoba Hydro is exploring a range of potential futures to understand how uncertainty in the timing of decarbonization, decentralization and digitization changes, customer energy choices and changing policy may impact the future energy needs of Manitoba.

As noted in the cover letter to the Application, Manitoba Hydro has included a general status update within the Application on the IRP Development Process for informational purposes and is formally requesting that the PUB rule the IRP Development Process out of scope for the GRA proceeding. Allowing the ongoing engagement process and related work to continue and evolve in an open, candid and without prejudice forum independent of this GRA process, is necessary and beneficial to all stakeholders. Similarly, Manitoba Hydro is also requesting that if, and when, energy policy is released by the Province of Manitoba, that it and the potential impact of the trends in the evolving energy landscape on the 2021 Electric Load Scenario, be

ruled out of scope of this proceeding. Examining provincial energy policy, when available, will be considered and potentially incorporated as key components into the IRP Development Process.

Moreover, all prospective parties in this proceeding have had the opportunity to participate and engage in the IRP Development Process. Manitoba Hydro is committed to continue its efforts to actively engage with these stakeholders and the PUB as this very important work progresses as the completed IRP will inform Manitoba Hydro's next GRA.

#### Manitoba Industrial Power Users Group ("MIPUG") Application

As part of its proposed intervention, MIPUG intends to engage five technical advisors, including two unidentified, "highly specialized advisors" in the areas of depreciation and export markets without providing any clarification on which specific issues it intends to address in these areas or the purpose of same, which according to MIPUG, are expected to be quite costly. There appears to be potential duplication in the advisors included by MIPUG. The curriculum vitae of Mr. Patrick Bowman indicates that his areas of experience include "Utility regulation and Rates, including Depreciation", and he is a member of the Society of Depreciation Professionals.

To the extent that MIPUG requires a consultant to assist it with depreciation matters, given that Mr. Bowman has experience in the area of depreciation, including appearing as a witness for MIPUG on depreciation in previous PUB proceedings, Manitoba Hydro questions whether it is necessary for MIPUG to engage a second, and presumably more costly technical advisor on depreciation matters. Manitoba Hydro also notes that GSS/GSM intends to address depreciation as part of its proposed intervention, and intends to engage one technical advisor, Mr. Dustin Madsen, who is a Certified Depreciation Professional.

In its application, MIPUG has identified Mr. Dale Friesen as the representative for MIPUG's organization, as well as a potential technical expert for its proposed intervention. The areas Mr. Friesen has been identified to provide technical expertise are overly broad and general. As a representative of MIPUG for this GRA and for on-going utility matters outside of this Application, Mr. Friesen's role appears to more closely resemble that of an executive director or coordinator on behalf of MIPUG. Whether or not Mr. Friesen is already being compensated for performing such role is unknown to Manitoba Hydro, but if so would create the perception of a conflict of interest with respect to providing independent and objective expert opinion evidence on behalf of MIPUG in this Application.

Manitoba Hydro notes that MIPUG has also included the CV of Mr. Josh Dyck in its application for intervener status, whose work would be in addition to the five technical advisors MIPUG has advised it intends to engage. MIPUG has not provided any information on the work Mr. Dyck is expected to complete so any intended role for him in this proceeding is unknown.

#### Confidential Information

In its application for Intervener Status, MIPUG indicates that it is concerned that Manitoba Hydro seeks to keep certain portions of its application confidential and indicates the cost of its intervention will increase considerably if it is required to file a motion to request access to this information.

Manitoba Hydro is committed to conducting the GRA in the most transparent manner possible and intends to keep requests of the PUB to hold information in confidence to a minimum and only where necessary. Manitoba Hydro has and will continue to use techniques such as aggregating information, averaging and providing summaries to avoid disclosing information which is confidential, proprietary and/or commercially sensitive (collectively referred to as "Confidential Information"). Doing so ensures that as much information as possible can be placed on the public record thereby allowing the public and all parties to the proceeding with the same fair opportunity to participate and provide their respective perspectives and positions for the PUB's consideration and deliberation. However, to be fully responsive and compliant with certain specific requests for information by the PUB, in accordance with past PUB precedent, Manitoba Hydro has filed certain Confidential Information with the PUB only, as disclosure of such Confidential Information could reasonably be expected to significantly harm Manitoba Hydro's competitive position.

This information has been consistently treated as confidential by Manitoba Hydro and accepted as confidential by the PUB when such treatment has been sought by Manitoba Hydro in past proceedings. Recently, in Order 112/17, the PUB ruled on the confidential treatment of the same or similar information filed by Manitoba Hydro in the current proceeding, in denying the Coalition's motion for access to this information, determining that disclosure of the requested information to the Coalition was not in the public interest.

Manitoba Hydro continues to strongly believe that it is in the public interest to restrict access to Confidential Information to the PUB only as non-disclosure agreements do not adequately protect Manitoba Hydro's Confidential Information, in particular information related to export contracts, as the risk and financial consequences of disclosure, inadvertent or otherwise, is far

too great and unrecoverable. Manitoba Hydro also remains concerned that some interveners legal counsel and advisors actively participate in other regulatory processes and once the information has been seen, it cannot be unlearned, increasing the risk of disclosure and potential harm to Manitoba Hydro and its customers. Finally, restricting access to Manitoba Hydro's Confidential Information to the PUB has not impacted the successful intervention of any intervener in past GRAs.

### Summary

In closing, Manitoba Hydro notes that the prospective interveners have identified at least 13 technical advisors to support their proposed interventions in this GRA. Manitoba Hydro is concerned with the potential costs of the proposed interventions, with some expected to seek fees well above PUB tariff rates, as well as the impact on the length of the GRA review process that will be necessary to review and respond to evidence by all parties, particularly if the roles of the proposed consultants are not better defined and that the duplication identified above within and amongst interveners is not addressed by the PUB from the outset of this process.

Manitoba Hydro appreciates the opportunity to provide comments on the intervener applications. Should you have any questions with respect to the foregoing, please do not hesitate to contact the writer at 204-360-3257.

Yours truly,

### **MANITOBA HYDRO LEGAL SERVICES**

Per:

A handwritten signature in blue ink, appearing to read 'Brent A. Czarnecki', written over a horizontal line.

Brent A. Czarnecki  
Senior Counsel