

Order No. 130/20

**AN APPLICATION BY CENTRA GAS MANITOBA INC.
TO REVIEW AND VARY DIRECTIVE 2 OF ORDER 49/20 – FILING DATE FOR THE
COST OF SERVICE STUDY METHODOLOGY REVIEW APPLICATION**

October 29, 2020

BEFORE: Larry Ring, Q.C., Panel Chair
Marilyn Kapitany, B.Sc.(Hon), M.Sc., Member
Carol Hainsworth, C.B.A., Member
Susan Nemec, FCPA, FCA, Member
Michael Watson, Member

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1.0 Executive Summary

By this Order, the Manitoba Public Utilities Board (“Board”) grants the September 30, 2020 Application of Centra Gas Manitoba Inc. (“Centra”) to review and vary Directive 2 of Order 49/20, which states “*Centra shall file an application for a comprehensive review of its cost of service methodology by no later than November 1, 2020*”.

Specifically, this Order sets aside the November 1, 2020 filing date for Centra’s cost of service study (“COSS”) methodology review application and substitutes the new filing date of May 3, 2021.

Following Centra’s 2019/20 General Rate Application and in Board Order 152/19 issued October 11, 2019, the Board initially set the filing date for Centra’s COSS methodology review submission as May 1, 2020. On January 29, 2020 Centra filed a Review and Vary Application seeking to vary the May 1, 2020 filing date of the COSS methodology review submission and defer it until November 1, 2020. As detailed in Order 49/20, the Review and Vary Application was granted to accommodate Centra’s plan to retain an independent consultant with respect to an appropriate COSS methodology and in the context of the requirement that Centra file a complete submission.

At the time of the January 29, 2020 Review and Vary Application, Centra anticipated that its independent consultant would be selected in March or April 2020. In Order 49/20, issued on April 2, 2020, the Board recognized the uncertainty as a result of the COVID-19 pandemic and stated its expectation that Centra would monitor the circumstances leading up to the November 1, 2020 filing deadline and advise the Board if that timeline cannot be met.

Centra supports its September 30, 2020 Review and Vary Application by stating that the COVID-19 pandemic resulted in the suspension of the planned engagement of a COSS consultant to assist Centra with the preparation of the COSS methodology review submission. Centra states that it plans to re-issue the Request for Proposal (“RFP”) for a consultant in October or November 2020, with the successful proponent likely to be

selected in November or December 2020 and the work likely to commence in the January to March 2021 timeframe. Centra now anticipates being in a position to file its COSS methodology review submission in September 2021, as this will in Centra's view allow sufficient time for Centra to work with the consultant to prepare the submission. Centra also indicates that the September 2021 timeframe will provide the Board with the opportunity to complete its examination of its processes and options to address concerns regarding the treatment of confidential information.

Reiterating the Board's comments in Order 49/20 about the value of the involvement of independent experts in the COSS methodology review process and the requirement for complete application filings, the Board finds that it is in the public interest to defer the November 1, 2020 filing date associated with Directive 2 of Order 49/20. However, the Board finds that it is necessary to direct a process for oversight by the Board of Centra's progress with the steps to prepare the COSS methodology review submission as well as the holding of a pre-filing workshop to reduce the risk of further delay and to enhance the efficiency of the COSS methodology review proceeding.

2.0 Background

Centra's Cost of Service Study Methodology

Centra's Cost of Service Study ("COSS") is used to allocate costs to customer classes. The COSS methodology is intended to identify the costs of serving the different customer classes based on the nature of the costs that are incurred and the services provided. The output of the COSS can then be used as a tool in determining the rate design and the rates for each of the different customer classes.

The last comprehensive review of Centra's COSS methodology was completed in 1996. During the 2019/20 General Rate Application, a number of Intervener expert witnesses filed evidence proposing a general methodology review or a different methodological approach than what is currently approved by the Board and utilized by Centra. In Order 98/19, dated July 15, 2019, the Board determined that, with limited exceptions, all COSS methodology and cost allocation issues would be excluded from the scope of the 2019/20 General Rate Application review proceeding and that those issues would be deferred to a separate proceeding.

In Order 152/19, dated October 11, 2019, the Board found that a COSS methodology review should be held prior to the next Centra General Rate Application. Directive 29 of Order 152/19 stated:

29. Centra shall file an application for a comprehensive review of its cost of service methodology by no later than May 1, 2020.

In Order 49/20, issued April 2, 2020, the Board granted Centra's January 29, 2020 request to review and vary the May 1, 2020 filing deadline for the COSS methodology review submission to allow Centra additional time to retain an independent consultant to assist in addressing the specific cost allocation concerns raised in the 2019/20 General Rate Application regarding the appropriate COSS methodology.

Directive 2 of Order 49/20 stated:

2. Centra shall file an application for a comprehensive review of its cost of service study methodology by no later than November 1, 2020.

In Order 49/20, the Board stated its expectation that Centra would monitor the circumstances leading up to the November 1, 2020 filing date to ensure that timeline could be met and that Centra would advise the Board if it could not.

To reduce process inefficiencies resulting from the filing of portions of an application in separate periods, Centra's COSS methodology review submission is required to comply with Directive 26 of Order 85/13, which stated:

26. That Centra file future applications as complete applications and not provide a portion of the application at a later date;

The Board's Authority to Review and Vary Board Orders and Decisions

The Public Utilities Board Act ("Act") provides that the Board may review, rescind, change, alter, or vary any decision or order made by it. The Act further provides that proceedings of the Board shall be governed by rules adopted by the Board.

Rule 36 of the Board's Rules of Practice and Procedure sets out the process for the Board's exercise of its authority to review, rescind, change, alter, or vary its own decisions and orders, also known as a "review and vary" power. A review and vary process may be undertaken on the Board's own initiative or on written application by any person.

Where a written application is filed, Rule 36 establishes a two-step process. At the first step, the Board must determine the preliminary question of whether the matter should be reviewed. This requires consideration of whether there is reason to believe that the order or decision should be rescinded, changed, altered, or varied. At the second step, the Board must decide whether the application should be dismissed, granted, or the subject of a further public hearing process.

An application may be dismissed:

- Where the applicant has alleged an error of law or jurisdiction or an error of fact, and the Board is of the opinion that the applicant has not raised a substantial doubt as to the correctness of the Board's order or decision, or
- Where the applicant has alleged new facts not available at the time of the original hearing or a change of circumstances, and the Board is of the opinion that the applicant has not raised a reasonable possibility that the new facts or the change in circumstances could lead the Board to materially vary or rescind the Board's order or decision.

3.0 Centra's Application to Review and Vary the Filing Date for Directive 2 of Order 49/20

On September 30, 2020, Centra filed a Review and Vary Application requesting that the Board set aside the November 1, 2020 filing date for the cost of service study methodology review application as required in Directive 2 of Order 49/20 and substitute the filing date with September 15, 2021. Centra's Application was filed pursuant to sections 44 and 129 of *The Public Utilities Board Act*, as well as Rule 36 of the Board's Rules of Practice and Procedure.

On October 1, 2020, the Board circulated the Review and Vary Application filed by Centra to past Interveners of Record and invited submissions on the Application. On October 7, 2020 and October 8, 2020, the Board received submissions from Koch Fertilizer Canada, ULC, and the Consumers' Association of Canada (Manitoba Branch), respectively. On October 14, 2020, the Board received Reply submissions from Centra.

Position of Centra

Centra submits that its request that the filing date for the COSS methodology review submission be extended to September 15, 2021 is justified. Centra notes that it was engaged in the GRA process through to fall 2019 and that on October 29, 2019 it commenced the process for the Request For Proposal ("RFP") for the consultant. On January 29, 2020, the RFP was posted after the review of requirements for the consultant and the necessary internal approvals and, in March 2020, Centra began negotiations with the consultant. Centra states that on April 4, 2020, Manitoba Hydro notified Centra that pending work must be re-prioritized due to the COVID-19 situation, and that in that context, Centra and the consultant ceased negotiations and agreed to cancel the RFP with the intent to re-issue the RFP when circumstances were more certain.

Centra states that it plans to re-issue the RFP for a consultant likely by early November, 2020, with the successful proponent likely to be selected in November or December, 2020 and the work likely to commence in the January to March 2021 timeframe. From March

2021 on, Centra plans to work with the consultant to prepare the COSS methodology review submission, including addressing all the minimum filing requirements and articulating Centra's position and recommendations. Centra anticipates being in a position to file its submission in September 2021, as this will allow sufficient time for Centra to work with the consultant to prepare the submission. However, Centra states that its current timelines are based on the assumption that the selected consultant can meet the milestones necessary to complete a review of Centra's COSS methodology despite the impact of the COVID-19 situation.

Centra also indicates that the September 2021 timeframe will provide the Board with the opportunity to complete its examination of its processes and options to address concerns regarding the treatment of confidential information, as outlined by Centra in its previous Review and Vary Application of January 29, 2020.

In response to the submissions of the Interveners, Centra argues that a short extension for the filing date would result in a "piecemeal" submission that is not fully informed by the consultant's review and consideration of the current methodology and issues raised in the 2019/20 Centra GRA.

Centra acknowledges that, to reduce process inefficiencies resulting from the filing of portions of an application in separate periods, Centra's COSS methodology review submission is required to comply with Directive 26 of Order 85/13, which stated:

26. That Centra file future applications as complete applications and not provide a portion of the application at a later date.

Centra further submits that, as the Board has determined that current rates are just and reasonable, there is no adverse impact from the delay of filing its submission. The COSS review process will not itself result in new rates, as any changes in the COSS methodology will be reflected when the COSS methodology is next updated and used in designing rates at the next GRA.

Noting the suggestions of the Consumers' Association of Canada (Manitoba), Centra is of the view that stakeholder engagement and comment on terms of reference is not required, as this was not directed by the Board and would only result in further delay. Centra asserts that a technical conference or information session can be held after Centra files its initial submission, and the public review process will provide opportunity for input and evidence.

Centra states that, as the COVID-19 situation remains highly fluid, Centra will notify the Board in a timely fashion if its intended work and the requested filing deadline of September 15, 2021 are impacted.

Position of Interveners of Record

Koch Fertilizer Canada, ULC ("Koch")

Koch states that it is concerned about Centra's lack of progress on its COSS methodology review submission. Koch's position is that Centra's COSS methodology is outdated, which has a detrimental financial impact on Koch, and that Centra has not proposed any means of mitigating the financial impact on Koch. Koch submits that the bill mitigation that resulted from the Board's elimination of the Heating Value Margin Deferral Account in Order 152/19 does not constitute sufficient ongoing mitigation.

Koch emphasizes that the plan to review the COSS methodology has been known since July 15, 2019. Koch argues that Centra has not provided any explanation as to why the RFP was not issued after the release of Order 152/19, why there is a need to re-issue the RFP, or why consultants have not yet been finalized by Centra. Koch notes that the Manitoba Public Insurance GRA hearing has proceeded without delay despite COVID-19.

In Koch's view, periodic oversight by the Board is warranted regarding Centra's progress on its COSS methodology review submission, given that setting a deadline has not been enough to ensure compliance. Koch recommends that the Board grant only a short extension to Centra to complete its COSS methodology review submission, and that the

Board impose a detailed timeline for interim steps and filings with respect to the submission. Koch states that the Board should direct Centra to provide compliance filings for the issuance of the RFP, review of proposals, selection of consultants, completion of consultants of the draft report, and the completion of the final report. Koch also recommends that the Board monitor Centra's progress in meeting deadlines.

Consumers' Association of Canada (Manitoba) ("CAC")

CAC agrees with Koch regarding the need for regulatory compliance. CAC takes no position on whether the Board should grant Centra's request for an extension to September 15, 2021 to file its COSS methodology review submission, but states that tighter oversight by the Board is needed in order to minimize further delay by Centra.

CAC recommends that the Board direct that Centra hold a pre-filing technical conference on the existing COSS methodology and possible issues for the COSS methodology review. CAC states that this technical conference would help to move the process forward while accommodating new timing, and would also help parties to prepare. CAC further recommends that Centra submit draft terms of reference for the COSS methodology review, prior to hiring a consultant, for comment by the Board and interveners. This would allow input by stakeholders into issues for the review, including the minimum margin guarantee applicable to Power Station class customers and the financial feasibility test for the expansion of the gas distribution system, as well as permitting the process to be advanced.

4.0 Board Findings

Filing Date

Based on Centra's submission of September 30, 2020, the Board finds that the filing date associated with Directive 2 of Order 49/20 should be reviewed.

For the reasons identified further below, the Board grants Centra's Review and Vary Application regarding the filing date associated with Directive 2 of Order 49/20, which states "Centra shall file an application for a comprehensive review of its cost of service methodology by no later than November 1, 2020". Specifically, the Board sets aside the November 1, 2020 filing date for Centra's COSS methodology review submission and substitutes a new filing date of May 3, 2021.

The Board finds that the new filing date is necessary to allow Centra to file a complete submission, as is required by Directive 26 of Order 85/13, that is informed by the review of an independent consultant and addresses alternative methodologies as well as the issues raised by the parties on the evidence in the GRA. While Centra could prepare its submission without the assistance of an independent consultant in order to meet the November 1, 2020 deadline, the Board accepts that this would result in a piecemeal approach to the proceeding that would give rise to inefficiencies and delay in the review process. The Board finds that it is in the public interest to defer the November 1, 2020 filing deadline and reiterates the following from Order 49/20:

The Board expects that the independent expert will be in a position to provide a variety of alternative cost of service study methodology options, each alternative supported by reasons, such that Centra and other Parties will be able to focus their recommendations on the best practices for Manitoba's specific circumstances. The Board acknowledges that the use of independent experts can bring efficiencies to the public hearing process provided that their evidence is fair, objective, and non-partisan.

While the Board grants Centra's application to vary the filing deadline for the COSS methodology review submission, the Board does not accept Centra's submission that the new deadline should be September 15, 2021. The Board finds that the new filing deadline is to be May 3, 2021.

Centra's application seeks an extension of more than ten months. The Board notes that the previous Review and Vary Application filed by Centra on January 29, 2020 requested an extension of only six months. Further, the materials filed by Centra in the current Application indicate that Centra has already gone through the process of reviewing the requirements for an independent consultant and preparing a Request for Proposals ("RFP"), as well as initial consideration of contractual requirements. The Board also expects that any consultant selected by Centra through the RFP process will have the experience necessary to work within prescribed time limits. As such, the Board finds that the timeline provided by Centra with respect to the issuance of the RFP, selection of the successful proponent, and contractual engagement of the consultant is longer than necessary for the necessary steps to be completed in advance of filing. Given the importance of the COSS as a tool in setting just and reasonable rates, the preparation of the COSS methodology review submission must be a priority.

Centra's COSS methodology review submission is to be filed by no later than May 3, 2021 and is to include details of Centra's existing COSS methodology, explanation of the methodology, and the classification and allocation factors used. The submission is also to include information that addresses the specific cost allocation concerns raised in the evidence filed in the GRA and all filing requirements identified by the Board.

Oversight of Progress on Steps to Prepare Filing

The Board accepts the submissions of Koch and CAC that more periodic oversight by the Board of Centra's progress in the steps to be completed in order to meet the May 3, 2021 deadline will assist in avoiding further delay. Enhanced monitoring by the Board and more regular and substantive reporting by Centra will also mitigate the risk of a repeat of the

current situation where lack of progress on the work to prepare a submission cannot be addressed by any means other than a deferral of the filing deadline.

The Board directs Centra to comply with the following deadlines for the completion of the steps in the process for preparing the COSS methodology review submission and to provide compliance filings to the Board within five business days of each of the deadlines to confirm that the deadlines have been met:

- a. Deadline for issuing the RFP – November 13, 2020
- b. Deadline for selection of the independent consultant – December 14, 2020
- c. Deadline for completion of the independent consultant's report to Centra on the COSS methodology – March 15, 2021.

Pre-Filing Process Steps

The Board further finds that the additional time prior to the commencement of the review proceeding resulting from the deferral of the filing deadline can be used for process steps that will enhance the efficiency of the COSS review proceeding.

The Board directs Centra to hold a pre-filing workshop for past Interveners of record and Board staff and advisors to review Centra's existing COSS methodology and the basis for the methodology used. This pre-filing workshop is to be held no later than April 1, 2021.

5.0 IT IS THEREFORE ORDERED THAT:

1. Centra Gas Manitoba Inc.'s Application to review the filing date associated with Directive 2 of Order 49/20 BE AND IS HEREBY GRANTED.
2. Order 49/20 Directive 2 BE AND IS HEREBY VARIED such that Centra shall file an application for a comprehensive review of its cost of service study methodology by no later than May 3, 2021.
3. The Board directs Centra to comply with the following deadlines for the completion of the steps in the process for preparing the COSS methodology review submission and to provide compliance filings to the Board within five business days of each of the deadlines to confirm that the deadlines have been met:
 - a. Deadline for issuing the RFP – November 13, 2020
 - b. Deadline for selection of the independent consultant – December 14, 2020
 - c. Deadline for completion of the independent consultant's report to Centra on the COSS methodology – March 15, 2021.
4. The Board directs Centra to hold, by no later than April 1, 2021, a pre-filing workshop for past Interveners of record and Board staff and advisors to review Centra's existing COSS methodology and the basis for the methodology used.

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 Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

"Larry Ring, Q.C."

Panel Chair

"Rachel McMillin, B.Sc."

Assistant Associate Secretary

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Assistant Associate Secretary