



REPLY TO: Jessica Saunders  
FILE NO.: 37462-001

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September 27, 2013

\*\*\*VIA Email\*\*\*

The Public Utilities Board  
400-330 Portage Ave.  
Winnipeg, MB R3C 0C4

**Attention: Hollis Singh, Secretary**

Dear Sir:

**Re: Manitoba Metis Federation ("MMF") Response to  
Manitoba Hydro ("Hydro") and Independent Expert  
Consultant ("IEC") Notice of Motion**

On September 30, 2013 the Public Utilities Board ("PUB") will hear Motions regarding First Round Information Requests ("IRs") in the Needs for and Alternatives to Review (NFAT) of Hydro's Preferred Development Plan ("Plan"), from Hydro and the IECs. By way of letter dated September 26, 2013, the PUB directed parties to file their responses to these Motions by 3:00 pm, Friday September 27, 2013. The MMF herein responds to the above noted Motions.

### **IEC's Motion**

The IECs are seeking direction/clarification from the PUB on whether or not information and documents responsive to IRs, obtained in a manner other than a formal response to an IR - via meetings, calls or other informal exchanges between the IECs and Hydro, needs to be properly reflected in the public record. If this information does not contain Commercially Sensitive Information ("CSI"), the MMF is of the view that it should be made available to other parties and be placed on the public record.

### **Hydro's Motion**

Hydro objects to six of MMF's IRs on various grounds. Below, we provide MMF's written response to Hydro's objections noting the MMF's IR and Hydro's particular objection.

**1. Hydro's objection to MMF-047 on grounds that this IR cannot be completed within the allotted time**

MMF-047 reads as follows:

*"Provide similar information to that contained in Table 12.5 for the 2013 Assumptions for discount rates of 6%, 6.5%, 7%, 7.5% and 8%."*

The MMF noted that this deals with economics of change (risk) and can be found in Chapter 12 at section 12.3.3 at page 12.

Hydro's comments on why this cannot be completed within the time allotted are as follows:

*"This would require redoing economic analysis with a new discount rate and cannot be completed in the time allotted."*

It is the MMF's position that analysing these discount rates is necessary to completing a comparison of the Alternatives to the Plan. Modeling a range of real discount rates will allow for an analysis of the sensitivity of the findings to higher real discount rates. If all of the suggested rates present difficulty in terms of time, the MMF would agree that analysing rates of 7%, 6.5%, and 6% would be sufficient for the purposes of this analysis and we would revise MMF-047 accordingly.

**2. Hydro's objection to MMF-062 on grounds that this IR is not relevant to the NFAT Review and that this IR will be addressed in environmental hearings**

MMF-062 reads as follows:

*"Describe the nature and scope of the ongoing environmental effects of the reservoirs and operating regimes established by the development of upstream hydroelectric projects on which Keeyask and Conawapa would depend for flow regulation."*

The MMF notes that this deals with macro-environmental impacts and can be found in Chapter 13 section 13.3.5 at page 55.

Hydro's comments on why this is not relevant to the NFAT Review are as follows:

*"The Terms of Reference exclude any consideration of historic environmental costs."*

The MMF submits that while the decision to develop these projects was historical, the effects of those projects are ongoing. A description of the nature and scope of these ongoing effects will allow for a comparative assessment of impacts with respect to the projects being considered in the NFAT. In addition, it is unclear whether the operation of the reservoirs and facilities upstream

of the proposed Keeyask and Conawapa will change to accommodate the new downstream projects. If so, any additional effects resulting from changes to the operating regime are additive to the ongoing effects on the environment. Consideration of these ongoing and additive effects contributes to the analysis of the collective macro-environmental consequences of changes to water, flora and fauna, including the potential significance of these changes, and their equitable distribution within and between present and future generations.<sup>1</sup>

### **3. Hydro's objection to MMF-003 on grounds that this IR will be addressed in environmental hearings**

MMF-003 reads as follows:

*"Explain how Manitoba Hydro will manage access issues, especially increased pressure on land and resources as a result of increased use caused by changed access, particularly as these effects may be experienced by the Metis."*

The MMF notes that this deals with socio-economic impacts particularly with respect to Conawapa and can be found in Chapter 2 section 2.2.3.4 at page 50.

Hydro does not provide comments specific to this request but explains in the paragraphs preceding its table of objections, among other things, that there is a distinction between the requirements of the environmental reviews and the review being completed in the NFAT. Further, that the level of detail sought in the requests it was objecting to, go beyond the scope of what is reasonably required for consideration in this proceeding and goes beyond the scope of the Terms of Reference and Board Order 92/13.

Hydro objects to MMF-003 on grounds that this IR will be dealt with in the environmental review process. The MMF is concerned with the extent to which matters such as access issues and effects on the Metis will be considered in environmental review hearings. The MMF's comments in this regard, will be reserved and provided at the appropriate time.

### **4. Hydro's objection to MMF-004 on grounds that this IR is not relevant to the NFAT Review**

MMF-004 reads as follows:

*"Determine the date in the future at which a program of aggressive DSM (i.e. all DSM with a lower LUEC than real rates) results in an increase in real rates (i.e. when DSM is no longer less expensive than the levelized value of the avoided cost)."*

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<sup>1</sup> From the definition of Macro Environmental" impact assessment in PUB Order No. 92/13.

The MMF notes that this deals with Demand Side Management (“DSM”)<sup>3</sup> and can be found in Chapter 11 section 11 on page 8.

Hydro’s comments on why this is not relevant to the NFAT Review are as follows:

*“The purpose of the NFAT is to explore alternatives – there is no need to assess the particular programs which may be implemented or feasible, but rather to explore the level of DSM overall which will impact development plans. The requested information is not required to make that assessment.”*

It is the MMF’s position that the purpose of the NFAT is not only to explore alternatives, but to complete a thorough analysis on the need for the Plan. The importance of the “need for” portion of the analysis is evident in item 1 of the Terms of Reference which reads:

*“An assessment as to whether the needs for Hydro’s Plan are thoroughly justified, and sound, its timing is warranted, and the factors that Hydro is relying upon to prove its needs are complete, reasonable and accurate.”*

DSM is not included as a resource alternative in the NFAT. However, the MMF submits that the full economic potential for DSM must be considered in the NFAT in order to complete the assessment that is required in item 1 of the Terms of Reference.

## **Conclusion**

Hydro indicates that its review of the IRs is ongoing and as such, it may be necessary to provide additional items which it objects to responding to on or prior to September 30, 2013. In the event Hydro provides additional objections specific to MMF IRs on September 30 or after today’s 3:00 p.m. deadline, the MMF would seek additional time to respond to those objections and would ask that we be permitted to do so in writing.

Yours truly,

**MYERS WEINBERG LLP**

**Per: “Sent Electronically”**

**JESSICA SAUNDERS**

JMS/bm

cc. R.F. Peters, counsel to the PUB, Fillmore Riley LLP  
Patricia J. Ramage and Marla D. Boyd, counsel to Manitoba Hydro  
Intervenors of Record

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<sup>3</sup> We did not indicate in the IR chart which MMF in-scope subject area this goes to. “Impact on domestic rates” should have been noted in the Subject Area column in addition to “DSM”.

