

MANITOBA
THE PUBLIC UTILITIES BOARD ACT

Order No. 106 /01

July 9, 2001

Before: G. D. Forrest, Chairman
M. Girouard, Member
M. Santos, Member

**AN APPLICATION BY CENTRA GAS MANITOBA INC.
SEEKING APPROVAL OF REVISED DISTRIBUTION RATES
TO BE EFFECTIVE APRIL 1, 2001, AND OTHER MATTERS**

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Schedule "B"(Revised)

1.0 Background

On January 4, 2001 Centra Gas Manitoba Inc. (“Centra”) filed a General Rate Application (“GRA”) with The Public Utilities Board (the “Board”) seeking the following:

1. Approval of Distribution to Customers rates to be charged by Centra for the provision of distribution services to its customers, in the franchise areas served by Centra, to be effective with respect to all gas consumed on and after April 1, 2001.
2. Amendments to the Terms and Conditions of Service to remove the Buy/Sell Service and Buy/Sell Summer Interruptible Delivery Option, effective October 31, 2001.
3. Final approval of the interim tariff approved by the Board in Order 58/00 to be charged to all Agents, Brokers and Marketers for the provision of the Agency, Billing and Collection Service.
4. Approval of a rate to be charged by Centra for reconnection of service performed outside of normal work hours, to be effective April 1, 2001.
5. Confirmation of interim ex-parte Orders 181/99, 109/00, 123/00 and 140/00 related to the approval of new or amended franchise agreements and the extension of gas service to the Rural Municipalities of Grey, Minto and Rosser.
6. Confirmation of interim ex-parte Order 154/00 amending the Terms and Conditions of Service to change the due date for payments to 14 days and to reduce the Late Payment Charge to 1.25%.
7. Approval to vary Order 89/97 to allow Centra to include all of the capital expenditures for the Ste. Agathe expansion project into plant and in the determination of revenue requirement.

Following a pre-hearing conference held on January 16, 2001, the Board issued Order 14/01 dated January 24, 2001, which amongst other things, directed Centra to file additional information in support of the application. The additional information was to include, in part, material related to the acquisition of Centra by Manitoba Hydro, and material related to integration issues. Order 14/01 also established a revised timetable for

the orderly exchange of information leading to a public hearing to consider the GRA, scheduled to commence on May 29, 2001.

In a letter to the Board dated February 8, 2001, Centra indicated that the additional filing requirements set out in Order 14/01 could not be completed in accordance with the timetable outlined in Order 14/01. Accordingly, Centra made an application to vary Order 14/01 pursuant to Section 44(3) of The Public Utilities Board Act ("the Act"). On February 9, 2001, the Board forwarded a copy of Centra's application to vary to all registered intervenors, and invited all interested parties to provide the Board with their comments.

The response from the Provincial Council of Women of Manitoba Inc. ("PCWM") indicated that while they appreciated the work pressure faced by Centra, PCWM would prefer to start the hearing on the scheduled date of May 29, 2001.

The responses from the Consumer's Association of Canada (Manitoba) Inc./Manitoba Society of Seniors ("CAC/MSOS"), Municipal Gas, Manitoba Industrial Power Users Group ("MIPUG") and the Canadian Centre for Energy Policy ("CCEP"), all indicated no opposition to an extension of time to allow Centra to complete fully the additional information set out in Order 14/01, provided that the GRA hearing process was not unduly delayed.

In a letter to the Board dated February 16, 2001, Centra requested additional time to consider the responses from interested parties, and requested that the Board refrain from making any further determination on this matter pending Centra's response. In a letter dated March 1, 2001, Centra advised the Board that, having completed its review and at the request of the Minister responsible for Manitoba Hydro, Centra was withdrawing the GRA.

Centra stated in part that:

“Centra has not had a rate increase for operational purposes since 1998. Nevertheless, we have concluded that it would be inappropriate to burden customers with further rate increases during these times of extremely high gas commodity prices. Over the next year, Centra will continue to do everything possible to keep its costs to the minimum while ensuring a safe and reliable supply of natural gas to its customers.”

2.0 Responses of Interested Parties

The Board circulated Centra’s letter of March 1, 2001 to all interested parties for information and comment. The responses received by the Board from interested parties are summarized below.

2.1 Municipal Gas (“Municipal”)

In a letter to the Board dated March 6, 2001, Municipal responded that although Centra withdrew its application, Municipal urged the Board to proceed with a GRA hearing stating:

“While Centra Gas Manitoba may not be applying for any rate increases, a rate hearing provides the only opportunity for members of the public to review and examine the basis upon which Centra Gas Manitoba sets its rates. Since there has not been a general rate application for a few years, and in light of Centra’s advice that it is withdrawing its application there may not be a general rate case for a few more years to come, Municipal Gas believes that it is important that the PUB take this opportunity to review Centra Gas Manitoba’s rates.”

2.2 Canadian Centre for Energy Policy (“CCEP”)

In a letter dated to the Board dated March 8, 2001, CCEP responded indicating that it served the public interest that a hearing on distribution rates be conducted.

2.3 Provincial Council of Women of Manitoba Inc. (“PCMW”)

In a letter to the Board dated March 9, 2001, PCWM stated the need for the Board to continue in its role to ensure the accountability and transparency of Centra, and that a hearing before the Board was clearly the forum for a transparent review.

2.4 Consumer Association of Canada/Manitoba Society of Seniors (“CAC/MSOS”)

In a letter to the Board dated March 9, 2001, CAC/MSOS stated:

“It is our view that Centra is not entitled unilaterally to withdraw its application. The application, at present, is squarely before The Manitoba Public Utilities Board (the “Board”), and as such, a request for an adjournment (or withdrawal), must be approved by the Board.”

CAC/MSOS further requested the Board to reject Centra’s request and order that the hearing proceed. CAC/MSOS also submitted that the Board had ample jurisdiction to reject Centra’s request to withdraw the application, citing the Supreme Court Case *Bell Canada V. Canadian Radio-Television And Telecommunication Commission* [1989] 1. S.C.R. 1722 in support of its position. CAC/MSOS noted that one reason given by Centra in withdrawing its application is that it anticipates receiving an alternative stream of income, in the form of a provincial tax deferral. CAC/MSOS stated that until the Board makes such a determination, any increase in revenue from any other sources, prima facie, would result in an over-collection with respect to the existing approved rate of return. CAC/MSOS further noted that a withdrawal of the request for a rate increase does not in itself justify the withdrawal of the entire application, as the rate increase was only one of many important issues to be canvassed at the hearing including:

- (a) Has Centra achieved the synergies and cost savings that were forecast at the acquisition hearing?

- (b) the ability of Centra to provide the type and quality of information necessary given the progress of integration efforts undertaken by the two utilities;
- (c) Board approval of the merger of the two utilities; and
- (d) Whether the rates, tolls and charges are currently just and reasonable.

2.5 Manitoba Industrial Power Users Group (“MIPUG”)

In a letter to the Board dated March 12, 2001, MIPUG indicated that it is in agreement with the arguments of CAC/MSOS, stating that Centra “cannot unilaterally withdraw the GRA and ignore the requirements listed in Order 14/01.” MIPUG submitted that the Board require Centra to continue the process ensuring a review of the full scope of matters outlined in Order 14/01, noting that a number of items have implications beyond distribution rates.

3.0 Centra’s Response

In a letter to the Board dated March 13, 2001, Centra responded to the positions posed by interested parties, indicating that the initial decision to seek a rate increase was made after serious deliberation, weighing the burden of the increase on the consumer against the financial impact on the utility. Subsequent to that decision, the Government of Manitoba offered a means by which Centra could avoid an immediate rate increase without seriously impacting its financial stability. Centra indicated that it had received notification that the Government of Manitoba was prepared to defer payments related to tax indebtedness as prescribed in the agreement resulting from the Centra acquisition until a review of the arrangement could be undertaken.

Centra forecasts that foregoing the \$8.8 million proposed rate increase would result in a small loss for 2001/02. Centra further estimated that regulatory costs for a hearing would be \$1.4 million and suggested that this would increase substantially if Centra were to

comply with Order 14/01. Centra noted that, as a Crown owned utility, it is subject to numerous other accountability mechanisms including the Crown Corporations Council, the Provincial Auditor, the Public Utilities Committee of the Legislature, Cabinet, The Minister responsible for Manitoba Hydro/Centra Gas and the Board of Directors Centra.

Centra also noted that it has not requested the Board's approval to withdraw its application, nor is it aware of any authority requiring it to do so. Centra referred to the case of Bell Canada cited by CAC/MSOS stating that "Centra notes that contrary to CAC/MSOS' statement, the facts in the Bell case are clearly distinguishable from those of the present case and if anything, this case supports Centra's position that approval is not required to withdraw at this juncture".

Centra acknowledged that the legislation governing its regulation has not changed since its acquisition by Manitoba Hydro, stating however that its objectives as "a cost-based Crown owned utility are different from those of a shareholder owned utility seeking a rate of return on equity for its shareholders." Centra stated that it did not seek a new method of regulation, but sought what was in its view a more efficient, minimum filing which recognized the change in circumstances while still allowing the Board to meet its statutory mandate.

By way of letter dated March 26, 2001, CAC/MSOS responded to Centra's letter stating, in part:

"In reply to Centra's letter as a whole, I want to clarify that The Public Utilities Board (the "Board") does not acquire jurisdiction over matters (such as rate applications) by virtue of an Application being filed. The Board's authority and power emanates from The Public Utilities Board Act. Centra's purported withdrawal of its Application does not in any way reduce, narrow or diminish the authority of the Board to consider the matter and to order that the GRA hearing proceed, if it so chooses. In any event, intervenors, this one included, have voiced strong opposition to

Centra's withdrawal and have asked the Board to require a rate hearing in light of Centra's actions."

CAC/MSOS further stated that the Board must address two fundamental issues:

1. Does the Board have jurisdiction to order that Centra proceed with the GRA; and
2. If the Board has jurisdiction, should it exercise that jurisdiction in the circumstances.

Based on a review of the Act, CAC/MSOS concluded that "the Board has the jurisdiction, authority and power to order Centra to proceed with its GRA." and that "s.60 is applicable in that it precludes Centra from taking any steps in the proceeding, including withdrawing its application and/or implementing a *de facto* rate increase by applying the province's tax deferral to general revenues, until the Board has made an order or otherwise disposed of the matter." CAC/MSOS submitted: "that the Board must, at a minimum, adjudicate upon the issue of whether Centra's withdrawal is appropriate in the circumstances. If the Board decides that it is not, then it has the full jurisdiction and authority to order that the hearing proceed."

4.0 Board Findings

The Board has reviewed the submissions of Centra, as well as the responses received from all interested parties. The Board considers that the issues to be considered are significant and speak to matters far beyond a simple change in distribution rates, including issues related to fairness of rates and timely regulation of a public utility. The Board has also reviewed the issue of jurisdiction to proceed with this matter, and is of the view that it has such jurisdiction. The Board also remains of the view expressed in Order 14/01 that the filings originally submitted by Centra were inadequate to allow the Board to fully discharge its regulatory responsibilities.

In the Board's view, a GRA in the near term is required to deal with a multitude of issues related to Centra's revenue requirement and rate design. These issues include, but are not limited to, matters related to income tax, rate of return issues, rate base and cost allocation matters and rate design considerations. The importance of some of these issues are further complicated by the long passage of time since the last GRA. The Board further acknowledges that the need for a GRA must be balanced with the practical issues of Centra's current regulatory work agenda, which is significant. As well, Centra must be provided with a reasonable period of time to prepare a comprehensive filing document in accordance with the direction set out in Order 14/01.

The Board notes that Centra's letter to the Board dated March 13, 2001 indicated the requirement for a general rate increase for 2002/03 year, to be effective April 1, 2002. In light of this requirement, coupled with the forecast of a small financial loss in 2001/02 and Centra's previous indication of time constraints to prepare its filing, the Board will vary the timetable attached as Schedule "B" to Order 14/01.

The revised timetable requires an application to be filed in October 2001 with a public hearing scheduled in February 2002, for rates to be effective April 1, 2002. In the Board's view, this revised timetable strikes a reasonable balance between the need for a timely review of a multitude of GRA issues with the practical constraints on Centra to assemble a comprehensive GRA filing within a reasonable period of time.

The Board is of the opinion that the revised timetable provides sufficient notice for Centra to examine its needs for fiscal year 2002/03 and to prepare its GRA filing. The Board expects that the filing will be received in a timely manner which will allow the GRA process to proceed in an efficient and effective manner.

The Board notes that significant time has elapsed since Centra's last GRA review in 1998, and there is a need for Centra to provide data that would allow the Board to carry out its regulatory responsibilities. It is important that the GRA, when filed, is in compliance with the additional minimum filing requirements set out in Order 14/01.

In making this decision the Board has considered that interested parties have indicated a keen desire to participate in the process to examine whether the existing sales rates of Centra are fair and equitable. Even though Centra is not currently seeking a rate increase, there is concern that Centra has not been before the Board since 1998, other than of matters related to the cost of gas. In addition, the high level information provided by Centra to date regarding integration matters does not adequately allow for a proper determination of whether rates are fair and equitable. The ratepayers have also requested an opportunity to examine whether the rates charged by Centra are appropriate and justified because of the change in ownership. In addition, a number of interim Orders are outstanding that require confirmation to bring certainty to consumers with respect to those matters dealt with in interim Orders.

Accordingly, the Board will vary Order 14/01 by substituting Schedule "B"(Revised) to this Order as the new timetable. All other matters set out in Order 14/01 remain in effect. It should be further noted that matters related to the integration of Centra with Manitoba Hydro will be dealt with in a separate public hearing.

5.0 It is Therefore Ordered That:

1. The Board will require Centra to deal with the integration matters in a timely fashion such that any Board decisions can be incorporated into Centra's GRA filing.
2. Order 14/01 dated January 24, 2001 be amended by deleting the timetable attached as Schedule "B" and by requiring Centra to file a GRA based on 2002/2003 Test

Year period in accordance with the timetable attached as Schedule "B" Revised to the Order.

THE PUBLIC UTILITIES BOARD

Chairman

Acting Secretary

THE PUBLIC UTILITIES BOARD

“G. D. Forrest”

Chairman

“Hollis Singh”

Acting Secretary

Certified a true copy of
Order No. 106/01 issued by
The Public Utilities Board

Acting Secretary

Centra Gas Manitoba Inc.**Schedule “B” (Revised)****2002/2003 Distribution Rates Application
Draft Timetable**

	<u>Item</u>	<u>Date</u>
1.	Centra to file application	October 15, 2001
2.	Centra to publish notice <ul style="list-style-type: none">• Dailies• Weeklies	October 20, 2001 Week of October 22, 2001
3.	Pre-hearing Conference	October 30, 2001
4.	Intervenors to file First Round Information Requests to Centra	November 15, 2001
5.	Centra to file responses to First Round Information Requests	December 3, 2001
6.	Intervenors to file Second Round Information Requests to Centra	December 12, 2001
7.	Centra to file responses to Second Round Information Requests	December 21, 2001
8.	All parties to be in receipt of Intervenor Evidence	January 8, 2002
9.	All parties to file Information Requests of Intervenor Evidence	January 14, 2002
10.	Intervenors to file responses to Information Requests	January 22, 2002
11.	Centra to file Rebuttal Evidence	January 28, 2002
12.	Hearing to commence	February 4, 2002