

Thank you for the opportunity to submit a presentation to the Public Utilities Board regarding a Needs for And Alternatives to Review (NFAT) of Manitoba Hydro's Preferred Development Plan.

Manitoba Hydro is a crown corporation that was established in 1949 and continued by the *Manitoba Hydro Act*, as amended from time to time to provide our province and persons outside our province with the continuance adequate supply of power.

In 1998, Manitoba Hydro continued to explore the potential of hydro-electrical development at Gull Rapids Generating Station which is now known as the Keeyask Generating Station. They recognized the need to involve the Cree people that lived in the area whom would be directly impacted by the development of the project. In order to avoid mistakes from the past, Manitoba Hydro began consulting with the First Nations regarding the Gull (Keeyask) hydro-electrical northern dam project. Manitoba Hydro agreed that the project should only proceed with the support of the Cree Nations, given the development of the northern dam was considered for export purposes at that time.¹

The Split Lake Cree First Nation expressed an interest to become involved in the project and Manitoba Hydro began to explore the process in order to create a net economic benefit for them. This consultation led to the development of the Agreement in Principle. This agreement was signed by Tataskweyak Cree Nation and Manitoba Hydro in 2000.² This agreement established the framework to govern a new potential business relationship with Manitoba Hydro which covered aspects with respect to the

¹ Gull (Keeyask) Project – Negotiating Principles and Process Proposal, October 15, 2002.

² Agreement in Principle Regarding the Potential Future Development of the Gull Rapids Hydro-Electric Generating Station. 2001.

adverse compensation, environmental impacts, training, employment and business opportunities for Split Lake. It also addressed the design, planning, construction and the business partnership of the Gull Project which is now known as the Keeyask Project.

Manitoba Hydro and Tataskweyak Cree Nation recognized the need of involving their companion First Nations so they can also receive the economic benefit as partners and ownership and design in the project. In 2001, a Memorandum of Cooperation and Understanding was signed between Tataskweyak Cree Nation, Fox Lake Cree Nation, York Factory Cree Nation and War Lake Cree Nation. It was based on the idea that TCN would invite these First Nations in the negotiations based upon their common connection to the lands surrounding the lower Nelson River and Hudson Bay lowlands.³

Manitoba Hydro eventually agreed that all of the First Nations should share an equity in the investment of the Keeyask project which would be proportional to their respective populations. If all four Cree Nations agreed to sign the Joint Keeyask Development Agreement and share an equity investment in the project as limited partners, ownership interest would be that the Cree Nation Partners (TCN and War Lake) would receive 60% ownership interest, Fox Lake and York Factory would receive 20% ownership interest respectively. Subsequently, Manitoba Hydro proposed that Fox Lake and York Factory be represented at further meetings to identify the project concerns and the impacts on their First Nations. TCN and War Lake were jointly represented in this process. The focus of these meetings that followed were to explore

³ Memorandum of Cooperation of Understanding, May 25, 2001.

the project description, regulatory review and approval process, environmental impacts, the partnership structure, planning of the construction of the project, training, employment and business opportunities for the First Nations, power purchase arrangements and the adverse effects of the northern dam project.⁴

Manitoba Hydro proposed in 2002 to complete the negotiating process in seven months with some modifications. They anticipated to file the Environment Act Proposal in 2003 and the Environment Impact Statement in 2004 to meet the in-service date of the project for 2012. They also proposed to complete a needs and alternatives to the project and a public review by 2005 and they agreed to reimburse the Cree Nation Partners, York Factory and Fox Lake for a monthly total of \$725,000 for project planning and negotiation.⁵

The Joint Keeyask Development Agreement was ratified on May 29, 2009. This agreement outlines the business framework of the Keeyask Generating Station. The First Nations and Manitoba Hydro are partners. The partners include the Tataskweyak Cree Nation and War Lake. They comprise of the Cree Nation Partners, as well as York Factory and Fox Lake. Together, these First Nations are called the Keeyask Cree Nation Partners. They are in partnership with Manitoba Hydro in a business called the Keeyask Hydropower Limited Partnership. This limited partnership will sell energy to Manitoba Hydro and Manitoba Hydro will purchase all of the energy and capacity from this project.⁶ This is a limited partnership where the General Partner

⁴ Gull (Keeyask) Project. Negotiating Principles and Process Proposal, October 12, 2002.

⁵ Gull (Keeyask) Project. Negotiating Principles and Process Proposal, October 12, 2002.

⁶ Joint Keeyask Development Agreement. Between Tataskweyak Cree Nation and War Lake First Nation, operating as Cree Nation Partners and York Factory First Nation and Fox Lake First Nation and Manitoba Hydro-Electric Board, http://www.hydro.mb.ca/projects/keeyask/pdf/JKDA_090529.pdf (accessed 04/14/2014).

has full control. The General Partner is 5900345 Manitoba Ltd. Manitoba Hydro is the sole shareholder of the General Partner.

The breakdown of the profit share is the Keeyask Cree Nations will have an opportunity to own up to 25% equity into the generating station. Manitoba Hydro as a limited partner will own 74.99% and the General Partner will own .01%. Twenty-five per cent of the capitol requirements will be funded from the partners (General Partner, Manitoba Hydro and the Keeyask Cree Nation Investment Entities) by subscribing and paying units and 75 % will be funded by debt financing which will be provided to the Limited Partnership by Manitoba Hydro.⁷

The financial statements regarding the Keeyask Hydropower Limited Partnership are not public record. Manitoba Hydro refused to provide a copy of the financial statements of the limited partnership, including a copy of the annual budgets for each fiscal year on the basis that the Keeyask Hydro Power Limited Partnership is “not an entity which is subject to the Act.”⁸

Manitoba Hydro has spent \$233,531,822.71 on negotiations, process costs and mitigation for Bipole III, Keeyask, Wuskwatim and Conawapa for all Northern Dam

⁷ Joint Keeyask Development Agreement. Between Tataskweyak Cree Nation and War Lake First Nation, operating as Cree Nation Partners and York Factory First Nation and Fox Lake First Nation and Manitoba Hydro-Electric Board, http://www.hydro.mb.ca/projects/keeyask/pdf/JKDA_090529.pdf (accessed 04/14/2014).

⁸ Manitoba Hydro. Mr. Bob Bettner, Letter to Janie Duncan, 17/12/12 Re: Application for Access under the *Freedom of Information & Protection of Privacy Act*. FOI. 2012-73.

projects in all northern communities from 1999 to 2012.⁹ Manitoba Hydro has refused to provide details of the invoices due confidentiality agreements.¹⁰

In 2011, our government reported that Manitoba Hydro had “agreements” in place with the U.S. power utilities. They are also referred as term sheets. Term Sheets bind the parties to enter into a contract. These agreements are subject to regulatory approval on the part of the United States according to conversations I had with the Manager of Public Relations of the Wisconsin Public Service.

On May 30, 2011, in the Legislative Assembly, Mr. Schroeder of Manitoba Hydro testified that the State of Wisconsin introduced legislation in April 2011 that would designate Manitoba Hydro as a renewable source of energy, providing certain conditions are met.

On April 28, 2011, in the State of Wisconsin, as per Assembly Bill 114 and its companion Bill 81, it stipulates certain conditions that Manitoba Hydro must meet by December 31, 2015, in order to meet the renewable portfolio standard:

- a). Manitoba Hydro must inform in writing to the Wisconsin Public Service Commission the effective date of the interim licensing of the Lake Winnipeg Project and Churchill Diversion Project;
- b). Manitoba Hydro must inform in writing to the Wisconsin Public Service Commission the effective date of the final licenses of the Lake Winnipeg Project and the Churchill Diversion Project.

⁹ Manitoba Hydro. Mr. Bob Bettner, Letter to Canadian Tax Payer’s Federation 2012/06/01, Application for Access under the Freedom of Information & Protection of Privacy Act FOI 2012-25.

¹⁰ Manitoba Hydro. Mr. Bob Bettner, Letter to Janie Duncan, 20/17/13. Re Application for Access under the Freedom of Information and Protection of Privacy Act. FOI 2013-43.

Manitoba Conservation and Steward Watership confirmed the final licensing was not in place when I inquired in 2013.

The former CEO of Manitoba Hydro, Mr. Brennan, testified in the Legislative Assembly of Manitoba on November 17, 2009 that if the United States did not obtain the regulatory approvals, then they would not proceed with the capitol.

The construction of this project is a major risk not only to the environment, but to Manitoba rate payers. Natural gas is much cheaper in the US. This project was designed specifically for our export markets. However, since 1998, our revenues from our export markets have continued to decline even though Mr. Thomson claims that the exports is what keeps our rates lower. However, the reality is our rates continue to rise.

Manitoba Hydro has tendered contracts as exhibits to the Public Utilities Board, however, none of these contracts have signatures. Furthermore, these contracts are highly censored. These projects are estimated to cost 34 billion dollars which will take years to complete. If we do not have the revenues to support the capitol costs, this is a huge risk to Manitoba rate payers, particularly when the US still has to undergo their own regulatory approvals. I also believe history will repeat itself because the Keeyask Cree Nation Partners will only have an opportunity to own up to 25% of the generating station and their hydro bills will be substantially higher, given their poor housing conditions. In conclusion, I am against the construction of the Keeyask Generating Station and the Manitoba Public Utilities Board should consider more cost effective alternatives because it is the rates payers who will suffer.

Janie A. Duncan, April 14, 2014.

